WINTER IN NORTH DAKOTA

Mr. DORGAN. Mr. President, I rise to introduce a piece of legislation and also to discuss an issue that is very important to residents of my home State of North Dakota and residents of a good many States, particularly in the northern Great Plains. Let me begin by talking about some of the hardships and death and destruction of the challenges faced by Dakotans and by others in our part of the country as a result of an extraordinarily severe winter.

North Dakota has had six blizzards, which others might already know about, having heard the reports of these blizzards on television, news reports, and elsewhere, six blizzards from November 17 to January 15. The blizzards have been as tough as any I have seen in North Dakota in my years in that wonderful State. It has been a tough, hard winter—lots of snow, lots of wind, conditions that are dangerous to people and to livestock.

I want to talk just a little about the challenges that these winters blizzards portray for our citizens and what the response has been. I want to tell you first about a young boy named Wyett Magike who lived about 20 miles from the nearest medical center near Mandan, ND, or Bismarck, ND. Steve Conmy, who is the coordinator of emergency services for Morton County, during the middle of a blizzard about a week and a half ago told me about some of his plow and truck operators and what they were facing. I went out in a big plow with Mr. Conmy and we drove on the north edge of Mandan, ND, where snow covered the trailer houses altogether. In other words, the snow was to the roof of a trailer house so you could not see the trailer house. Getting there, you could not see anything in front of you because it was almost total white-out conditions—high wind, snow, a lot of snow pack, with blowing snow. Those are the kind of conditions that road crews all across North Dakota have faced for some long while.

November 17, a very large blizzard and storm in North Dakota in the northeastern part of the State; December 16, 17, and 18, a winter blizzard through most all of North Dakota; December 20, 21, and 22, again, a big winter blizzard in the northeastern part of the State; January 4 and 5, a very severe winter blizzard throughout the State; January 15, another severe winter blizzard throughout the State. That is what our citizens have faced.

Now Wyett Magike was 2 years old, and on a recent morning, at 10 o’clock in the morning a call was received by the Morton County emergency management group regarding a medical emergency down near Flasher, ND. This young child was very, very ill and he needed to be transported to the bismarck hospital immediately. He was dehydrated, severely vomiting blood. Everyone was very concerned about him and knew that he had to get medical attention immediately or he might die. Due to the road conditions and the weather reports, travel was impossible. The roads were completely blocked and the conditions were near white-out conditions. For people who do not know because they are not from our part of the country, a white out is when snow and blowing snow make it impossible to see anything in front of you. All the roads, including the main highways, were blocked with snowdrifts and there was zero visibility that morning.

What the emergency group did was coordinate two snowplows dispatched from Flasher, ND, to escort and ambulance crew from Flasher, ND. And then two snowplows were dispatched from Mandan, ND, also with an ambulance. They met at a major snow block on the highway east of Flasher, ND, and it took 45 minutes just for all that equipment to punch a hole through the snow that was blocking that road. This journey took some 6 hours by these road crews, again at zero visibility, with snowblock virtually everywhere.

James Gerhardt and Gerald Friesy ran the plow and the truck from Flasher; Leland Gross and Robert Jochim ran the snowplow and the truck from Mandan. And Steve Conmy said when he asked the folks to go out and do this, they did not wring their hands and say, “Gee, there is a risk out here.” They said, “What equipment shall we take.” They hit the road, and 6 hours later the young boy was in the hospital at Bismarck. The doctor said he would have died except for the heroic efforts by these folks.

Now, James, Gerald, Leland, and Robert are not well known by their deeds. They are just a road crew. When I say “just a road crew,” they are heroes. There are road crews all over North Dakota working 8 hour after 8-hour shifts and risking their lives doing things that save other people’s lives.

I mentioned this story only because a lot people do not understand the severity of the winter storms we have had. Lives have been lost in the Dakotas. We are now doing an assessment to find out how much livestock has been lost. Undoubtedly, a substantial amount of livestock loss has occurred. People have not been able to get through roads to feed the livestock. If they did, feed was not available. The result has been a very, very serious problem for people and for livestock in our State.

In the November 16 and 17 storm, we had 13 inches of snow fall in North Dakota; November 20, 6 inches; the 16th, 8 inches; December 20, 8 inches; 10 inches; 7 inches; on it goes. In each case, we had winds of 30, 40 and 50 miles an hour. In December and January there have been 10 days where the wind chill has been recorded at or below 50 below zero—10 days at or below 50 below zero. The other evening the wind chill was 80 below zero.
I am not trying to diminish our tourism efforts in North Dakota, although I expect there was precious little tourism in early January with forecasts of blizzards in our State, but it has been a very difficult circumstance. January 9, 83 year-old boy chill in Minot, ND. For 11 days in November to January it did not get above zero.

What to make of all of this and the challenge that it poses for North Dakotans. Clearly, North Dakotans who were isolated and stuck out in the country with roads impassable, often in need of medical help or in need of food or in need of feeding the cattle who also were at risk, needed some assistance.

I mentioned the emergency crews that were available, and all over the State in unknown ways by unknown people, they have committed heroic acts. But North Dakotans needed more help than that. They needed low-income energy assistance, especially for some Indian reservations and elsewhere. They needed emergency feed assistance. Cities and counties and townships and others who have not been able to clear the roads, have not had enough equipment, needed assistance.

I am pleased to say that the Federal Emergency Management Agency and others are now in North Dakota at the President's direction. The State of North Dakota, the counties, the townships, the Federal Government are working together to respond to an extraordinarily difficult circumstance. We are not nearly through this. Winter is only about a third over. We do not know what the next couple of months will be for our State, but we know that North Dakotans have endured a very difficult winter so far. We hope for better conditions. Whatever happens, North Dakota will be prepared to deal with it and respond to it.

In this session, I have not had the opportunity to know and my colleagues to know that just as when a tornado comes along and wreaks havoc in and area, or where a raging flood gathers homes and runs the homes down a river, just as those emergences such as an earthquake, for example, that causes chaos, just as they need to be responded to and always are responded to by the Federal Government, so, too, must this snow emergency and the storms and the deadly blizzards that North Dakota in this Indian reservations did recent weeks, so, too, must they be responded to in an appropriate way.

We are continuing to work on snow clearing, on low-income energy assistance issues, on feed assistance for livestock and any other approaches to try to help people and respond to the needs that exist as a result of this very severe winter.

Today, I wanted to at least tell my colleagues and circumstances that we face and thank the President, thank the administration and others who have joined to help. I also wanted to described the people who assisted the 2-year-old boy. That has gone on across our State every day and in every way. To those who work in public service, those who man those graders and trucks and keep the roads open, punch through snowdrifts with zero visibility to provide emergency for our people, we face and thank the President, thank North Dakotans and all of America owe you a debt of gratitude.

Mr. GRASSLEY. Mr. President, today is the first day in which the Senate will entertain legislation for the 106th Congress. I rise today to compliment various tax bills introduced by my colleagues for myself. Some of this legislation is in the leadership package. Other legislation has been introduced separately by other Senators. All of this legislation will reduce taxes on Americans trying to live the American Dream. I applaud these efforts. In fact, I have had a hand in writing or cosponsoring much of it in the 104th Congress. With this new Congress, we must break down the barriers that stand in the way of the next generation's shot at the American Dream. Our future depends on it.

The initiatives I support include, reinstatement of the income tax deduction for interest on student loans, reducing the capital gains tax, expanding individual retirement accounts, extending the employee provided education assistance programs, and finally, reducing the estate tax. Collectively, these tax bills will provide necessary relief for all taxpayers. Hard working families and individuals deserve nothing less from their Federal Government.

STUDENT LOAN INTEREST DEDUCTION

The leadership package includes legislation that includes my provisions from the 104th Congress to reinstate the tax deduction for interest on student loans. It would allow an “above the line” deduction for up to $2,500 in qualified interest. This means that students do not have to file to itemize their income tax deductions to benefit from the deduction.

In 1986, the income tax deduction for interest on student loans was repealed. I believed then, as I believe now, that the repeal was a major mistake. Education is an investment both for students and the Nation. In exchange for hard work the student gets a tax deduction to make education affordable. In exchange for the student’s commitment, the government is the taxpayer and sometimes a better citizen.

I commend the leader for selecting this initiative, and I welcome the opportunity to work with him to expand it.

CAPITAL GAINS TAX REDUCTION

Senator HATCH introduced legislation to reduce the income tax on capital gains. It is substantially similar to legislation passed by the last Congress but vetoed by the President. Since the President has re-committed himself to capital gains relief, I am encouraged about the prospects for enactment of our provision authored by Senator HATCH. The President has suggested much more narrow relief targeted at residential real estate. However, our broad-based cut is better for the small businesses, family farms, and individual taxpayers.

This morning, in testimony to the Senate Budget Committee, Federal Reserve Board Chairman Alan Greenspan said that the ideal capital gains tax rate is zero percent. Our bill would cut it in half. The President must consider our provision. Reducing the capital tax for taxpayers across the board, is essential to help grow the economy.

SUPER IRA’S

Senate Finance Committee Chairman Roth, has, once again introduced his legislation to expand the number of people who can invest in individual retirement accounts. This legislation is vital given the dismal rate of savings by Americans. Americans want to save money. The problem is that our current system of taxes does not allow it. The Super IRA provision will give taxpayers a better vehicle to save more for retirement. Since the miracle of compound interest means that saving sooner saves more, we must take up this bill as soon as the Senate is in session.

EMPLOYER PROVIDED EDUCATION ASSISTANCE

Finance Committee Chairman Roth was joined by Finance Ranking Minority Member MOYNIHAN in legislation to make permanent the income tax exclusion for employer provided education assistance. I am a proud cosponsor of this bill. This provision is set to expire. Congress must step up to the plate and, finally, permanently extend it. Last time, over my objections, we failed to extend the provision for graduate assistance. All students must be eligible for this assistance program.

ESTATE TAX REDUCTION

The leadership package includes legislation to reduce the estate tax burden on Americans. Of particular importance is Part of S. 2. Reducing, the estate tax is something that we almost accomplished in the last Congress. We need to take it up right away in this Congress. Historically, the estate tax was initiated as a temporary tax on the super wealthy during times of war. Later, it became a permanent part of the tax system, but still applied only to the rich. Over time, the effects of inflation have taken their toll. Now, we have middle income taxpayers hit with an estate tax burden on the family farm for the wealthy. In my State of Iowa, we have a problem unique to us and other farm States. Some taxpayers have a double tax identity. They are cash poor because they have just enough cash-flow off of the farm to make ends meet. However, they are land rich because their family farm has appreciated during the period that they were family farmers. The estate tax ignores the fact that the farm is as much their family home as it is a business. The estate tax also ignores that they are middle income people at best, and were not intended to even pay the estate tax when it first came into being.
The leadership package is a good start. It cuts the estate tax for all taxpayers, including small businesses and farmers. Congress must find a way to improve the estate tax crisis in my State of Iowa, and other States. I look forward to continuing my work with the leader to accomplish an estate tax reduction.

ALTERNATIVE MINIMUM TAX ON FARMER DEFERRED CONTRACTS

Finally, I want to make quick reference to tax repeal legislation that will pass tomorrow, for myself and over 50 other original sponsors. Senators Dorgan, Gorton, Baucus, and I have campaigned to eliminate an IRS imposed tax on farmers and ranchers who sell crops or livestock on deferred contracts. Congress did not intend this tax. Only the IRS intends this tax. The broad bipartisan support that we have gathered tells me that Congress is going to repeal it. We will have more on this initiative tomorrow.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from appropriate committees. (The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING BIOLOGICAL AND CHEMICAL WEAPONS—MESSAGE FROM THE PRESIDENT—PM 5

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Armed Services.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the Federal Register for publication, stating that the President is satisfied with respect to grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process, is to continue in effect beyond January 23, 1997. The first notice continuing this emergency was published in the Federal Register last year on January 22, 1996.

The crisis with respect to the grave acts of violence committed by foreign terrorists that threaten to disrupt the Middle East peace process that led to the declaration received on January 8, 1997, to the Committee on Commerce, Science, and Transportation.

WILLIAM J. CLINTON.


MESSAGES FROM THE HOUSE

At 12:00 p.m., a message from the House of Representatives, delivered by Ms. Goertz, one of its reading clerks, announced that the Speaker appoints the following Member to the Joint Economic Committee: Mr. Saxton of New Jersey.

At 3:40 p.m., a message from the House of Representatives, delivered by Ms. Goertz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 9. Concurrent resolution providing for a joint session of Congress to receive a message from the President on the State of the Union.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-57A. A communication from the Acting Director, Office of Subsustainable Fisheries, National Oceanic and Atmospheric Administration, to the Committee on Commerce, Science, and Transportation.

EC-579. A communication from the Acting Director, Office of Subsustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Exclusive Economic Zone Off Florida, received on January 9, 1997, to the Committee on Commerce, Science, and Transportation.

EC-580. A communication from the Acting Director, Office of Subsustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Exclusive Economic Zone Off Florida, received on January 6, 1997, to the Committee on Commerce, Science, and Transportation.

EC-581. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Fishery Management Plan, (RIN0648-DG77) received on January 6, 1997, to the Committee on Commerce, Science, and Transportation.

EC-582. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Driftnet Act, to the Committee on Commerce, Science, and Transportation.

EC-583. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to the Puerto Rican shrub, (RIN1018-DJ48) received on January 7, 1997, to the Committee on Environment and Public Works.

EC-584. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a certification relative to commercial shrimping operations; to the Committee on Commerce, Science, and Transportation.

EC-585. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report of rule relative to fireworks, received January 2, 1997, to the Committee on Commerce, Science, and Transportation.

EC-586. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of rule relative to Tier 1 Telephone Companies, received on January 7, 1997, to the Committee on Commerce, Science, and Transportation.

EC-587. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report on the Airport Improvement Program for fiscal year 1996, to the Committee on Commerce, Science, and Transportation.

EC-588. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report on the Journalistic Freedom Program for fiscal year 1996, to the Committee on Commerce, Science, and Transportation.

EC-589. A communication from the Acting Administrator of the Federal Aviation Administration, transmitting, pursuant to law, the report on the Aircraft Cabin Air Quality Research Program; to the Committee on Commerce, Science, and Transportation.

EC-590. A communication from the Assistant General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule relative to tank vessels, (RIN1171-A272) received on January 9, 1997, to the Committee on Commerce, Science, and Transportation.
EC-591. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule relative to management and monitoring, (RIN 0920-AC99) received on December 27, 1996; to the Committee on Commerce, Science, and Transportation.

EC-592. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule relative to Class E Airspace, (RIN2120-AA66) received on January 9, 1997; to the Committee on Commerce, Science, and Transportation.

EC-593. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule relative to the National Environmental Policy Act, (RIN2061-AC08) received on January 9, 1997; to the Committee on Commerce, Science, and Transportation.

EC-594. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule relative to the Fur Products Labeling Act, received on December 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC-595. A communication from the Acting Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule relative to the Food Retailing and Grocery Industries, received on December 27, 1996; to the Committee on Commerce, Science, and Transportation.

EC-596. A communication from the Acting Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report under the Comprehensive Smokeless Tobacco Health Act; to the Committee on Commerce, Science, and Transportation.

EC-597. A communication from the Acting Secretary of the Federal Trade Commission transmitting, pursuant to law, the report under the Comprehensive Smokeless Tobacco Health Act; to the Committee on Commerce, Science, and Transportation.

EC-598. A communication from the Chairman of the National Safety Board, transmitting, pursuant to law, the request for supplemental funding for fiscal year 1997; to the Committee on Commerce, Science, and Transportation.

EC-599. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the report of a rule relative to Ex Parte No. 542, received on January 9, 1997; to the Committee on Commerce, Science, and Transportation.

EC-600. A communication from the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of a rule relative to Ex Parte No. 537, received on January 9, 1997; to the Committee on Commerce, Science, and Transportation.

EC-601. A communication from the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of a rule relative to Ex Parte No. 347, received on January 9, 1997; to the Committee on Commerce, Science, and Transportation.

EC-602. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on Voluntary Commitments for the Replacement Fuel Supply and Demand Program; to the Committee on Energy and Natural Resources.

EC-603. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, the report of a rule relative to the National Environmental Policy Act Amendment, (RIN0561-AC05) received on January 9, 1997; to the Committee on Energy and Natural Resources.

EC-604. A communication from the Administrator of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to the National Environmental Policy Act Amendment, (RIN0561-AC05) received on January 9, 1997; to the Committee on Energy and Natural Resources.

EC-605. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to the Alaska National Wildlife Refuges, (RIN1018-AC02) received on January 9, 1997; to the Committee on Energy and Natural Resources.

EC-606. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to the Ohio Regulatory Program, received on January 8, 1997; to the Committee on Energy and Natural Resources.

EC-607. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-608. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-609. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-610. A communication from the Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to the Native American Graves Protection and Repatriation Act; (RIN1024-AC48) received on January 9, 1997; to the Committee on Environment and Public Works.

EC-611. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to the Endangered and Threatened Wildlife and Plants, (RIN1018-AC64) received on January 7, 1997; to the Committee on Environment and Public Works.

EC-612. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to the Endangered and Threatened Wildlife and Plants, (RIN1018-AC64) received on January 7, 1997; to the Committee on Environment and Public Works.

EC-613. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to the Endangered and Threatened Wildlife and Plants, (RIN1018-AC64) received on January 7, 1997; to the Committee on Environment and Public Works.

EC-614. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to the Endangered and Threatened Wildlife and Plants, (RIN1018-AC64) received on January 7, 1997; to the Committee on Environment and Public Works.

EC-615. A communication from the Director of the State and Site Identification Center, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule relative to uncontrolled hazardous waste sites, received on January 10, 1997; to the Committee on Environment and Public Works.

EC-616. A communication from the Office of the Secretary for the Fish and Wildlife Service, Environmental Protection Agency, transmitting, pursuant to law, the report of five rules including one rule relative to approval and promulgation of plans, (FRL5669-1, 5673-2, 5662-3, 5669-5, 5660-9) received on January 10, 1997; to the Committee on Environment and Public Works.

EC-617. A communication from the Office of the Secretary for the Fish and Wildlife Service, Environmental Protection Agency, transmitting, pursuant to law, the report of five rules including one rule relative to approval and promulgation of plans, (FRL5671-1, 5673-4, 5662-3, 5669-5, 5660-9) received on January 10, 1997; to the Committee on Environment and Public Works.

EC-618. A communication from the Office of the Secretary for the Fish and Wildlife Service, Environmental Protection Agency, transmitting, pursuant to law, the report of two rules including one rule relative to the Clean Air Act, (FRL5674-1, 5673-8) received on January 10, 1997; to the Committee on Environment and Public Works.

EC-619. A communication from the Office of the Secretary for the Fish and Wildlife Service, Environmental Protection Agency, transmitting, pursuant to law, the report of four rules including one rule relative to approval and promulgation of plans, (FRL5666-2, 5661-6, 5671-1, 5673-4) received on January 9, 1997; to the Committee on Environment and Public Works.

EC-620. A communication from the Chief Financial Officer, National Aeronautics and Space Administration, transmitting, pursuant to law, the report on the Federal Facilities Compliance Act Mixed Waste Activities for Fiscal Year 1997; to the Committee on Environment and Public Works.

EC-621. A communication from the Dean and the Director of the Center for Nations in Transition, Hubert H. Humphrey Institute of Public Affairs, University of Minnesota, transmitting jointly, pursuant to law, the annual report on the Environmental Training Project (ETP); to the Committee on Environment and Public Works.

EC-622. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97-6, received on January 7, 1997; to the Committee on Finance.

EC-623. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97-5, received on January 7, 1997; to the Committee on Finance.

EC-624. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97-4, received on January 7, 1997; to the Committee on Finance.

EC-625. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97-8, received on January 7, 1997; to the Committee on Finance.

EC-626. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97-8, received on January 7, 1997; to the Committee on Finance.
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Revenue Procedure 97±1 received on January 7, 1997; to the Committee on Finance.
EC-628. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±1, received on January 7, 1997; to the Committee on Finance.
EC-629. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±2, received on January 7, 1997; to the Committee on Finance.
EC-630. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to temporary regulations, received on January 7, 1997; to the Committee on Finance.
EC-631. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±14, received on January 10, 1997; to the Committee on Finance.
EC-632. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to temporary regulations, received on January 7, 1997; to the Committee on Finance.
EC-633. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±13, received on January 10, 1997; to the Committee on Finance.
EC-634. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±5, received on January 10, 1997; to the Committee on Finance.
EC-635. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±12, received on January 9, 1997; to the Committee on Finance.
EC-636. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±11, received on January 9, 1997; to the Committee on Finance.
EC-637. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±10, received on January 9, 1997; to the Committee on Finance.
EC-638. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±9, received on January 9, 1997; to the Committee on Finance.
EC-639. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±8, received on January 9, 1997; to the Committee on Finance.
EC-640. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±7, received on January 9, 1997; to the Committee on Finance.
EC-641. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±6, received on January 9, 1997; to the Committee on Finance.
EC-642. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±5, received on January 9, 1997; to the Committee on Finance.
EC-643. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±4, received on January 9, 1997; to the Committee on Finance.
EC-644. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±3, received on January 9, 1997; to the Committee on Finance.
EC-645. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±2, received on January 9, 1997; to the Committee on Finance.
EC-646. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±1, received on January 9, 1997; to the Committee on Finance.
EC-647. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±10, received on January 9, 1997; to the Committee on Finance.
EC-648. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±9, received on January 9, 1997; to the Committee on Finance.
EC-649. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±8, received on January 9, 1997; to the Committee on Finance.
EC-650. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±7, received on January 9, 1997; to the Committee on Finance.
EC-651. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±6, received on January 9, 1997; to the Committee on Finance.
EC-652. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±5, received on January 9, 1997; to the Committee on Finance.
EC-653. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±4, received on January 9, 1997; to the Committee on Finance.
EC-654. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±3, received on January 9, 1997; to the Committee on Finance.
EC-655. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±2, received on January 9, 1997; to the Committee on Finance.
EC-656. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97±1, received on January 9, 1997; to the Committee on Finance.
July 3, 1996, to the Committee on Governmental Affairs.
EC-672. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-349 adopted by the Council on July 3, 1996, to the Committee on Governmental Affairs.
EC-673. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-350 adopted by the Council on July 3, 1996, to the Committee on Governmental Affairs.
EC-674. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-351 adopted by the Council on July 3, 1996, to the Committee on Governmental Affairs.
EC-675. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-355 adopted by the Council on July 3, 1996, to the Committee on Governmental Affairs.
EC-676. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-356 adopted by the Council on July 3, 1996, to the Committee on Governmental Affairs.
EC-677. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-357 adopted by the Council on July 3, 1996, to the Committee on Governmental Affairs.
EC-678. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-358 adopted by the Council on July 3, 1996, to the Committee on Governmental Affairs.
EC-679. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-359 adopted by the Council on July 3, 1996, to the Committee on Governmental Affairs.
EC-680. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-360 adopted by the Council on July 3, 1996, to the Committee on Governmental Affairs.
EC-681. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-361 adopted by the Council on July 3, 1996, to the Committee on Governmental Affairs.
EC-682. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-363 adopted by the Council on July 3, 1996, to the Committee on Governmental Affairs.
EC-683. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-364 adopted by the Council on July 3, 1996, to the Committee on Governmental Affairs.
EC-684. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-365 adopted by the Council on July 3, 1996, to the Committee on Governmental Affairs.
EC-685. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-371 adopted by the Council on July 17, 1996, to the Committee on Governmental Affairs.
EC-686. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-374 adopted by the Council on July 17, 1996, to the Committee on Governmental Affairs.
EC-687. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-375 adopted by the Council on July 17, 1996, to the Committee on Governmental Affairs.
the report of a rule relative to advanced television systems, received on January 14, 1997; to the Committee on Commerce, Science, and Transportation.

EC-716. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to accounting safeguards in effect during fiscal year 1996; to the Committee on Commerce, Science, and Transportation.

EC-717. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to access charge reform, received on January 15, 1997; to the Committee on Commerce, Science, and Transportation.

EC-718. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-310 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC-719. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-311 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC-720. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-312 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC-721. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-313 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC-722. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-314 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC-723. A communication from the Executive Director of the Japantimes United States Friendship Commission, transmitting, pursuant to law, the annual report for fiscal year 1996; to the Committee on Foreign Relations.

EC-724. A communication from the Under Secretary for Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 97-02; to the Committee on Appropriations.

EC-725. A communication from the Chairman and General Counsel of the National Labor Relations Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-726. A communication from the Director of the U.S. Department of the Treasury, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-727. A communication from the Chairman of the Farm Credit System Insurance Corporation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-728. A communication from the Chairman of the U.S. Consumer Product Safety Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-729. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-730. A communication from the Chairman of the National Mediation Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-731. A communication from the Chairman of the National Mediation Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-732. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-733. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-734. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-735. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-736. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-737. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-738. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-739. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-740. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-741. A communication from the Secretary of Labor, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-742. A communication from the Office of the Special Counsel, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-743. A communication from the Chairwoman of the National Mediation Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-744. A communication from the Chairwoman of the National Mediation Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-745. A communication from the Chairwoman of the National Mediation Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-746. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-747. A communication from the Administrator of the U.S. Agency for International Development, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-748. A communication from the Administrator of the U.S. Agency for International Development, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-749. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-750. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-751. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-752. A communication from the Acting Chairwoman of the Thrift Depository Protection Oversight Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-753. A communication from the Administrator of the U.S. Small Business Administration, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-754. A communication from the President of the Barry M. Goldwater Scholarship and Excellence in Education Foundation, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC-755. A communication from the Executive Vice President of the U.S. Institute of
Committee on Governmental Affairs.

EC-756. A communication from the Secretary of Defense, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996, to the Committee on Governmental Affairs.

EC-759. A communication from the Inspector General of the U.S. General Services Administration, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996, to the Committee on Governmental Affairs.

EC-760. A communication from the Chairperson of the National Endowment for the Humanities, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996, to the Committee on Governmental Affairs.

EC-761. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996, to the Committee on Governmental Affairs.

EC-762. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996, to the Committee on Governmental Affairs.

EC-765. A communication from the Acting Administrator of General Services Administration, transmitting, pursuant to law, the report of the Office of Inspector General for the period April 1 through September 30, 1996, to the Committee on Governmental Affairs.

On Historic Preservation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996, to the Committee on Governmental Affairs.

EC-769. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996, to the Committee on Governmental Affairs.

EC-770. A communication from the Secretary of the American Battle Monuments Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996, to the Committee on Governmental Affairs.

EC-771. A communication from the Administrator, Office of Personnel Management, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996, to the Committee on Governmental Affairs.

EC-772. A communication from the Chairmen of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report relative to appeals; to the Committee on Governmental Affairs.

EC-773. A communication from the Office of Personnel Management, President’s Pay Agent, transmitting, pursuant to law, a report relative to locality-based comparability payments; to the Committee on Governmental Affairs.

EC-774. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report on reinvestment activities of the Committee on Governmental Affairs.

EC-775. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996, to the Committee on Governmental Affairs.

EC-776. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1996; to the Committee on Governmental Affairs.

EC-778. A communication from the Chairman of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996, to the Committee on Governmental Affairs.

EC-779. A communication from the Acting Executive Director of the Advisory Council on Historic Preservation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996, to the Committee on Governmental Affairs.

EC-779. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996, to the Committee on Governmental Affairs.

EC-780. A communication from the Executive Director of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, the report on a resolution and order adopted on December 27, 1996; to the Committee on Governmental Affairs.

EC-781. A communication from the Assistant Secretary of Labor for Employment Standards, transmitting, pursuant to law, a rule entitled “Labor Standards for Federal Service Contracts” (RIN 1225-AA78) received on January 8, 1997, to the Committee on Governmental Affairs.

EC-782. A communication from the Assistant Secretary of the Interior for Policy, Management, and Budget, transmitting, pursuant to law, a rule entitled “Administrative Procedure Act: Final Rule on Requirements for Assistance Programs” (RIN 1090-AA59) received on December 24, 1996; to the Committee on Governmental Affairs.

EC-783. A communication from the Assistant Secretary of Health and Human Services, Administration for Children and Families, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996, to the Committee on Finance.

EC-784. A communication from the Administrator of the Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, the report on a rule relative to electronic cost reporting, (RIN 0936-AH12) received on January 13, 1997; to the Committee on Finance.

EC-785. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to Notice 96-3, received on January 2, 1997; to the Committee on Finance.

EC-786. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to Notice 95-7, received on January 2, 1997; to the Committee on Finance.

EC-787. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to Notice 97-12, received on January 2, 1997; to the Committee on Finance.

EC-788. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to Revenue Ruling 97-6, received on January 13, 1997; to the Committee on Finance.

EC-789. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to Revenue Ruling 97-2, received on January 13, 1997; to the Committee on Finance.

EC-790. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to income of a controlled foreign corporation, (RIN 1545-AI31) received on January 2, 1997; to the Committee on Finance.

EC-791. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to electronic filing of form W-4, (RIN 1545-AR67) received on January 2, 1997; to the Committee on Finance.
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EC-793. A communication from the Chairman of the Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for 1996; to the Committee on the Judiciary.

EC-794. A communication from the Assistant Attorney General, Office of Justice Programs, Department of Justice, transmitting, pursuant to law, the report of rule relative to formula grants, (RIN1211-AA38) received on January 9, 1997; to the Committee on the Judiciary.

EC-795. A communication from the Assistant Attorney General, Office of Justice Programs, Department of Justice, transmitting, pursuant to law, the report of rule relative to grants, (RIN1211-AA43) received on January 9, 1997; to the Committee on the Judiciary.

EC-796. A communication from the Assistant Attorney General, Office of Justice Programs, Department of Justice, transmitting, pursuant to law, the report of rule relative to motor vehicle theft prevention, (RIN1211-AA36) received on January 9, 1997; to the Committee on the Judiciary.

EC-797. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the report of rule relative to the “Environmental Crimes and Enforcement Act of 1997”; to the Committee on the Judiciary.

EC-798. A communication from the Secretary of the Judicial Conference of the United States, transmitting, a draft of proposed legislation to convert five judgeships to permanent positions; to the Committee on the Judiciary.

EC-799. A communication from the Chief Administrator, Office of the Postal Rate Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for 1996; to the Committee on the Judiciary.

EC-800. A communication from the Clerk of the United States Court of Federal Claims, transmitting, pursuant to law, the court’s report for fiscal year 1997; to the Committee on the Judiciary.

EC-801. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report of the rule relative to electronic filing reports of political committees, (RIN1211-AF95) received on January 3, 1997; to the Committee on Governmental Affairs.

EC-802. A communication from the Deputy Associate Administrator for Acquisition Policy, Office of GovernmentWide Policy, General Services Administration, transmitting, pursuant to law, the report on implementation of the Federal Acquisition Regulation for fiscal year 1996; to the Committee on Veterans Affairs.

EC-803. A communication from the President Pro Tempore of the U.S. Senate, transmitting, pursuant to law, the report of the Board of Directors of the Federal Home Loan Mortgage Corporation, referred jointly, pursuant to 2 U.S.C. sec. 1302(b), to the Committee on Rules and Administration and to the Committee on Governmental Affairs.

EC-804. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the annual report for fiscal year 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC-805. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a report entitled “Market Loss Adjustment Program” received on January 3, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-806. A communication from the Chairman of the Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, a report relative to the Bumping Lake Dam, Yakima Project, Washington; to the Committee on Energy and Natural Resources.

EC-807. A communication from the Assistant Secretary of the Interior for Land Minerals Management, transmitting, pursuant to law, a report entitled “Hydrogen Sulfide Requirements for Operations on the Outer Continental Shelf” (RIN10101-AB50) received on January 16, 1997; to the Committee on Energy and Natural Resources.

EC-808. A communication from the Secretary of the Interior for Land Minerals Management, transmitting, pursuant to law, notice relative to emergency funds concerning the Low-Income Home Energy Assistance Act; to the Committee on Energy and Natural Resources.

EC-809. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, a report entitled “Unauthorized Appropriations and Expiring Authorizations”; to the Committee on Appropriations.

EC-810. A communication from the Director of the Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report of rule relative to “Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State” (RIN3150-AB1) received on January 17, 1997; to the Committee on Environment and Public Works.

EC-811. A communication from the Office of the General Counsel, Office of Policy, Planning, and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, six rules including a rule entitled “National Emission Standards for Hazardous Air Pollutants Emissions” (FRL5570-1, 5657-6, 5655-9, 5675-2, 5570-2, 5675-1); to the Committee on Environment and Public Works.

EC-812. A communication from the Secretary of the Board of the National Credit Union Administration, transmitting, pursuant to law, a rule entitled “Loans to Officials and Truth in Savings” received on January 13, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-813. A communication from the Chairman of the Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, a rule entitled “Rules of Practice and Procedure” (RIN1211-AB57) received on January 16, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-814. A communication from the Secretary of Housing and Urban Development, transmitting, the customer satisfaction report; to the Committee on Banking, Housing, and Urban Affairs.

EC-815. A communication from the Secretary of Defense, transmitting, notice of three retirements; to the Committee on Armed Services.

EC-816. A communication from the Assistant Secretary of the Navy (Installations and Environment), transmitting, pursuant to law, a notice relative to private contractors; to the Committee on Armed Services.

EC-817. A communication from the Secretary of Defense, transmitting, pursuant to law, the report on the payment of restructuring costs under defense contracts; to the Committee on Armed Services.

EC-818. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to administrative military personnel actions; to the Committee on Armed Services.

EC-819. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to the Cooperative Threat Reduction Program; to the Committee on Armed Services.

EC-820. A communication from the Assistant Secretary of Defense, transmitting, pursuant to law, a report relative to the Cooperative Threat Reduction Program; to the Committee on Armed Services.

EC-821. A communication from the Director of Administration and Management, Office of the Secretary, transmitting, pursuant to law, a rule entitled “Courts of Criminal Appeals Rules of Practice and Procedure” received on January 15, 1997; to the Committee on Armed Services.

EC-822. A communication from the Director of Defense Procurement, Acquisition and Technology, Office of the Under Secretary of Defense ( Acquisition), transmitting, pursuant to law, reports on six rules amending the Defense Federal Acquisition Supplement (96-D321, 96-D017, 96-D001, 96-D017, 96-D017, 96-D017).
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96-D-306, 96-D-310, 96-D-328, 96-D-021); to the Committee on Armed Services.

EC-832. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, a rule received on January 16, 1997, to the Committee on Labor and Human Resources.

EC-833. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Drug Abuse and Drug Abuse Research"; to the Committee on Labor and Human Resources.

EC-834. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a rule entitled "Notification Procedures for States" (RIN0938) received on January 15, 1997, to the Committee on Labor and Human Resources.

EC-835. A communication from the Secretary of Labor and Human Resources, transmitting, pursuant to law, a report entitled "A National Strategy to Prevent Teen Pregnancy"; to the Committee on Labor and Human Resources.

EC-836. A communication from the Secretary of Labor and Human Resources, transmitting, pursuant to law, a report entitled "Performance Improvement 1996: Evaluation Activities"; to the Committee on Labor and Human Resources.

EC-837. A communication from the Director of Regulations Policy, Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, five rules including a rule entitled "Drug Labeling" (RIN0930-AA63, AA65); to the Committee on Labor and Human Resources.

EC-838. A communication from the Assistant Secretary of Labor for Employment Standards, transmitting, pursuant to law, two rules including a rule entitled "Labor Standards for Federal Service Contracts" (RIN1225-AA78, 1225-AA94); to the Committee on Labor and Human Resources.

EC-839. A communication from the Assistant Secretary of Labor for Occupational Safety and Health, transmitting, pursuant to law, the annual report on the system of internal and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations, transmitting, pursuant to law, the nomination of Madeline Korbel Albright, of the District of Columbia, to be Secretary of State, vice Warren Christopher.

(The above nomination was reported with the recommendation that she 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. COVERDELL (for himself, Mr. COATS, Mr. GREGG, Mr. LOTT, Mr. BOND, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. CRAIG, Mr. DEWINE, Mr. MURKOWSKI, Mr. KYL, Mr. MCCAIN, Mr. McCONNELL, Mr. NICKLES, Mr. THOMAS, Mr.thurmond, and Mr. WARNER):

S. 5. A bill to establish legal standards and procedures for product liability litigation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SANTORUM (for himself, Mr. SMITH, Mr. LOTT, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. BOND, Mr. BROWNBACK, Mr. COATS, Mr. COVERDELL, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMM, Mr. HATCH, Mr. HELMS, Mr. KYL, Mr. LUGAR, Mr. McCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. Roberts, Mr. SESSIONS, Mr. Smith, Mr. THURMOND, Mr. WARNER, and Mr. KEMPThORNE):

S. 6. A bill to establish a United States policy for the deployment of a national missile defense system, and for other purposes; to the Committee on Armed Services.

By Mr. SMITH (for himself, Mr. CHAFFEE, Mr. LOTT, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. COVERDELL, Mr. CRAIG, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GORTON, Mr. HATCH, Mr. HELMS, Mr. KYL, Mr. LUGAR, Mr. McCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. Roberts, Mr. SESSIONS, Mr. Smith, Mr. THURMOND, Mr. WARNER, and Mr. KEMPThORNE):

S. 7. A bill to establish the Comprehensive Environmental Response, Liability, and Compensation Act of 1980, and for other purposes; to the Committee on Environment and Public Works.

By Mr. NICKLES (for himself, Mr. GREGG, Mr. WARNER, Mr. LOTT, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. COVERDELL, Mr. CRAIG, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMM, Mr. HATCH, Mr. HELMS, Mr. KYL, Mr. LUGAR, Mr. McCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. Roberts, Mr. SESSIONS, Mr. Smith, Mr. THURMOND, Mr. WARNER, and Mr. KEMPThORNE):

S. 8. A bill to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization; to the Committee on Rules and Administration.

By Mr. HATCH (for himself, Mr. CHAFFEE, Mr. LOTT, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. COVERDELL, Mr. CRAIG, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMM, Mr. HATCH, Mr. HELMS, Mr. KYL, Mr. LUGAR, Mr. McCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. Roberts, Mr. SESSIONS, Mr. Smith, Mr. THURMOND, Mr. WARNER, and Mr. KEMPThORNE):

S. 9. A bill to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization; to the Committee on Rules and Administration.

By Mr. MCCAIN, Mr. LOTT, Mr. ABRAHAM, Mr. ALLARD, Mr. BROWNBACK, Mr. CHAFFEE, Mr. COVERDELL, Mr. CRAIG, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMM, Mr. HATCH, Mr. HELMS, Mr. KYL, Mr. LUGAR, Mr. McCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. Roberts, Mr. SESSIONS, Mr. Smith, Mr. THURMOND, Mr. WARNER, and Mr. KEMPThORNE):

S. 10. A bill to provide for safe and affordable schools; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. LOTT, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. CRAIG, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMM, Mr. HAGEL, Mr. HELMS, Mr. KYL, Mr. MURKOWSKI, Mr. NICKLES, Mr. Roberts, Mr. SESSIONS, Mr. Smith, Mr. GORDON H. SMITH, Mr. Thomas, Mr. THURMOND, Mr. WARNER, Mr. COVERDELL, Mr. COATS, and Mr. KEMPThORNE):

S. 11. A bill to provide for fair and accurate criminal trials, reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, reduce the fiscal burden imposed by criminal alien prisoners, promote safe citizen self-defense, combat the importation, production, sale, and use of illegal drugs, and for other purposes; to the Committee on the Judiciary.

By Mr. ASHCROFT (for himself, Mrs. HUTCHISON, Mr. LOTT, Mr. NICKLES, Mr. McCONNELL, Mr. MURKOWSKI, Mr. ROBERTS, Mr. SESSIONS, Mr. SMITH, Mr. THURMOND, Mr. WARNER, Mr. COVERDELL, and Mr. J EFFORDS):

S. 4. A bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs that employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ASHCROFT (for himself, Mr. McCAIN, Mr. LOTT, Mr. ABRAHAM, Mr. ALLARD, Mr. BROWNBACK, Mr. CHAFFEE, Mr. COVERDELL, Mr. CRAIG, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMM, Mr. HAGEL, Mr. HELMS, Mr. KYL, Mr. MURKOWSKI, Mr. NICKLES, Mr. ROBERTS, Mr. SESSIONS, Mr. Smith, Mr. THOMAS, Mr. THURMOND, Mr. WARNER, Mr. COVERDELL, and Mr. J EFFORDS):
S. 11. A bill to reform the Federal election campaign laws applicable to Congress; to the Committee on Governmental Affairs.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Ms. MOSLEY-BRAUN, Ms. MIKULSKI, Mr. DODD, Mr. REID, Mr. DURBIN, Mr. ROCKEFELLER, Mr. INOUYE, Mr. KERRY, Mr. LEVIN, Mr. CLELAND, Mr. JOHNSON, Mr. ROCKEFELLER, Mr. DURBIN, Mr. GLENN, Mrs. BOXER, Mr. WELLSTONE, Mr. BRYAN, and Mr. LAUTENBERG):

S. 12. A bill to improve education for the 21st century; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mr. BREAUX, Mr. ROCKEFELLER, Mr. DURBIN, Mr. REID, Ms. LANDRIEU, Mr. INOUYE, Mr. TORRICELLI, and Mr. BREAUX):

S. 13. A bill to provide access to health insurance coverage for uninsured children and pregnant women; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mrs. BOXER, Mr. KENNEDY, Mr. BINGAMAN, Ms. MOSLEY-BRAUN, Mr. ROCKEFELLER, Ms. GRAMAN, Ms. MIKULSKI, Mr. KERRY, Mr. REID, Mr. DURBIN, Mr. INOUYE, Mr. TORRICELLI, and Mr. BREAUX):

S. 14. A bill to provide for retirement savings and security, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. BIDEN, Mr. LEAHY, Mr. KOHL, Mr. BREAUX, Mr. FORD, Ms. MIKULSKI, Mr. DODD, Mr. DURBIN, Mr. KERRY, Mr. LEVIN, Ms. LANDRIEU, Mr. ROCKEFELLER, Ms. MOSLEY-BRAUN, Mr. GLENN, and Mr. ROCKEFELLER):

S. 15. A bill to control youth violence, crime, and drug abuse, and for other purposes; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. JOHNSON, Mr. DORGAN, Mr. CONRAD, Mr. KERRY, Mr. BAUCUS, Mr. BINGAMAN, Mr. KOHL, Mr. FEINGOLD, Mr. LEAHY, and Mr. WELLSTONE):

S. 16. A bill to ensure the continued viability of livestock producers and the livestock industry in the United States, to assure foreign countries do not deny market access to United States beef and meat products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DASCHLE (for himself, Mr. BREAUX, Mr. KENNEDY, Mr. DODD, Ms. MIKULSKI, Mr. DORGAN, Mr. JOHNSON, Mr. ROCKEFELLER, Mr. KERRY, Ms. MOSLEY-BRAUN, Mr. REID, and Mr. LAUTENBERG):

S. 17. A bill to consolidate certain Federal job training programs by developing a system designed to provide to disadvantaged workers and economically disadvantaged adults the opportunity to choose the type of job training that most closely meets the needs of such workers and adults, by establishing a one-stop career center system to provide high quality job training and employment-related services, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LAUTENBERG (for himself, Mr. BAUCUS, Mr. REID, Mr. MOYNIHAN, Mr. BIDEN, Mr. BOXER, Mr. NELSON, Mr. LEVIN, Mr. TORRICELLI, Mr. BREAUX, and Mr. KENNEDY):

S. 18. A bill to assist the States and local governments in assuring and remediating brownfield sites and encouraging environmental cleanup programs, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DODD (for himself, Mr. DASCHLE, Mr. KENNEDY, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. MURRAY, Mr. BOXER, Mrs. MURRAY, and Ms. BOXER):

S. 19. A bill to provide funds for child care for low-income working families, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DASCHLE (for himself, Mr. REID, Mrs. MURRAY, Mr. DORGAN, Mr. BREACH, Mr. KOHL, Mr. WYDEN, and Mr. BINGAMAN):

S. 20. A bill to amend the Internal Revenue Code of 1986 to provide increased incentives to promote the benefits of economic growth, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 21. A bill to establish a medical education trust fund, and for other purposes; to the Committee on Finance.

S. 22. A bill to establish a bipartisan national commission to address the year 2000 computer problem; to the Committee on Governmental Affairs.

By Mr. SPECTER (for himself and Ms. MOSLEY-BRAUN):

S. 23. A bill to promote a new urban agenda, and for other purposes; to the Committee on Finance.

By Mr. SPECTER:

S. 24. A bill to provide improved access to health care, enhance informed individual choice regarding health care services, lower health care costs through the use of appropriate incentives, give the quality of health care, improve access to long-term care, and for other purposes; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mr. FEINGOLD, Mr. THOMPSON, Mr. WELLSTONE, Mr. GRAMAN, Mr. KERRY, Mr. DODD, Mr. KERRY, Mr. BINGAMAN, Mr. LANDRIEU, Mrs. MURRAY, Mr. KOHL, Mr. WYDEN, Ms. MOSLEY-BRAUN, Mr. REID, Mr. FORD, Mr. LEAHY, Mr. CLELAND, Mr. JOHNSON, and Mr. DURBIN):

S. 25. A bill to reform the financing of Federal elections; to the Committee on Rules and Administration.

By Mr. DASCHLE (for himself, Mr. JOHNSON, Mr. DORGAN, Mr. CONRAD, Mr. KERRY, and Mr. BINGAMAN):

S. 26. A bill to provide a safety net for farmers and consumers to promote the development of farmer-owned value added processing facilities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. THURMOND:

S. 27. A bill to amend title 1 of the United States Code to clarify the effect and application of legislation; to the Committee on the Judiciary.

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

S. 28. A bill to amend title 17, United States Code, with respect to certain exemptions from copyright, and for other purposes; to the Committee on Judiciary.

By Mr. LUガー:

S. 29. A bill to repeal the federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

S. 30. A bill to increase the unified estate and gift tax credit to exempt small businesses and farmers from inheritance taxes; to the Committee on Finance.

By Mr. SPECTER:

S. 31. A bill to increase the unified estate and gift tax credit and repeal the federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

By Mr. THURMOND:

S. 32. A bill to amend title 28 of the United States Code to clarify the remedial jurisdic-

tion of inferior Federal courts; to the Committee on the Judiciary.

S. 33. A bill to provide that a Federal justice or judge convicted of a felony shall be suspended without pay, to amend the retirement age and service requirements for Federal justices and judges convicted of a felony, and for other purposes; to the Committee on the Judiciary.

By Mr. FEINGOLD:

S. 34. A bill to phase out Federal funding of the Tennessee Valley Authority; to the Committee on Environment and Public Works.

S. 35. A bill to amend the Reclamation Reform Act of 1992 to clarify the acreage limitations and incorporate a means test for certain farm operations, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. THURMOND:

S. 36. A bill for the relief of Ibrahim Al-Assaad; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself and Mr. McCaIN):

S. 37. A bill to terminate the Uniformed Services University of the Health Sciences; to the Committee on Armed Services.

By Mr. FEINGOLD (for himself and Mr. McCaIN):

S. 38. A bill to reduce the number of executive branch political appointees; to the Committee on Governmental Affairs.

By Mr. STEVENS (for himself, Mr. BREAUX, Mr. THURMOND, and Mr. MURKOWSKI):

S. 39. A bill to amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. FAIRCLOTH (for himself, Mr. INHOFE, and Mr. MCCaIN):

S. 40. A bill to provide Federal sanctions for practitioners who administer, dispense, or recommend the use of marijuana, and for other purposes; to the Committee on the Judiciary.

By Mr. HELs:

S. 41. A bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools; read twice and placed on the calendar.

S. 42. A bill to protect the lives of unborn human beings; read twice and placed on the calendar.

By Mr. HELs (for himself, Mr. DeWINE, Mr. HATCH, Mr. NickLes, Mr. ABRaHAM, and Mr. FAIRCLOTH):

S. 43. A bill to prohibit the use of guns; read twice and placed on the calendar.

By Mr. HELs:

S. 44. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with the knowledge that the abortion is being performed solely because of the gender of the fetus; read twice and placed on the calendar.

S. 45. A bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services; read twice and placed on the calendar.

S. 46. A bill to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes; read twice and placed on the calendar.

S. 47. A bill to prohibit the executive branch of the Federal Government from establishing an additional class of individuals that is protected against discrimination in Federal employment, and for other purposes; read twice and placed on the calendar.

S. 48. A bill to abolish the National Endowment for the Arts and the National Council on the Arts; read twice and placed on the calendar.
By Mr. STEVENS (for himself and Mr. MURKOWSKI):
S. 49. A bill to amend the wetlands regulatory program under the Federal Water Pollution Control Act to provide credit for the low wetlands loss rate in Alaska and recognize the significant extent of wetlands conservation in Alaska, to protect Alaskan property owners, and to ease the burden on Alaskan cities, boroughs, municipalities, and villages; to the Committee on Environment and Public Works.

By Mr. FAIRCLOTH (for himself and Mr. CRAIG):
S. 50. A bill to amend the Internal Revenue Code of 1986 to establish a non-refundable tax credit for the expenses of an education at a 2-year college; to the Committee on Finance.

By Mr. FEINGOLD:
S. 51. A bill to amend the Internal Revenue Code of 1986 to eliminate the percentage depletion allowance for certain minerals; to the Committee on Finance.

S. 52. A bill to amend the Agricultural Adjustment Act to prohibit the Secretary of Agriculture from basing minimum prices for Class I milk on the distance or transportation costs from any location that is not within a marketing area, except under certain circumstances, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. THURMOND, and Mr. MOYNIHAN):
S. 53. A bill to require the general application of the antitrust laws to major league baseball, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH for himself, Mrs. FEINSTEIN, Mr. D'AMATO, Mr. HARKIN, and Mr. REID:
S. 54. A bill to reduce interstate street gang and organized crime activity, and for other purposes; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself and Mr. KOHL):
S. 55. A bill to amend the Dairy Production Stabilization Act of 1983 to prohibit bloc voting by cooperative associations of milk producers in connection with the program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 56. A bill to amend the Dairy Production Stabilization Act of 1983 to ensure that all persons who benefit from the dairy promotion and research program contribute to the operating costs of the program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FEINGOLD (for himself and Mr. REID):
S. 57. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, to limit soft money of political party committees, and for other purposes; to the Committee on Rules and Administration.

By Mr. FEINGOLD:
S. 58. A bill to modify the estate recovery provisions of the medicare program to give States the option to recover the costs of home and community-based services for individuals over age 55; to the Committee on Finance.

By Mr. FEINGOLD (for himself and Mr. KOHL):
S. 59. A bill to terminate the Extremely Low Frequency Communication System of the Navy; to the Committee on Armed Services.

By Mr. CRAIG:
S. 60. A bill for the relief of Benjamin M. Banfro; to the Committee on the Judiciary.

By Mr. LOTT:
S. 61. A bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related services to certain veterans of certain service in the United States merchant marine during World War II; to the Committee on Veterans' Affairs.

By Mr. CRAIG (for himself and Mr. KEMPThORNE):
S. 62. A bill to prohibit further extension or establishment of nonhuman primate facilities in Idaho without full public participation and an express Act of Congress, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD:
S. 63. A bill to amend certain Federal civil rights statutes, and to nullify voluntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LUGAR:
S. 64. A bill to amend the national missile defense policy of the United States; to the Committee on Armed Services.

By Mr. HATCH:
S. 65. A bill to amend the Internal Revenue Code of 1986 to ensure that members of tax-exempt organizations are notified of the portion of their dues used for political and lobbying activities, and for other purposes; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. LIEBERMAN, Mr. GRASSLEY, and Mr. BREAUx):
S. 66. A bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains and for other purposes; to the Committee on Finance.

By Ms. SNOWE:
S. 67. A bill to amend the Public Health Service Act to extend the program of research on breast cancer; to the Committee on Labor and Human Resources.

By Mr. KYL:
S. 68. A bill to establish a commission to study the impact on voter turnout of making the deadlines for filing federal income tax returns conform to the date of federal elections; to the Committee on Rules and Administration.

S. 69. A bill to amend the Internal Revenue Code of 1986 to allow a one-time election of a beneficiary to purchase an annuity on the basis of a pension cash-out restrictions, and for other purposes; to the Committee on Finance.

By Mrs. BOXER (for herself, Mr. CHAFEE, Mr. REED, and Mr. DURBIN):
S. 70. A bill to apply the same quality and safety standards to domestically manufactured handguns that are currently applied to imported handguns; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. KERRY, Mr. LEAHY, Ms. MIKULSK, Mr. GRAHAM, Mr. REID, Mr. WYDEN, Mrs. BOXER, Ms. MOSELEY-BRAUN, Mr. HARKIN, and Mr. LAUTENBERG):
S. 71. A bill to amend the Fair Labor Standards Act of 1938 and the Civil Rights Act of 1964 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KYL:
S. 72. A bill to amend the Internal Revenue Code of 1986 to provide a reduction in the capital gain rates for all taxpayers, and for other purposes; to the Committee on Finance.

S. 73. A bill to amend the Internal Revenue Code of 1986 to repeal the corporate alternative minimum tax; to the Committee on Finance.

S. 74. A bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain partnerships, and for other purposes; to the Committee on Finance.

By Mr. KYL (for himself, Mr. ABRAHAM, Mr. COATS, Mr. FAIRCLOTH, Mr. GRAMM, Mr. GRASSLEY, Mr. HAGEL, Mr. HUTCHISON, Mr. HUTCHISON, Mr. INHOFE, Mr. SHELBY, Mr. SMITH, and Mr. THURMOND):
S. 75. A bill to receive the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

By Mr. KYL:
S. 76. A bill to amend the Internal Revenue Code of 1986 to increase the expensing limitation from $250,000 to the Committee on Finance.

By Mr. BREAUx:
S. 77. A bill to provide for one additional Federal judge for the middle district of Louisiana by transferring one Federal judge from the eastern district of Louisiana; to the Committee on the Judiciary.

By Mr. HATCH (for himself and Mr. THOMAS):
S. 78. A bill to provide a fair and balanced resolution to the problem of multiple imposition of punitive damages, and for other purposes; to the Committee on the Judiciary.

By Mr. KOHL:
S. 79. A bill to amend the Internal Revenue Code of 1986 to provide for the rollover of gain from the sale of farm assets into an individual retirement account; to the Committee on Finance.

By Mr. KOHL (for himself and Mr. FEINGOLD):
S. 80. A bill to amend the Dairy Production Stabilization Act of 1983 to require that members of the National Dairy Promotion and Research Board be elected by milk producers and to prohibit bloc voting by cooperative associations, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KOHL:
S. 81. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers to who provide child care assistance for their employees, and for other purposes; to the Committee on Finance.

By Mr. AKAKA:
S. 82. A bill to consolidate and revise the authority of the Secretary of Agriculture relating to plant protection and quarantine, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAMM:
S. 84. A bill to authorize negotiation of free trade agreements with the countries of the Americas, and for other purposes; to the Committee on Finance.

S. 85. A bill to authorize negotiation for the accession of Chile to the North American Free Trade Agreement, and for other purposes; to the Committee on Finance.

By Ms. SNOWE (for herself and Mr. KOHL):
S. 86. A bill to amend the Public Health Service Act to provide, with respect to research on breast cancer, for the increased involvement of advocates in decisionmaking at the National Cancer Institute; to the Committee on Labor and Human Resources.
By Ms. SNOWE (for herself and Mrs. FEINSTEIN):
S. 87. A bill to amend the Public Health Service Act to provide a one-stop shopping information service for individuals suffering from infectious or life-threatening diseases; to the Committee on Labor and Human Resources. 

By Ms. SNOWE:
S. 88. A bill to permit individuals to continue health plan coverage of services while participating in approved clinical studies; to the Committee on Labor and Human Resources.

S. 89. A bill to prohibit discrimination against individuals and their family members in obtaining genetic information, or a request for genetic services; to the Committee on Labor and Human Resources.

S. 90. A bill to require studies and guidelines for screening for women ages 40-49, and for other purposes; to the Committee on Labor and Human Resources.

S. 91. A bill to establish an Office on Women's Health within the Department of Health and Human Services; to the Committee on Labor and Human Resources. 

By Mr. KERRY:
S. 92. Bills relating to sandwich title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes; to the Committee on Labor and Human Resources.

S. 93. A bill to increase funding for child care under the temporary assistance for needy families program; to the Committee on Finance.

By Mr. GRAMS (for himself and Mr. REID):
S. 94. A bill to provide for the orderly disposal of Federal lands in Nevada, and for the acquisition of certain environmentally sensitive lands in Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DORGAN:
S. 95. A bill to provide the Federal campaign finance reform, and for other purposes; to the Committee on Rules and Administration.

By Mr. INOUYE:
S. 96. A bill to require the Secretary of the Army to determine the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II; to the Committee on Armed Services.

By Mr. KERRY:
S. 97. A bill to amend the Internal Revenue Code of 1986 to provide for a tax credit to children in the District of Columbia; to the Committee on Finance.

By Mrs. BOXER:
S. 98. A bill to amend the Internal Revenue Code of 1986 to provide a family tax credit; to the Committee on Finance.

S. 99. A bill to amend the Internal Revenue Code of 1986 to allow companies to donate scientific equipment to elementary and secondary schools for use in their educational programs, and for other purposes; to the Committee on Finance.

By Mr. KERRY:
S. 100. A bill to amend title 49, United States Code, to provide protection for airline employees, including air traffic controllers, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. BOXER:
S. 101. A bill to amend the Public Health Service Act to provide for the training of health professions students with respect to the identification and referral of victims of domestic violence; to the Committee on Labor and Human Resources.

By Mr. BREAUX (for himself, Mr. AKAKA, Mr. CHAFEE, Mr. COCHRAH, Mr. CRAIG, Mr. GLENN, Mr. JEFFORDS, Mr. LEAHY, Mr. INOUYE, Ms. MIKULSKI, and Mr. REID):
S. 102. A bill to amend the Social Security Act to improve medicare treatment and education for beneficiaries with diabetes by providing coverage of diabetes self-management training services and uniform coverage of blood-testing strips for individuals with diabetes; to the Committee on Finance.

By Mr. INOUYE:
S. 103. A bill to amend the Immigration and Nationality Act to provide additional measures for the control of illegal immigration; to the Committee on the Judiciary.

By Mr. MURKOWSKI (for himself, Mr. CRAIG, Mr. GRAMS, Mr. KEMPThORNE, Mr. ABRAHAMS, Mr. HELMS, Mr. THURMOND, Mr. KYL, Mr. HOLLINGS, Mr. MACK, Mr. FAIRCLOTH, Mr. HATCH, Mr. WARNER, Mr. BOND, Mr. SMITH, Mr. RUSSELL, Mr. SANTORUM, Mr. LOTT, and Mr. JEFFORDS):
S. 104. A bill to amend the Nuclear Waste Policy Act of 1982; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN:
S. 105. A bill to repeal the habeas corpus requirement that a Federal court defer to a State court its interpretation of Constitutional law, except in cases where the Federal court believes that the State court erroneously interpreted Constitutional law, except in cases where the Federal court believes the State court acted in an unreasonable manner; to the Committee on the Judiciary.

By Mrs. BOXER:
S. 106. A bill to require that employees who participate in cash or deferred arrangements are free to determine whether to be invested in employer real property and employer securities, and if not, to protect such employees by applying the same prohibited transaction rules that apply to traditional defined benefit pension plans, and for other purposes; to the Committee on Finance.

S. 107. A bill to require the offer in every defined benefit plan of a joint and 2/3 survivor benefit and to require or authorize comparative disclosure of all benefit options to both spouses; to the Committee on Finance.

S. 108. A bill to require annual, detailed investment reporting by defined benefit plans with qualified cash or deferred arrangements, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. INOUYE (for himself and Mr. AKAKA):
S. 109. A bill to provide Federal housing assistance to Native Hawaiians; to the Committee on Indian Affairs. 

S. 110. A bill to amend the Native American Graves Protection and Repatriation Act to provide for improved notification and consent, and for other purposes; to the Committee on Indian Affairs.

By Mr. INOUYE:
S. 111. A bill to amend the immigration and Nationality Act to facilitate the immigration to the United States of certain aliens born in the Philippines or Spain who were fathered by United States citizens; to the Committee on the Judiciary.

By Mr. MOYNIHAN:
S. 112. A bill to amend title XVIII of the Public Health Service Act to provide for expanded post-doctoral fellowship program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. INOUYE (for himself, Mr. THOMAS, Mr. COCHRAH, and Mr. STEVENS):
S. 114. A bill to repeal the deduction in the deductible portion of expenses for business entertainment; to the Committee on Finance.

By Mr. INOUYE:
S. 115. A bill to increase the role of the Secretary of Transportation in administering section 901 of the Merchant Marine Act, 1936, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 116. A bill to restore the traditional day of observance of Memorial Day; to the Committee on the Judiciary.

S. 117. A bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of residential ground rents, and for other purposes; to the Committee on Finance.

S. 118. A bill to provide for the completion of the nationalization process for certain national corporations of the Philippines; to the Committee on Finance.

S. 119. A bill to amend title VII of the Public Health Service Act to ensure that social work students or social workers are eligible for support under the Health Careers Opportunity Program, the Minority Centers of Excellence Program, and programs of the Public Health Service Act; to establish a social work training program; to the Committee on Labor and Human Resources.

S. 120. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in clinical psychology eligible to participate in various health professions loan programs; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN (for himself, Mr. CHAFEE, Mr. KENNEDY, and Mrs. MOSELEY-BRAUN):
S. 121. A bill to amend the Internal Revenue Code of 1986 to provide for 501(c)(3) bonds a tax treatment similar to governmental bonds, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN:
S. 122. A bill to amend the Internal Revenue Code of 1986 to correct the treatment of tax-exempt financing of professional sports facilities; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. BREAUX, Mr. BINGAMAN, Mr. BRYAN, Mr. CRAIG, Mr. D’AMATO, Mr. FORD, and Mr. HUTCHISON):
S. 123. A bill to amend title 10, United States Code, to increase the grade provided for the heads of the navy corps of the Armed Forces; to the Committee on Armed Services.

By Mr. GRAMLING (for himself, Mr. MACK, and MRS. HUTCHISON):
S. 124. A bill to invest in the future of the United States by doubling the amount authorized for basic science and medical research; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN (for himself and Mr. D’AMATO):
S. 125. A bill to provide that the Federal medical assistance percentage for any State or territory shall not be less than 60 percent; to the Committee on Finance.

By Mr. INOUYE:
S. 126. A bill to amend title VII of the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN (for himself, Mr. ROTH, Mr. CHAFEE, Mr. BINGAMAN, Mrs. BOXER, Mr. BRYAN, Mr. CRAIG, Mr. D’AMATO, Mr. FORD, and Mr. HUTCHISON):
Mr. Glenn, Mr. Grassley, Mr. Hatch, Mr. Kennedy, Mr. Kerry, Mr. Kyl, Mr. Leahy, Mr. Lieberman, Mr. McConnell, Ms. Moseley-Braun, Mr. Mon夹，Mr. Roberts, Mr. Rockefeller, Mr. Shelby, Mr. Torricelli, and Mr. Wyden): S. 127. A bill to amend the Internal Revenue Code of 1986 to provide for disclosure of information relating to individuals who committed Nazi war crimes, and for other purposes; to the Committee on Finance.

By Mr. Inouye: S. 128. A bill to amend the Public Health Service Act to provide health care practitioners with training in preventive health care, including both physical and mental care, and for other purposes; to the Committee on Labor and Human Resources.

S. 129. A bill to amend title 10, United States Code, to authorize certain disable former prisoners of war to use Department of Defense commissary and exchange stores; to the Committee on Armed Services.

S. 130. A bill to amend the Internal Revenue Code of 1986 to provide a credit for the purchase of child restraint systems used in motor vehicles; to the Committee on Finance.

By Mr. Moynihan (for himself, Mr. Jeffords, and Mr. Judd): S. 131. A bill to amend chapter 5 of title 13, United States Code, to require that any data relating to the incidence of poverty produced or published by the Secretary of Commerce for subnational areas is corrected for differences in the cost of living in those areas; to the Committee on Governmental Affairs.

S. 132. A bill to prohibit the use of certain ammunition, and for other purposes; to the Committee on the Judiciary.

S. 133. A bill to amend the Internal Revenue Code of 1986 to increase the tax on handgun ammunition, to impose the special occupational tax and registration requirements on importers and manufacturers of handgun ammunition, and for other purposes; to the Committee on Finance.

S. 134. A bill to amend title 18, United States Code, with respect to the licensing of ammunition manufacturers, and for other purposes; to the Committee on the Judiciary.

S. 135. A bill to provide for the collection and dissemination of information on injuries, death, and family dissolution due to homicide; to require the keeping of records with respect to dispositions of ammunition, and to increase taxes on certain bullets; to the Committee on Finance.

S. 136. A bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber and 9 millimeter ammunition; to the Committee on the Judiciary.

S. 137. A bill to tax 9 millimeter, .25 caliber, and .32 caliber bullets; to the Committee on the Judiciary.

S. 138. A bill to provide for the collection and dissemination of information on injuries, death, and family dissolution due to homicide; to require the keeping of records with respect to dispositions of ammunition, and to increase taxes on certain bullets; to the Committee on Finance.

By Mr. Fakreh: S. 139. A bill to amend titles II and XVIII of the Social Security Act to prohibit the use of social security and medicare trust funds for certain expenditures relating to union representatives at the Social Security Administration and the Department of Health and Human Services; to the Committee on Finance.

By Mr. Fakreh:

S. 140. A bill to improve the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to the Committee on Finance.

S. 141. A bill to reorder United States budget priorities with respect to United States assistance to foreign countries and international organizations, to the Committee on Foreign Relations.

S. 142. A bill to amend the Fair Housing Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. Daschle (for himself, Mr. Hollings, Mr. Kennedy, Ms. Mikulski, Mr. Levin, Ms. Moseley-Braun, Mr. Rockefeller, Mr. Lieberman, Mr. Inouye, Mrs. Murray, Mr. Johnson, Mr. Bryan, Mr. Sasser, Mr. Ford, and Mr. Lautenberg):

S. 143. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissections performed service for pregnant women and certain family members, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. Moynihan (for himself and Mr. Kennedy):

S. 144. A bill to establish the Commission to Study the Federal Statistical System, and for other purposes; to the Committee on Governmental Affairs.

S. 145. A bill to repeal the prohibition against government restrictions on communications between government agencies and the INS; to the Committee on the Judiciary.

By Mr. Frist (for Mr. Rockefeller (for himself and Mr. Frist)):

S. 146. A bill to amend medicare beneficiaries to enroll with qualified provider-sponsored organizations under title XVIII of the Social Security Act, and for other purposes; to the Committee on Finance.

By Mr. Daschle (for himself, Mr. Chafee, Mr. Kennedy, Mr. Johnson, and Mr. Reid):

S. 147. A bill to amend title XIX of the Social Security Act to provide for coverage of alcoholism and drug dependency residential treatment facilities and certain family members under the medicare program, and for other purposes; to the Committee on Finance.

By Mr. Daschle (for himself, Mr. Chafee, Bingaman, Mr. Inouye, Mrs. Murray, Mr. Johnson, Mr. Campbell, and Mr. Reid):

S. 148. A bill to amend the Public Health Service Act to provide a comprehensive program for the prevention of Fetal Alcohol Syndrome; to the Committee on Labor and Human Resources.

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

S. 149. A bill to amend the National Narcotics Leadership Act of 1988 to establish qualification standards for individuals nominated to be the Deputy Director of Demand Reduction in the National Drug Control Policy; to the Committee on Labor and Human Resources.

By Mr. Moynihan (for himself, Mr. D'Amato, and Mr. Dodd):

S. 150. A bill to amend section 522 of title 5, United States Code, (commonly referred to as the Freedom of Information Act), to provide for disclosure of information relating to individuals who committed Nazi war crimes, and for other purposes; to the Committee on the Judiciary.

By Mr. Moynihan:

S. 151. A bill for the relief of Dr. Yuri F. Orlov of Ithaca, New York; to the Committee on Governmental Affairs.

By Mr. Moynihan (for himself and Mr. D'Amato):

S. 152. A bill to provide for the relief and payment of an equitable claim to the estate of Dr. Beatrice Braude of New York, New York; to the Committee on the Judiciary.

By Mr. Moynihan (for himself and Mr. Ashcroft):

S. 153. A bill to amend the Age Discrimination in Employment Act of 1967 to allow registered nurses who are serving under an arrangement providing for unlimited tenure, benefits on voluntary retirement that are reduced or eliminated on the basis of age, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. Moynihan (for himself and Mr. D'Amato):

S. 154. A bill to improve Orchard Beach, New York; to the Committee on Environment and Public Works.

S. 155. A bill to redesignate General Grant National Memorial as Grant's Tomb National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. Daschle (for himself and Mr. Johnson):

S. 156. A bill to provide certain benefits of the Pick-Sloan Missouri River Basin program for the Lower Brule Sioux Tribe, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. Inouye:

S. 157. A bill to amend title XIX of the Social Security Act to provide for coverage of services provided by clinics under State medicaid programs; to the Committee on Finance.

S. 158. A bill to amend title XVIII of the Social Security Act to provide improved reimbursement for clinical social worker services under the medicare program, and for other purposes; to the Committee on Finance.

S. 159. A bill to amend title XVIII of the Social Security Act to remove the restriction that a clinical psychologist or clinical social worker provide services in a comprehensive outpatient rehabilitation facility to a patient only under the care of a physician, and for other purposes; to the Committee on Finance.

S. 160. A bill to amend title 5, United States Code, to require the issuance of a prisoner medal to certain members of the Federal Government who are forcibly detained or interned by a enemy government or a hostile force under wartime conditions; to the Committee on Governmental Affairs.

S. 161. A bill to amend title 38, United States Code, to revise certain provisions relating to the appointment of clinical and counseling psychologist in the Veterans Health Administration, and for other purposes; to the Committee on Veterans Affairs.

S. 162. A bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

S. 163. A bill to provide funds to the organization known as the National Academies of Practices; to the Committee on the Judiciary.

S. 164. A bill to allow the psychiatric or psychological examinations required under chapter 313 of title 18, United States Code, relating to offenders with mental disease or defect, to be conducted by a clinical social worker or psychologist; to the Committee on the Judiciary.

S. 165. A bill for the relief of Donald C. Pence; to the Committee on the Judiciary.

S. 166. A bill to amend section 206(b) of title 10, United States Code, to authorize payment under CHAMPUS of certain health care expenses incurred by certain members and
Mr. President, since 1965, the United States Code, to insert a general provision for security officer employment, and for other purposes; to the Committee on the Judiciary.

Mr. THURMOND: S.J. Res. 3. A joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections; to the Committee on the Judiciary.

Mr. ROTH (for himself and Mr. MOYNIHAN): S.J. Res. 5. A joint resolution waiving certain provisions of the Trade Act of 1974 relating to the appointment of the United States Trade Representative; to the Committee on Finance.

By Mr. KYL (for himself and Mrs. FEINSTEIN): S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the Unit- ed States to require a balanced budget; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. SPECTER, Mr. DASCHLE, Mr. DORGAN, Mr. SHELBY, Mr. REID, Mr. FORD, and Mr. REED): S.J. Res. 2. A joint resolution proposing an amendment to the Constitution of the United States to require the protection of the rights of crime victims; to the Committee on the Judiciary.

By Mr. GRAHAM: S.J. Res. 7. A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget; to the Committee on the Judiciary.

Mr. KYL: S.J. Res. 8. A joint resolution proposing an amendment to the Constitution of the United States to provide that the Congress shall provide for a balanced budget for each fiscal year shall exceed neither revenues for such fiscal year nor 19 per centum of the Nation's gross domestic product for the last calendar year ending before the beginning of such fiscal year; to the Committee on the Judiciary.

By Mr. KYL (for himself, Mr. ABRAHAM, Mr. BROWNBACK, Mr. COVERDELL, Mr. CRAIG, Mr. FAIRCLOTH, Mr. GRAMS, Mr. HAGEL, Mr. HELMS, Mrs. HUTCHISON, Mr. INOUYE, Mr. MCCONNELL, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, and Mr. THOMPSON): S.J. Res. 9. A joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for increases in taxes; to the Committee on the Judiciary.

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

By Mr. MACK (for himself, Mr. GRAMM, Mr. FIRST, Mr. D'AMATO, and Mr. SPECTER): S. Res. 15. A resolution expressing the sense of the Senate that the Federal commitment to biomedical research should be increased substantially over the next 5 years; to the Committee on Appropriations.

By Mr. LUGAR: S. Res. 16. A resolution expressing the sense of the Senate that the income tax should be eliminated and replaced with a national sales tax; to the Committee on Finance.

S. Res. 17. A resolution on the ratification of the Chemical Weapons Convention; to the Committee on Foreign Relations.

By Mr. FAIRCLOTH: S. Res. 18. A resolution to express the sense of the Senate regarding reduction of the national debt; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977 with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. MOYNIHAN (for himself, Mr. HELMS, Mr. LEAHY, Mr. JEFFORDS, Mr. DODD, Mr. FEINGOLD, and Mr. WELLSTONE): S. Res. 19. A resolution expressing the sense of the Senate regarding United States opposition to the prison sentence of Tibetan ethnomusicologist Ngawang Choepel by the People's Republic of China; to the Committee on Foreign Relations.

STATMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. COVERDELL, Mr. President, for people to remain free, they must be educated. It is at the foundation of our liberty. This bill that has just been referred owes a great debt to Senator COATS of Indiana, Senator GREGG of New Hampshire, Senator ROTH of Delaware, Senator JEFFORDS of Vermont, Senator BOND of Missouri, Senator SHELBY of Alabama, and Senator GRASSLEY of Iowa.

Mr. President, there is a grave condition in our elementary and high schools across the land. Forty-six percent of our students have made at least one change in daily routine because of concerns about personal safety. Twenty-nine percent said it was easy to get illegal drugs. Seventy-nine percent have friends who are regular drinkers. Sixty-eight percent can buy marijuana within a day. Sixty-two percent have friends who use marijuana.

During the last 35 years, Mr. President, tuition at 4-year public colleges and universities rose 234 percent. In contrast, median household income rose only 82 percent, putting an ever tighter squeeze on those families that choose to volunteer and desire to send their children to college.

Since 1990, American college students have borrowed over $100 billion, and borrowing among students and families who choose to and desire to send their children to college...

Mr. President, since 1965, the United States has spent half a trillion dollars—$500 billion—on Federal education...
programs, yet 66 percent of 17-year-olds do not read at a proficient level, and reading scores have been declining for three decades. Moreover, 75 percent of fourth graders nationally scored below the proficient level of reading.

Mr. President, the Safe and Affordable Schools Act believes that no family—not one family—in America should be forced to send their student to an unsafe, violent, and drug-infested school. I repeat, no family should be forced—to put their child in a school that is profanely unsafe, certifiably drug ridden.

This act will provide choice for children attending unsafe schools and provide an escape route from those kinds of schools. This act will ensure safe and drug-free schools and offers a grant program to those schools who are building better safety in the school place.

It is hard to believe, Mr. President, that 40 percent of our students today do not go to safe schools. One in five are taking a weapon to school. There are 2,000 acts of violence every hour in American classrooms.

Every student who chooses to go to college ought to have an affordable plan. To do this, at the center of all of this legislation is the Bob Dole Educational Investment Account. This will allow a family to put $1,000 a year, after tax, into an investment account of their choice, and when they are ready to send their child to school, the funds withdrawn from that account will occur with no tax liability. In other words, a plan setting forth, under the name of our former colleague, an opportunity for families to plan for their child’s future education.

It will provide for the deduction of student loan interest. It will protect State prepaid tuition plans. It will provide and extend employer-provided educational assistance, and it will make work-study awards, all geared toward making it possible for that family, that student, to provide for their higher education.

The Presiding Officer is very familiar with the Federal Government’s propensity to force unfunded mandates on State and local governments. Such is the case with the individuals in the Disabilities Education Act, which was mandated by the Federal Government but never really paid for by the Federal Government. We are only making about a 7 percent to 8 percent contribution.

This act will authorize spending up to $10 billion over the next 7 years so that the Federal Government will be a true partner in that mandate and fund upwards to 40 percent of this act that was imposed on State government, freeing those State governments of funds that they can use to better improve their educational system.

Mr. President, when students arrive at college they ought to be proficient in the basic skills. I just cited figures that said they are not. This act will promote adult education and family literacy. The legislation provides $400 million in the form of block grants to States to establish programs to combat illiteracy. The bill creates a separate $100 million fund to provide incentive grants to encourage local innovation in addressing the problem of illiteracy.

Mr. President, in my remarks by saying that one of the fundamental extensions of freedom is education. This has always been the case in America. We have come to a time when the schoolroom is not safe. Therefore, the education that many of these children have undergone is severely impaired. This education is a function of the States. The Federal Government has a role in leadership and innovation and assistance. That is at the core of this legislation we are offering today.

Mr. President, I appreciate the opportunity to describe the act today.

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

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

S. 1

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 “Safe and Affordable Schools Act of 1997”.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) in too many of our Nation’s elementary and secondary schools the test confronting our Nation’s children is survival, not learning;

(2) our Nation’s schools will not be restored to excellence unless parents, States, and local communities take the lead; and

(3) the Federal Government’s role in education is quite properly to encourage, not to mandate.

(b) PURPOSE.—The purpose of this Act is—

(1) to ensure that parents, local communities and States have the primary role in educating our Nation’s children;

(2) to restore excellence to our Nation’s schools;

(3) to give local communities and States maximum flexibility in administering Federal educational programs;

(4) to allow education reforms to be tailored to the unique needs of local communities and States;

(5) to place the highest priority on providing our Nation’s students with safe, drug-free learning environments;

(6) to ensure that the choice of whether to attend college is to the greatest extent possible the result of individual student desire and initiative, not the result of economic circumstances that leave young parents wondering how they can best provide such an education, the face of staggering college tuition costs;

(7) to focus resources on adult education, realizing that education often is a lifelong process and an important contribution toward resolving debates over the most effective means of improving the academic achievement of disadvantaged children;

(8) to promote literacy by attacking our Nation’s unacceptably high level of illiteracy.

TITLE I—SAFE AND DRUG-FREE SCHOOLS INITIATIVE

Subtitle A—Student Opportunity and Safety

SEC. 111. SHORT TITLE.

This subtitle may be cited as the “Student Opportunity and Safety Act”.

SEC. 112. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) Violence, crime, and illegal drug activity have increased significantly in our Nation’s public schools.

(2) It is estimated that 3,000,000 violent acts and 9,000 acts of drug use take place in the school environment every day, and that one in five public high school students carries a weapon.

(3) The incidence of violence, and criminal and illegal drug activity within public elementary and secondary schools threatens the school environment and interferes with the learning process.

(4) More than 10,000 more children are using drugs in 1997 than were doing so in 1993. For the first time in the 1990s, over half of our Nation’s graduating high school seniors have experimented with drugs and approximately 1 out of every 4 of the students have used drugs in the past month.

(5) After 11 years of declining marijuana use among children aged 12 to 17, such use doubled between 1992 and 1995. The number of 8th graders who have used marijuana in the past month has more than tripled since 1991.

(6) More of our Nation’s school children are becoming involved with hard core drugs at earlier ages, as use of heroin and cocaine by 8th graders has more than doubled since 1991.

(7) Students have a right to be safe and secure in their persons while attending school.

(8) Low-income families whose children attend high poverty public schools generally lack the financial ability to enroll their children in private schools or the opportunity to choose to enroll their children in public schools less impacted by poverty, illegal drugs, or violence, while such alternatives are typically available to more affluent families.

(9) Numerous research studies, including the 1993 National Assessment of the Chapter 1 Program, have concluded that students attending high poverty public schools have much lower levels of academic achievement than other students, regardless of the income level of the family of such students.

(10) Federally supported efforts to meet the educational needs of disadvantaged children attending high poverty schools have had little, if any, success in improving student achievement, especially in the highest poverty schools and school districts.

(11) Evidence obtained from systematic evaluations of school choice demonstration projects that involve public and private, including sectarian, schools reveals an important contribution toward resolving debates over the most effective means of improving the academic achievement of disadvantaged children.

(12) It is increasingly important that children from families of all income levels meet high standards of academic achievement, in order long to exercise the responsibilities of citizenship and to compete in globally competitive markets.

(b) PURPOSE.—It is the purpose of this subtitle—

(1) to provide children from low-income families who attend unsafe schools with the option of attending safer schools;

(2) to improve schools and academic programs by providing certain low-income parents with increased consumer power and dollars to choose safer schools and programs that such parents determine best fit the needs of their children;

(3) to engage more fully certain low-income parents in their children’s school choice;

(4) through families, to provide at the school site new dollars that teachers and principals may use to help certain children achieve high educational outcomes;

(5) to demonstrate, through a discretionary demonstration grant program, the effects of
projects that provide certain low-income families with more of the same choices regarding all schools, including public, private, or sectarian schools, that wealthier families have.

S 112. DEFINITIONS.

As used in this subtitle—
(a) the term "choice school" means any public or private school, including a private sectarian school or a public charter school, that—
(B) in any of the grades 1 through 12—
(2) has the same meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301);
(3) the term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Consumer Credit Protection Act of 1970 (15 U.S.C. 1691)); and
(4) the term "parent" includes a legal guardian or other individual acting in loco parentis; or
(B) that poverty line was in compliance with this section is encouraged to supplement the funding received under this subtitle with funds received from State, local, or private sources.

SEC. 113. DEFINITIONS.

(1) the term "school" means a school that has the same meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301); and
(7) the term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Consumer Credit Protection Act of 1970 (15 U.S.C. 1691)).

SEC. 114. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $50,000,000 for the fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002, to carry out this subtitle.

SEC. 115. PROGRAM AUTHORIZED.

(a) RESERVATION.—From the amount appropriated pursuant to the authority of section 114 in any fiscal year, the Secretary shall—
(d) SCHEDULE. Any school participating in the demonstration project shall comply with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and not discriminate on the basis of race, color, or national origin.

SEC. 116. AUTHORIZED PROJECTS; PRIORITY.

(a) AUTHORIZED PROJECTS.—The Secretary may award a grant under this subtitle only for a demonstration project that—
(1) involves at least one local educational agency that—
(2) receives, disburses, and account for Federal funds; and
(3) carry out the activities described in its application under this subtitle;

(b) CONTENTS. Each application described under paragraph (1) shall be submitted to the Secretary in such form and contain such information as the Secretary may prescribe; and

(c) USE OF GRANTS. Grants awarded under this subtitle shall not be construed to be Federal financial aid or as assistance to that choice school.

(1) IN GENERAL.—From the amount appropriated pursuant to the authority of section 112(a) for fiscal year 1998 so that—
(2) TAXES AND DETERMINATIONS OF ELIGIBILITY FOR OTHER FEDERAL PROGRAMS.—Education certificates provided under this subtitle shall not be considered as income to an eligible child or the parent of such eligible child for Federal, State, or local tax purposes or for determining eligibility for any other Federal program.

SEC. 117. APPLICATIONS.

(a) IN GENERAL.—Any eligible entity that wishes to receive a grant under this subtitle shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

(b) CONTENTS.—Each application described in subsection (a) shall contain—
(1) information demonstrating the eligibility for participation in the demonstration program of the eligible entity;
(2) a description of how the eligible entity will participate in the demonstration project;
(3) with respect to choice schools—
(A) a description of the types of potential choice schools that will be involved in the demonstration project;
(B)(i) a description of the procedures used to encourage public and private schools to be involved in the demonstration projects; and
(ii) a description of how the eligible entity will annually determine the number of spaces available for eligible children in each choice school;
(C) an assurance that each choice school will not impose higher standards for admission or participation in its programs and activities for eligible children provided education certificates under this subtitle than the choice school does for other children;
(D) an assurance that the eligible entity will terminate the involvement of any choice school that fails to comply with the conditions of its involvement in the demonstration project; and
(E) a description of the extent to which choice schools will accept education certificates under this subtitle as full or partial payment for tuition and fees;
(4) a description of the participation in the demonstration project of eligible children—
(A) a description of the procedures to be used to make a determination of eligibility for participation in this demonstration project for an eligible child;
(B) a description of the procedures to be used to ensure that, in selecting eligible children to participate in the demonstration project, the eligible entity will—
(i) apply the same criteria to both public and private school eligible children; and
(ii) give priority to eligible children from the lowest income families;
(C) a description of the procedures to be used to ensure maximum choice of schools for participating eligible children; and
(D) a description of the procedures to be used to ensure compliance with section 119(a)(1), which may include—
(i) provide information about each choice school, including information about any admission requirements, for the conduct of an ongoing rigorous evaluation of the demonstration project or the cost of complying with section 119(a)(1).
(5) with respect to choice schools—
(A) in general—Subject to such regulations as the Secretary shall prescribe, in determining the amount of an education certificate under this subtitle an eligible entity shall consider—
(i) the tuition charged by such school for each eligible child in such preceding year; and
(ii) the amount of the education certificates issued by this subtitle that are provided to other eligible children.
(B) SPECIAL RULE.—An eligible entity may provide an education certificate under this subtitle to an eligible child, who chooses to attend a school that does not charge tuition or fees, to pay the additional reasonable costs of transportation directly attributable to the eligible child’s participation in the demonstration project or the cost of complying with section 119(a)(1).
(C) ADJUSTMENT.—The amount of the education certificate for a fiscal year may be adjusted in the second and third years of an eligible child’s participation in a demonstration project under this subtitle to reflect any increases in tuition, fees, or transportation costs directly attributable to that eligible child’s continued attendance at a choice school, but shall not be increased by more than 10 percent of the amount of the education certificate for the fiscal year preceding the fiscal year for which the determination is made. The amount of the education certificate may also be adjusted in any fiscal year to comply with section 119(a)(1).
(D) MAXIMUM AMOUNT.—Notwithstanding any other provision of this section, the amount of an eligible child’s education certificate shall not exceed the per pupil expenditure for elementary or secondary education, as appropriate, by the local educational agency in which the public school to which the eligible child would normally be assigned is located for the fiscal year preceding the fiscal year for which the determination is made.
SEC. 119. EFFECT ON OTHER PROGRAMS.
(a) General.—An eligible child participating in a demonstration project under this subtitle, who, in the absence of such a demonstration project, would have received services under part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) shall be considered to have participated in the demonstration program under this subtitle.
(b) Part B of the Individuals with Disabilities Education Act.—Nothing in this subtitle shall be construed to affect the requirements of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).
(c) COUNTING OF ELIGIBLE CHILDREN.—Notwithstanding any other provision of law, any local educational agency participating in a demonstration project under this subtitle may count eligible children who, in the absence of such a demonstration project, would have attended the schools in the agency, for purposes of receiving funds under any program administered by the Secretary.
SEC. 120. PARENTAL NOTIFICATION.
Each eligible entity receiving a grant under this subtitle shall provide timely notice of the demonstration project to parents of eligible children residing in the area to be served by the demonstration project. At a minimum, such notice shall—
(1) describe the demonstration project;
(2) describe the eligibility requirements for participation in the demonstration project;
(3) describe the information needed to make a determination of eligibility for participation in the demonstration project for an eligible child;
(4) describe the selection procedures to be used if the number of eligible children seeking to participate in the demonstration project under this subtitle exceeds the number that can be accommodated in the demonstration project;
(5) provide information about each choice school, including information about any admission requirements or criteria for each choice school participating in the demonstration project; and
(6) include the schedule for parents to apply for their eligible children to participate in the demonstration project.
SEC. 121. EVALUATION.
(a) Annual Evaluation.—
(1) Contract.—The Comptroller General of the United States shall enter into a contract, with an evaluating agency that has demonstrated experience in conducting evaluations, for the conduct of an ongoing rigorous evaluation of the demonstration program under this subtitle.
(2) Annual Evaluation Requirement.—The contract described in paragraph (1) shall require the evaluating agency entering into such contract to annually evaluate the demonstration project under this subtitle in accordance with the evaluation criteria described in subsection (b).
(b) Evaluation Criteria.—The Comptroller General of the United States, in consultation with the Secretary, shall establish minimum criteria for evaluating the demonstration program under this subtitle. Such criteria shall provide for—
(1) a description of the implementation of each demonstration project under this subtitle, including information about any admission requirements or criteria for each demonstration project on all participants, schools, and communities in the demonstration project area, with particular attention given to the effect of parental satisfaction with the demonstration program; and
(2) a comparison of the educational achievement of, and the incidences of violence and drug activity related to, all students in the demonstration project area, including a comparison of similar—

(a) students receiving education certificates under this subtitle; and

(b) students not receiving education certificates under this subtitle.

SEC. 122. REPORTS.

(a) REPORT BY GRANT RECIPIENT.—Each eligible entity receiving a grant under this subtitle shall submit to the evaluating agency entered into the contract under section 121(a)(1) an annual report regarding the demonstration project under this subtitle. Each such report shall contain a copy of—

(A) the annual evaluation under section 121(a)(2) of each demonstration project under this subtitle; and

(B) each report received under subsection (a) for the preceding fiscal year.

(b) REPORTS BY COMPTROLLER GENERAL.—

(1) ANNUAL REPORTS.—The Comptroller General of the United States shall submit a final report to the Congress on the findings of the annual evaluation under section 121(a)(2) of each demonstration project under this subtitle. Each such report shall contain a copy of—

(A) the annual evaluation under section 121(a)(2) of each demonstration project under this subtitle; and

(B) each report received under subsection (a) for the preceding fiscal year.

(2) FINAL REPORT.—The Comptroller General shall submit a final report to the Congress within 6 months after the conclusion of the demonstration program under this subtitle that summarizes the findings of the annual evaluations conducted pursuant to section 121(a)(2).

Subtitle B—Common Sense School Safety

SEC. 131. VICTIM OF SCHOOL VIOLENCE.

This subtitle may be cited as the "Common Sense School Safety Act".

CHAPTER I—PUPIL SAFETY AND FAMILY CHOICE

SEC. 151. PUPIL SAFETY AND FAMILY CHOICE.

Subpart I of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) is amended by inserting after the end of section 1115A of such Act (20 U.S.C. 6316) the following:

"SEC. 1115B. PUPIL SAFETY AND FAMILY CHOICE.

"(a) In General.—If a student is eligible to be served under section 1115(b), or attends a school eligible for a schoolwide program under section 1114, and becomes a victim of a violent crime while in the grounds of a public elementary school or secondary school that the student attends and that receives assistance under this part, then the local educational agency may use funds provided under this part to pay the supplemental costs for such student to attend another school. The agency may use the funds to pay supplemental costs of such student to attend any other public or private elementary school or secondary school, including a sectarian school, in the same State as the school where the criminal offense occurred, that is selected by the student's parent. The State educational agency shall determine what actions constitute a violent criminal offense for purposes of this section.

"(b) SUPPLEMENTARY COSTS.—The supplementary costs referred to in subsection (a) shall not exceed—

"(1) the continued presence in schools of violent students who are a threat to both teachers and other students is incompatible with a safe learning environment; and

"(2) the safe passage of a student for whom funds under this section are used to enable the student to attend a public elementary school or secondary school served by a local educational agency that also serves the school where the criminal offense occurred for the fiscal year preceding the fiscal year for which the determination is made.

"(ii) Maximum Amount.—Notwithstanding any other provision of this section, the amount of assistance provided under this part for a student shall not exceed the per pupil expenditure for elementary or secondary school served by a local educational agency that serves the school where the criminal offense occurred for the fiscal year preceding the fiscal year for which the determination is made.

"(3) The Comptroller General shall submit an annual report to the Congress on the findings of the annual evaluations conducted pursuant to section 121(a)(2) of each demonstration project under this subtitle that summarizes the findings of the annual evaluations conducted pursuant to section 121(a)(2) of each demonstration project under this subtitle.

"(d) CONSIDERATION OF ELIGIBILITY.—Assistance provided under this section shall be determined under State law and may be provided in accordance with State law and may be under-
(4) 2,000,000 more children are using drugs in 1997 than were doing so a few short years prior to 1997;
(5) nearly 1 out of every 20 students in 6th through 12th grade uses drugs on school grounds;
(6) more of our children are becoming involved with hard drugs at earlier ages, as use of heroin and cocaine by 8th graders has more than doubled since 1991; and
(7) greater cooperation between schools, parents, law enforcement, the courts, and the community is essential to making our schools safe from drugs and violence.

SEC. 172. PURPOSE. It is the purpose of this chapter Ð
(1) to encourage educational agencies and local educational agencies to provide comprehensive services to victims and witnesses of school violence;
(2) to urge States, State educational agencies, and local educational agencies to remove violent and drug selling student offenders from school premises;
(3) to urge States, State educational agencies, and local educational agencies to report violent crimes and drug dealing on school grounds to appropriate law enforcement authorities;
(4) to provide incentive grants for States, State educational agencies, and local educational agencies to involve parents, former armed forces personnel, and community volunteers in efforts to improve school safety; and
(5) to provide incentive grants to States, State educational agencies, and local educational agencies to develop innovative programs to improve the safety of our Nation's schools and to better serve at-risk students.

SEC. 173. DEFINITIONS. In this chapter:
(1) "educational agency", "secondary school", and State educational agency'' have the meanings given in section 1401 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 1401);
(2) "Secretary" Ð The term "Secretary" means the Secretary of Education;
(3) "secondary school" means an entity, which is a secondary school, and any project, program, or activity conducted by that entity that is a part of the primary, presecondary, or secondary education; and
(4) "State" means the Secretary of Education.

SEC. 174. AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated such sums as may be necessary to carry out this chapter.

SEC. 175. PROGRAM AUTHORIZED. (a) IN GENERAL Ð The Secretary is authorized to award grants to States, State educational agencies, and local educational agencies to develop, establish, or conduct innovative programs to improve unsafe elementary schools or secondary schools.
(b) PRIORITY Ð The Secretary shall give priority to awarding grants under subsection (a) to programs that Ð
(1) provide parent and teacher notification of crimes or drug activity occurring at school;
(2) provide for the suspension, delay, or revocation of driving privileges of persons under the age of 18 who have a conviction, an adjudication in a juvenile proceeding, or a finding in a school disciplinary proceeding, involving illegal drugs;
(3) programs that link local educational agencies with community-based mentoring programs in order to link individual at-risk youth with responsible, adult individuals who serve as mentors for the purpose of Ð
(A) discouraging at-risk youth fromÑ
(i) using illegal drugs;
(ii) violence;
(iii) the sale of illegal weapons;
(iv) criminal activity; and
(v) involvement in gangs;
(4) increasing youth participation in, and enhancing the ability of such youth to benefit from, elementary and secondary education;
(C) promoting personal and social responsibility;
(D) encouraging at-risk youth participation in community service and community activities; and
(E) providing general guidance to at-risk youth;
(4) programs that include cooperative efforts between the Secretary and the Secretary of Defense to share the training and salary costs of former members of the Armed Forces who are hired as teachers and as guidance counselors in elementary schools and secondary schools, especially those programs located in communities that are adversely affected by the recent closing or substantial downsizing of a military base or facility; and
(5) programs to enhance school security measures that may include Ð
(A) equipping schools with metal detectors, fences, closed circuit cameras, and other physical security measures;
(B) providing increased police patrols in and around schools and secondary schools, including canine patrols;
(C) mailings to parents at the beginning of the school year stating that the possession of a gun or firearm, or the sale of drugs on school grounds, will not be tolerated by school authorities; and
(D) gun hotlines.

SEC. 176. APPLICATION. (a) IN GENERAL Ð Each State, State educational agency, or local educational agency desiring a grant under this chapter shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.
(b) CONTENTS. Ð Each application submitted under subsection (a) shall contain an assurance that the State or agency has implemented or will implement policies that Ð
(1) provide protections for victims and witnesses to school crime, including protections for attendance at school disciplinary proceedings;
(2) expel students who, on school grounds, sell drugs, or who commit a violent offense that causes serious bodily injury of another person or teacher; and
(3) require referral to law enforcement authorities or juvenile authorities of any student who on school grounds Ð
(A) commits a violent offense resulting in serious bodily injury; or
(B) sells drugs.
(c) SPECIAL RULE Ð For purposes of paragraphs (2) and (3) of subsection (b), State law shall determine what constitutes a violent offense or serious bodily injury.

CHAPTER IV Ð NOTIFICATION FOR JUVENILE JUSTICE AND LAW ENFORCEMENT PURPOSES

SEC. 181. NOTIFICATION FOR JUVENILE JUSTICE AND LAW ENFORCEMENT PURPOSES. The Secretary of Education, not later than 90 days after the date of enactment of this Act, shall prepare and distribute to State educational agencies and local educational agencies a notice regarding the extent of permissible disclosure of educational records under subparagraphs (E) and (J) of section 444(b) of the General Education Provisions Act (20 U.S.C. 1232g), including under the regulations issued pursuant to such subparagraphs.

TITLE II Ð AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965
SEC. 201. SHORT TITLE. This title may be cited as the "State Education Flexibility Act of 1997".

SEC. 202. AMENDMENTS TO ESEA. Subsection (b) of section 6301 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7251b) is amended Ð
(1) in paragraph (7), by striking "and" after the semicolon;
(2) in paragraph (8), by striking the period at the end of the paragraph and inserting a semicolon; and
(3) by adding at the end the following:
(9) programs using scholarships or vouchers provided to a parent by a local educational agency that permit the parent to select the public or private, including sectarian, school that the parent's child will attend, which programs may be similar to the program assisted under title I of the Safe Schools Act of 1997, except that the provisions of sections 6402 and 14507, and any generally applicable provision relating to a prohibition against the use of Federal funds for religious worship or instruction, shall not apply to any program operated pursuant to this paragraph;
(10) education reform efforts that provide same gender schools, as long as comparable educational opportunities are offered for students of both sexes; and
(11) education reform efforts that reward teachers, administrators, and schools with cash bonuses and other incentives for significantly improving the academic performance of their students.
'(c) Definitions and Special Rules.—For purposes of this section—

'(1) Bob Dole Education Investment Account.—The term `Bob Dole education investment account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified higher education expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

'(A) No contribution will be accepted—

' (i) except in the case of rollover contributions from another education investment account, in excess of $1,000 for any calendar year, and

'(ii) after the date on which the account holder attains age 18.

'(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

'(C) No part of the trust assets will be invested in life insurance contracts (other than contracts the beneficiary of which is the trust and the face amount of which does not exceed the amount by which the maximum amount which can be contributed to the education investment account exceeds the sum of the amounts contributed to the account for all taxable years).

'(D) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

'(E) Any balance in the education investment account on the day after the date on which the account holder attains age 30 (or, if earlier, the date on which such individual dies) shall be distributed within 30 days of such date to the account holder (or in the case of death, the beneficiary).

'(2) Any net income described in clause (ii) shall be included in gross income under paragraph (1) shall be increased by 10 percent of the amount which is so includible.

'(3) Special Higher Education Expenses.—Paragraph (1) shall not apply to any amount paid or distributed out of an education investment account to the extent such distribution is used exclusively to pay the qualified higher education expenses of the account holder.

'(4) Special Rule for Applying Section 530.—In subsection (a) of section 530, the term `education investment account' is defined to include any qualified higher education investment account established and any contributor to such account shall be treated as a trust if the assets of such account are in such manner and furnished to such individual or such taxpaying entity as may be required by those regulations.

'(b) Tax on Prohibited Transactions.—Section 4975 (relating to prohibited transactions) is amended—

'(1) by adding at the end of subsection (c) the following new paragraph:

'(b) Education Investment Accounts.—An individual for whose benefit an education investment account is established and any contributor to such account shall be exempt from the tax imposed by section 4975 if—

'(A) the assets of the account are in a common trust fund or common investment fund;

'(B) the assets of the account are invested exclusively in qualified higher education investment accounts.'
relating to section 6693 and inserting the following new item:

"Sec. 6693. Failure to provide reports on individual retirement accounts or annuities or on education individual retirement accounts.

(f) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 302. EDUCATION-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) Permanent Extension.—Section 127 of the Internal Revenue Code of 1986 (relating to exclusion for educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) Repeal of Limitation on Graduate Education.—The last sentence of section 127(c)(1) of such Code is amended by striking "and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree".

(c) Effective Dates.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

(2) GRADUATE EDUCATION.—The amendment made by subsection (b) shall apply with respect to expenses relating to courses beginning after June 30, 1996.

SEC. 303. MODIFICATIONS OF TAX TREATMENT OF QUALIFIED STATE TUITION PROGRAMS.

(a) Exclusion of Distributions Used for Educational Purposes.—Subparagraph (B) of section 529(c)(3) is amended to read as follows:

"(B) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES.—Subparagraph (A) shall not apply to any distribution to the extent—"

"(i) the distribution is used exclusively to pay qualified higher education expenses of the distributee; or"

"(ii) the distribution consists of providing a benefit to the distributee which, if paid for by the distributee, would constitute pay- ment of a qualified higher education expense;"

(b) Qualified Higher Education Expenses To Include Room and Board.—Section 529(e)(3) is amended to read as follows:

"(3) QUALIFIED HIGHER EDUCATION EXPENSES.—Subparagraph (A) of section 529(e)(3) is amended to read as follows:

"(A) which are attributable to education furnished during a period during which the recipient was a student as defined in section 152(f);"

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 304. DEDUCTION FOR INTEREST ON EDUCATION LOANS.

(a) In General.—Part VII of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. INTEREST ON EDUCATION LOANS.

(a) Allowance of Deduction.—In the case of an individual, there shall be allowed as a deduction in computing taxable income for any taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

(1) Special Rule.—

"(i) IN GENERAL.—Except as provided in paragraph (2), the deduction allowed by sub-section (a) for the taxable year shall not exceed $2,500.

"(ii) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(A) In general.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds $45,000 ($65,000 in the case of a joint return), the amount which would (but for this paragraph) be deductible under sub-section (a) of this section shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would otherwise be deductible as such excess bears to $20,000.

"(B) MODIFIED ADJUSTED GROSS INCOME.—

The term 'modified adjusted gross income' means adjusted gross income determined—"

"(i) without regard to this section and sections 135, 911, and 933, and"

"(ii) after application of sections 86, 219, and 469.

For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 1996, the $45,000 and $65,000 amounts referred to in subparagraph (A) shall be increased by an amount equal to—"

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 62(a)(4) for the calendar year in which the taxable year begins, by substituting '1996' for '1992'.

"(D) ROUNDING.—Any amount as adjusted under subparagraph (C) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

(c) Dependents Not Eligible for Deduction.—No deduction shall be allowed by this section to an individual for any interest paid on a qualified education loan to which the taxpayer is not a beneficiary.

(d) Limit on Period Deduction Allowed.—A deduction shall be allowed under this section only with respect to interest paid on a qualified education loan more than 60 months after the close of the taxable year, the deduction shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

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

"(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' means any indebtedness incurred to pay qualified higher education expenses which are attributable to education furnished during a period during which the recipient was at least a half-time student. Such term includes indebtedness used to re-finance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning given such term by section 267(b) or 707(b)(1)) to the taxpayer.

"(2) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means the cost of attendance (within the meaning of section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the date of the enactment of the Affordable College Act) of a designated beneficiary at an eligible educational institution (as defined in section 134(c)).

(f) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 305. MODIFICATIONS OF TAX TREATMENT OF QUALIFIED STATE TUITION PROGRAMS.

(a) Exclusion of Distributions Used for Educational Purposes.—Subparagraph (B) of section 529(c)(3) is amended to read as follows:

"(B) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES.—Subparagraph (A) shall not apply to any distribution to the extent—"

"(i) the distribution is used exclusively to pay qualified higher education expenses of the distributee, or"

"(ii) the distribution consists of providing a benefit to the distributee which, if paid for by the distributee, would constitute pay-ment of a qualified higher education expense;"

(b) Qualified Higher Education Expenses To Include Room and Board.—Section 529(e)(3) is amended to read as follows:

"(3) QUALIFIED HIGHER EDUCATION EXPENSES.—Subparagraph (A) of section 529(e)(3) is amended to read as follows:

"(A) which are attributable to education furnished during a period during which the recipient was at least a half-time student. Such term includes indebtedness used to re-finance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

"(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and"

"(C) which are attributable to education furnished during a period during which the recipient was at least a half-time student. Such term includes indebtedness used to re-finance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

"(D) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the date before the date of the enactment of this Act) of the taxpayer or the taxpayer's spouse at an eligible educational institution, reduced by the sum of—

"(A) the amount excluded from gross income under section 135 by reason of such expenses, and

"(B) the amount of the reduction described in subsection (d)(1)."

For purposes of the preceding sentence, the term 'eligible educational institution' has the same meaning given such term by section 135(c)(2), except that such term shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers post-graduate training.

(2) Half-time Student.—The term 'half-time student' means any individual who would be a student as defined in section 152(c)(4) if the term 'half-time' were substituted for 'full-time' each place it appears in such section.

(c) Dependents Not Eligible for Deduction.—No deduction shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

(2) Married Couples Must File Joint Return.—If the taxpayer and the taxpayer's spouse file a joint return for the taxable year, the deduction shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

(3) Marital Status.—Marital status shall be determined in accordance with section 7703.

(b) Deduction Allowed Whether or Not Taxpayer Items Other Deductions.—Subsection (a) of section 62 is amended by inserting after paragraph (16) the following new paragraph:

"(17) INTEREST ON EDUCATION LOANS.—The deduction allowed by section 221."

(c) Reporting Requirement.—

(1) In General.—Subpart B of part III of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050R the following new section:

"SEC. 6050S. RETURNS RELATING TO EDUCATION LOAN INTEREST RECEIVED IN TRADE OR BUSINESS FROM INDIVIDUALS.

(a) Education Loan Interest of $600 or More.—Any person—

"(1) who is engaged in a trade or business, and

"(2) who, in the course of such trade or business, receives from any individual interest aggregating $600 or more for any calendar year on one or more qualified education loans, shall make the return described in subsection (b) with respect to each individual from whom such interest was received at such time as the Secretary may by regulation prescribe.

"(b) Form and Manner of Returns.—A return is described in this subsection if such return—

"(i) is in such form as the Secretary may prescribe,

"(ii) contains—

"(A) the name, address, and TIN of the individual from whom the interest described in subsection (a)(2) was received,

"(B) the amount of such interest received for the calendar year, and

"(c) such other information as the Secretary may prescribe,

"(c) Application to Governmental Units.—For purposes of subsection (a)—

"(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof)."
“(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

(b) any return required under subsection (a) shall be filed by the officer or employee appropriately designated for the purpose of making such return.

(d) Statements To Be Furnished To Individuals With Respect To Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

(1) the name and address of the person required to make such return, and

(2) the name and address of the employer or entity obligated to make such return from such individual, and inserting the following new items:

(3) if any return required to be made by 2 or more persons, the percentage of the total amount required to be set forth in such return attributable to each such person.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(2) Qualified Education Loan Defined.—For purposes of this section, except as provided in regulations prescribed by the Secretary, the term ‘qualified education loan’ has the meaning given such term by section 221(e) of the English language.

(3) Returns Which Would Be Required To Be Made By 2 Or More Persons.—Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of another person, only the person first receiving such interest shall be required to make the return under subsection (a).

(2) Clerical Amendment.—Section 6724(d) (relating to definitions) is amended—

(A) in paragraph (1)(B), by redesignating clauses (x) through (xx) as clauses (x) through (xv), and by adding after clause (x) the following new clause:

(‘’)(x) section 6050(c) (relating to returns relating to education loan interest received in trade or business from individuals), and

(B) in paragraph (2), by striking ‘‘or’’ at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph, and by adding after that the following new subparagraph:

‘‘(2) Section 6050(d) (relating to returns relating to education loan interest received in trade or business from individuals).’’

(d) Clerical Amendment.—The table of sections for part II of chapter 22 of title 26, as added by section 1, is amended by redesigning the last item and inserting the following new items:

Sec. 222. Interest on education loans.

Sec. 222. Cross reference.

(e) Effective Date.—The amendments made by this section shall apply to any qualified education loan (as defined in section 221(c) of the Internal Revenue Code of 1986, as added by this section) incurred on or after the date of the enactment of this Act, but only with respect to any loan interest payment due after December 31, 1996.

SEC. 305. EXCLUSION OF FEDERAL WORK STUDY PROGRAMS.

(a) In General.—Section 117 (relating to exclusion of qualified scholarships) is amended by adding at the end of the following new subsection:

(2) EXCLUSION FOR WORK STUDY PAYMENTS.—Notwithstanding any other provision of this section, gross income does not include any amount received for services performed for a federal work study program operated under section 441 of the Higher Education Act of 1965 (42 U.S.C. 2751), as in effect on the date of the enactment of this subsection.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

TITLE IV—FUNDING FOR PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

SEC. 402. FUNDING FOR PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Section 611(b) of the Individuals with Disabilities Education Act (20 U.S.C. 1411(b)) is amended by striking the last item and inserting ‘‘not less than $10,107,522 for fiscal year 1999, not less than $10,107,522 for fiscal year 2000, not less than $10,107,522 for fiscal year 2001, not less than $10,107,522 for fiscal year 2002, not less than $10,107,522 for fiscal year 2003, not less than $10,107,522 for fiscal year 2004, and such sums as may be necessary for each succeeding fiscal year.’’

TITLE V—ADULT EDUCATION AND FAMILY LITERACY

Subtitle A—Adult Education Act

SEC. 501. AUTHORIZATION OF ADULT EDUCATION ACT.

The Adult Education Act (20 U.S.C. 1201 et seq.) is amended to read as follows:

"TITLE III—ADULT EDUCATION PROGRAMS".

"SEC. 303. SHORT TITLE.

"This title may be cited as the ‘Adult Education Act’.

"SEC. 302. STATEMENT OF PURPOSE.

"It is the purpose of this title to assist the States and the outlying areas to provide—

(1) adult education, literacy, and English literacy programs

(2) adult education and literacy activities described in section 315(b), means a provider determined to be eligible for assistance in accordance with section 314.

"(E) English literacy program.—The term ‘English literacy program’ means a program of instruction designed to help individuals achieve full competence in the English language.

"(F) Family literacy services.—The term ‘family literacy services’ means services that are of sufficient intensity in terms of time, and of sufficient duration, to make sustainable changes in a family and that integrate all of the following activities:

(A) Interactive literacy activities between parents and their children.

(B) Training for parents on how to be the primary teacher for their children and full partners in the education of their children.

(C) Parent literacy services.

(D) Family literacy programs.

(2) Individual of limited English proficiency.—The term ‘individual of limited English proficiency’ means an individual—

(1) who has limited ability in speaking, reading, or writing the English language; and

(A) who has attained 16 years of age;

(B) whose native language is a language other than English; or

(B)(i) who does not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education; and

(C) whose English language proficiency is so limited that the individual cannot read, write, and speak English.

(3) Literacy.—The term ‘literacy’ means the ability of the individual to speak, read, and write English, and compute and solve problems at levels of competency that are necessary for the individual to function on the job, in the family and in society, in order to achieve the goals of the individual and in order to develop the knowledge potential of the individual.

(11) Local educational agency.—The term ‘local educational agency’ means a provider determined to be eligible for assistance in accordance with section 314.

(12) Postsecondary educational institution.—The term ‘postsecondary educational institution’ means an institution of higher education (as such term is defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1007)) that meets the eligibility and certification requirements under title IV of such Act (20 U.S.C. 1070 et seq.).

"(14) Secretary.—The term ‘Secretary’ means the Secretary of Education.

"(15) State.—The term ‘State’ means each of the several States of the United States,
the District of Columbia, and the Commonwealth of Puerto Rico.

**SEC. 304. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated out of the funds allotted for the
Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this section, the Secretary shall award grants to
such agencies, organizations, and institutions that have the ability to provide literacy services to adults and families, and consortia of
organizations, agencies, or institutions that have the ability to provide literacy services to adults and families, that shall carry out adult
education and literacy activities.

(b) AMOUNT AVAILABLE.—There shall be made available to carry out this section to enable
such agencies, organizations, and institutions, and consortia to carry out adult education
and literacy activities.

(c) ELIGIBILITY.—An eligible agency may award a grant under this section to a
corporation that includes a provider described in paragraph (1) and a for-profit organization,
that provides literacy services to adults and families, that carry out adult education
and literacy activities.

SEC. 311. AUTHORITY TO MAKE GRANTS.

(a) IN GENERAL.—In the case of each eligi-
bile agency that in accordance with section 313 submits to the Secretary a plan for a fiscal
year, the Secretary shall make a grant for the
purpose of making grants under this section to carry out the purposes described in section 313.

(b) PURPOSE OF GRANTS.—The Secretary shall make grants to carry out the purposes described in section 313.

(c) AMOUNT AVAILABLE.—Of the amount appropriated under this section, the Secretary shall allot to each eligible agency that in accordance with section 313 submits to the Secretary a plan for a fiscal year an initial amount as follows:

1. (A) $100,000, in the case of an eligible agency that in accordance with section 313 submits to the Secretary a plan for a fiscal year that includes the following:

   (B) A description of how such activities
   are related to family literacy
   activities.

Sec. 315. Adult Education and Literacy Activities.

(a) PERMISSIBLE AGENCY ACTIVITIES.—An eligible agency may use not more than 10

PERMISSIBLE AGENCY ACTIVITIES.

(a) IN GENERAL.—Notwithstanding any other

 provision of this section and using

funds allotted for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this section, the Secretary shall award grants to
such agencies, organizations, and institutions that have the ability to provide literacy services to adults and families, and consortia of
organizations, agencies, or institutions that have the ability to provide literacy services to adults and families, that shall carry out adult
education and literacy activities.

(b) GRANTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), in order to make an award under

this section, the Secretary shall award a grant to an eligible agency.

(2) EXCEPTIONS TO LIMITATION ON GRANTS.—

(A) The Secretary may award a grant under

this section only if the Secretary determines

that the purpose of the grant is to provide

education and literacy services to adults and

individuals described in section 313(b).

(B) The Secretary shall not award a grant under

this section to an individual described in

section 313(b) unless the individual is a citizen of the United States or a lawful permanent
resident of the United States.

(C) The Secretary shall not award a grant under

this section to an individual described in

section 313(b) unless the individual has resided in the United States for a period of at least
10 years.

(D) The Secretary shall not award a grant under

this section to an individual described in

section 313(b) unless the individual has a

certificate of completion of high school or a

GED certificate.

(e) SPECIAL RULE.—In cases where the cost
limits described in paragraph (1) are not

applicable to the cost of an award under

this section, the Secretary may award a grant
under this section only if the Secretary determines

that the purpose of the grant is to provide

education and literacy services to adults and

individuals described in section 313(b).
percent of the funds made available to the eligible agency under this part for activities that may include:

(1) the establishment or operation of programs to improve the quality of instruction provided pursuant to local activities required under subsection (b), including instruction provided by volunteers or by personnel of a State or outlying area;

(2) the provision of technical assistance to eligible providers of activities authorized in this section;

(3) the provision of technology assistance to eligible providers of activities authorized in this section;

(4) the support of State or regional networks of literacy resource centers; and

(5) the monitoring and evaluation of the quality of and the improvement in activities authorized in this section.

(b) REQUIRED LOCAL ACTIVITIES.—The eligible agency required by subparagraph (A) for any fiscal year shall develop and identify in the agency plan proposed quantifiable measures for activities described in section 315.

(1) Adult education and literacy services.

(2) Services.

(3) English literacy programs.

SEC. 316. FISCAL REQUIREMENTS AND RESTRIC-
TIONS RELATED TO USE OF FUNDS.

(a) SUPPORT OR SUPPLANT.—The funds made available under this part for adult education and literacy activities shall supplement, and may not supplant, other public funds expended for activities described in section 315.

(b) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Except as provided in subparagraphs (B) and (C), and paragraph (2), no payments shall be made under this part for any fiscal year for which the determination is made, equal to such effort or expenditures for activities described in section 315 for the program year preceding the program year for which the determination is made.

(2) W AIVER.—The Secretary of Education may waive the requirements of paragraph (1) with respect to not more than 5 percent of expenditures required for the preceding fiscal year by any eligible agency for 1 program or activity if the Secretary determines that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the eligible agency to comply with such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort or aggregate expenditures required under this subsection for years subsequent to the year for which a waiver is granted.

(3) EXPENDITURES OF NON-FEDERAL FUNDS FOR ADULT EDUCATION AND LITERACY ACTIV-
ITIES.—For any fiscal year for which a grant is made to an eligible agency under this part, the eligible agency shall expend, on programs and activities relating to adult education and literacy and, as a budget amount, derived from sources other than the Federal Government, equal to 25 percent of the amount made available to the eligible agency under this part for adult education and literacy activities.

SEC. 317. ACCOUNTABILITY AND CONTINUOUS IMPROVEMENT.

(a) GOAL.—Each eligible agency that receives a grant under this part shall have such goal to meet the goal of enhancing and developing more fully the literacy skills of the adult population in the State or outlying area of the agency.

(b) BENCHMARKS.—To be eligible to receive a grant under this part, an eligible agency shall develop and identify in the agency plan, submitted under section 313, proposed quantifiable benchmarks to measure the progress of the eligible agency toward meeting the goal described in subsection (a) throughout the State or outlying area of the agency. The benchmarks shall be approved by the Secretary of Education.

(1) the provision of technology assistance to eligible agencies to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort or aggregate expenditures required under this subsection for years subsequent to the year for which a waiver is granted.

(2) W AIVER.—The Secretary of Education may waive the requirements of paragraph (1) with respect to not more than 5 percent of expenditures required for the preceding fiscal year by any eligible agency for 1 program or activity if the Secretary determines that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the eligible agency to comply with such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort or aggregate expenditures required under this subsection for years subsequent to the year for which a waiver is granted.

(3) EXPENDITURES OF NON-FEDERAL FUNDS FOR ADULT EDUCATION AND LITERACY ACTIV-
ITIES.—For any fiscal year for which a grant is made to an eligible agency under this part, the eligible agency shall expend, on programs and activities relating to adult education and literacy and, as a budget amount, derived from sources other than the Federal Government, equal to 25 percent of the amount made available to the eligible agency under this part for adult education and literacy activities.

SEC. 317. ACCOUNTABILITY AND CONTINUOUS IMPROVEMENT.

(a) GOAL.—Each eligible agency that receives a grant under this part shall have such goal to meet the goal of enhancing and developing more fully the literacy skills of the adult population in the State or outlying area of the agency.

(b) BENCHMARKS.—To be eligible to receive a grant under this part, an eligible agency shall develop and identify in the agency plan, submitted under section 313, proposed quantifiable benchmarks to measure the progress of the eligible agency toward meeting the goal described in subsection (a) throughout the State or outlying area of the agency, which shall include, at a minimum, benchmarks for populations of:

(1) demonstrated improvements in literacy skill levels;

(2) attainment of secondary school diplomas or general equivalency diplomas;

(3) placement in, retention in, or completion of, postsecondary education, training, or employment; and

(4) attainment of the literacy skills and knowledge individuals need to be productive and responsible citizens and to become more actively involved in the education of their children.

(c) POPULATIONS.—

(1) PERFORMANCE MEASURES.—In developing and identifying measures of progress of the eligible agency, the Secretary shall:

(1) low-income individuals;

(2) at-risk youth and young adults;

(3) individuals with disabilities; and

(4) individuals of limited literacy, as determined by the eligible agency.

(2) ADDITIONAL MEASURES.—In addition to the benchmarks described in paragraph (1), an eligible agency may develop and identify in the agency plan proposed quantifiable benchmarks to measure the progress of the eligible agency toward meeting the goal described in subsection (a) for populations with multiple barriers to educational enhancement.

PART B—NATIONAL PROGRAMS

SEC. 321. NATIONAL INSTITUTE FOR LITERACY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the Institute for Literacy in the National Institute for Literacy in this section referred to as the "Institute". The Institute shall be administered under the terms of an interagency agreement entered into between the Secretary of Labor and the Secretary of Education, the Secretary of Health and Human Services, and the Department of Health and Human Services whose purpose is determined by the Secretary of Education to be the purpose of the Institute.

(2) OFFICES.—The Institute shall have offices separate from the offices of the Department of Education, the Department of Labor, and the Department of Health and Human Services.

(3) BOARD RECOMMENDATIONS.—The Inter-
agency Advisory Group shall consider the rec-
ommendations of the National Institute for Literacy Advisory Board (in this section referred to as the "Board") established under subsection (d) in planning the goals of the Institute and in the implementation of any programs to achieve such goals.

(4) DAILY OPERATIONS.—The daily opera-
tions of the Institute shall be carried out by the Director of the Institute appointed under subsection (g).

(b) DUTIES.—

(1) IN GENERAL.—The Institute shall im-
prove the quality and accountability of the adult basic skills and literacy delivery sys-
tems.

(2) PROVIDE GUIDANCE.—The Institute shall pro-
vide guidance for the maintenance and expansion of the system for delivery of literacy services; and

(3) ENCOURAGE COORDINATION.—The Institute shall carry out evaluations of the effec-
tiveness of adult education and literacy activities;

(4) ENHANCE CAPACITY.—The Institute shall enhance the capacity of State and local organizations to provide literacy services;

(5) SERVE AS A REPOSITORY.—The Institute shall serve as a repository for the purpose of sharing information, data, research, expert-
ise, and literacy resources;

(6) ENCOURAGE COORDINATION.—The Institute shall serve as a reciprocal link between the Institute and providers of adult edu-
cation and literacy services to the purpose of sharing information, data, research, expert-
ise, and literacy resources;

(7) SUPPORT—The Institute shall support the development and use of models and tools that support the implementation of accountability systems that consist of goals, performance measures, benchmarks, and assessments that can be used to improve the quality of adult education and literacy activities;

(8) PROVIDE TECHNICAL ASSISTANCE.—The Institute shall provide technical assistance, infor-

mation, and other program improvement activ-
ities to national, State, and local organiza-
tions such as:

(i) improving the capacity of national, State, and local public and private organiza-
tions that provide literacy and basic skills services, professional development, and tech-
nical assistance, such as the State or re-
gional adult literacy resource centers referred to in subparagraph (E); and

(ii) improving the capacity of national literacy electronic data collection, and informa-

tional services, including:

(iii) working with the Interagency Group, Federal, State, and local agencies, and the Secretary of Labor to ensure that such groups, agencies, and the Congress have the best information available on liter-
acy and basic skills programs in formulation of public policy; and

(iv) working with the Interagency Group and Federal, State, and local agencies to ensure that such groups, agencies, and the Congress have the best information available on liter-
acy and basic skills programs in formulation of public policy.
“(I) assisting with the development of policy with respect to literacy and basic skills.

“(II) GRANTS, CONTRACTS, AND AGREEMENTS.—The Institute may make grants, or enter into or agree to agreements, with individuals, public or private institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute. Such grants, contracts, or agreements shall be subject to the laws and regulations that generally apply to grants, contracts, or agreements entered into by Federal agencies.

“(c) LITERACY LEADERSHIP.

“(I) FELLOWSHIPS.—The Institute, in consultation with the Board, may award fellowships, with such stipends and allowances as the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation.

“(II) USE OF FELLOWSHIPS.—Fellowships awarded under this subsection shall be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

“(d) NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD.

“(1) ESTABLISHMENT.—

“(A) IN GENERAL.—There is established a National Institute for Literacy Advisory Board. The Board shall consist of 10 individuals appointed by the President, with the advice and consent of the Senate, from individuals who—

“(i) are not otherwise officers or employees of the Federal Government; and

“(ii) are representative of entities or groups described in subparagraph (B).

“(B) ENTITIES OR GROUPS DESCRIBED.—The entities or groups referred to in subparagraph (A) are—

“(i) literacy organizations and providers of literacy services, including—

“(I) nonprofit providers of literacy services;

“(II) providers of programs and services involving English language instruction; and

“(III) providers of services receiving assistance under this title;

“(ii) businesses that have demonstrated interest in literacy programs;

“(iii) literacy students;

“(iv) experts in the area of literacy research;

“(v) State and local governments; and

“(vi) representatives of employers.

“(2) DUTIES.—The Board—

“(A) shall make recommendations concerning the appointment of the Director and staff of the Institute;

“(B) shall provide independent advice on the operations of the Institute; and

“(C) shall receive reports from the Interagency Group and the Director.

“(3) FEDERAL ADVISORY COMMITTEE ACT.—Except as provided in paragraph (2), the Board established by this subsection shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

“(A) IN GENERAL.—Each member of the Board shall be appointed for a term of 3 years, except that the initial terms for members may be 1, 2, or 3 years in order to establish a rotation in which 1/3 of the members are selected each year. Any such member may be appointed for no more than 2 consecutive terms.

“(B) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member’s predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of such member’s term in the event of the resignation, retirement, or death of a successor who has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made. A vacancy in the Board shall not affect the powers of the Board.

“(C) QUORUM.—A majority of the members of the Board shall constitute a quorum but a lesser number may hold hearings. Any record of a hearing shall be admissible in evidence in any other hearing of the Board.

“(D) ELECTION OF OFFICERS.—The Chairperson and Vice Chairperson of the Board shall be elected by the members of the Board. The term of office of the Chairperson and Vice Chairperson is 2 years.

“(E) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of the members.

“(F) GIFTS, BEQUESTS, AND DEVISES.—The Institute may accept, administer, and use gifts or donations of services, money, or property, both public and private, and shall be entitled to accept, administer, and use such gifts.

“(G) MAILS.—The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

“(H) DIRECTOR.—The Interagency Group, after considering recommendations made by the Board, shall appoint and fix the pay of a Director.

“(I) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Institute may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 3 of title 5 relating to classification and General Schedule pay rates, except that the Director and staff members shall not receive pay in excess of the maximum rate payable under section 5376 of title 5, United States Code.

“(J) EXCELLENCE IN EDUCATION AND CONSULTANTS.—The Board and the Institute may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

“(K) REPORT.—The Institute shall submit a report biennially to the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Each report submitted under this subsection shall include—

“(I) a complete and detailed description of the Institute’s operations, activities, financial condition, and accomplishments in the field of literacy for the period covered by the report;

“(II) a description of how plans for the operations of the Institute for the succeeding two fiscal years will facilitate achievement of the goals of the Institute and the goals of the literacy programs within the Department of Education, the Department of Labor, and the Department of Health and Human Services; and

“(III) any additional minority, or dissenting views submitted by members of the Board.

“(L) FUNDING.—Any amounts appropriated to the Secretary of Labor, the Secretary of Health and Human Services for purposes that the Institute is authorized to perform under this section may be provided to the Institute for such purposes.

“(M) AUTHORIZATION OF APPROPRIATIONS.—The Secretary is authorized to be appropriated $30,000,000 for fiscal year 1998 and such sums as may be necessary for each of the fiscal years 1999 through 2003 to carry out this section.

“(N) USE OF FUNDS.—Any amounts appropriated to the Institute for the fiscal years 1998 through 2003 to carry out this section shall be expended for the purposes of carrying out this section.

“(O) SEC. 322. NATIONAL LEADERSHIP ACTIVITIES.

“(P) SEC. 323. CONFORMING AMENDMENTS.
Education Assistance Act of 1980 (8 U.S.C. 1522 note) is repealed. (b) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965. (1) SECTION 1206 OF ESEA.—Section 1206(a)(1)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6366(a)(1)(A)) is amended by striking "an adult education program" and inserting "adult education and literacy activities".

(2) SECTION 3132 OF ESEA.—Section 3132(1) of such Act (20 U.S.C. 6831(1)) is amended by striking "section 312" and inserting "section 313".

(3) SECTION 6835 OF ESEA.—Section 6835(1) of such Act (20 U.S.C. 7881(2)) is amended by striking "section 312" and inserting "section 313".

Subtitle B—Demonstration Programs and Projects To Promote Literacy

SEC. 521. SHORT TITLE. Title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8001 et seq.) is amended by adding at the end the following:

"PART N—DEMONSTRATION PROGRAMS AND PROJECTS TO PROMOTE LITERACY "SEC. 10996. DEMONSTRATION PARTNERSHIPS TO PROMOTE LITERACY. ÐThe Secretary shall award grants to partnerships among schools, parents, private, nonprofit community volunteer organizations, and other community associations. Such partnerships shall demonstrate in the United States citizen, including educators and the Committee on Education and the Committee on Labor and Human Resources of the Senate, and the Committee on Education and the Committee on Labor and Human Resources of the House of Representatives a strong commitment to the duties of the Commission undertaken by the Secretary for evaluating an individual demonstration program or project, or group of demonstration programs or projects.

"SEC. 523. NATIONAL COMMISSION ON LITERACY. ÐThis subtitle may be cited as the "National Commission on Literacy".

"SEC. 532. FINDINGS. Congress finds as follows:

(1) Since 1965, the United States has spent over $500,000,000,000 on Federal education programs, yet 66 percent of 17-year olds do not read at a proficient level and reading scores have been declining for 3 decades.

(2) More than 75 percent of 4th graders, nationally, scored below the proficient level of reading.

(3) American businesses are spending more than $30,000,000,000 in retraining employees, primarily because the employees cannot read at an adult level.

(4) In most junior colleges, at least one-third of the students must take remedial English because the students are not able to read at a college level.

(5) In the United States and any correlation between such impact and welfare costs, juvenile delinquency, special education, adult literacy programs, drug addiction, and underemployment.

(6) Examine matters including—

(i) a review of requirements set for prospective reading teachers studying at colleges of education;

(ii) whether such requirements include obtaining knowledge about direct, intensive, and systematic phonics with decodable text as an important step in reading instruction;

(iii) a review of the available testing instruments that determine whether and to what extent, children can decode the English language;

(iv) an assessment of the extent to which the use of experimentally unverified methods and teaching materials contributes to illiteracy;

(v) a review of medical and neurological evidence regarding how individuals acquire the skill of reading;

(vi) a review of the cost of illiteracy to business and industry;

(vii) an assessment of the negative impact of illiteracy on the economy in general, and in particular the impact of illiteracy on economically depressed areas; and

(viii) other issues that a majority of the members of the Commission deem appropriate to investigate in accordance with this subtitle.

"SEC. 533. NATIONAL COMMISSION ON LITERACY. ÐThe Commission shall consist of 5 members to be appointed by the President of the United States;

(2) APPOINTMENTS.—(A) In general.—The President, the Speaker of the House of Representatives, and the Majority Leader of the Senate shall each appoint as members of the Commission any United States Senators and Representatives and other professionals involved in the research, study, and analysis of illiteracy.

(B) PROHIBITION.—An individual with a direct financial interest in the outcome of the Commission shall not be appointed to the Commission.

(3) CONSULTATION.—The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairpersons of the Committee on Education and the Workplace of the House of Representatives and the Committee on Labor and Human Resources of the Senate.
The final report shall set forth recommendations regarding the findings of the Commission.

3. **Availability.**—Copies of interim reports and the final report of the Commission shall be made available in sufficient quantity for public review.

4. **Time of Appointment of Members.**—The President shall make their respective appointments to the Commission not later than 60 days after the date of enactment of this Act, for terms ending 60 days after the vacancy occurs.

5. **Chairman.**—The Majority Leader of the Senate shall be the Chairman of the Commission.

6. **Vacancy.**—Any vacancy that occurs during the life of the Commission shall not affect the powers of the Commission, and shall be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

7. **Conduct of Hearings.**—The Commission shall establish a quorum for conducting hearings scheduled by the Commission.

8. **Call of Meetings.**—The Commission shall conduct no hearings scheduled by the Commission at any time during which there is no quorum so established.

9. **Executive Director and Additional Personnel.**—The Commission may appoint an Executive Director of the Commission, and the Commission may appoint and fix the rates of compensation for such personnel as the Commission deems advisable. The Executive Director shall be compensated at a rate not to exceed the rate payable for Level V of the Executive Schedule under section 5316 of title 5, United States Code. Compensation of other personnel may be set without regard to the provisions of this section.

10. **Compensation and Expenses.**—The Commission may compensate witnesses, and such detail shall be without intercession or loss of civil service status, benefits, or privilege.

11. **Temporary or Intermittent Services.**—The Commission may procure temporary or intermittent services for public agencies, for research necessary to carry out the Commission's duties under subsection (c).

12. **Witnesses.**—Witnesses requested to appear before the Commission shall be paid the same fees as are paid to witnesses under section 1921 of title 28, United States Code.

13. **Travel Expenses.**—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Commission.

14. **Executive Director and Additional Personnel.**—The Commission may appoint an Executive Director of the Commission, and the Commission may appoint and fix the rates of compensation for such personnel as the Commission deems advisable. The Executive Director shall be compensated at a rate not to exceed the rate payable for Level V of the Executive Schedule under section 5316 of title 5, United States Code. Compensation of other personnel may be set without regard to the provisions of this section.

15. **Compensation and Expenses.**—The Commission shall be compensated at a rate not to exceed the rate payable for Level V of the Executive Schedule under section 5316 of title 5, United States Code. Compensation of other personnel may be set without regard to the provisions of this section.

16. **Meeting of Members.**—The President shall make the time and place of the meetings of the Commission, and the Commission may establish a quorum for public or private organizations, for research necessary to carry out the Commission's duties under subsection (c).

17. **Invoice.**—The Commission may hold such hearings, sit and act at such times and places, administer such oaths, take such testimony, and receive such evidence as the Commission considers advisable.

18. **Witnesses.**—Witnesses requested to appear before the Commission shall be paid the same fees as are paid to witnesses under section 1921 of title 28, United States Code. The per diem and mileage allowances for witnesses shall be paid from funds appropriated to the Commission.

19. **Subpoenas.**—If a person fails to supply information requested by the Commission, the Commissioner may require that person to testify under oath or make available any other data or documentary evidence necessary to carry out the Commission's duties under subsection (c).

20. **Information.**—The Commission may secure such records from any Federal department or agency such information as the Commission considers necessary to carry out its duties under subsection (c).

21. **Disclosure of Confidential Information.**—The Commission shall obtain from any Federal department or agency such information as the Commission considers necessary to carry out its duties under subsection (c). Upon the request of the Commission, each such department or agency may furnish such information to the Commission.

22. **Disclosure of Confidential Information.**—The Commission shall consider the Commission's duties and the Commission may make such disclosures to the public as it deems necessary to carry out its duties under subsection (c).

23. **Disclosure of Confidential Information.**—The Commission shall consider the Commission's duties and the Commission may make such disclosures to the public as it deems necessary to carry out its duties under subsection (c).

24. **Disclosure of Confidential Information.**—The Commission shall consider the Commission's duties and the Commission may make such disclosures to the public as it deems necessary to carry out its duties under subsection (c).
Again, Mr. President, this is a strong place to start. I appreciate the leadership—particularly our majority leader TREN'T LOTT—for working with us to establish this foundation. Now we must go about the legislative process, building the consensus we need to see it implemented and achieving the real tax relief American families not only desire but need.

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

There being no objection, the materials were ordered to be printed in the Record, as follows:

S. 2

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

TITLe 1—CHILD TAX CREDIT
TITLe 2—CAPITAL GAINS REFORM
TITLe 3—SAVINGS INCENTIVES
TITLe 4—INDIVIDUAL RETIREMENT ACCOUNTS
TITLe 5—PERSONAL RETIREMENT ACCOUNTS
TITLe 6—ENTERPRISE INVESTMENT ACCOUNTS
TITLe 7—RELATIVE'S CONTRIBUTIONS TO AN INDIVIDUAL RETIREMENT ACCOUNT
TITLe 8—REPEALS
TITLe 9—DEFERRED PENSION PLANS
TITLe 10—PROCEDURAL AND OTHER MATTERS

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exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiary on the sale or exchange of capital assets.

(c) **COORDINATION WITH TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—**For purposes of this section, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount of any net capital gain from sources within the United States which is included in the gross income of a United States citizen or resident, or the net capital gain from sources outside the United States which is includible in the gross income of a foreign person for purposes of the United States tax laws.

(2) **NONDEDUCTIBLE NET CAPITAL GAIN.—**For purposes of paragraph (1), the term 'non-deductible net capital gain' means an amount attributable to the same year and the same capital asset as the deductibility of net capital gain from sources within the United States which is included in the gross income of a United States citizen or resident (or the net capital gain from sources outside the United States which is includible in the gross income of a foreign person for purposes of the United States tax laws) was not allowed for such year.

(d) **ADJUSTMENTS TO NET CAPITAL GAIN.—**For purposes of subsection (a)—

(1) **COLLECTIBLES.—**

(A) **IN GENERAL.—**Net capital gain shall be computed without regard to collectibles gain.

(B) **COLLECTIBLES GAIN.—**

(i) **IN GENERAL.—**The term 'collectibles gain' means gain from the sale or exchange of a collectible (as defined in section 408(m)) without regard to paragraph (3) thereof which is a collectible held for more than 1 year but only to the extent such gain is taken into account in computing gross income.

(ii) **COORDINATION WITH SECTION 1022.—**Gain from the disposition of a collectible which is an indexed asset to which section 1022(a) applies shall be disregarded for purposes of this section. A taxpayer may elect to treat any collectible which is not an indexed asset and is sold during a taxable year in the same manner as if such election had not been made.

(iii) **PARTNERSHIPS, ETC.—**For purposes of this section, the term 'partnership' includes any association, closed-end investment company, and estate or trust under section 1202 (relating to inclusions of gains from exchange of capital assets which, under section 1202, are includible by the income beneficiary on the sale or exchange of capital assets held for more than 1 year and only to the extent such gain is taken into account in computing gross income).

(iv) **ADJUSTMENTS.—**To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, and the amount allowable as a deduction shall be made for any deduction allowable to the estate or trust under section 1202 (relating to capital gains deduction), the deduction under section 1202 shall be treated as short-term capital gain in the taxable year the amount is included in income.

(v) **GENERAL RULE.—**The deduction under section 1202(b) shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—

(A) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

(B) the adjusted taxable income for the taxable year under paragraph (1) or (2) of section 1211(b), reduced by one-half of the excess of the net short-term capital loss over the net long-term capital gain, and

(C) the adjusted taxable income for the taxable year under paragraph (1) or (2) of section 1211(b), reduced by one-half of the excess of the net capital loss from sources within the United States over net capital gain as sources within the United States which is includible in the gross income of a United States citizen or resident, or the net capital gain from sources outside the United States which is includible in the gross income of a foreign person for purposes of the United States tax laws.

(2) **SPECIAL RULES.—**

(A) **ADJUSTMENTS.—**

(i) **GENERAL.—**For purposes of determining the excess referred to in subparagraph (B), there shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—

(A) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

(B) the adjusted taxable income for such taxable year.

(ii) **GENERAL.—**For purposes of determining the excess referred to in paragraph (1), there shall be treated as short-term capital gain the taxable year an amount equal to the sum of—

(A) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

(B) the adjusted taxable income for such taxable year.

(iii) **GENERAL.—**For purposes of determining the excess referred to in paragraph (1), there shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—

(A) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

(B) the adjusted taxable income for such taxable year.

(3) **CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—**For purposes of this section, the term 'capital gain' means gain from the sale or exchange of capital assets held for more than 1 year but only to the extent such gain is taken into account in computing gross income.

(4) **ADJUSTMENTS.—**To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, and the amount allowable as a deduction shall be made for any deduction allowable to the estate or trust under section 1202 (relating to capital gains deduction), the deduction under section 1202 shall be treated as short-term capital gain in the taxable year the amount is included in income.

(5) **ADJUSTMENTS.—**To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, and the amount allowable as a deduction shall be made for any deduction allowable to the estate or trust under section 1202 (relating to capital gains deduction), the deduction under section 1202 shall be treated as short-term capital gain in the taxable year the amount is included in income.

(6) **ADJUSTMENTS.—**To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, and the amount allowable as a deduction shall be made for any deduction allowable to the estate or trust under section 1202 (relating to capital gains deduction), the deduction under section 1202 shall be treated as short-term capital gain in the taxable year the amount is included in income.

(7) **ADJUSTMENTS.—**To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, and the amount allowable as a deduction shall be made for any deduction allowable to the estate or trust under section 1202 (relating to capital gains deduction), the deduction under section 1202 shall be treated as short-term capital gain in the taxable year the amount is included in income.

(8) **ADJUSTMENTS.—**To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, and the amount allowable as a deduction shall be made for any deduction allowable to the estate or trust under section 1202 (relating to capital gains deduction), the deduction under section 1202 shall be treated as short-term capital gain in the taxable year the amount is included in income.
long-term capital loss for the taxpayer’s first taxable year beginning after December 31, 1997, over
(ii) the sum of
(iii) the aggregate amount determined under subparagraph (A)(ii) for all prior taxable years beginning after December 31, 1997, and
(iv) the aggregate reductions under subparagraph (A) for all such prior taxable years.

(1) Paragraph (1) of section 1402(e) is amended by inserting "and the deduction provided by section 1202 shall not apply" before the period at the end thereof.

(12) Subsection (e) of section 1445 is amended—

(A) in paragraph (1) by striking "35 percent (or, to the extent provided in regulations, 28 percent)" and inserting "28 percent (or, to the extent provided in regulations, 19.8 percent)";

(B) in paragraph (2) by striking "35 percent" and inserting "28 percent".

(13)(A) The second sentence of section 7518(g)(6)(A) is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) applies" and

(ii) by striking "28 percent (34 percent)" and inserting "19.8 percent (28 percent)".

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) of such Code applies" and

(ii) by striking "28 percent (34 percent)" and inserting "19.8 percent (28 percent)".

(C) Clerical Amendment.—The table of sections for part I of subchapter P of chapter 1 (relating to basis rules of general application) is amended by inserting the item relating to section 1202 and by inserting after the item relating to section 1201 the following new items:

Sec. 1202. Capital gains deduction.

Sec. 1203. Capital gain exclusion for gain from certain small business stock.

(e) Effective Date.—

(i) In General.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after December 31, 1996.

(ii) Contributions.—The amendment made by subclause (c)(1) of section 1445 shall apply to contributions after December 31, 1996.

(iii) Use of Long-Term Losses.—The amendments made by subsection (c)(10) shall apply to taxable years beginning after December 31, 1997.

(iv) Withholding.—The amendments made by subsection (c)(12) shall apply only to amounts paid after the date of the enactment of this Act.

SEC. 202. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER DECEMBER 31, 1996, FOR PURPOSES OF DETERMINING GAIN.

(a) In General.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"Sec. 1022. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER DECEMBER 31, 1996, FOR PURPOSES OF DETERMINING GAIN.

(a) General Rule.—

(I) Indexed basis substituted for adjusted basis.—Solély for purposes of determining gain on the sale or other disposition by a taxpayer (other than a corporation) of an indexed asset which has been held for more than 3 years, the indexed basis of the asset shall be substituted for its adjusted basis.

(II) Correcting rule.—The deductions for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (I) to the taxpayer or any other person.

(b) Indexed Asset.—

(I) In General.—For purposes of this section, the term ‘indexed asset’ means—

(A) common stock in a C corporation (other than a foreign corporation), and

(B) tangible property, which is a capital asset or property used in the trade or business (as defined in section 1223(b)).

(2) Stock in Certain Foreign Corporations Included.—For purposes of this section—

(A) In General.—The term ‘indexed asset’ includes common stock in a foreign corporation which is regularly traded on an established securities market.

(B) Exception.—Subparagraph (A) shall not apply to—

(i) stock of a foreign investment company (within the meaning of section 1244(b)),

(ii) stock in a passive foreign investment company (as defined in section 1296),

(iii) stock in a foreign personal holding company (as defined in section 595), and

(iv) stock in a foreign personal holding company held by a United States person who meets the requirements of section 1248(a)(2), and

(B) Exception for Corporate Shareholders.—Under regulations—

(i) in the case of a distribution by a qualified investment entity (directly or indirectly) to a corporation,

(ii) the determination of whether such distribution is a dividend shall be made without regard to this section, and

(iii) any amount treated as gain by reason of the receipt of any capital gain dividend shall be increased by the percentage by which the entity’s net capital gain for the taxable year (determined without regard to this section) exceeds the entity’s net capital gain for such year determined with regard to this section, and

(iv) there shall be other appropriate adjustments (including deemed distributions) so as to ensure that the benefits of this section are not allowed (directly or indirectly) to corporate shareholders of qualified investment entities.

For purposes of the preceding sentence, any amount includible in gross income under section 852(b)(3)(D) shall be treated as a capital gain dividend and an S corporation shall not be treated as a corporation.

(C) Exception for Qualification Purposes.—This section shall not apply for purposes of sections 852(b)(3) and 860C.

(D) Exception for Certain Taxes Imposed at Entity Level.—

(i) Tax on Failure to Distribute Entire Gain.—If any amount is subject to tax under section 852(b)(3)(A) for any taxable year, the amount on which tax is imposed under such section shall be increased by the percentage determined under subparagraph (I).

(ii) The percentage determined under subparagraph (I) shall be rounded to the nearest 1/4 of 1 percentage point.

(E) Gross Domestic Product Deflator.—The gross domestic product deflator is the implicit price deflator for the gross domestic product for such quarter (as shown in the last revision thereof released by the Secretary of Commerce before the close of the following calendar quarter).

(F) Exception for Qualification Purposes.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).

(G) Adjustments to Interests Held in Entity.—

(A) Regulated Investment Companies.—Stock in a regulated investment company (within the meaning of section 851) shall be an indexed asset for any calendar quarter in the same ratio as—

(i) the average of the fair market values of the indexed assets held by such company at the close of each month during such quarter, bears to

(ii) the average of the fair market values of the indexed assets held by such company at the close of each such month.

(B) Real Estate Investment Trusts.—Stock in a real estate investment trust shall be an indexed asset for any calendar quarter in the same ratio as—
"(a) such property was so acquired for a price less than the property's fair market value, and
(b) the amendments made by this section did not apply to such property in the hands of such related person.

d) Election to Recognize Gain on Assets Held on January 1, 1997.—For purposes of the Internal Revenue Code of 1986, as so amended, any election made under subsection (a) or (b) of section 1202, as so amended, is made on January 1, 1997, and treated as having been made on the date of acquisition of such property. The date of acquisition of such property is treated as having been January 1, 1997, and not sold before the next business day after such date, as having been sold on such next business day for an amount equal to the closing market price of such property on such next business day, and (as having been reacquired on such next business day for an amount equal to such closing market price), and
(e) any other indexed asset held by the taxpayer on January 1, 1997, as having been sold on such date for an amount equal to its fair market value on such date (and as having been reacquired on such date for an amount equal to such fair market value).

(2) Treatment of Gain or Loss.—(A) Any gain resulting from an election under paragraph (1) shall be treated as received on or accrued on the date the asset is treated as sold under paragraph (1) and shall be recognized notwithstanding any provision of the Internal Revenue Code of 1986.

(3) Any loss resulting from an election under paragraph (1) shall not be allowed for any taxable year.

(b) Election.—An election under paragraph (1) shall be made in such manner as the Secretary of the Treasury or his delegate may prescribe and shall specify the assets for which such election is made. Such an election, once made with respect to any asset, shall be irrevocable.

(4) readily tradable stock.—For purposes of this section, the term ‘readily tradable stock’ means any stock which, as of January 1, 1997, is readily tradable on an established securities market or otherwise.

(c) Treatment of Principal Residences.—Property held and used by the taxpayer on January 1, 1997, as his principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986) shall be treated as

(1) for purposes of subsection (c)(1) of this section and section 1022 of such Code, as having a holding period which begins on January 1, 1997, and

(2) for purposes of section 1022(c)(2)(B)(ii) of such Code, as having been acquired on January 1, 1997.

Subsection (d) shall not apply to property to which this subsection applies.

Sec. 203. Modification of Election to Exclusion of Gain on Certain Small Business Stock.

(a) Repeal of Minimum Tax Preference.—(1) Subsection (a) of section 57 is amended by striking paragraph (7).

(2) Subclause (ii) of section 53(d)(1)(B)(ii) is amended by striking ‘‘.5, and ‘(7)’’ and inserting ‘‘.5, and (7)’’.

(b) Stock of Larger Businesses Eligible for Reduced Rates.—Paragraph (1) of section 1203(d), as redesignated by section 201, is amended by striking ‘‘.5, and‘‘, as so redesignated, is amended by striking subsection (b).

(c) Repeal of Per-Issuer Limitation.—Section 1203, as so redesignated, is amended by striking subsection (b).

d) Other Modifications.—(1) Repeal of Working Capital Limitation.—Paragraph (B) of section 1203(e), as so redesignated, is amended by striking

(A) by striking ‘‘2 years’’ in paragraph (B)

and inserting ‘‘5 years’’, and
(B) by striking the last sentence.

(2) EXCEPTION FROM REDEMPTION RULES WHERE BUSINESS PURPOSE.—Paragraph (3) of section 1203(c), as so redesignated, is amended—

[(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the acquisition was not to avoid the limitations of this section.]

(e) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 1203, as so redesignated, is amended by striking "subsections (f) and (h)" and inserting "subsections (e) and (g)".

(2) Paragraph (2) of section 1203(c), as so redesignated, is amended—

(A) by striking "subsection (e)" each place it appears and inserting "subsection (d)"; and

(B) by striking "subsection (e)(4) in subparagraph (B)(i) and inserting "subsection (d)(4)".

(3) Paragraph (1) of section 1203(e), as so redesignated, is amended by striking "subsection (c)(2)" and inserting "subsection (b)(2)".

(4) Paragraph (1) of section 1203(g), as so redesignated, is amended to read as follows:

"(1) IN GENERAL.—If any amount included in gross income by reason of holding an interest in a pass-through entity meets the requirements of paragraph (2), such amount shall be treated as gain from the sale or exchange of any qualified small business stock held for more than 5 years.

(5) Section 1203, as so redesignated, as amended by the preceding provisions of this section, is amended by redesignating subsections (a) through (h) as subsections (b) through (i), respectively.

(f) CLERICAL AMENDMENT.—Section 1203, as so redesignated, is amended by adding at the end the following new subsection:

"(k) CROSS REFERENCE.—

"For reduced rates on gain of qualified small business stock held more than 5 years, see sections 1201(b) and 1202(e)."

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to stock issued after August 31, 1993.

(2) INCREASE IN SIZE.—The amendment made by subsection (b) shall apply to stock issued after the date of the enactment of this Act.

Subtitle B—Corporate Capital Gains

SEC. 211. REDUCTION OF ALTERNATIVE CAPITAL GAINS TAX FOR CORPORATIONS.

(a) IN GENERAL.—Section 1201 is amended to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.

"(a) General Rule.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 11L, and 831 (a) and (b) (whichever is applicable), there is imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of 28 percent of the net capital gain.

"(b) Special Rules for Qualified Small Business Gain.—

"(1) IN GENERAL.—If for any taxable year a corporation has a net capital gain from the sale or exchange of any qualified small business stock held for more than 5 years, the amount determined under subsection (a)(2) for such taxable year shall be equal to the sum of—

"(A) 21 percent of the lesser of such gain or the corporation's net capital gain, plus

"(B) the reduced amount of the net capital gain reduced by the gain taken into account under subparagraph (A).

"(2) QUALIFIED SMALL BUSINESS STOCK.—For purposes of paragraph (1), if the qualified small business stock has the meaning given by section 1202(b)(1), except that stock shall not be treated as qualified small business stock if held at any time by a member of the parent-subsidiary controlled group (as defined in section 1202(c)(3)) which includes the qualified small business.

"(c) Transitional Rule.—

"(1) IN GENERAL.—In applying this section, net capital gain for any taxable year shall be determined by taking into account only gains and losses properly taken into account for the portion of the taxable year ending after December 31, 1996.

"(2) Special Rule for Pass-Through Entities.—Section 1202(d)(3)(C) shall apply for purposes of paragraph (1).

"(d) Cross Reference.—

"For computation of the alternative tax—

"(1) in the case of life insurance companies, see section 801(a)(2),

"(2) in the case of regulated investment companies and business development companies and their shareholders, see section 852(b)(3)(A) and (D), and

"(3) in the case of real estate investment trusts, see section 857(b)(3)(A).

"(e) Technical Amendment.—

"Section 1221(b)(2) of the Internal Revenue Code of 1986 is amended by striking "65 percent" and inserting "72 percent".

"(f) Effective Date.—(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after December 31, 1996.

"(2) QUALIFIED SMALL BUSINESS STOCK.—Section 1202(b)(2)(B) of the Internal Revenue Code of 1986 (as added by subparagraph (a)(1)) is amended by adding at the end the following new paragraph:

"(B) losses arising from the sale or exchange of the principal residence (within the meaning of section 2032A(e)(6)) which, for periods of 5 years or more following the date of the decedent's death there have been added to the estate for purposes of paragraph (1) or (2) of section 2032A(a), if—

"(i) such interests were owned by the decedent or a member of the decedent's family in the operation of the business for more than 5 years,

"(ii) the amount of the gifts of such interests given by the decedent or a member of the decedent's family in the operation of the business for more than 5 years, and

"(iii) the amount with respect to which such tentative credit is to be computed were the applicable exclusion amount determined in accordance with the following table:

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<th>Year</th>
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<td>2004</td>
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(3) CONFORMING AMENDMENTS.—

(A) Section 6018(a)(1) is amended by striking "$900,000" and inserting "$1,200,000".

(B) Section 6018(a)(2) is amended by striking "$210,000" and inserting "$250,000".

(4) CLERICAL AMENDMENT.—Section 1223 of the Internal Revenue Code of 1986 (as added by subparagraph (a)(1)) is amended by adding at the end the following new section:

"(f) In General.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

"(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

"(2) the sum of—

"(A) $2,000,000, plus

"(B) 50 percent of the excess (if any) of the adjusted value of such interests over $2,000,000.

"(d) Estates to Which Section Applies.—

"(1) IN GENERAL.—This section shall apply to an estate if—

"(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States;

"(B) the sum of—

"(i) the adjusted value of the qualified family-owned business interests described in paragraph (1), plus

"(ii) the amount of the gifts of such interests determined under paragraph (3), exceeds 50 percent of the adjusted gross estate, and

"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) such interests were owned by the decedent or a member of the decedent's family, and

"(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business for more than 5 years,

"(2) INCLUSIVELY QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—The qualified family-owned business interests of a decedent are those interests described in subsection (a)(1) to the extent that they are includibly qualified family-owned business interests (as defined in section 2032A(e)(6)) which, for periods of 5 years or more following the date of the decedent's death there have been added to the estate for purposes of paragraph (1) or (2) of section 2032A(a), if—

"(A) such interests were owned by the decedent or a member of the decedent's family in the operation of the business for more than 5 years,

"(B) the amount of the gifts of such interests given by the decedent or a member of the decedent's family in the operation of the business for more than 5 years, and

"(C) the applicable exclusion amount is:

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</tbody>
</table>

"(3) CONFORMING AMENDMENTS.—

(A) Section 6018(a)(1) is amended by striking "$900,000" and inserting "$1,200,000".

(B) Section 6018(a)(2) is amended by striking "$210,000" and inserting "$250,000".

(4) CLERICAL AMENDMENT.—Section 1223(f) of the Internal Revenue Code of 1986 (as added by section 2032A(e)(6)) is amended by striking "$210,000" and inserting "$250,000".
own business interests described in this paragraph are the interests which—

(A) are included in determining the value of the gross estate and, without regard to this section, are deductible under section 2032A(e)(9).

(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(c)(9)).

(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests described in this paragraph (determined without regard to this section)—

(A) the sum of—

(i) the amount of such gifts from the decedent to members of the decedent’s family taken into account under subsection 2031(b)(1)(B), plus

(ii) the amount of such gifts otherwise excluded under section 2503(b), to the extent such interests are continuously held by members of such family (other than the decedent’s spouse) between the date of the gift and the date of the decedent’s death, over

(B) the amount of such gifts from the decedent to members of the decedent’s family otherwise included in the gross estate,

(c) NO GROSS ESTATE.—For purposes of this section, the term ‘gross estate’ means the value of the gross estate (determined without regard to this section)—

(I) reduced by any amount deductible under paragraph (3) or (4) of section 2033(a), and

(II) increased by the excess of—

(A) the amount of gifts described under subsection (h), plus

(ii) the amount (if more than de minimis) of other transfers from the decedent to the decedent’s spouse (at the time of the transfer) within 10 years of the date of the decedent’s death, plus

(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent’s family otherwise included under section 2031(b)(1)(B), over

(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise included in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent’s family shall not be taken into account.

(4) ADJUSTED VALUE OF THE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

(I) any amount deductible under paragraph (3) or (4) of section 2033(a), over

(ii) the amount of any indebtedness on any qualified restricted property of the decedent on which the taxpayer establishes that the proceeds of such indebtedness were used for the payment—

(A) of educational and medical expenses of the decedent, the decedent’s spouse, or the decedent’s dependents (within the meaning of section 152), plus

(B) of any indebtedness on any qualified restricted property of the decedent on which the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent’s spouse, or the decedent’s dependents (within the meaning of section 152), plus

(C) any indebtedness not described in clause (A) or (B) to the extent such indebtedness does not exceed $10,000.

(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

(1) IN GENERAL.—For purposes of this section, the term ‘qualified family-owned business interest’ means—

(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

(B) an interest in an entity carrying on a trade or business, if—

(i) such ownership interest in the other trade or business is a qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

(ii) there is a present interest in such trade or business, if—

(I) the applicable percentage of the adjusted estate tax attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

(ii) the principal place of business of such trade or business is a qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

(iii) the amount of any indebtedness described in section 163(h)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subparagraph (F) or (M) of subsection 2032A(c)(2)(B)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or held) in a qualified trust.

(2) QUALIFIED TRUST.—The term ‘qualified trust’ means—

(A) any trust which is organized under, and governed by, the laws of the United States or a State, and

(B) except as otherwise provided in regulations, with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States, any interest under this section passing to or acquired by suchtrust (including any interest held by such trust at a time described in subparagraph (F) or (M) of subsection 2032A(c)(2)(B)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or held) in a qualified trust.
"(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

"(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given in section 2032A(e)(2).

"(3) APPLICABLE RULES.—Rules similar to the following rules shall apply: (A) Section 2033A(b)(4) (relating to decrees which are not in evidence)

"(B) Section 2033A(b)(5) (relating to special rules for surving spouses).

"(C) Section 2033A(c)(2)(D) (relating to partial dispositions).

"(D) Section 2033A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

"(E) Section 2033A(c)(4) (relating to due date).

"(F) Section 2033A(c)(5) (relating to liability for tax; furnishing of bond).

"(G) Section 2033A(c)(7) (relating to tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).

"(H) Section 2033A(e)(10) (relating to community property).

"(I) Section 2033A(e)(14) (relating to treatment of replacement property acquired in section 1042 transactions).

"(J) Section 2033A(f) (relating to statute of limitations).

"(K) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

"(L) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payments upon default).

"(M) Section 6324B (relating to special lien for additional estate tax).

"(N) MODIFICATIONS WITH OTHER ESTATE TAX REGULATIONS.—If there is a reduction in the value of the gross estate under this section—

"(A) the dollar limitation applicable under section 2032A(a)(2), and

"(B) the $1,000,000 amount under section 6601(l)(3) (as adjusted), shall each be reduced (but not below zero) by the amount of such reduction.

*(b) CLERICAL AND TECHNICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 1, entitled "Sec. 303. Family-owned business exclusion.

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

SEC. 303. 20-YEAR INSTALLMENT PAYMENT WHERE ESTATE CONSIGNS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS.

(a) In General.—Section 6166(a) (relating to extension of time for payment of estate tax with respect to interests in closely held businesses) is amended by striking "10" in paragraph (1) and the heading thereof and inserting "20".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

SEC. 304. NO INTEREST ON CERTAIN PORTION OF ELECTIVE DEFERRAL EXTENDED UNDER 6166.

(a) In General.—Section 6601(j) (relating to 4-percent rate on certain portion of estate tax extended under section 6166) is amended—

"(1) by striking the first sentence of paragraph (1) and inserting the following new sentence: "If the time for payment of an amount determined under paragraph (3) is extended by chapter 11, the amount shall (in lieu of the annual rate provided by subsection (a)) be paid:"

"(2) by striking "4-percent" each place it appears in paragraphs (2) and (3) and inserting "‘no-interest’", and

"(3) by striking "4-Percent" in the heading of paragraph (2) and inserting "‘No Interest’", and

"(4) by striking "4 Percent Rate" in the heading thereof and inserting "‘No Interest’

*(c) CONFORMING AMENDMENTS.— (1) Section 6166(b)(7)(A)(ii)(I) is amended by striking "percent rate of interest" and inserting "no-interest portion.

"(2) Section 6166(b)(8)(A)(iii) is amended to read as follows:

"(iii) No Interest Portion Not to Apply.— Section 6601(l)(3) (relating to no-interest portion) shall not apply.

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

TITLE IV—SAVINGS INCENTIVES

SEC. 403. RESTORATION OF IRA DEDUCTION.

(a) MODIFICATIONS OF RESTRICTIONS ON ACTIVE PARTICIPANTS.—Subparagraph (B) of section 219(g)(3) (relating to applicable dollar amount) is amended to read as follows:

"(B) APPLICABLE DOLLAR AMOUNT.—The term ‘applicable dollar amount’ means the following:

"(i) In the case of a taxpayer filing a joint return:

"(1) For taxable years beginning in:

<table>
<thead>
<tr>
<th>Year</th>
<th>Applicable Dollar Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997</td>
<td>$65,000</td>
</tr>
<tr>
<td>1998</td>
<td>$60,000</td>
</tr>
<tr>
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<tr>
<td>2010</td>
<td>$0</td>
</tr>
</tbody>
</table>

*(b) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all IRA Plus accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

"(A) the maximum amount allowable as a deduction under section 219 with respect to any individual for such taxable year (computed without regard to subsection (g) of such section), over

"(B) the amount so allowed.

*(c) CONTRIBUTIONS ALLOWED AFTER AGE 70 1/2.—Contributions to an IRA Plus account may be made even after the individual for whom the account is maintained has attained age 70 1/2.

*(d) MANDATORY DISTRIBUTION RULES NOT TO APPLY, ETC.—

*(a) In General.—Except as provided in subsection (b), subparagraphs (a)(6) and (b) of section 408 (relating to required distributions) shall not apply to any IRA Plus account.

*(b) POST-DEATH DISTRIBUTIONS.—Rules similar to the rules of section 401(a)(9) (other than subparagraph (a)(9) thereof) shall apply for purposes of this section.

*(c) ROLLOVER CONTRIBUTIONS.—

*(A) In General.—No rollover contribution may be made to an IRA Plus account unless it is a qualified rollover contribution.

*(B) COORDINATION WITH LIMIT.—A qualified rollover contribution shall not be taken into account for purposes of amount of contributions.

*(c) TIME WHEN CONTRIBUTIONS MADE.—For purposes of this section, the rule of section 219(f)(2) shall apply.

*(d) ROLLOVER DISTRIBUTION RULES.—For purposes of this title—

*(1) General Rules—
"(A) EXCLUSIONS FROM GROSS INCOME.—Any qualified distribution from an IRA Plus account shall not be includible in gross income.

"(B) NONQUALIFIED DISTRIBUTIONS.—In applying section 72 to any distribution from an IRA Plus account which is not a qualified distribution, such distribution shall be treated as a distribution from the IRA Plus account to the extent that such distribution, when added to all previous distributions from the IRA Plus account, equals the aggregate amount of contributions to the IRA Plus account. For purposes of the preceding sentence, all IRA Plus accounts for the benefit of an individual shall be treated as 1 account.

"(C) EXCEPTION FROM PENALTY TAX.—Section 72(t) shall not apply to any qualified distribution from a IRA Plus account.

"(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified distribution' means any payment or distribution—

"(i) made on or after the date on which the individual attains age 59½,

"(ii) made as a beneficiary (or to the estate of the individual) on or after the death of the individual,

"(iii) attributable to the individual's being disabled (within the meaning of section 72(m)(7)), or

"(iv) which is a qualified special purpose distribution.

"(B) CERTAIN DISTRIBUTIONS WITHIN 5 YEARS.—A payment or distribution shall not be treated as a qualified distribution under clause (i) of subparagraph (A) if—

"(i) it is made within the 5-taxable year period beginning with the 1st taxable year for which the individual made a contribution to an IRA Plus account or any qualified rollover contribution from an IRA Plus account (as defined in section 408A(e)) to an IRA Plus account from another such account, or from an individual retirement plan, but only if such rollover contribution meets the requirements of section 408(d)(3). For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan to an IRA Plus account established for such individual, or

"(ii) in the case of a payment or distribution properly allocable (as determined in the manner prescribed by the Secretary) to a qualified rollover contribution (or income allocable thereto), is made within the 5-taxable year period beginning with the taxable year in which the rollover contribution was made.

"(3) ROLLOVERS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any qualified rollover contribution from an IRA Plus account.

"(B) INCOME INCLUSION FOR ROLLOVERS FROM IRA PLUS ACCOUNTS.—In the case of any qualified rollover contribution from an individual retirement plan (other than an IRA Plus account) to an IRA Plus account established for the benefit of the payee or distributee, as the case may be—

"(i) sections 72(t) and 408(d)(3) shall not apply, and

"(ii) in any case where such contribution is made before January 1, 1999, any amount required to be included in gross income by reason of this paragraph shall be so included ratably over the 4-taxable year period beginning with the taxable year in which the payment or distribution is made.

"(C) ADDITIONAL REPORTING REQUIREMENTS.—The Secretary shall require that—

"(i) in reports required under section 408C(i) as is necessary to ensure that amounts required to be included in gross income under subparagraph (B) are so included.

"(4) QUALIFIED SPECIAL PURPOSE DISTRIBUTION.—For purposes of this section, the term 'qualified special purpose distribution' means any distribution to which subparagraph (B), (D), (E), or (F) of section 72(t)(2) applies.

"(5) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section—

"(I) IN GENERAL.—The term 'qualified rollover contribution' means any rollover contribution to an IRA Plus account from an other such account, or from an individual retirement plan, but only if such rollover contribution meets the requirements of section 408(d)(3). For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan to an IRA Plus account established for such individual, or

"(II) CARRIAGE AMOUNT.—The carryover amount determined under paragraph (2) for the taxable year, plus

"(B) the carryover amount determined under paragraph (3) for the taxable year.

"(2) CARRYOVER AMOUNT.—The amount determined under this paragraph for any taxable year is an amount equal to the sum of—

"(A) the excess (if any) of—

"(i) the amount contributed for the taxable year to the accounts or for the annuities or trusts of the taxpayer for the taxable year to the extent the aggregate amount of such payments and distributions does not exceed the business start-up costs of the taxpayer for the taxable year,

"(B) the excess (if any) of—

"(i) in the case of a corporation, own more than 50 percent of the total stock of the corporation or stock possessing more than 50 percent of the voting power of such corporation,

"(ii) in connection with a trade or business with respect to which the taxpayer is a 50-percent owner, and

"(D) EXCESS DISTRIBUTIONS TAX NOT TO APPLY.—

"(i) Subparagraph (A) shall not apply to any qualified distribution from an individual retirement plan to an IRA Plus account.

"(ii) Section 408A for such taxable year.''

"(C) EXCESS CONTRIBUTIONS TREATED AS TAXABLE.—The term 'excess contributions' means amounts which are included in gross income of such individual's spouse for the taxable year reduced by—

"(D) CARRIAGE AMOUNT.—The excess contributions determined under paragraph (2) for the taxable year, plus

"(E) DEDUCTIONS.—Any deduction allowed under section 219(f)(6) and (7) shall be reduced by—

"(F) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.
combined voting power of all stock of the corporation, or

``(ii) in the case of a trade or business other than a corporation, own more than 50 percent of the capital or profits interest owned by the individual's spouse.''

(a) EXCLUSION.—Section 401, is amended by adding at the end the following new subparagraph:

``(D) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—Subparagraph (A) shall not apply to any payments or distributions from an individual retirement plan to the extent such distributions do not exceed the aggregate unreimbursed medical expenses incurred during the taxable year to the extent the aggregate unreimbursed medical expenses incurred during the taxable year do not exceed the qualified higher education expenses of the taxpayer for the taxable year.''

(b) EFFECTIVE DATE.—The amendments made by section 202 shall apply to payments and distributions made after the date of the enactment of the American Family Tax Relief Act of 1996.
the form in which it is held) with a principal place of business in the United States if ownership of the trade or business is held at least 50 percent by one family, 70 percent by two families, or 90 percent by three families, as long as the decedent's family owns at least 30 percent of the trade or business. 

To qualify for the beneficial treatment, the decedent (or a member of the decedent's family) must have owned and materially participated in the trade or business for at least five of the eight years preceding the decedent's death. A member of the decedent's family must have also owned and materially participated in the trade or business for at least five years of each calendar period ending within ten years after the decedent's death.

The provision would be effective for decedents dying after December 31, 1996.

Penalty-Free IRA Withdrawals for Starting a Business, Long-Term Unemployment, and Post-Secondary Education Expenses

The bill would permit penalty-free and tax-free withdrawals from an individual retirement arrangement (IRA) for starting a business of the IRA owner, starting a business of the spouse of the IRA owner, in the case of long-term unemployment of the IRA owner, or, for any reason, and for the post-secondary education expenses of the IRA owner, the IRA owner's spouse, or a dependent child of the IRA owner or spouse. The provision would be effective for distributions after December 31, 1996.
price of the asset reduced by the taxpayer's adjusted basis in that asset. The taxpayer's adjusted basis generally is the taxpayer's cost in the asset adjusted for depreciation, depletion, and other adjustments. No adjustment is allowed for inflation.

Description of the Bill

In general

The bill generally would provide for an inflation adjustment to (i.e., indexing of) the adjusted basis of certain assets (called "indexed assets") for purposes of determining gain (but not loss) upon a sale or other disposition of such assets by a taxpayer other than a corporation. Assets held by trusts, estates, S corporations, regulated investment companies ("RICs"), real estate investment trusts ("REITs"), and partnerships generally would be eligible for indexing. The cost to the taxpayer of such assets is taken into account by taxpayers other than C corporations.

Indexed assets

Assets eligible for the inflation adjustment generally would include common (but not preferred) stock of C corporations and tangible property that are capital assets or property used in a trade or business. The asset also must be an asset for which an inflation adjustment must be held by the taxpayer for more than three years.

Computation of inflation adjustment

The inflation adjustment under the provision would be computed by multiplying the taxpayer's adjusted basis in the indexed asset by an inflation adjustment percentage. The inflation adjustment percentage would be the percentage by which the gross domestic product deflator for the last calendar quarter ending before the disposition exceeded the gross domestic product deflator for the second calendar quarter ending before the asset was acquired by the taxpayer. The inflation adjustment percentage would be rounded to the nearest one-tenth of a percent. No adjustment would be made if the inflation adjustment is one percent or less.

Special entities

RICs and REITs

In the case of a RIC or a REIT, the indexing adjustments generally would apply in computing the taxable income and the earnings and profits of the RIC or REIT. The indexing adjustments, however, would not be applicable in determining whether a corporation qualifies as a RIC or REIT.

In the case of shares held in a RIC or REIT, partial indexing generally would be provided by the provision based on the ratio of the value of the shares held by the taxpayer to the value of all its assets. The ratio of indexed assets to total assets would be determined quarterly (for RICs, the quarterly ratio would be based on a three-month average). If the ratio of indexed assets to total assets exceeds 80 percent in any quarter, full indexing of the shares would be allowed for that quarter. If 20 percent or more of the indexed assets are indexed assets in any quarter, no indexing would be allowed for that quarter for the shares. Partnership interests held by a RIC or REIT would be subject to a look-through test for purposes of determining whether, and to what degree, the shares in the RIC or REIT are indexed.

A return of capital distribution by a RIC or REIT generally would be treated by a shareholder as allocable to stock acquired by the shareholder in the order in which the stock was acquired.

Partnership and S corporations, etc.

Under the bill, stock in an S corporation or an interest in a partnership or common trust fund would not be an indexed asset. Under the provisions of Code Sec. 1245, a taxpayer could receive the benefit of the indexing adjustment when the S corporation, partnership, or common trust fund disposes of indexed assets. Under the provision, any inflation adjustments at the entity level would flow through to the holders and result in a corresponding capital gain or a corresponding reduction in the holder's interest in the entity. Where a partnership has a section 754 election in effect, a partner transferring his interest in the partnership would be entitled to a capital gain or capital loss that has accrued at the partnership level with respect to the partner and the transferee partner is entitled to the benefits of indexing for inflation occurring subsequent to the transfer.

The indexing adjustment would be disregarded in determining any loss on the sale of an interest in a partnership, S corporation or REIT in the entity. Where a partnership has a section 754 election in effect, a partner transferring his interest in the partnership would be entitled to a capital gain or capital loss that has accrued at the partnership level with respect to the partner and the transferee partner is entitled to the benefits of indexing for inflation occurring subsequent to the transfer.

Foreign corporations

Common stock of a foreign corporation generally would be an indexed asset if the stock is regularly traded on an established securities market. Indexed assets, however, would not include stock in a foreign investment company, a passive foreign investment company (including a qualified electing fund), a foreign personal holding company, or, in the hands of a shareholder who meets the requirements of section 1248(a)(2) (generally pertaining to 10-percent shareholders of controlled foreign corporations), any other foreign corporation. An American Depository Receipt (ADR) for common stock in a foreign corporation would be treated as common stock in the foreign corporation and, therefore, the basis in an ADR for common stock generally would be indexed.

Other rules

Improvements and contributions to capital

No indexing would be provided for improvements or contributions to capital if the aggregate amount of the improvements or contributions to capital during the taxable year with respect to the property or stock is less than $50,000. In the case of such improvements or contributions to capital is $50,000 or more, each addition would be treated as a separate asset acquired at the close of the taxable year.

Suspension of holding period

No indexing adjustment would be allowed during any period during which there is a substantial diminution of the taxpayer's risk in the asset. On October 30, 1993 (the effective date of the small business stock provisions), the bill would repeal the holding period suspension for any transaction entered into by that taxpayer, or a related party.

Short sales

In the case of a short sale of an indexed asset the value of which increases in excess of three years, the bill would require that the amount realized be indexed for inflation for the short sale period.

Related parties

The bill would allow index the basis of property for sales or dispositions between related persons, except to the extent the adjusted basis of property in the hands of the transferee is a substantial minority (e.g., gifts).

Collapsible corporations

Under the bill, indexing would not reduce the amount of ordinary gain that would be recognized in cases where a corporation is treated as a collapsible corporation (under Code sec. 338) with respect to a distribution or sale of stock.

Effective Date

The provision would apply to dispositions of property the holding period of which begins after December 31, 1996. The provision also would apply to a principal residence held by the taxpayer on January 1, 1997 (as if the holding period began on that date). An individual owner of a principal residence (other than a personal residence) on January 1, 1997, may elect to treat the indexed asset as having

been sold and reacquired for its fair market value.

3. Small Business Stock (Sec. 203 of the Bill) Present Law

The Revenue Reconciliation Act of 1993 provided individuals a 50-percent exclusion for the gain of certain small business stock acquired at original issue and held for at least five years. One-half of the excluded gain is a minimum tax preference.

The bill would repeal the 50-percent exclusion for the gain of certain small business stock acquired at original issue and held for at least five years. The bill also would repeal the minimum tax preference.

4. 28-Percent Corporate Alternative Tax for Capital Gains (Sec. 204 of the Bill) Present Law

Under present law, the net capital gain of a corporation is taxed at a rate of 28 percent as ordinary income, and subject to tax at graduated rates up to 35 percent. Prior to the Tax Reform Act of 1986, the net capital gain of a corporation was subject to a maximum effective tax rate of 28 percent.

Description of the Bill

The bill would provide an alternative tax of 28 percent on the net capital gain of a corporation if that rate is less than the corporation's regular tax rate.

The bill would also provide an alternative tax of 20 percent on the gain from the sale or exchange of qualified small business stock (common stock of a subsidiary corporation) held more than five years.

Effective Date

The provision generally would apply to taxable years ending after December 31, 1996.

For a taxable year which includes January 1, 1997, the 28-percent rate would apply to the lesser of (1) the net capital gain for the taxable year or (2) the net capital gain taking into account only gain or loss property that is not indexed. The provision also would meet an active trade or business requirement.

Under the bill, the maximum rate of regular tax on the qualifying gain from the sale of certain small business stock other than a corporation would remain at 14 percent. The minimum tax preference would be repealed.

The bill would increase the size of an eligible corporation from gross assets of $50 million to gross assets of $100 million. The bill also would repeal the limitation on the amount of gain that can be excluded with respect to the stock of any corporation.

The bill would provide that certain working capital must be expended within 5 years (rather than two years) in order to be treated as used in the active conduct of a trade or business. No limit on the percentage of the corporation's assets that are working capital would be imposed.

The bill would provide that if the corporation establishes a business purpose for a redemption of its stock, the redemption is disregarded in determining whether other newly issued stock could qualify as eligible stock.

Effective Date

The increase in the size of corporations whose stock is eligible for the exclusion would apply to stock issued after the date of the enactment of the bill. The remaining provisions would apply to stock issued after August 10, 1993 (the effective date of the small business stock provisions).

5. 28-Percent Corporate Alternative Tax for Capital Gains (Sec. 204 of the Bill) Present Law

Under present law, the net capital gain of a corporation is taxed at a rate of 28 percent as ordinary income, and subject to tax at graduated rates up to 35 percent. Prior to the Tax Reform Act of 1986, the net capital gain of a corporation was subject to a maximum effective tax rate of 28 percent.

Description of the Bill

The bill would provide an alternative tax of 28 percent on the net capital gain of a corporation if that rate is less than the corporation's regular tax rate.

The bill would also provide an alternative tax of 21 percent on the gain from the sale or exchange of qualified small business stock (common stock of a subsidiary corporation) held more than five years.

Effective Date

The provision would generally apply to taxable years ending after December 31, 1996.

For a taxable year which includes January 1, 1997, the 28-percent rate would apply to the lesser of (1) the net capital gain for the taxable year or (2) the net capital gain taking into account only gain or loss property that is not indexed. The provision also would meet an active trade or business requirement.

Under the bill, the maximum rate of regular tax on the qualifying gain from the sale of certain small business stock other than a corporation would remain at 14 percent. The minimum tax preference would be repealed.

The bill would increase the size of an eligible corporation from gross assets of $50 million to gross assets of $100 million. The bill also would repeal the limitation on the amount of gain that can be excluded with respect to the stock of any corporation.

The bill would provide that certain working capital must be expended within 5 years (rather than two years) in order to be treated as used in the active conduct of a trade or business. No limit on the percentage of the corporation's assets that are working capital would be imposed.

The bill would provide that if the corporation establishes a business purpose for a redemption of its stock, the redemption is disregarded in determining whether other newly issued stock could qualify as eligible stock.

Effective Date

The increase in the size of corporations whose stock is eligible for the exclusion would apply to stock issued after the date of the enactment of the bill. The remaining provisions would apply to stock issued after August 10, 1993 (the effective date of the small business stock provisions).
The small business stock provision would apply to stock issued after the date of enactment.

5. Capital Loss Deduction on the Sale or Exchange of a Principal Residence (Sec. 205 of the Bill)

Present Law

Under present law, the sale or exchange of a principal residence is treated as a non-deductible personal loss.

Description of the Bill

The bill would provide that loss from the sale or exchange of a principal residence would be treated as a deductible capital loss.

Effective Date

The provision would apply to sales and exchanges after December 31, 1996.

C. Estate and Gift Tax provisions (title III)

1. Increase Estate and Gift Tax Unified Credit (Sec. 301 of the Bill)

Present Law

A unified credit is available with respect to taxable transfers by gift and at death. Since 1981, the unified credit amount has been fixed at $192,800, which effectively exempts a total of $600,000 in cumulative taxable transfers from the estate and gift tax. The benefits of the unified credit (and the graduated estate and gift tax rates) are phased out by a 5-percent surtax imposed upon cumulative taxable transfers over $10 million and not exceeding $21 million.

The unified credit was originally enacted in the Tax Reform Act of 1976. The unified credit has not been increased since 1981.

Description of the Bill

The bill would increase the present-law unified credit over an eight-year period beginning in 1997, from a present-law effective exemption of $600,000 to an effective exemption of $1,000,000. The increase would be phased in as follows:

Decedents Dying and Gifts

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<thead>
<tr>
<th>Year</th>
<th>Effective exemption</th>
</tr>
</thead>
<tbody>
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<td>2003</td>
<td>950,000</td>
</tr>
<tr>
<td>2004 and thereafter</td>
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</tr>
</tbody>
</table>

Conforming amendments to reflect the increased unified credit are made (1) to the general filing requirements for an estate tax return (Sec. 6018A), and (2) to the amount of the unified credit allowed under section 2201(c)(3) with respect to nonresident aliens with U.S. situs property who are residents of certain treaty countries.

Effective Date

The provision would apply to estates of decedents dying after December 31, 1996.

2. Estate Tax Exclusion for Qualified Family-Owned Businesses (Sec. 302 of the Bill)

Present Law

There are no special estate tax rules for qualified family-owned businesses. All taxpayers are allowed a unified credit in computing the taxpayer’s estate and gift tax, which is fixed at a total of $600,000 in cumulative taxable transfers from the estate and gift tax (sec. 2010). An executor may elect, under section 2032A, to value certain qualified real property used in farming or another qualifying closely-held trade or business at its current use value, rather than its highest and best use value (up to a maximum reduction of $750,000). In addition, an executor may elect to pay the Federal estate tax attributable to a qualified closely-held business in installments over a 14-year period (sec. 6166). The tax attributable to the first $1,000,000 in value of a closely-held business is eligible for a special 4-percent interest rate provided in section 6601(j).

Description of the Bill

The bill would provide special estate tax treatment for qualified “family-owned business interests” if such interests comprise more than 50 percent of an estate and are to be distributed at any time within the eight-year period ending within ten years following the decedent’s death. Subject to certain requirements, the bill would exclude the first $1.5 million of value in qualified family-owned business interests from a decedent’s estate. The bill would also exclude 50 percent of the remaining value of qualified family-owned business interests. This new exclusion for qualified family-owned business interests would be provided in addition to the unified credit.

A qualified family-owned business interest would be defined as any interest in a trade or business (regardless of the form in which it is held) with a principal place of business in the United States if one family owns at least 50 percent of the business (two families own 70 percent of the business, as long as the decedent’s family owns at least 30 percent of the trade or business). An interest in a trade or business would qualify if (1) the business is carried on in the United States if one family owns at least 50 percent of the trade or business; (2) the qualified heir disposes of any portion of his or her interest in the family-owned business after the decedent’s death; and (3) the principal place of business of the qualified heir (or of the qualified heir’s family) continue to hold or participate in the trade or business more than 10 years after the decedent’s death.

Effective Date

The provision would be effective with respect to estates of decedents dying after December 31, 1996.

3. Installment Payments of Estate Tax Attributable to Closely Held Businesses (Secs. 303-305 of the Bill)

Present Law

In general, the Federal estate tax is due within nine months of a decedent’s death. Under Code section 6161, an executor generally may elect to pay the estate tax attributable to an interest in a closely held business in installments over at most, 14 years (or more if the executor elects to pay interest at an adjusted gross estate interest rate). The portion of the reduction in estate taxes attributable to that heir’s interest would be recaptured if the participation was for at least six years but less than seven years, 80 percent of the reduction in estate taxes would be recaptured; if the participation was for at least seven years but less than eight years, 70 percent would be recaptured; if the participation was for at least eight years but less than nine years, 60 percent would be recaptured; and if the participation was for at least nine years but less than ten years, 50 percent of the reduction in estate taxes would be recaptured. In general, the time within which the recapture would be extended for a period of up to two years if the qualified heir did not begin to use the property for a period of up to two years after the decedent’s death.

In addition, the bill would coordinate the benefits for qualified family-owned business interests with the present-law benefits relating to special-use valuation (sec. 2032A) and the special 4-percent interest rate available for closely-held businesses (sec. 6601(j)). The provision would provide that any amount excluded from a decedent’s estate under the qualified family-owned business provision would reduce the Federal estate tax liability attributable to the first $900,000 in value of a qualifying business (i.e., $1,000,000 less $100,000), and could use the special 4-percent rate provided in section 6601(j) with respect to the Federal estate tax liability attributable to the first $1,000,000 in value of a qualifying business (i.e., $1,000,000 less $100,000).

Effective Date

The provision would be effective with respect to the estates of decedents dying after December 31, 1996.

Thus, if a taxpayer has made cumulative taxable transfers exceeding $21,040,000, his or her effective transfer tax rate is 35 percent under present law.
20 percent of the partnership’s assets are included in determining the decedent’s gross estate; or (3) stock in a corporation if the corporation has 15 or fewer shareholders, of which at least 20 percent of the value of the voting stock is included in determining the decedent’s gross estate.

Description of the Bill

The bill would extend the period for which Federal estate tax installments could be made under section 6666 to a maximum period of 24 years. If the election were made, the estate could pay only interest for the first three years by up to 20 annual installments of principal and interest. Under the bill, there would be no interest imposed on the amount of deferred estate tax attributable to the value of the closely held business. The interest rate imposed on the amount of deferred estate tax attributable to the value of the closely held business is 6 percent for the first three years and 10 percent thereafter.

The bill would increase the AGI limits applicable to deductible IRA contributions for active participants in 1997, 1998, 1999, and 2000. Thereafter, the bill would repeal the limits on IRA deductions for active participants in employer-sponsored retirement plans. The phase-out range is from $25,000 to $40,000 or 50 percent of the individual’s compensable income (AGI) levels if the individual’s spouse is not active in a retirement arrangement (IRA). The amounts held in an IRA, including earnings on contributions, generally are not included in taxable income until withdrawn.

The $2,000 contribution limit is phased out over a phase-out range of $25,000 to $50,000 or 50 percent of AGI for single taxpayers and between $40,000 and $50,000 of AGI for married taxpayers. There is no phaseout of the deduction limit if the individual’s spouse is not active in an employer-sponsored retirement plan.

Description of the Bill

The bill would increase the AGI limits applicable to deductible IRA contributions for active participants in 1997, 1998, 1999, and 2000. Thereafter, the bill would repeal the limits on IRA deductions for active participants in employer-sponsored retirement plans. Thus, under the bill, after 2000, an individual would be entitled to make a $2,000 deductible IRA contribution without regard to whether the individual had earnings on contributions, generally are not included in taxable income until withdrawn.

In the case of married taxpayers filing a joint return, for years before 2001, the IRA deduction for active participants would be phased out between the following AGI amounts: for 1997, $65,000 and $75,000; for 1998, $70,000 and $80,000; for 1999, $75,000 and $85,000; and for 2000, $80,000 and $100,000.

In the case of single taxpayers, for years before 2001, the IRA deduction for active participants would be phased out between the following AGI amounts: for 1997, $50,000 and $60,000; for 1998, $57,000 and $65,000; for 1999, $60,000 and $65,000; and for 2000, $65,000 and $125,000.

The bill would provide that the IRA deduction for active participants would be phased out between the following AGI amounts: for 1997, $50,000 and $60,000; for 1998, $57,000 and $65,000; for 1999, $60,000 and $65,000; and for 2000, $65,000 and $125,000.

The bill would provide that the IRA deduction for active participants would be phased out between the following AGI amounts: for 1997, $50,000 and $60,000; for 1998, $57,000 and $65,000; for 1999, $60,000 and $65,000; and for 2000, $65,000 and $125,000.

The bill would permit taxpayers to make nondeductible contributions to new IRA Plus accounts. General rollover IRA plan accounts would be treated in the same manner as and be subject to the same rules applicable to deductible IRAs. However, a number of special rules would apply.

Effective Date

The provision would be effective for taxable years beginning after December 31, 1996.

2. Deductible IRAs for Nonworking Spouses (Sec. 402 of the Bill)

Present Law

Within limits, an individual is allowed a deductible contribution to an individual retirement arrangement ("IRA"). An individual generally is not subject to income tax on amounts held in an IRA, including earnings on contributions, until the amounts are withdrawn from the IRA.

The maximum deductible contribution that can be made to an IRA generally is the lesser of $2,000 of an individual’s compensation (earned income in the case of an individual retirement account) or $2,000 of wages of an individual’s spouse (earned income in the case of a self-employed individual). In the case of a married individual, a deductible contribution of up to $2,000 may be made for each spouse (including, for example, a homeowner who does not work outside the home) if the combined compensation of both spouses is at least equal to the contributed amount.

The maximum permitted IRA deduction is phased out if the individual or the individual’s spouse is an active participant in an employer-sponsored retirement plan. The phase-out range is $25,000 to $50,000 or 50 percent of the individual’s AGI.

The bill would permit an IRA to the extent that such distribution, when added to all previous distributions from the IRA Plus account, does not exceed the aggregate amount of distributions to the IRA Plus account. Thus, nonqualified distributions from an IRA Plus account would not be included in income (and subject to the additional 10 percent tax on early withdrawals) unless the owner had withdrawn amounts in excess of all contributions to the IRA Plus account. Nonqualified rollover contributions consist of a payment or distribution from another IRA or from an individual retirement plan. Such rollover contributions would be treated as a qualified distribution in determining the contribution limit for a taxable year. The normal IRA rollover rules would otherwise govern the eligibility of any withdrawals from IRA Plus accounts to be rolled over.

The bill would permit amounts withdrawn from IRAs prior to 1997 to be transferred to IRA Plus accounts. The amount transferred would be includible in gross income in the year the withdrawal was made, except that amounts transferred to an IRA Plus after January 1, 1999, would be includible in income ratably over a 4-year period. The 10 percent early withdrawal tax would not apply to amounts transferred from an IRA to an IRA Plus account.

The bill would permit taxpayers to make nondeductible contributions to new IRA Plus accounts. General rollover IRA plan accounts would be treated in the same manner as and be subject to the same rules applicable to deductible IRAs. However, a number of special rules would apply.

Effective Date

The provision would be effective for taxable years beginning after December 31, 1996.
4. IRA Withdrawals for Business Startup, Long-Term Unemployment, and Post-Secondary Education Expenses (Secs. 404-406 of the Bill)

Present Law

Amounts withdrawn from an individual retirement arrangement ("IRA") are includable in income (except to the extent of any nondenominated contributions). In addition, a 10-percent additional tax applies to withdrawals from IRAs made before age 59 1/2, unless the withdrawal is made on account of death or disability or is made in the form of an annuity. In addition, for modified adjustments to gross income ("MAGI") or for medical insurance (without regard to the 7.5 percent of AGI floor), the individual has received unemployment compensation for at least 12 weeks, and the withdrawal is made in the year such unemployment compensation is received or the following year. If a self-employed individual is not eligible for unemployment compensation under applicable law, then, to the extent provided in regulations, a self-employed individual is treated as having received unemployment compensation for at least 12 weeks if the individual would have received unemployment compensation (even if the individual was self-employed). The exception to the additional tax ceases to apply if the individual has been reemployed for at least 60 days.

Effective Date

The bill would permit withdrawals to be made income tax free and exempt from the 10-percent additional tax if made (1) for the business start-up expenses of the individual or the individual's spouse; or (2) in the event of long-term unemployment, for any reason; or (3) for the post-secondary education expenses of the individual, the spouse of the individual, or a dependent child of the individual or the individual's spouse.

For purposes of this provision, business start-up expenses include expenses associated with the establishment of the business that are incurred on or before the business start date and on or before the date which is one year after the business start date, such as start-up expenditures within the meaning of section 195(c), organizational expenses within the meaning of sections 248(b) and 700(b) in other cases related to starting a business (e.g., purchasing a computer, software, inventory, etc.). No deduction otherwise allowable with respect to any business start-up expenses is allowed to the extent this provision applies to such expense. In addition, to the extent this provision applies to any portion of business start-up expenses which are properly chargeable to capital account, the basis of the property to which such expenses are chargeable will be reduced by the amount taken into account under this provision.

For purposes of this provision, long-term unemployment has the same meaning as under present law (i.e., the individual has received unemployment compensation for at least 12 weeks).

For purposes of this provision, post-secondary education expenses would be defined as the student's cost of attendance as defined in section 472 of the Higher Education Act of 1965 (generally, tuition, fees, room and board, and related expenses).

Effects of the Act

The provision would be effective for distributions after December 31, 1996.

By Mr. HATCH (for himself, Mr. LOTT, Mr. ABRAHAM, Mr. ALARD, Mr. ASHCROFT, Mr. CRAIG, Mr. D’AMATO, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HELMS, Mr. HUTCHINSON, Mr. KYL, Mr. MUKROWSKI, Mr. NICKLES, Mr. ROBERTS, Mr. SMITH, Mr. THOMAS, Mr. THURSTON, Mr. WARNER, and Mr. COVERDELL):

S. 3. A bill to provide for fair and accurate criminal trials, reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, reduce the fiscal burden imposed on communities by violent prisoners, promote safe citizen self-defense, combat the importation, production, sale, and use of illegal drugs, and for other purposes; to the Committee on the Judiciary.

THE OMNIBUS CRIME CONTROL ACT OF 1997

Mr. HATCH, Mr. President, this is a very important bill. We know juvenile crime is on the increase. Gang violence is on the increase. This bill would take care of both of those problems, and it does it in an intelligent, official, and decent way. I hope that our colleagues on the other side will look at it carefully. We will certainly work with them and with Senator BIDEN and others on the Judiciary Committee to try and make sure that we do the best we can.

This is an excellent bill. It would make immediate inroads into the problems of juvenile violence and crime and gang violence. I hope all of our colleagues will get behind this and support it.

Mr. President, this is a very important omnibus crime bill if we want to do something about crime in this society. In addition to what we have done in the past, this is an excellent Republican alternative to the violent crime that we have in our streets, the drugs permeating our society, and, of course, the many other difficulties that are literally making our society a less wonderful society to live in.

Mr. President, I ask unanimous consent that the remainder of my remarks be printed in the Record at this point.

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

Mr. President, I rise today along with the distinguished Majority Leader and other Republicans to introduce S. 3, the Hatch-Lott Omnibus Crime Control Act of 1997 and S. 30, the Hatch-Sessions Violent and Repeat Juvenile Crime Control Act of 1997, that builds on the successful Republican 104th Congress initiatives legalizing marijuana for medicinal purposes. But there is no legitimate medicinal use for marijuana, and the use of marijuana and other Schedule I drugs still violates federal law. In order to discourage the medical community from violating federal drug laws, S. 3 requires that HMO’s and other recipients of federal Medicare and Medicaid funds certify that none of their participating physicians prescribed marijuana or other Schedule I drugs.

This bill makes a strong statement about our nation’s new problem with drug legalization. California and Arizona recently passed initiatives legalizing marijuana for medicinal purposes. But there is no legitimate medicinal use for marijuana, and the use of marijuana and other Schedule I drugs still violates federal law. In order to discourage the medical community from violating federal drug laws, S. 3 requires that HMO’s and other recipients of federal Medicare and Medicaid funds certify that none of their participating physicians prescribed marijuana or other Schedule I drugs.

This bill also makes a strong statement about the nation’s new problem with drug legalization. California and Arizona recently passed initiatives legalizing marijuana for medicinal purposes. But there is no legitimate medicinal use for marijuana, and the use of marijuana and other Schedule I drugs still violates federal law. In order to discourage the medical community from violating federal drug laws, S. 3 requires that HMO’s and other recipients of federal Medicare and Medicaid funds certify that none of their participating physicians prescribed marijuana or other Schedule I drugs.

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This legislation toughens the anti-terrorism initiatives that the Republican 104th Congress enacted. It demands bombing laws to ensure that all uses of a bomb to commit murder can be punished capitaly. This bill also tightens restrictions on weapons, and it tightens restrictions on the use of human pathogens. This bill also makes it a federal offense to stockpile chemical weapons, and it tightens restrictions on the use of human pathogens. This bill also makes it a federal offense to murder, or attempt to murder, athletes, guests, and spectators at Olympic games, and centralizes in the Attorney General federal authority for their security.
The youth violence bill will ensure that violent and repeat juvenile offenders are treated as adults by authorizing US Attorneys to prosecute children as federal felons when the result of their offenses is an injury that is a crime of violence or a serious drug trafficking offense. This legislation also confines juveniles prosecuted in the federal system to states that do not have a death penalty. It also amends the federal law so that the statute of limitations is tolled when the federal child pornography laws are violated, in whole or in part, by persons beyond the jurisdiction of the United States.

JUVENILE JUSTICE REFORM

S. 3 will improve public confidence in the criminal justice system by enhancing the accuracy of the trial process. The current exclusionary rule often unjustifiably bars use of probative evidence at trial. This law will amend the exclusionary rule to allow evidence to be admitted if law enforcement officers had a reasonable belief that their conduct was lawful. Further, 18 U.S.C. §3001 provides that judges must admit a confession as long as it is voluntary. This bill will direct the Justice Department to ensure this provision is enforced. This bill also proposes various reforms to ensure fairness for both the defendant and the victim in criminal trials. These reforms to the criminal justice process that are critical if we are to prevent our cherished liberties from further devolving into merely a cynical shield for the guilty and an imposition of punishment.

Mr. President, these bills alone will not solve our crime problem. That must be done community by community. Crime cannot thrive in a society that will not tolerate it. But by enacting these common sense reforms, we can signal our determination to build a safer society. I urge my colleagues to support these bills.

Sensible Prison Reform

Recent studies show that the adoption by more than 30 states of laws allowing citizens to carry firearms has had, and will have, a material and positive effect in preventing violent crime. S. 3 will empower current and retired law enforcement officers to carry firearms in other states, and will authorize states to enter into interstate compacts recognizing each other's citizen carry laws. It will also create an exception to federal firearm purchase waiting periods for persons protected under a protective order. Thus, for instance, no longer will a threatened and abused woman be forced to wait in fear for the right to protect herself.

Child Pornography

This legislation also builds on the advances made in the 104th Congress by requiring the Secretary of State to renegotiate extra-territorial treaties and agreements. This bill also builds on the provisions of the PLRA. Provisions of this bill will also make it more difficult for prisoners to pursue their criminal careers while in prison by making it more difficult to conduct criminal activity by phone. Importantly, this bill also eliminates inappropriate and counterproductive “incentives” of early release for federal inmates to get drug treatment. Further, our bill will require all federal prisoners to work, and impose no-frills prison work in the federal system.

PRISONERS

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Civilian Justice Reform

Recent studies show that the adoption by more than 30 states of laws allowing citizens to carry firearms has had, and will have, a material and positive effect in preventing violent crime. S. 3 will empower current and retired law enforcement officers to carry firearms in other states, and will authorize states to enter into interstate compacts recognizing each other's citizen carry laws. It will also create an exception to federal firearm purchase waiting periods for persons protected under a protective order. Thus, for instance, no longer will a threatened and abused woman be forced to wait in fear for the right to protect herself.

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Sec. 607. Penalty increases for trafficking in listed chemicals.

TITLE VII—COMBATING VIOLENCE AGAINST WOMEN AND CHILDREN

Subtitle A—General Reforms

Sec. 701. Participation of religious organizations in violence against women act programs.

Sec. 702. Domestic violence arrest grants.

Sec. 703. Rural domestic violence and child abuse enforcement assistance.

Sec. 704. Runaways, homeless, and street youth assistance grants.

Subtitle B—Domestic Violence

Sec. 711. Death penalty for fatal interstate domestic violence offenses.

Sec. 712. Death penalty for fatal interstate offenses involving protective orders.

Sec. 713. Evidence of disposition of defendant toward victim in domestic violence cases and other cases.

Sec. 714. HIV testing of defendants in sexual assault cases.

TITLE VIII—VIOLENT CRIME AND TERRORISM

Subtitle A—Violent Crime and Terrorism

Sec. 801. Amendments to anti-terrorism statutes.

Sec. 802. Kidnapping; death of victim before crossing State line as not defeating prosecution, and other changes.

Sec. 803. Expansion of section 599 of title 18 to cover commission of all violent crimes in aid of racketeering activity and increased penalties.

Sec. 804. Conforming amendment to conspiracy penalty.

Sec. 805. Inclusion of certain additional serious drug offenses as armed career criminal act predicates.

Sec. 806. Increased penalties for violence in the course of riot offenses.

Sec. 807. Elimination of unjustified scienter requirement for carjacking.

Sec. 808. Criminal offenses committed outside the United States by persons accompanying the armed forces.

Sec. 809. Assaults or other crimes of violence for hire.

Sec. 810. Penalty enhancement for certain offenses resulting in death.

Sec. 811. Violence directed at dwellings in Indian country.

Subtitle B—Courts and Sentencing

Sec. 821. Allowing a reduction of sentence for providing useful investigative information although not regarding a particular individual.

Sec. 822. Appeals from certain dismissals.

Sec. 823. Elimination of outmoded certification requirement.

Sec. 824. Improvement of hate crimes sentencing procedure.

Sec. 825. Clarification of length of supervised release terms in controlled substance cases.

Sec. 826. Authority of court to impose a sentence of probation or supervised release when reducing a sentence of imprisonment in certain cases.

Sec. 827. Technical correction to assure compliance with sentencing guidelines with provisions of all Federal statutes.

Sec. 841. Clarification of scienter requirement for receiving property stolen from an Indian tribal organization.

Sec. 842. Larceny by involving post office boxes and postal stamp vending machines.

Sec. 843. Theft of vessels.

Sec. 844. Conforming amendment to law punishing obstruction of justice by notification of existence of a subpoena for records in certain actions.

Sec. 845. Injunctions against counterfeiting and forgery.

Subtitle D—Miscellaneous Provisions

Sec. 860. Increased maximum penalty for certain rico violations.

Sec. 861. Increased maximum penalty for certain bank fraud offenses.

Sec. 862. Clarification of applicability to certain disclosures.

Sec. 863. Conforming amendments relating to supervised release.

Sec. 864. Addition of certain offenses as money laundering predicates.

Sec. 865. Clarification of jurisdictional base for transactions involving the mails.

Sec. 866. Coverage of foreign bank branches in the territories.

Sec. 867. Conforming amendments of limitations amendment for certain bank fraud offenses.

Sec. 868. Clarifying amendment to section

TITLE IX—PRISON REFORM

Subtitle A—Prison Litigation Reform

Sec. 901. Amendment to the prison litigation reform act.

Sec. 902. Appropriate remedies for prisoner grievances.

Sec. 903. Civil rights of institutionalized persons.

Sec. 904. Proceedings in forma pauperis.

Sec. 905. Notice to State authorities of maliciously filing by prisoner.

Sec. 906. Payment of damage award in satisfaction of pending restitution.

Sec. 907. Earned release credit or good time credit revocation.

Sec. 908. Release of prisoner.

Sec. 909. Effective date.

Subtitle B—Federal Prisons

Sec. 911. Prison communications.

Sec. 912. Prison amenities and prisoner work requirements.

Sec. 913. Elimination of sentencing inequities and aftercare for Federal inmates.

TITLE X—MISCELLANEOUS PROVISIONS

Sec. 1001. Sense of the Senate regarding anti-drug use public service requirements.

Sec. 1002. Restrictions on doctors prescribing controlled substances.

Sec. 1003. Anti-drug use public service requirement.

Sec. 1004. Child pornography.

Sec. 1005. 2,000 boys & girls clubs before 2000.

Sec. 1006. Cellular telephone interceptions.

TITLE XI—VIOLENT AND REPEAT JUVENILE OFFENDERS

Sec. 1101. Short title.

Sec. 1102. Findings and purposes.

Sec. 1103. Severability.

Subtitle A—Juvenile Justice Reform

Sec. 1111. Repeal of general provision.

Sec. 1112. Treatment of Federal juvenile offenders.

Sec. 1113. Capital cases.

Sec. 1114. Definitions.

Sec. 1115. Notification after arrest.

Sec. 1116. Detention prior to disposition.

Sec. 1117. Speedy trial.

Sec. 1118. Dispositional hearings.

Sec. 1119. Use of juvenile records.

Sec. 1120. Incarceration of violent offenders.

Sec. 1121. Federal sentencing guidelines.

Sec. 1122. B—juvenile Gangs

Sec. 1123. Short title.

Sec. 1124. Increase in offense level for participation in crime as a gang member.

Sec. 1125. Amendment of title 18 with respect to criminal street gangs.

Sec. 1126. Interstate and foreign travel or transportation in aid of criminal street gangs.

Sec. 1127. Solicitation of recruitment of persons in criminal gang activity.

Sec. 1128. Crimes involving the recruitment of persons to participate in criminal street gangs.

Sec. 1129. Firearm offenses as rico predicates.

Sec. 1130. Provisions relating to firearms.

Sec. 1131. Amendment of sentencing guidelines with respect to body armor.

Sec. 1132. Additional prosecutors.

Sec. 1133. Speedy trial.

Sec. 1134. Transfer of functions and savings.

Sec. 1135. Repeal of unnecessary and duplicative programs.

Sec. 1136. Housing juvenile offenders.

Sec. 1137. Civil monetary penalty surcharge.

Sec. 1138. Severability.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE I—TRANSFER OF ALIEN PRISONERS

Sec. 101. Short title.

This title may be cited as the “Transfer of Alien Prisoners Act of 1997.”

SEC. 102. TRANSFERS OF ALIEN PRISONERS.

(a) In General.—Not later than December 31, 1998, the Attorney General shall begin transferring undocumented aliens who are in the United States, incarcerated in a Federal, State, or local prison, whose convictions have become final, to the custody of the Secretary of State.

(b) Inapplicability to Certain Aliens.—This section does not apply to aliens who are nationals of a foreign country that the Secretary of State has determined under section 6(j) of the Export Administration Act of 1979 has repeatedly provided support for acts of international terrorism.

SEC. 123. CONSENT UNNECESSARY.

The Secretary of State shall negotiate all treaties requiring the consent of an alien who is in the United States, whether present lawfully or unlawfully, who is, or determined under section 6(j) of the Export Administration Act of 1979, has repeatedly provided support for acts of international terrorism.
parties to any existing treaty requiring such consent.

(b) **General Repeal.—**Notwithstanding any other provision of law, the consent of an alien covered by this title shall not be required before such alien may be designated for transfer or before such alien may be transferred to the country of nationality of that alien.

### SEC. 104. Certification Transfer Requirement.

Not later than March 1 of each year, the President shall submit to the Congress a certification as to whether each foreign country for which certification is required before such alien may be designated for transfer or before such alien may be transferred to the country of nationality of that alien.

### SEC. 105. International Prisoner Transfer Report.

(a) **In General.—**Not later than March 1 of each year, the President shall submit to the Congress a report that—

1. describes the operation of the provisions of this title; and
2. highlights the effectiveness of those provisions with respect to the 10 countries having the greatest number of their nationals incarcerated in the United States, both in transferring such persons from the United States to that country's frequency and in confining such persons for the duration of their sentences.

(b) **Contents of Report.—**The report prepared under subsection (a) shall set forth—

1. the number of aliens convicted of a federal, State, or local criminal offense in the United States, and the types of offenses involved, during the preceding calendar year;
2. the number of aliens described in paragraph (1) who were sentenced to terms of incarceration; and
3. the number of aliens described in paragraph (1) who were eligible for transfer pursuant to those provisions;
4. the number of aliens described in paragraph (1) who were transferred pursuant to the provisions of this title;
5. the number, location, length of their period of incarceration in the United States, and the extent to which aliens described in paragraph (2) who have not yet been transferred to the country of nationality;
6. the extent to which each foreign country has cooperated with the United States Government in pursuit of its responsibilities for the prompt transfer of aliens described in subsection (b)(1), as well as for identifying and preventing the re-entry of such persons after their transfer from the United States; and
7. a description of instances of refusals to cooperate with the United States Government regarding the transfer of aliens described in subsection (b)(1).

### SEC. 106. Annual Reports on Foreign Assistance.

At the time that the report required by section 634 of the Foreign Assistance Act of 1961 is submitted each year, the Secretary of State shall submit a copy of such report to the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives.

#### (A) Bilateral Assistance.

1. **In General.—**Fifty percent of the United States assistance allocated each fiscal year for foreign countries shall be withheld from obligations and expenditures to any such country if that country has refused or failed to transfer, for not less than 85 percent of their sentences, for not less than 85 percent of their sentences, except as provided in subsection (b).

2. **Inapplicability to Certain Countries.—**A country shall be excused with respect to a country if the President determines in accordance with subsection (b) that its application to that country would be contrary to the vital national interests of the United States, except that any such determination shall not take effect until not less than 30 days after the President submits written notification of that determination to the congressional committees listed in section 306 in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

#### (C) Bilateral Assistance Exemption.

In this subsection, the term "bilateral assistance" does not include—

(i) narcotics-related assistance under the Foreign Assistance Act of 1961; 
(ii) disaster relief assistance; or 
(iii) assistance to counter the provision of food (including monetization of food) or medicine; or

(iv) assistance for refugees.

#### (2) Multilateral Assistance.

(A) **In General.—**The Secretary of the Treasury may instruct the United States Executive Directors of the International Development Bank to vote against any loan or other utilization of the funds of such bank or institution for the benefit of any country if that country has refused or failed to transfer, for not less than 75 percent of its nationals covered by this title and designated for transfer by the Attorney General or to confine such transferred persons for not less than 3 years or to confine such transferred persons for not less than 85 percent of their sentences within either of the 2 immediately preceding fiscal years, except as provided in subsection (b).

(B) **Definitions.—**The International Development Bank, the Asian Development Bank, the African Development Bank, and the European Bank for Reconstruction and Development.

(C) **Visas.—**All visas shall be denied to nationals employed by the government of any foreign country if that country has refused or failed to accept not fewer than 75 percent of its nationals covered by this title and designated for transfer by the Attorney General or to confine such transferred persons for not less than 85 percent of their sentences, except as provided in subsection (b).

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(Section 305)
implement the provisions and purposes of this title; and
(C) taken domestic legal and law enforcement measures to implement the provisions and purposes of this title.
(3) Case-by-case waiver authority.—
(A) Authority.—The President or the Secretary of State may, on a case-by-case basis, allow an alien to transfer under section 102(4) to remain in the custody of the Attorney General if the President or Secretary of State determines that doing so is necessary to serve the vital interests of the United States or to protect the life or health of the citizen or national. It is the sense of Congress that such case-by-case determinations should be made.
(B) Nondelegation of authority.—The authority to make a determination under subparagraph (A) may not be delegated.
(4) Information to be included in national interest certification.—If the President makes a certification with respect to a country pursuant to subsection (b)(1), the President shall include in such certification—
(A) a full and complete description of the vital national interests placed at risk if United States bilateral assistance to that country is terminated pursuant to this section, multilateral development bank assistance is not provided to such country, and visas are not issued to the nationals of such country; and
(B) a statement weighing the risk described in subparagraph (A) against the risk posed by the vital national interests of the United States by the failure of such country to cooperate fully with the United States in implementing the provisions and purposes of this title.
(c) Congressional review.—Subsection (d) shall apply if, not later than 30 calendar days after the President makes a certification under section 102(4) to remain in the custody of the Attorney General, the Senate in accordance with the provisions of section 603(b) of the International Security Assistance and Arms Export Control Act of 1976.
SEC. 108. PRISONER TRANSFERS TREATIES.
(a) Negotiation.—The Secretary of State shall begin to negotiate, not later than 90 days after the date of enactment of this Act, bilateral prisoner transfer treaties. The focus of such negotiations should be—
(1) to expedite the transfer of aliens unlawfully in the United States who are (or are about to be) incarcerated in United States prisons;
(2) to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States who has already served a committted offense for which they are incarcerated in the United States to maintain their original prison sentences in effect so that transferred prisoners who return to the United States prior to the completion of their original United States sentences can be returned to custody for the balance of their prison sentences.
(b) Certification.—The President shall submit to Congress, annually, a certification as to whether each prisoner transfer treaty in force is effective in returning aliens unable to receive sheltered work permits in the United States who have committed offenses for which they are incarcerated in the United States to their country of nationality for prosecution.
(c) Decertification.—If the President certifies that a country has not been able to receive transferred prisoners in a timely manner as required by a treaty, the President shall consider the decertification of such transfers consistent with the national interest of the United States.
(d) Senate Procedures.—Any joint resolution under this section shall be considered in the Senate in accordance with the provisions of section 603(b) of the International Security Assistance and Arms Export Control Act of 1976.
SEC. 109. JUDGMENTS UNAFFECTED.
Nothing in this title shall in any way be construed to nullify or reduce the effect of a judgment of conviction and sentence entered by a Federal, State, or local court in the United States to maintain their original prison sentences in effect so that transferred prisoners who return to the United States prior to the completion of their original United States sentences can be returned to custody for the balance of their prison sentences.
SEC. 110. DEFINITION.
In this title, the term ‘United States assistance’ means any assistance under the United States Code, are repealed.
TITLE II—EXCLUSIONARY RULE REFORM
Subtitle A—Exclusionary Rule Reform
SEC. 201. SHORT TITLE.
This subtitle may be cited as the ‘Exclusionary Rule Reform Act of 1997’.
SEC. 202. ADMISSIBILITY OF CERTAIN EVIDENCE.—
(a) In general.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following:
`§ 3510. Admissibility of evidence obtained by search or seizure

(a) Evidence obtained by objectively reasonable search or seizure.—

(A) In general.—Evidence that is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that the search or seizure was in conformity with the fourth amendment.

(B) Evidence not excludable by statute or rule.—

(1) In general.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless the exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

(2) Special rule relating to objectively reasonable searches or seizures.—Evidence that is otherwise excludable under paragraph (1) shall not be excluded if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that the search or seizure was in conformity with the statute, administrative rule or regulation, or rule of procedure, the violation of which occasioned its being excludable.

(b) Rules of construction.—This section and the amendments made by this section shall not be construed to require or authorize the exclusion of evidence in any proceeding. Nothing in this section or the amendments made by this section shall be construed so as to violate the fourth amendment to the Constitution of the United States.

(c) Clerical Amendment.—The chapter analysis for chapter 223 of title 18, United States Code, is amended by adding at the end the following:

`3510. Admissibility of evidence obtained by search or seizure.

Subtitle B—Confession Reform
SEC. 211. ENFORCEMENT OF CONFESSION REFORM STATUTE.
(a) In general.—Section 3501 of title 18, United States Code, is amended by adding at the end the following:

`§ 3501. Enforcement of confession reform statute.

(f) Enforcement of confession reform.—

(1) In general.—Not later than 90 days after the date of enactment of the Omnibus Crime Control Act of 1997, the Attorney General shall promulgate guidelines that require
the Department of Justice to enforce, and defend nationally, the legality of this section. Specifically, the Department shall pursue the admission into evidence of confessions of violations of subsections (a) and (b) by persons making the confession, if the confession was made after arrest and before arraignment.

(2) VOLUNTARINESS.—In determining the issue of voluntariness for purposes of this subsection—

(A) The Department shall take into consideration all the circumstances surrounding the giving of the confession, including—

(i) the time elapsing between arrest and arraignment of the defendant making the confession, if the confession was made after arrest and before arraignment;

(ii) whether the defendant knew the nature of the charge, which he was charged with or which he was suspected at the time of making the confession;

(iii) whether the defendant was advised or knew that he was not required to make any statement and that any such statement could be used against him; and

(iv) whether the defendant was without the assistance of counsel when he was questioned and when he made a confession;

(B) the presence or absence of any of the factors described in paragraph (1) shall not be considered by the Department's determination of whether a confession was voluntary; and

(C) the fact that the defendant had not been advised prior to questioning of his or her right to silence and to the assistance of counsel shall not be dispositive.

(2) DEFINITION OF ANY CRIMINAL PROSECUTION BY THE UNITED STATES.—In this section—

(1) the term 'any criminal prosecution by the United States' includes any prosecution by or under the authority of the United States or any prosecution brought by the United States under the Uniform Code of Military Justice; and

(2) the term 'offenses against the laws of the United States' includes offenses defined by the Uniform Code of Military Justice.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act and shall be conclusive in the Department's determination of whether a confession was voluntary or involuntary; and

(3) STATE DEFINED.—In this section, the term 'State' means each of the several States, the District of Columbia, and any territory or possession of the United States.

(c) DISBANDING OF TASK FORCE.—The President shall disband the task force after the Department has determined, in consultation with other appropriate department or agency of the United States, that the task force is no longer necessary.

(d) ASSISTANCE.—(1) The Attorney General may request the assistance of Federal, State, and local governments in implementing this section.

(2) Nothing in this section shall be construed to create a cause of action or liability for any person under Federal, State, or local law.

The Departments of Justice and Homeland Security shall, to the extent practicable, contribute to the task forces by utilizing available resources and through agreements and memoranda of understanding with other agencies.

SEC. 310. SHORT TITLE

This title may be cited as the "Drug Investigation Support and Antiterrorism Act of 1997."
"(B) Jurisdiction.—The United States has jurisdiction over an offense under this paragraph if—

(i) the prohibited activity takes place in the United States; or

(ii) the prohibited activity takes place outside the United States and is committed by a national of the United States.

(C) Additional Penalty.—The court shall order any person convicted of an offense under this paragraph to pay to the United States any expenses incurred incident to the seizure, storage, handling, transportation, and destruction or other disposition of property seized for violation of this section.

(2) PUNITIVE PENALTY.—In addition to any other penalty imposed by this section, the court may order the forfeiture of property referred to in subparagraph (A) that is subsequently transferred to a person other than the defendant in violation of this section.

(3) FORFEITURE.—Except as provided in subparagraph (C), any property referred to in subparagraph (A) that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture by the court in accordance with the Federal Rules of Evidence. The property described in subparagraph (A) shall be ordered forfeited to the United States if the trier of fact determines that there is probable cause to believe that—

(A) any chemical weapon, including any component thereof;

(B) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

(C) any property, real or personal, used or intended to be used to commit or to promote the commission of the offense.

(2) Forfeiture.—Except as provided in subparagraph (C), any property referred to in subparagraph (A) that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture by the court in accordance with the Federal Rules of Evidence. The property described in subparagraph (A) shall be ordered forfeited to the United States if the trier of fact determines that there is probable cause to believe that—

(A) any chemical weapon, including any component thereof;

(B) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

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(A) any chemical weapon, including any component thereof;

(B) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

(C) any property, real or personal, used or intended to be used to commit or to promote the commission of the offense.

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(A) any chemical weapon, including any component thereof;

(B) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

(C) any property, real or personal, used or intended to be used to commit or to promote the commission of the offense.

(2) Forfeiture.—Except as provided in subparagraph (C), any property referred to in subparagraph (A) that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture by the court in accordance with the Federal Rules of Evidence. The property described in subparagraph (A) shall be ordered forfeited to the United States if the trier of fact determines that there is probable cause to believe that—

(A) any chemical weapon, including any component thereof;

(B) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

(C) any property, real or personal, used or intended to be used to commit or to promote the commission of the offense.

(2) Forfeiture.—Except as provided in subparagraph (C), any property referred to in subparagraph (A) that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture by the court in accordance with the Federal Rules of Evidence. The property described in subparagraph (A) shall be ordered forfeited to the United States if the trier of fact determines that there is probable cause to believe that—

(A) any chemical weapon, including any component thereof;

(B) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

(C) any property, real or personal, used or intended to be used to commit or to promote the commission of the offense.

(2) Forfeiture.—Except as provided in subparagraph (C), any property referred to in subparagraph (A) that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture by the court in accordance with the Federal Rules of Evidence. The property described in subparagraph (A) shall be ordered forfeited to the United States if the trier of fact determines that there is probable cause to believe that—

(A) any chemical weapon, including any component thereof;

(B) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

(C) any property, real or personal, used or intended to be used to commit or to promote the commission of the offense.

(2) Forfeiture.—Except as provided in subparagraph (C), any property referred to in subparagraph (A) that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture by the court in accordance with the Federal Rules of Evidence. The property described in subparagraph (A) shall be ordered forfeited to the United States if the trier of fact determines that there is probable cause to believe that—

(A) any chemical weapon, including any component thereof;

(B) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

(C) any property, real or personal, used or intended to be used to commit or to promote the commission of the offense.

(2) Forfeiture.—Except as provided in subparagraph (C), any property referred to in subparagraph (A) that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture by the court in accordance with the Federal Rules of Evidence. The property described in subparagraph (A) shall be ordered forfeited to the United States if the trier of fact determines that there is probable cause to believe that—

(A) any chemical weapon, including any component thereof;

(B) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

(C) any property, real or personal, used or intended to be used to commit or to promote the commission of the offense.

(2) Forfeiture.—Except as provided in subparagraph (C), any property referred to in subparagraph (A) that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture by the court in accordance with the Federal Rules of Evidence. The property described in subparagraph (A) shall be ordered forfeited to the United States if the trier of fact determines that there is probable cause to believe that—

(A) any chemical weapon, including any component thereof;

(B) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

(C) any property, real or personal, used or intended to be used to commit or to promote the commission of the offense.
sec. 321. MULTILATERAL SANCTIONS.

(a) Policy on Establishment of Sanctions Rules.

(1) Policy.—Congress urges the President to commence immediately after the date of enactment of this Act diplomatic efforts, in appropriate international fora (including the United Nations) and bilaterally, with allies of the United States, to establish, as appropriate, a multilateral sanctions regime against each country that the Secretary of State determines under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) to have repeatedly provided support for acts of international terrorism.

(b) Action Plans for Designated Terrorist Nations.—The President shall provide to Congress as a part of each report on patterns of global terrorism prepared under section 143 a description of the extent to which diplomatic efforts referred to in paragraph (1) have been carried out and the degree of success of those efforts.

Subtitle B—International Terrorism

sec. 322. Information on Cooperation with United States Antiterrorism Efforts in Annual Country Reports on Terrorism.

Section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(C) by striking at the end of paragraph (3)(B).''; and

(2) with respect to each foreign country from which the United States Government has sought cooperation during the preceding 5-year period in the investigation of an act of international terrorism against United States citizens or interests, information on—

(A) the extent to which the government of the foreign country is cooperating with the United States Government in apprehending, convicting, and punishing each individual responsible for the act; and

(B) the extent to which the government of the foreign country is cooperating in preventing further acts of terrorism against United States citizens in the foreign country; and

(4) with respect to each foreign country from which the United States Government has sought cooperation during the preceding 5-year period in the prevention of an act of international terrorism against United States citizens or interests, the information described in paragraph (3)(B).'';

(b) Action Plans for Designated Terrorist Nations.—The President shall provide to Congress as a part of each report on patterns of global terrorism prepared under section 143 a plan of action (to be known as an "action plan") for inducing each country referred to in paragraph (2) to cease the support of that country for acts of international terrorism.

sec. 323. Use and Stockpiling of Chemical Weapons.

(a) Conforming Amendment to Federal Rules of Evidence.—Section 323c(c)(3) of the Federal Rules of Evidence is amended by striking " and stockpiling of chemical weapons.".

(b) Classified Form.—If the Secretary of State determines that the contents of the information referred to in section 323c(c)(3) of title 18, United States Code (except that the rules with respect to privilege under subsection (c) of that section also shall apply).".

(c) Conforming Amendment.—The chapter heading for chapter 1310 of title 18, United States Code, is amended by striking the item relating to section 3233a and inserting the following:

"3232c. Use and stockpiling of chemical weapons."
SEC. 323. REPORT ON INTERNATIONAL TERRORISM.

(a) Annual Report.—Not later than 60 days after the date of enactment of this Act, and annually thereafter, at the same time as the Secretary of State submits the report required by section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2556f), the Secretary of State, in consultation with the Director of Central Intelligence, the Attorney General, the Secretary of the Treasury, the Secretary of Defense, and the official designated as the National Security Advisor, shall—

SEC. 324. REQUIREMENT OF DEPARTMENT OF STATE REWARDS PROGRAM.

(a) In General.—The Secretary of State shall establish a program for the payment of rewards by the Secretary in accordance with this section.

(b) Rewards Program.—

(1) The rewards program established under paragraph (1) shall be administered by the Secretary of State, in consultation (as appropriate), with the Attorney General.

(2) The Secretary of State may pay a reward to any individual who furnishes information leading to—

(A) a detailed assessment of efforts of any governmental entity who, while in the United States or abroad, including the names and addresses of major terrorist groups and the leadership of those groups;

(B) the sources of financial and logistical support of the groups;

(C) the nature and scope of the human and technical infrastructure;

(D) the goals, doctrine, and strategies of the groups;

(E) the level of advancement of the groups;

(F) the level of advancement of the groups;

(G) the bases of operation and training of the groups;

(H) the operational capabilities of the groups;

(i) the bases of recruitment of the groups;

(j) the linkages with governmental and nongovernmental actors (such as ethnic groups, religious communities, or criminal organizations) of the groups; and

(K) the submit a report on the part of the Government to carry out this section.

(b) CONTENTS OF ASSESSMENTS.—An assessment shall—

(1) characterize the quality of the information that supports the assessment and identify areas that require enhanced information; and

(2) identify and analyze potential vulnerabilities of terrorist groups that could serve to reduce the development of governmental policy.

(c) SUBMISSION TO THE COMMISSION ON TERRORISM.—During the period that the National Commission on Terrorism established under section 341 is operating, the President shall submit a report of each report prepared under subsection (a).

SEC. 325. ESTABLISHMENT.—

(a) In General.—The Secretary of State shall—

(1) establish for that purpose to the Secretary of State, in consultation with the Attorney General, shall—

(2) CONSULTATION WITH ATOMIC GENERAL.—Before making a reward under this section in a matter subject to Federal criminal jurisdiction, the Secretary of State shall consult and consult with the Attorney General.

(3) AUTHORIZATION OF APPROPRIATIONS.—In General.—Section 102 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (99 Stat. 408), and subject to paragraph (2), there are authorized to be appropriated to the Department of State such sums as may be necessary to carry out this section.

(4) DISTRIBUTION OF FUNDS.—To the maximum extent practicable, funds made available for that purpose by the Secretary of State shall be distributed in equal amounts for the purpose of preventing acts of international terrorism and for the purpose of preventing international narcotics trafficking.

(5) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization under paragraph (1) are authorized to remain available until expended for that purpose by the Secretary of State for the fiscal year involved.

(6) LIMITATION AND CERTIFICATION.—

(1) LIMITATION.—A reward made under this section by the Secretary of State may not exceed $5,000,000.

(2) APPROVAL OF PRESIDENT OR SECRETARY OF STATE.—A reward under this section in an amount greater than $100,000 may not be made under the program under this section without the approval of the President or the Secretary of State.

(3) APPROVAL OF SECRETARY OF STATE.—Any reward granted under the program under this section shall be approved and certified for payment by the Secretary of State.

(4) PROHIBITION.—Neither the President nor the Secretary of State may exercise the authority under paragraph (2) to any other officer or employee of the United States Government.

(5) PROTECTION.—If the Secretary of State determines that it is necessary to protect the identity of the recipient of a reward or of the members of the recipient's immediate family, the Secretary shall—

(6) INELIGIBILITY.—An officer or employee of any governmental entity who, while in the performance of the official duties of that officer or employee, furnishes information that is described in subpart (b) shall not be eligible for a reward under this section.
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"(g) REPORTS.—

"(1) IN GENERAL.—

"(A) POST-AWARD REPORT.—Not later than 30 days after the payment of any reward under this section, the Secretary of State shall submit a report to the appropriate congressional committees with respect to that reward.

"(B) CLASSIFIED FORM.—If necessary, a report under subparagraph (A) may be submitted in classified form.

"(C) CONTENT OF REPORT.—A report submitted under subparagraph (A) shall specify—

"(i) the amount of the reward paid;

"(ii) any other information required by paragraph (1) in subsection (b) of this section;

"(iii) the acts related to the information for which the reward was paid; and

"(iv) the significance of the information for which the reward was paid in dealing with the acts described under clause (iii).

"(2) ANNUAL REPORT.—

"(A) IN GENERAL.—Not later than 60 days after the close of each fiscal year, the Secretary of State shall submit a report to the appropriate congressional committees concerning the operation of the rewards program under this section.

"(B) CONTENTS OF REPORT.—Each report under subparagraph (A), shall provide information concerning—

"(i) the total amounts expended during the fiscal year that is the subject of the report to carry out this section, including amounts spent to publicize the availability of rewards and

"(ii) all requests made for the payment of rewards under this section, including the reasons for the denial of any such requests.

"(h) DEFINITIONS.—In this section:

"(1) ACT OF INTERNATIONAL TERRORISM.—

"(A) IN GENERAL.—Any act substantially contributing to the acquisition of unsegregated special nuclear material (as that term is defined in section 830(8) of the Nuclear Proliferation Prevention Act of 1994 (108 Stat. 521)) or any nuclear explosive device (as that term is defined in section 804(4) of that Act (108 Stat. 521)) by an individual, group, or non-nuclear weapon state (as that term is defined in section 801(5) of that Act (108 Stat. 521));

"(B) NATIONALLY SEVERE TERRORIST ACT.—Any act committed by the Secretary of State, that materially supports the conduct of international terrorism, including the counterfeiting of United States currency or the illegal use of other monetary instruments to support international terrorism as deter-

"(1) to seize and dispose of assets used in the commission of commission offenses (as such term is defined in sections 1028, 1541 through 1546 of title 18, United States Code; and

"(2) to retain the proceeds derived from the disposal of the assets referred to in paragraph (1);

"(3) to participate in asset-sharing programs conducted by the Department of Justice; and

"(4) to retain the proceeds accruing on all assets of foreign countries blocked by the President pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to carry out the purposes of section 36 of the State Department Basic Authorities Act of 1996.

Subtitle C—Commissions and Studies

SEC. 331. NATIONAL COMMISSION ON TERRORISM.

(a) ESTABLISHMENT.—There is established a commission to be known as the “National Commission on Terrorism” (in this section referred to as the “Commission”).

(b) MEMBERS.—

"(1) IN GENERAL.—The Commission shall be composed of 11 members, appointed from persons specially qualified by training and experience to perform the duties of the Commission, of whom—

"(i) 3 shall be appointed by the Speaker of the House of Representatives, and 1 shall be appointed by the Minority Leader of the House of Representatives;

"(ii) 3 shall be appointed by the Majority Leader of the Senate, and 1 shall be appointed by the Minority Leader of the Senate; and

"(iii) 3 shall be appointed by the President.

"(2) TIMING OF APPOINTMENTS.—The appointment authorities shall make their appointments to the Commission not later than 45 days after the date of enactment of this Act.

"(3) DESIGNATION OF THE CHAIRPERSON AND VICE CHAIRPERSON.—The Majority Leader of the Senate shall designate a chairperson of the Commission and a vice chairperson from members of the Commission in this section referred to as the “Commission”. The Majority Leader of the Senate shall designate a vice chairperson from members of the Commission in this section referred to as the “Commission”.

"(4) PERIOD OF APPOINTMENT; VACANCIES.—

"(A) IN GENERAL.—Members shall be appointed for a term of 3 years. A vacancy in Commission membership shall not affect the exercise of the Commission’s powers, and shall be filled in the same manner as the original appointment.

"(B) MEETINGS.—

"(1) IN GENERAL.—Not later than 60 days after the date on which all initial members of the Commission are appointed under sub-paragraph (b), the Commission shall hold its initial meeting. Each subsequent meeting of the Commission shall be held at the call of the chairperson.

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

"(d) SECURITY CLEARANCES.—Appropriate security clearances shall be required for each member of the Commission. Each such clear-

"(e) SECURITY CLEARANCES.—Appropriate security clearances shall be required for each member of the Commission. Each such clear-

"(f) SECURITY CLEARANCES.—Appropriate security clearances shall be required for each member of the Commission. Each such clear-

"(g) SECURITY CLEARANCES.—Appropriate security clearances shall be required for each member of the Commission. Each such clear-
law enforcement or other governmental enti-
ties; and
(ii) the necessity for additional protections
to prevent and deter the inappropriate col-
lection or dissemination of the information
referred to in clause (i).
(2) REPORTS.—
(A) INITIAL REPORT.—Not later than 2
months after the date on which the initial
meeting of the Commission is held, the
Commission shall transmit to the Committees on the
Judiciary of the House of Representa-
tives and the Senate, the Committee on Inter-
national Relations of the Senate, the Committee on
Foreign Relations of the Senate, the Committee on
International Relations of the House of Repre-
sentatives, the Select Committee on Intelligence of the Sen-
ate, and the Permanent Select Committee on Intelli-
gence of the House of Representatives a report setting forth
the purposes of this Act and a report on the work of the Com-
mission.
(B) INTERIM REPORTS.—Prior to the submis-
sion of the report under subparagraph (C), the
Commission may issue such interim re-
ports as the Commission determines to be
necessary or appropriate.
(C) FINAL REPORT.—
(i) IN GENERAL.—The Commission shall issue a report on the
work of the Commission no fewer than 180 days after the date on
which the initial meeting of the Commission is held. The report
shall include the recommendations of the_Commission.
(ii) SUBMISSION.—The Commission shall submit the final
report to the President and to the Committee on the Judi-
ciciary of the House of Representatives, the Senate, and the
Committee on the Judiciary of the House of Repre-
sentatives, the Committee on International Relations of the
Senate, the Committee on Foreign Relations of the Senate, the
Committee on International Relations of the House of Repre-
sentatives, the Select Committee on Intelligence of the Sen-
ate, and the Permanent Select Committee on Intelligence of the
House of Representatives.
(iii) C OMPENSATION AND EXPENSES.—The
Chairperson, the head of any such depart-
ment or agency, a Member of Congress, or
any other individual or entity that the
Commission considers necessary, may receive:
(a) a per diem allowance of up to 
$100 per day
(b) travel expenses, including per diem in lieu of subsistence, at
rates approved for similar services in the Federal Govern-
ment;
(c) honoraria for public appearances;
(d) a per diem allowance of 
$200
for a staff director of the Commission;
(e) a per diem allowance of 
$100
for other individuals.
(3) PROVISIONS WHICH APPLY TO THE
WORK OF THE COMMISSION.—
(A) IN GENERAL.—The Commission may use the
United States mails and postal facilities for the purpose of
issuing notices and carrying on investigations.
(B) PAYMENT OF COMPENSATION.—
The Commission may accept and use for the
purpose of carrying out the duties of the
Commission such funds as Congress appro-
ves for that purpose.
(C) COMPENSATION AND EXPENSES.—The
Chairperson may accept and receive such fees of
office as Congress approves for the
purpose of carrying on investigations.
(D) PAYMENT OF COMPENSATION.—The
Chairperson may accept and use for the
purpose of carrying on investigations.
(4) PROCEDURE FOR THE SUBMISSION OF
A REPORT TO THE PRESIDENT.—The
Commission may submit a report under
this section without regard to the require-
m ents of chapter 15 of title 44 of the United
States Code.
(5) EFFECT OF OTHER LAWS.—
Nothing in this section shall be construed to
supersede or limit the applicable laws of any State.
"(i) was issued to the individual by the public agency with which the individual serves or served as a qualified law enforcement officer; and

(ii) approval of the holder of the document as a current or former officer, agent, or employee of the agency.

(B) QUALIFIED LAW ENFORCEMENT OFFICER.—"Qualified law enforcement officer' means an individual who—

(i) is presently authorized by law to engage in or supervise the prevention, detection, or investigation of any violation of criminal law;

(ii) is authorized by the agency to carry a firearm in the course of duty;

(iii) has no nonforfeitable right to benefits under the retirement plan of the agency;

(iv) was not separated from service with a public agency due to a disciplinary action by the agency that prevented the carrying of a firearm;

(v) meets the requirements established by the State in which the individual resides with respect to subparagraph (B); and

(vi) is not prohibited from holding Federal office under the law of any State or Federal statute.

(D) FIREARM.—The term 'firearm' means, an individual who—

(i) retired from service with a public agency, other than for reasons of mental disability;

(ii) immediately before such retirement, was a qualified law enforcement officer with that public agency;

(iii) has a nonforfeitable right to benefits under the retirement plan of the agency;

(iv) was not separated from service with a public agency due to a disciplinary action by the agency that prevented the carrying of a firearm;

(v) meets the requirements established by—

(A) the State in which the individual resides with respect to subparagraph (B); and

(B) the Federal government, as determined under procedures established by the Attorney General.

(B) RESERVATION OF RIGHTS.ÐThe right to receive a firearm;

(C) QUALIFIED FORMER LAW ENFORCEMENT OFFICER.—The term 'qualified former law enforcement officer' means, an individual who is—

(i) retired from service with a public agency, other than for reasons of mental disability;

(ii) immediately before such retirement, was a qualified law enforcement officer with that public agency;

(iii) has a nonforfeitable right to benefits under the retirement plan of the agency;

(iv) was not separated from service with a public agency due to a disciplinary action by the agency that prevented the carrying of a firearm;

(v) meets the requirements established by the State in which the individual resides with respect to subparagraph (B); and

(vi) is not prohibited from holding Federal office under the law of any State or Federal statute.

(C) QUALIFIED FORMER LAW ENFORCEMENT OFFICER.—The term 'qualified former law enforcement officer' means, an individual who is—

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(ii) immediately before such retirement, was a qualified law enforcement officer with that public agency;

(iii) has a nonforfeitable right to benefits under the retirement plan of the agency;

(iv) was not separated from service with a public agency due to a disciplinary action by the agency that prevented the carrying of a firearm;

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(iv) was not separated from service with a public agency due to a disciplinary action by the agency that prevented the carrying of a firearm;

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(iv) was not separated from service with a public agency due to a disciplinary action by the agency that prevented the carrying of a firearm;

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(iv) was not separated from service with a public agency due to a disciplinary action by the agency that prevented the carrying of a firearm;

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(iv) was not separated from service with a public agency due to a disciplinary action by the agency that prevented the carrying of a firearm;

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(iii) has a nonforfeitable right to benefits under the retirement plan of the agency;

(iv) was not separated from service with a public agency due to a disciplinary action by the agency that prevented the carrying of a firearm;

(v) meets the requirements established by the State in which the individual resides with respect to subparagraph (B); and

(vi) is not prohibited from holding Federal office under the law of any State or Federal statute.

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(iv) was not separated from service with a public agency due to a disciplinary action by the agency that prevented the carrying of a firearm;

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(iii) has a nonforfeitable right to benefits under the retirement plan of the agency;

(iv) was not separated from service with a public agency due to a disciplinary action by the agency that prevented the carrying of a firearm;

(v) meets the requirements established by the State in which the individual resides with respect to subparagraph (B); and

(vi) is not prohibited from holding Federal office under the law of any State or Federal statute.
"(i) is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon, the person shall be—

(ii) if the defendant has previously been convicted of violation of section 922(g)(1), by striking paragraph (2); and

(ii) by inserting after paragraph (1), by inserting "and in any other relevant information that identifies the victim of the offense and the nature and extent of harm and loss suffered by the victim and the family of the victim, and other relevant information.";

SEC. 522. FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.
Section 922 of title 18, United States Code, is amended—

(a) in subsection (a)(1), by inserting after the period the following: "; and if the violation is of section 922(g)(1) by a person who has a previous conviction for a violent felony (as defined in subsection (e)(2)(B)) or a serious drug offense (as defined in subsection (e)(2)(A)); a sentence imposed under this paragraph shall be a term of imprisonment of not less than 10 years; and

(b) by adding at the end of paragraph (2), (A) by striking "or during and in relation to any felony," and inserting "or during the immediate flight from the commission of;" and inserting "of a felony, or during the immediate flight from the commission of;"

SEC. 523. USE OF FIREARMS IN CONNECTION WITH COUNTERFEITING OR FRAUD.
Section 924(c)(1) of title 18, United States Code, is amended in the first sentence by inserting "in the design of a" and in relation to any felony punishable under chapter 25; after "United States.";

SEC. 524. POSSESSION OF AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.
Section 844(h) of title 18, United States Code, is amended—

(a) by striking paragraph (2), by striking "used or carried" and inserting "used, carried, or possessed"; and

SEC. 525. SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.
Section 844(h) of title 18, United States Code, is amended by striking "10" and inserting "20".

SEC. 526. INCREASED PENALTIES FOR INTERNATIONAL DRUG TRAFFICKING.
(a) IN GENERAL.—Section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 950) is amended by adding at the end the following:

(e)(1) Notwithstanding any other provision of law, the court shall sentence a person convicted of a violation of subsection (a), consisting of bringing into the United States a mixture or substance—

(A) which is described in subsection (b)(1); and

(ii) if the defendant has violated this subsection on more than one occasion and the requirements of chapter 228 of title 18, United States Code, are satisfied, the court shall sentence the defendant to death.

(b) INCLUSION OF OFFENSE.—Section 3591(b) of title 18, United States Code, is amended by inserting at the end of paragraph (1), by striking "or" and at the end of paragraph (2), by striking the comma at the end of paragraph (2); and

SEC. 541. STRENGTHENING OF FEDERAL DEATH PENALTY STANDARDS AND PROCEDURES.
(a) AMENDMENTS TO CHAPTER 228.—Chapter 228 of title 18, United States Code, is amended—

(1) in section 3590(c), by striking paragraph (2) and inserting the following:

(2) IN VOLTAGE OF A FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING ANY OFFENSE OTHER THAN AN OFFENSE FOR WHICH A SENTENCE OF DEATH IS Sought ON THE BASIS OF SECTION 924(c), THE DEFENDANT shall sentence the defendant to death if

(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm (as defined in section 922(a)); or

(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than 1 year, involving the use or attempted or threatened use of a firearm (as defined in section 922(a) against another person;"

(2) in section 3993—

(A) in subsection (a)—

(iii) by striking "if, in a case and inserting the following:

(III) if the defendant has violated this subsection on more than one occasion and the requirements of chapter 228 of title 18, United States Code, are satisfied, the court shall sentence the defendant to death.

(b) UNIFORMITY OF PROCEDURES.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(1) by striking subsection (g) through (p); and

(2) by redesigning paragraphs (4) through (10) as paragraphs (1) through (7), respectively; and

SEC. 5. THE DURING COMMISSION OF ANOTHER CRIME.—Section 922(c)(1) of title 18, United States Code, is amended by striking "of, or during the immediate flight from the commission of," and inserting "of a felony, or"
during the immediate flight from the commission of a felony, including:"

(d) AGGRAVATING FACTORS.—Section 3592(c) of title 18, United States Code, is amended by inserting immediately after paragraph (15) the following:"

``(16) OTHER CIRCUMSTANCES.—With regard to the capital offense—

(A) the victim was a custodial parent or legal guardian of a child who was less than 18 years of age;

(B) the offense was committed by a person imprisoned as a result of a felony conviction;

(C) the offense was committed for the purpose of disrupting or hindering the lawful exercise of any government or political function;

(D) the victim was found to have been murdered due to the association of the victim with a particular group, gang, organization, or other entity;

(E) the offense was committed by a person lawfully or unlawfully at liberty after being sentenced to imprisonment as a result of a felony conviction;

(F) the offense was committed by means of a destructive device, bomb, explosive, or similar device that the defendant planted, hid, or otherwise caused to be in an dwelling, building, or structure, or mailed or delivered, or caused to be planted, hidden, concealed, or otherwise delivered, and the defendant knew that the actions of the defendant would create a great risk of death to human life;

(G) the offense was committed for the purpose of avoiding or preventing an arrest or effecting an escape from custody;

(H) the victim was a current or former judge, or prosecutor of any court of the United States, a law enforcement officer, or official, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the official duties of the victim;

(I) the defendant has been convicted of a felony who was intentionally killed for the purpose of interfering with the free exercise or enjoyment by the victim of any right, privilege, or immunity protected by the first amendment to the United States Constitution, or because the victim exercised or enjoyed said right; and

(J) the victim was employed in a jail, correctional facility, or halfway house, and was murdered while in the lawful performance of the duties of the victim or in retaliation for the lawful performance of the duties of the victim.''

SEC. 542. MURDER OF WITNESS AS AGGRAVATING FACTOR.

Section 3592(c)(1) of title 18, United States Code, is amended by inserting "section 1512 (witness tampering), section 1513 (retaliation against witness)," after ``(hostage taking),``.

SEC. 543. DEATH PENALTY FOR MURDERS COMMITTED IN THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:


`(a) OFFENSE.—It shall be unlawful to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

`(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death or the death occurs in the District of Columbia.

`(c) PENALTY.—An offense described in this section is a class A felony. A sentence of death may be imposed for an offense described in this section as provided in this section. Sections 3591 and 3592 of this title shall apply in relation to capital sentencing for an offense described in this section.

`(d) DEFINITIONS.—In this section—

`(1) the term 'State' has the meaning stated in section 1101;

`(2) the term 'offense', as used in paragraphs (2), (3), and (13) of subsection (e), and in paragraph (3) of this subsection, means an offense under the law of a state or the United States:

`(e) OTHER CHARGES.—If an offense is charged under this section, the government may join in the charge any other offense that arises from the same incident.''

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following:

``1123. Capital punishment for murders in the District of Columbia.''

TITLE VI—INCREASED PENALTIES FOR TRAFFICKING AND USE OF METHAMPHETAMINE AND PRECURSORS

SEC. 601. TRAFFICKING IN METHAMPHETAMINE PENALTY INCREASES.

(a) CONTROLLED SUBSTANCES ACT.—

(1) LARGE AMOUNTS.—Section 401(b)(1)(A)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by—

(A) striking "100 grams or more of methamphetamine," and inserting "50 grams or more of methamphetamine,''; and

(B) striking "1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine' and inserting "500 grams or more of a mixture or substance containing a detectable amount of methamphetamine';

(2) SMALLER AMOUNTS.—Section 401(b)(1)(B)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)(viii)) is amended by—

(A) striking "10 grams or more of methamphetamine," and inserting "5 grams or more of methamphetamine,''; and

(B) striking "100 grams or more of a mixture or substance containing a detectable amount of methamphetamine' and inserting "50 grams or more of a mixture or substance containing a detectable amount of methamphetamine';

(b) IMPORT AND EXPORT ACT.—

(1) LARGE AMOUNTS.—Section 101(b)(1)(H) of the Controlled Substances Import and Export Act (21 U.S.C. 950(b)(1)(H)) is amended by—

(A) striking "100 grams or more of methamphetamine," and inserting "50 grams or more of methamphetamine,''; and

(B) striking "1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine' and inserting "500 grams or more of a mixture or substance containing a detectable amount of methamphetamine';

(2) SMALLER AMOUNTS.—Section 101(b)(2)(H) of the Controlled Substances Import and Export Act (21 U.S.C. 950(b)(2)(H)) is amended by—

(A) striking "10 grams or more of methamphetamine," and inserting "5 grams or more of methamphetamine,''; and

(B) striking "100 grams or more of a mixture or substance containing a detectable amount of methamphetamine' and inserting "50 grams or more of a mixture or substance containing a detectable amount of methamphetamine';

SEC. 602. REDUCTION OF SENTENCE FOR PROVIDING USEFUL INVESTIGATIVE INFORMATION.

Section 3553(c) of title 18, United States Code, is amended by inserting "substantial assistance in the investigation or prosecution of another person who has committed an offense" after "substantial assistance in the investigation or prosecution of another person who has committed an offense" and inserting "substantial assistance in the investigation or prosecution of another person who has committed an offense" after "substantial assistance in the investigation or prosecution of another person who has committed an offense".

SEC. 603. IMPLEMENTATION OF A SENTENCE OF DEATH.

(a) IN GENERAL.—Section 3596(a) of title 18, United States Code, is amended—

(1) by striking "pursuant to this chapter"; and

(2) in the second sentence, by striking "in the manner" and all that follows through the
end of the subsection and inserting "pursuant
to regulations promulgated by the Attorney
General.".

(b) REGULATIONS.—Not later than 6 months
after the date of enactment of this Act, the
Attorney General shall promulgate regula-
tions to provide for the implementation of a
sentence of death under section 3996 of title 18,
United States Code.

(c) IN GENERAL.—Section 3997 of title 18,
United States Code, is amended—

(1) by inserting the section designation and
the section heading and inserting the follow-

ing: "$3997. Use of facilities and employees";

(2) by striking subsection (a) and inserting
the following: "'

' (a) IN GENERAL.—A United States marshal
charged with supervising the implementa-
tion of a sentence of death shall use appro-
priate Federal facilities for that purpose;'';

and

(3) in subsection (b), by striking "any State
department of corrections;".

(d) TECHNICAL AMENDMENT.—The chapter
analysis for chapter 268 of title 18, United
States Code, is amended by striking item re-

lating to section 3997 and inserting the follow-

ing:

"3997. Use of facilities and employees.".

SEC. 604. LIMITATION ON DRUG ENFORCEMENT
ADMINISTRATOR TENURE.

(a) In General.—The term of office of the
Administrator of the Drug Enforcement
Agency (as established by section 5(a) of the
Reorganization Plan No. 2 of 1973 (5 U.S.C.
App.)) shall be for not more than a single 10-
year period.

(b) APPLICABILITY.—This section does not
apply to the individual who is serving as the
Administrator of the Drug Enforcement
Agency on the date of enactment of this Act,
unless that individual is reappointed to the
position on or after the date of enactment of
this Act.

SEC. 605. SERIOUS JUVENILE DRUG OFFENSES AS
ARMED CAREER CRIMINAL ACT PRECEDES.

Section 924(e)(2)(A) of title 18, United
States Code, is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii), by adding "or" at the end;

and

(3) by adding at the end the following:

"(iii) any act of juvenile delinquency, under
	the law of any State, that, if commit-

ted by an adult, would be an offense
described in clause (i) or (ii).".

SEC. 606. MANDATORY MINIMUM PRISON SEN-
TENCES FOR PERSONS WHO USE MI-
NORS IN DRUG TRAFFICKING ACT-
IVITIES OR SELL DRUGS TO MI-
NORS.

(a) EMPLOYMENT OF PERSONS UNDER 18
YEARS OF AGE.—Section 420 of the Controlled
Substances Act (21 U.S.C. 841) is amended—

(1) in subsection (b), by striking the second
sentence and inserting the following: "Ex-
cept to the extent that a greater minimum sentence is otherwise pro-
vided, a term of imprisonment of a person 21 or more years of age
convicted under this subsection shall be not less than 10 years, and a
term of imprisonment of a person 18 or more years of age convicted
under this subsection shall be not less than 3 years. Notwithstanding
any other provision of law, the court shall not place on probation or
suspend the sentence of any person sentenced under the preceding
sentence;";

and

(2) in subsection (c)—

(A) by striking "one year" and inserting "6
years";

(B) by inserting after the second sentence the
following: "Except to the extent that a
greater minimum sentence is otherwise pro-
vided, a term of imprisonment of a person 21 or
more years of age convicted under this subsection shall be a mandatory term of
life imprisonment. Notwithstanding any other provision of law, the court
shall not place on probation or suspend the sentence of any person
sentenced under the preceding sentence;";

(C) in the third sentence, by striking "Pen-
alties and" and inserting: "Except to the extent
that a greater minimum sentence is other-
wise provided, penalties''.

(b) MANDATORY MINIMUM PRISON SEN-
TENCES FOR PERSONS CONVICTED OF DISTRIB-
UTION OF DRUGS TO MINORS.—

(1) IN GENERAL.—Section 418 of the
Controlled Substances Act (21 U.S.C. 859) is amended—

(A) in subsection (a)—

(i) by striking "at least eighteen" and inserting "18";

(ii) by striking "not less than one year" and inserting "not less than 10 years"; and

(iv) by striking the last sentence;

(B) in subsection (b)—

(i) by striking "at least eighteen" and inserting "not less than 21";

(ii) by striking "twenty-one" and inserting "18";

(iii) by striking "not less than one year" and inserting a "mandatory term of life imprisonment;";

(iv) by striking the last sentence; and

(C) in the section heading, by striking "TWENTY-ONE" and inserting "18".

(c) PENALTIES FOR DRUG OFFENSES IN DRUG-
FREE ZONES.—

(1) INCREASED PENALTIES.—Section 419 of the
Controlled Substances Act (21 U.S.C. 860) is amended—

(A) in subsection (a)—

(i) by striking "not less than one year" and inserting "not less than 5 years"; and

(ii) by striking the last sentence;

(B) in subsection (b), by striking "not less
than three years" and inserting "not less than 10 years"; and

(C) by redesignating subsections (c), (d),
and (e) as subsections (d), (e), and (f), respect-
ively.

SEC. 607. PENALTY INCREASES FOR TRAFFICK-
ING IN LISTED CHEMICALS.

(a) CONTROLLED SUBSTANCE ACT.—

Section 404(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended by inserting before the period at the end the following: "or, with respect to a violation of paragraph (1) or (2) of this subsection involving a list I chemical, if the government proves the quantity of controlled substance that could reasonably have been manufactured in a clandestine setting using the quantity of list I chemicals possessed or distributed, the penalty cor-
responding to the quantity of controlled sub-
stance that could have been produced under subsection (b)");

(b) CONTROLLED SUBSTANCE IMPORT AND EX-
PORT ACT.—Section 1003(b) of the Controlled
Substances Import and Export Act (21 U.S.C.
900(d)) is amended by inserting before the pe-
riod at the end the following: ", or, with respect to an importation violation of para-
graph (1) or (2) of this subsection involving a list I chemical, if the government proves the quantity of controlled substance that could reasonably have been manufactured in a clandestine setting using the quantity of list I chemicals possessed or distributed, the penalty cor-
responding to the quantity of controlled sub-
stance that could have been produced under title II".

(c) DETERMINATION OF QUANTITY.—

(1) IN GENERAL.—For the purpose of this
section and the amendments made by this
section, the quantity of controlled substance
that could reasonably have been manufactured
shall be determined by using a table of man-
ufacturing conversion ratios for list I chemi-
icals.

(d) EFFECTIVE DATE.—The table described in para-
graph (1) shall be—

(A) established by the United States Sen-
censing Commission based on scientific, law
enforcement, and drug treatment data the
Sentencing Commission determines to be appropriate; and

(b) dispositive of this issue.

SEC. 701. PARTICIPATION OF RELIGIOUS ORGANI-
ZATIONS IN VIOLENCE AGAINST WOMEN ACT
PROGRAMS.

Notwithstanding any other provision of law, religious organizations shall be
eligible to participate in any grant program author-
ized pursuant to the Violence Against Women Act of 1994 (Title IV of Public Law
103-322) which allow for the participation of nongovernmental entities, programs, or
organizations, or any private persons. No Federal or State governmental agen-
cy receiving funds under any such program shall discriminate against an organiza-
tion on the basis that the organization has a religious character. Nothing in this section shall be
construed to preempt any provision of a State constitution or State statute that pro-
hibits or restricts the use of State funds in or by religious organizations.

SEC. 702. DOMESTIC VIOLENCE ARREST GRANTS.

Paragraph (20) of section 1001(a) of title 1 of the Violent Crime Control and Safe Streets Act of 1968 is amended by striking "fiscal year 1998" and inserting "for each of the fiscal years 1998 and 1999."

SEC. 703. RURAL DOMESTIC VIOLENCE AND
CHILD ABUSE ENFORCEMENT ASSIST-
ANCE.

Subsection (c) of title 42 of the United States Code is amended by striking "fiscal year 1998" and inserting "for each of the fiscal years 1998 and 1999."

Subtitle B—Domestic Violence

SEC. 711. DEATH PENALTY FOR FATAL INTER-
STATE DOMESTIC VIOLENCE OFF-
FENSES.

Sections 2261(b)(1) and 2262(b)(1) of title 18,
United States Code, are each amended by in-
serting "or may be sentenced to death," after "years.".

SEC. 712. DEATH PENALTY FOR FATAL INTER-
STATE VIOLATIONS OF PROTECTIVE
ORDERS.

Section 2262 of title 18, United States Code,
is amended by inserting "or may be sen-
tenced to death," after "years.".

SEC. 713. EVIDENCE OF DISPOSITION OF DE-
FENDANT TOWARD VICTIM IN DO-
MESTIC VIOLENCE CASES AND OTHER CRIME
ASSAULT CASES.

Rule 400(b) of the Federal Rules of Evi-
dence is amended by striking "or absence of
mistake or accident" and inserting "absence of
mistake or accident, or a disposition to-
ward a particular individual."

SEC. 719A. HIV TESTING OF DEFENDANTS IN SEX-
UAL ASSAULT CASES.

(a) In General.—Chapter 109A of title 18,
United States Code, is amended by adding at
the end the following:
testing for the human immunodeficiency virus, or for the purpose of disclosing the results to victim; effect on penalty.";

(2) 

The results of any test for the human immunodeficiency virus performed pursuant to an order under this section shall be provided to the judicial officer or court.

(3) 

Disclosure to victim.—The judicial officer or court shall ensure that the results are disclosed to the victim (or to the parent or legal guardian of the victim, as appropriate), the attorney for the government, and the person tested.

(3) 

Applicability of other law.—Test results received pursuant to this subsection shall be subject to section 4503(b) (5) through (7) of the Violent Crime Control Act of 1994 (42 U.S.C. 1401(b)).

(4) 

Exclusion.—Any test result of the defendant given to the victim or the defendant must be accompanied by appropriate counseling, unless the recipient does not wish to receive such counseling.

(e) Effect on penalty.—The United States Sentencing Commission shall amend the Federal sentencing guidelines for sentences imposed for any offense defined in this chapter to enhance the sentence if the offender knew or had reason to know that the offender was infected with the human immunodeficiency virus, or the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.

(a) 

Technical amendment.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by inserting at the end the following:

"2249. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty."

(b) 

Technical amendment.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by inserting at the end the following:

"(b) Technical amendment.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by inserting at the end the following:

"(a)testing to obtain an order under paragraph (1) by striking "after the evidence is introduced at the trial" and inserting "at any time prior to the sentencing of the defendant"; and

(b) Technical amendment.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by inserting at the end the following new subsection:

Subtitle A—Violent Crime and Terrorism

Sec. 801. Amendments to Anti-Terrorism Statutes.

(a) Explosive Materials.—Section 844(f)(1) of title 18, United States Code, is amended by inserting "or any institution or organization receiving Federal financial assistance after "or agency thereof," and

(b) Technical amendment.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by inserting at the end the following new subsection:

Subtitle B—Violent Crime and Terrorism

Sec. 802. Mandatory Prison Term of Victim Before Crossing State Line as Not Defeating Prosecution, and Other Changes.

Section 1201(a) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (4); and

(2) by adding the following new paragraph:

"(i) an individual travels in interstate or foreign commerce in furtherance of the offense," or

"(j) the mail or a facility in interstate or foreign commerce is used in furtherance of the offense.

Sec. 803. Expansion of Section 1959 of Title 18 to Cover Commission of All Violent Crimes in Aid of Racketeering Activity, and Increased Penalties.

Section 1959(a) of title 18, United States Code, is amended—

(1) by inserting "or commits any other crime of violence" before "or threatens to commit a crime of violence against";

(2) by paragraph (4), by inserting "committing any other crime of violence" before "threatening to commit a crime of violence", and by striking "five" and inserting "ten" in paragraph (5) by striking "ten" and inserting "twenty";

(3) by paragraph (6) by striking "or" before "assault resulting in serious bodily injury", and by inserting "or any other crime of violence after those same words, and by striking "three" and inserting "ten"; and

(5) by inserting "as defined in section 1365 of this title" after "serious bodily injury" the first place it appears.

Sec. 804. Conforming Amendment to Conspiracy Penalty.

(a) Firearms.—Section 924 of title 18, United States Code, is amended by striking "or any other crime of violence" and inserting "or any other crime of violence or for any other crime of violence or for any other offense defined in this chapter.";

(b) Explosives.—Section 844(n) of title 18, United States Code, is amended by adding at the end the following new section:

Title VIII—Violent Crime and Terrorism

Chapter 1—Violent Crime and Terrorism

Subtitle A—Violent Crime and Terrorism

Sec. 805. Inclusion of Certain Additional Serious Drug Offenses as Armed Career Criminal Act Predicates.

Section 924(e)(2)(A)(ii) of title 18, United States Code, is amended by inserting before the semicolon the following: "or which, if it had been prosecuted as a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) at the time of the offense and because of the type and quantity of the controlled substance involved, would have been punishable by a maximum term of imprisonment of ten years or more.";

(b) Section 2392a of title 18, United States Code, is amended—

(1) in subsection (a), striking "and insert the following:

"(1) in paragraph (1), by striking "before the evidence is introduced at the trial" and inserting "at any time prior to the sentencing of the defendant"; and

(2) in paragraph (2), by striking "at any time prior to the sentencing of the defendant" and inserting "at any time prior to the sentencing of the defendant"; and

(3) in paragraph (3), by striking "or" at the end of paragraph (4); and

(4) by striking "or" before "assault resulting in serious bodily injury", and by inserting "or any other crime of violence after those same words, and by striking "three" and inserting "ten"; and

(5) by inserting "as defined in section 1365 of this title" after "serious bodily injury" the first place it appears.

Sec. 804. Conforming Amendment to Conspiracy Penalty.

(a) Firearms.—Section 924 of title 18, United States Code, is amended by striking "or any other crime of violence" and inserting "or any other crime of violence or for" be-
SEC. 807. ELIMINATION OF UNJUSTIFIED SCIENTER ELEMENT FOR CAN JACING.

Section 2199 of title 18, United States Code, is amended by striking "", with the intent to cause death or serious bodily harm".

SEC. 808. CRIMINAL OFFENSES COMMITTED OUTSIDE THE UNITED STATES.

In the United States, a person is a party.

Section 3263. Regulations

*T 3263. Definitions for chapter

As used in this chapter—

(1) a person is employed by the armed forces outside the United States—

(i) if he or she is employed as a civilian employee of a military department or of the Department of Defense, as a Department of Defense contractor, or as an employee of a Department of Defense contractor;

(ii) is present or residing outside the United States in connection with such employment; and

(iii) is not a national of the host nation.

(2) a person is "accompanying the armed forces outside the United States" if he or she—

(i) is a dependent of a member of the armed forces;

(ii) is a dependent of a civilian employee of a military department or of the Department of Defense;

(iii) is residing with the member or civilian employee outside the United States; and

(iv) is not a national of the host nation.

SEC. 809. ASSAULTS OR OTHER CRIMES OF VIOLENCE FOR HIRE.

Section 1984(a) of title 18, United States Code, is amended by inserting "or other felony crime of violence against the person" after "murder".

SEC. 810. PENALTY ENHANCEMENT FOR CERTAIN OFFENSES RESULTING IN DEATH.

(a) Mailmen.—Section 2114 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection (b), and

(2) by adding a new subsection (b) as follows:

"(b) Whoever, in committing an offense described in this section, or in avoiding or attempting to avoid apprehension for the commission of such offense, kills any person shall be punished by death or by imprisonment for life."

(b) Controlled Substances.—Section 2118(c)(2) of title 18, United States Code, is amended by striking all after "kills any person" and inserting "or attempt to kill another person, who shall be punished by death or by imprisonment for life."

(c) Interstate Domestic Violence.—Sections 2261(c)(1) and 2262(c)(1) of title 18, United States Code, are each amended by inserting "or attempt to kill another person, who shall be punished by death or by imprisonment for life.";

(d) Animal Enterprise Terrorism.—Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)), is amended by striking "after death" and inserting "after death or injury";

(e) Racketeering. —Section 1952(a)(3)(B) of title 18, United States Code, is amended by inserting "or a person acting in another capacity", which function of approval may not be delegated.

(f) Other offenses.—Section 3262 of title 18, United States Code, is amended by inserting "or any part thereof" after "as to any one or more counts".

SEC. 812. IMPROVEMENT OF THE CRIMES SENTENCING GUIDELINES WITH PROVISIONS OF ALL FEDERAL STATUTES.

Section 994(a) of title 28, United States Code, is amended by striking "consistent with all pertinent provisions of this title and of any part thereof." after "may reduce the term of imprisonment for life.";

SEC. 813. TECHNICAL CORRECTION TO ASSURE COMPLIANCE WITH PROVISIONS OF ALL FEDERAL STATUTES.

Section 994(a) of title 28, United States Code, is amended by striking "any sentence" and inserting "or any part thereof." after "may reduce the term of imprisonment for life.";

SEC. 814. CLARIFICATION OF SCIENTER REQUIREMENT FOR RECEIVING PROPERTY STOLEN FROM AN INDIAN TRIBAL ORGANIZATION.

Section 1163 of title 18, United States Code, is amended in the second paragraph by striking "so".

SEC. 815. LARCENY INVOLVING POST OFFICE BOXES AND POSTAL STAMP VENDING MACHINES.

Section 2312 of title 18, United States Code, is amended by striking "false" after "false or notional" and inserting "false or notional" after "false".

SEC. 816. VIOLATION DEDICATED DWELLINGS IN INDIAN COUNTRY.

Section 1153(a) of title 18, United States Code, is amended by inserting "or 1363" after "section 661".

Subtitle B — Courts and sentencing

SEC. 821. ALLOWING A REDUCTION OF SENTENCE FOR SUBSTANTIAL ASSISTANCE IN AN INVESTIGATION.
title 18, United States Code, are each amended by striking "motor vehicle or aircraft" and inserting "motor vehicle, vessel, or aircraft".

SEC. 804. CONFORMING AMENDMENT TO LAW PUNISHING OBSTRUCTION OF JUSTICE BY NOTIFICATION OF EXISTENCE OF A SUBPOENA RECORDS IN CERTAIN TYPES OF INVESTIGATIONS.

Section 1510(b)(3)(B) of title 18, United States Code, is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(iii) the Controlled Substances Act, the Controlled Substances Import and Export Act, or section 6259 of the Internal Revenue Code of 1986;"

SEC. 805. INJUNCTIONS AGAINST COUNTERFEITING AND FORGERY.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding at the end the following:

"§ 515. Injunctions against counterfeiting and forgery.

"(a) If a person is violating or about to violate any provision of this chapter, the Attorney General may commence a civil action in any Federal court to enjoin such violation or restraining order shall be granted without bond.

"(b) The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action as is warranted in its discretion. A proceeding under this section is governed by the Federal Rules of Civil Procedure, including the discovery provisions, in the order that an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding at the end:

"§ 515A. Injunctions against counterfeiting and forgery.

Subtitle D—Miscellaneous Provisions

SEC. 806. INCREASED MAXIMUM PENALTY FOR CERTAIN RICO VIOLATIONS.

Section 1963(a) of title 18, United States Code, is amended by striking "or imprisoned not more than five years" and inserting "or imprisoned not more than twenty years"; and inserting "or fined not more than $250,000"; and inserting "or fined not more than $5,000,000"; and inserting "or for life if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment"; and inserting "or imprisoned not more than the greater of 20 years or the statutory maximum term of imprisonment (including life) applicable to a racketeering activity on which the violation is based".

SEC. 806A. CLARIFICATION OF INAPPLICABILITY TO CERTAIN DISCLOSURES.

Section 2015 of title 18, United States Code, is amended by adding at the end the following:

"This section shall not apply to the disclosure by the United States, a State, or a political subdivision in a criminal trial or hearing before a grand jury of the contents of a wire or oral communication, or evidence derived therefrom, the interception of which was in violation of section 2512(2)(D)(i) of title 18, United States Code, or with respect to the contents not involving governmental misconduct.

SEC. 806B. CONFORMING AMENDMENTS RELATING TO SUPERVISED RELEASE

(a) Section 3621(e)(1)(B)(v), 1512(b)(3), 1512(c)(2), 1513(a)(1)(B), and 1513(b)(2) are each amended by striking "violation of conditions of probation, parole or release pending judicial proceedings" and inserting "violation of conditions of probation, supervised release, parole, or release pending judicial proceedings.

(b) Section 3142 of title 18, United States Code, is amended—

(1) in subsection (d)(1), by inserting "or supervised release, parole, or release pending judicial proceedings";

(2) in subsection (g)(3), by inserting "or supervised release after probation".

SEC. 804C. ADDITION OF CERTAIN OFFENSES AS BASE INVOLVING THE MAIL.

Section 1962(c)(7)(D) of title 18, United States Code, is amended by inserting "or section 2339B (relating to providing material support to designated terrorist organizations)" before "of this title".

SEC. 805C. CLARIFICATION OF JURISDICTIONAL BASE INVOLVING THE MAIL.

Section 2422(b) of title 18, United States Code, is amended—

(1) by inserting "the mail" after "using"; and

(2) by striking "including the mail,.

SEC. 866. FOREIGN BANK BRANCHES IN THE TERRITORIES.

Section 165 of United States Code, is amended by inserting before the period the following: ", except that for purposes of this section the term 'State' shall be deemed to include a commonwealth, territory, or possession of the United States.''

SEC. 867. CONFORMING STATUTE OF LIMITATIONS FOR CERTAIN BANK FRAUD OFFENSES.

Section 3292 of title 18, United States Code, is amended by striking before the period the following: ", except that for purposes of this section the definition of the term 'State' shall be deemed to include a commonwealth, territory, or possession of the United States.''

SEC. 868. AMENDMENT TO PROVISION OF THE SECONAL DISPOSAL OF MATURE OR UNMATURED "CERTAIN RICO VIOLATIONS.

Section 3292(b) of title 18, United States Code, is amended by striking "with respect to a Constitutional Medal of Honor".

TITLE IX—PRISON REFORM

Subtitle A—Prison Litigation Reform

SEC. 901. AMENDMENT TO THE PRISON LITIGATION REFORM ACT OF 1996.

Section 801 of the Prison Litigation Reform Act of 1996 is amended by striking "1996" and inserting "1997".

SEC. 902. APPROPRIATE REMEDIES FOR PRISON CONDITIONS.

Section 3626 of title 18, United States Code, is amended by striking in paragraph (2) a substantially similar sentence.

SEC. 903. CONFORMING AMENDMENT TO THE PRISON LITIGATION REFORM ACT OF 2000.

Section 801 of the Prison Litigation Reform Act of 2000 is amended by striking " Program Act of 1995 is amended by striking "1995" and inserting "1996".

SEC. 904. CLARIFICATION OF JURISDICTIONAL BASE INVOLVING THE MAIL.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "the court", and inserting "the party", and inserting "a United States attorney", and inserting "the mail", and inserting "the evidence":

SEC. 905. ADDITION OF CERTAIN OFFENSES AS BASE INVOLVING THE MAIL.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting "or section 2339B (relating to providing material support to designated terrorist organizations)" before "of this title".

January 21, 1997

CONGRESSIONAL RECORD — SENATE S207
SEC. 903. CIVIL RIGHTS OF INSTITUTIONALIZED

class.''; and

authority of the United States to enforce

shall not be interpreted to expand the au-

right' means a violation of a Federal con-

section the following new paragraph:

and (9);

ments'' and inserting ``settlement agree-

at the end;

make any findings based on the record as a

posed findings of fact, which shall be made

record''; and by striking ``and prepare pro-

any civil action'' through ``subsection, the''

Litigation Reform Act of 1995.'';

after the date of enactment of the Prison

shall apply only to special masters appointed

the following:

(C) in paragraph (2), by striking the last

in section 3626 of title 18, United States

datedly related to the court ordered relief for

made a good faith attempt to resolve the

ely injury to the plaintiff and the plaintiff

Code, if the enforcement order was necessary

court action; or

faith effort to resolve the matter without

before;"" and inserting ``any civil

brought with'' and inserting ``any civil

institutions for a violation of previously ordered

incurred inÐ

tions for a violation of previously ordered

manner of the agency, having custody of the pris-

may withdraw 20 percent of each deposit to the prisoner's account and apply that amount to the judgment for costs incurred in the court ordered relief for the violation.'';

(C) in paragraph (2), by striking the last sentence and inserting "If a monetary judgment is the sole or principal relief awarded, the award of attorney's fees shall not exceed 100 percent of the judgment."; and

(C) in paragraph (7), by striking paragraph (6) and inserting "(6) in subsection (e), by striking "Federal, State, local, or other" before "facility";"

(C) in paragraph (4), by striking "any ac-

prison conditions'';

in Federal court by a prisoner (other than a

and inserting "any civil action brought by a

or other post-conviction conditional or supervised release, after "probation";

(C) in paragraph (5), by striking "or local

other facility";

(E) in paragraph (9), by striking "agree-

ments," and inserting "agreements;

(F) by reversing the order of paragraphs (8) and (9);

(G) by inserting at the end of the sub-

section the following new paragraph:

"(10)(A) the term "violation of a Federal right" means a violation of a Federal constitutional or Federal statutory right;

"(B) a violation of a Federal right does not include a violation of a court order that is not independently a violation of a Federal statutory or Federal constitutional right;

"(C) the term "violation of a Federal right" shall not be interpreted to expand the authority of any individual or class to enforce the legal rights that individual or class may have pursuant to existing law with regard to institutionalized persons, or to expand the authority of the United States to enforce those rights on behalf of any individual or class;"; and

(H) by renumbering the paragraphs.

SEC. 903. CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS.

(a) in GENERAL.—Section 7 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1996c), as amended by section 804(d) of the Prison Litigation Reform Act of 1995, is amended—

(1) by amending the title of the section to read "Civil Actions with Respect to Prison Conditions";

(2) in subsections (a), (c), and (d), by strik-

ing "by a prisoner confined in any jail, pris-

on, or other correctional facility.

(3) in subsection (a), by striking "No ac-

tion shall be brought with respect to prison conditions" and inserting "No civil action with respect to prison conditions shall be brought"; and by striking "until such ad-

in its place "until the plaintiff has exhausted such administrative remedies as are available.'';

in paragraph (2), by amending the title of the section to read "Civil Actions with Respect to Prison Conditions'';

"(1) by striking after "average" the follow-

of the highest;";

"(2) by inserting after "balance" the follow-

"recorded for;

"(3) by striking "in"; and

"(4) by striking the 6-month period" and inserting "each of the 6 months."

(b) Section 1915(b)(2) of title 28, United States Code, is amended—

(1) by striking "forward" and inserting "deduct";

(2) by striking "to the clerk of the court"; and

(3) by adding at the end the following: "The agency having custody of the prisoner shall forward the deducted payments to the claimant if the agency determines that the agency may withdraw 20 percent of each deposit to the prisoner's account and apply that amount to the judgment for costs incurred in the court ordered relief for the violation.'';

(c) Section 1915(f)(2)(A) of title 28, United States Code, is amended by inserting "provides for or before "includes";

(d) Section 1915(f)(2)(B), of title 28, United States Code, is amended to add the following sentence at the end: "If the judgment for costs is held by the agency, or the employees of the agency, having custody of the pris-

(e) Section 1915(g) of title 28, United States Code, is amended—

(1) by striking "frivolous" and inserting "was frivolous"; and

(2) by striking "fails" and inserting "failed".

(f) Section 1918(h) of title 28, United States Code, as added by section 804(e) of the Prison Litigation Reform Act of 1995, is amended—

(1) by inserting "Federal, State, local, or other" before "facility";

(2) by striking "violations" and inserting "a violation";

(3) by striking terms and conditions" and inserting "terms or conditions"; and

(4) by inserting "or other post-conviction conditional or supervised release, after "probation";

(g) Section 1919A of title 28, United States Code, is amended by striking ", before dock-

SEC. 905. NOTICE TO STATE AUTHORITIES OF MALICIOUS FILING BY PRISONER.

(a) Amendment.—Chapter 123 of title 28, United States Code, is amended—

(1) by inserting after section 1915A the follow-

the following new section:

§ 1915B. Notice to state authorities of finding of malicious filing by a prisoner.

(1) Finding.—In any civil action brought in Federal court by a prisoner (other than a prisoner confined in a Federal or local correctional facility), the court may, on its own motion or on the motion of any adverse party, make a finding whether—

(A) the claim was filed for a malicious purpose;

(B) the claim was filed to harass the party against which it was filed; or

(C) the claimant presented false evidence or other-
prison under any other state or local program governing the release of prisoners, including parole, probation, other post-conviction or supervised release, or diversionary program.

(2) by redesignating subsection 1915A(c) as section 1915C, and in that section, as redesignated: (A) by striking "this section" and inserting "sections 1915A and 1915B;" (B) by inserting "Federal, State, local, or other before "facility;" (C) by striking "violations" and inserting "a violation;" (D) by striking "terms and conditions" and inserting "terms or conditions;" and (E) by redesignating conditional or supervised release," after "probation;"); and (3) by inserting in the analysis for chapter 123 of title 28, United States Code, and as further amended by this Act, after the item relating to section 1915A the following new items:

"1915B. Notice to State authorities of malicious filing by prisoner.; and "1915C. Definition."

SEC. 906. PAYMENT OF DAMAGE AWARD IN SATISFACTION OF PENDING RESTITUTION AWARDS.

(a) Section 807 of the Prison Litigation Reform Act of 1995 is designated as section 1932D of chapter 123 of title 28, United States Code.

(b) That section is amended by striking the word "compensatory" and the last sentence of that section.

(c) Section 903 of the Prison Litigation Reform Act of 1995 is redesignated as section 1932D of chapter 123 of title 28, United States Code.

(d) The analysis for chapter 123 of title 28, United States Code, is amended by inserting after the item relating to section 1915C the following new item:

"§ 1915D. Payment of damage award in satisfaction of pending restitution order.".

SEC. 907. EARNED RELEASE CREDIT OR GOOD TIME CREDIT REVOCATION.

(a) Section 1932 of title 28, United States Code, is redesignated as section 3624A of title 18, United States Code.

(b) Section 3624A of title 18, United States Code, as redesignated by subsection (a) of this section, is amended—

(1) by striking "in any" and inserting "a";

(2) by striking "an adult" and inserting "a";

(3) by striking "order the revocation" and all that follows through "finds that--" and inserting ", on its own motion or the motion of any adverse party, make a finding whether--";

(4) in paragraph (2), by striking "solely;"

(5) in paragraph (3)—

(A) by striking "testifies" and inserting "testified;" and

(B) by striking "presents" and inserting "presented;" and

(6) by striking at the end the following:

(b) Transmission of Finding.—The court shall transmit to the Bureau of Prisons any affirmative finding under subsection (a). If the court makes such a finding, the Bureau of Prisons shall revoke an amount of earned good time credit or the institutional credit accruing to the prisoner pursuant to section 3624 as is deemed appropriate by the Director of the Bureau of Prisons.

(c) The analysis for chapter 123 of title 28, United States Code, is amended by striking the item relating to section 1932.

(2) The analysis for chapter 229 of title 18, United States Code, is amended by inserting after the item relating to section 3624 the following:
paraphrased (3), (4), and (6), as paragraphs (1), (2), and (3), respectively.

**TITLE XI—MISCELLANEOUS PROVISIONS**

**SEC. 1001. SENSE OF THE SENATE REGARDING B R U T E F O R C E.**

It is the sense of the Senate that—

(1) the Office of National Drug Control Policy should, in principal, be reauthorized for an additional 5 years; and

(2) to any extent a reauthorization, the Committee on the Judiciary of the Senate shall conduct an extensive review of the National Drug Control Strategy for 1997 submitted at the outset of the 105th Congress, the Senate should adopt 2 separate juvenile justice systems for violent and nonviolent offenders.

**SEC. 1002. RESTRICTIONS ON DOCTORS PRESCRIBING SCHEDULE I SUBSTANCES.**

(a) In General.—Not later than 45 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations that require any and all hospitals or health care service providers who receive Federal Medicare or Medicaid payments based upon appropriate compliance certification, as an additional certification requirement, to certify that no physician or other health care professional who has privileges with such hospital or health care service provider, or is otherwise employed by them, is currently, or will in the future be, registered or otherwise recommended a schedule I substance to any person.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall report to Congress the number and names of institutions refusing or otherwise failing to fulfill certification requirement of subsection (a).

(c) REVOCATION OF CERTIFICATION.—The Attorney General shall promulgate regulations to revoke the DEA registration of any physician or other health care professional who has privileges with such hospital or health care service provider, or is otherwise employed by him, is currently, or will in the future be, registered or otherwise recommended a schedule I substance to any person.

**SEC. 1003. ANTI-DRUG USE PUBLIC SERVICE REQUIREMENT.**

The Federal Communications Commission shall—

(1) coordinate with the President's Commission on Alcohol and Drug Abuse Prevention, to develop a comprehensive education and prevention program targeted toward youth drug abuse pursuant to section 803 of Public Law 99-570 (21 U.S.C. 1302);

(2) encourage the priority use of public service advertising to promote youth drug abuse prevention and education;

(3) contact and encourage the donation of greater public resources dedicated to youth drug abuse prevention programs; and

(A) television, radio, movies, cable communications, and print media;

(B) the recording industry;

(C) the advertising industry;

(D) business; and

(E) professional sports; and

(4) encourage each of the organizations and industries in paragraph (3) to assist in the implementation of new programs and national strategies for dissemination of information intended to prevent youth drug abuse.

**SEC. 1004. CHILD PORNOGRAPHY.**

(a) In General.—The Secretary of State is directed to review all extradition treaties in force, to renegotiate any treaty pursuant to section 803 of Public Law 99-570 (21 U.S.C. 1302); and

(b) Accelerated Grants.—Section 401 of the Economic Espionage Act of 1996 (Public Law 104-294; 110 Stat. 3466) is amended by striking subsection (c) and inserting the following:

"(c) ESTABLISHMENT.—

(1) IN GENERAL.—For each of the fiscal years 1997, 1998, 1999, 2000, and 2001, the Director of the Office of Justice Assistance of the Department of Justice shall make a grant to the Boys and Girls Clubs of America for the purpose of establishing Boys and Girls Clubs facilities where needed, with particular emphasis placed on establishing clubs in public housing projects and distressed areas as follows:

(2) CONTRACTING AUTHORITY.—To the extent that the Secretary of Housing and Urban Development determines to be appropriate, the Secretary of Housing and Urban Development, in consultation with the Attorney General, shall enter into contracts with the Boys and Girls Clubs of America to establish clubs pursuant to the grants under paragraph (1).

(3) APPLICATIONS.—The Attorney General shall accept an application for a grant under this subsection if submitted by the Boys and Girls Clubs of America, and approve or deny the grant not later than 90 days after the date on which the application is submitted, if the application—

(A) includes a long-term strategy to establish 1000 additional Boys and Girls Clubs and detailed information of those areas in which new clubs will be established during the next fiscal year;

(B) includes a plan to insure that there are a total of not less than 2000 Boys and Girls Clubs of America facilities in operation before January 1, 2000;

(C) certifies that there will be appropriate coordination with those communities where clubs will be located; and

(D) explains the manner in which new facilities will operate without additional, direct Federal financial assistance to the Boys and Girls Clubs of America for any fiscal year.

(4) ROLE MODEL GRANTS.—Section 401 of the Economic Espionage Act of 1996 (Public Law 104-294; 110 Stat. 3466) is amended by adding at the end the following:

"(f) ROLE MODEL GRANTS.—Of amounts made available under subsection (e) in any fiscal year—

(1) not more than 5 percent may be used to provide a grant to the Boys and Girls Clubs of America for administrative, travel, or other expenses associated with establishment of a national role-model speaking tour program;

(2) no amount may be used to compensate speakers other than to reimburse speakers for reasonable travel and accommodation costs associated with the program described in paragraph (1)."

**SEC. 1006. CELLULAR TELEPHONE INTERCEPTIONS.**

Subsection 2511 of title 18, United States Code, is recommended by inserting: "imprisoned not more than 1 year, or both" after "under this title.

**TITLE XII—VIOLENT AND REPEAT JUVENILE OFFENDERS**

**SEC. 1101. STATUTE OF LIMITATIONS.**

This title may be cited as the "Violent and Repeat Juvenile Offender Act of 1997.

(a) FINDINGS AND PURPOSES.

(1) FINDINGS.—Congress finds that—

(A) the number of persons arrested overall for murder in the United States decreased by 5.8 percent, but the number of persons who are less than 15 years of age arrested for murder increased by 4 percent;

(B) the number of persons arrested for all violent crimes increased by 1.3 percent, but the number of persons who are less than 15 years of age arrested for violent crimes increased by 9.2 percent, and the number of persons less than 18 years of age arrested for such crimes increased by 6.5 percent;

(C) from 1985 to 1996, the number of persons arrested for all violent crimes increased by 52.3 percent, but the number of persons under age 18 arrested for violent crimes rose by 75 percent;

(D) the number of juvenile offenders is expected to undergo a massive increase during the first 2 decades of the twenty-first century, culminating in an unprecedented number of violent offenders who are less than 18 years of age;

(E) the rehabilitative model of sentencing for juveniles, which Congress rejected for adult offenders when Congress enacted the Sentencing Reform Act of 1984, is inadequate and inappropriate for dealing with violent and repeat juvenile offenders;

(F) the Federal Government should encourage the States to experiment with progressive solutions to the escalating problem of juvenile crime. The States should examine all offenders as adults, but should not impose specific strategies or programs on the States;

(G) an effective strategy for reducing violent juvenile crime requires greater collection of investigative data and other information, whether fingerprints and DNA evidence, as well as greater sharing of such information among Federal, State, and local agencies, including the courts, in the law enforcement and educational systems;

(H) data regarding violent juvenile offenders must be made available to the adult criminal justice system if recidivism by juvenile criminals is to be addressed adequately;

(I) juvenile proceedings in secret denies victims of crime the opportunity to attend and be heard at such proceedings, and juvenile offenders to avoid accountability for their actions, and shields juvenile proceedings from public scrutiny and accountability;

(J) injuries and losses suffered by the victims of violent crime are no less painful or devastating because the offender is a juvenile; and

(K) United States Sentencing Commission, investigation, prosecution, adjudication, and punishment of criminal offenses committed by juveniles is, and should
remain, primarily the responsibility of the States, to be carried out without interference from the Federal Government.

(b) PURPOSES.—The purposes of this title are—

(1) to reform juvenile law so that the paramount concerns of the juvenile justice system are providing for the safety of the public and helping juvenile offenders accountable for their actions, while providing the wrongdoer a genuine opportunity for self-reform; and

(2) to revise the procedures in Federal courts that are applicable to the prosecution of juvenile offenders;

(3) to address specifically the problem of violent crime and controlled substance offenses committed by youth gangs; and

(4) to encourage and promote, consistent with the ideals of federalism, adoption of policies by the States to ensure that the victims of crimes of violence committed by juveniles receive the same level of justice as do victims of violent crimes that are committed by adults.

SEC. 1103. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such any person or circumstance shall not be affected thereby.

Subtitle A—Juvenile Justice Reform

SEC. 1111. REPEAL OF GENERAL PROVISION.

(a) In general.—Chapter 401 of title 18, United States Code, is amended—

(1) by striking section 5001; and

(2) by redesigning section 5003 as section 5001.

(b) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 401 of title 18, United States Code, is amended—

(1) by striking the item relating to section 5001; and

(2) by redesigning the item relating to section 5003 as section 5001.

SEC. 1112. TREATMENT OF FEDERAL JUVENILE OFFENDERS.

(a) In general.—Section 5032 of title 18, United States Code, is amended to read as follows:

§ 5032. Delinquency proceedings in district courts; juveniles tried as adults; transfer for other criminal prosecution

(1) I N GENERAL.—Any offense tried in a district court of the United States under this section shall be open to the general public, in accordance with rules 10, 26, 34, 53 of the Federal Rules of Criminal Procedure, unless good cause is established by the moving party or is otherwise found by the court, for closure.

(2) STATUTES INAPPLICABLE.—The status of the defendant as a juvenile, absent other factors, shall not constitute good cause for purposes of this subsection.

(g) AVAILABILITY OF RECORDS.—

(1) In general.—In making a determination concerning the prosecution of a juvenile in a district court of the United States under this section, the United States Attorney of the appropriate jurisdiction shall have complete access to the prior Federal juvenile records of the subject juvenile, and to the extent permitted by State law, the prior State juvenile records of the subject juvenile.

(2) DISPOSITIONAL HEARING.—In any case in which a juvenile is found guilty in an action pursuant to this section, the district court responsible for imposing sentence shall have complete access to the prior juvenile records in the district in which the defendant resides and, to the extent permitted under State law, the prior Federal juvenile records of the subject juvenile. At sentencing, the district court shall consider the entire available prior juvenile record of the subject juvenile.

(3) RELEASE OF RECORDS.—The United States Attorney may release such Federal records, and to the extent permitted by State law, such State records, to law enforcement authorities of any jurisdiction and to officials of any school, school district, or school-related entity, for the purpose of determining whether a student who is the subject of the juvenile record is enrolled or seeks, or is instructed to enroll, in such school officials are held liable under Federal and State law, for the handling and disclosure of such information.

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 403 of title 18, United States Code, is amended in the first sentence by striking "attorney general" and inserting "United States Attorney of the appropriate jurisdiction.

SEC. 1113. CAPITAL CASES.

Section 3501 of title 18, United States Code, is amended by striking "18 years" each place that term appears and inserting "16 years".

SEC. 1114. DEFINITIONS.

Section 5031 of title 18, United States Code, is amended in the first sentence by striking "16 years" and inserting "16 years".

§ 5031. Definitions

"(b) JUVENILE.—In this chapter—

"(1) the term ‘juvenile’ means a person who is less than 18 years of age; and

"(2) the term ‘juvenile delinquency’ means the violation of a law of the United States committed by a juvenile that would be a crime if committed by an adult.

SEC. 1115. NOTIFICATION AFTER ARREST.

Section 5032 of title 18, United States Code, is amended in the first sentence by striking "Attorney General" and inserting "United States Attorney of the appropriate jurisdiction.

SEC. 1116. DETENTION PRIOR TO DISPOSITION.

Section 5035 of title 18, United States Code, is amended—

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

(2) by striking "18 years" and inserting "16 years".

SEC. 1117. SPEEDY TRIAL.

Section 3506 of title 18, United States Code, is amended—

(1) by striking "trial setting" and inserting "setting"; and

(2) by striking "the court," and all that follows through "the court," and inserting "the court. The periods of exclusion under section 3146(h) shall apply to this section.

SEC. 1118. DISPOSITIONAL HEARINGS.

Section 3507 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "(a)" and "all that follows through "After the"; and

(2) in subsection (b), by striking "extend—" and all that follows through "Section 3624".

(3) in subsection (c), by striking "extend—" and all that follows through "Section 3624".
and inserting the following: "extend beyond the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult. No juvenile sentenced to a term of imprisonment shall be released from custody simply because the juvenile reaches the age of 18 years. Section 3624.

(4) by redesigning subsection (d) as subsection (e); and

(5) by inserting after subsection (c) the following:

"(d) APPLICABILITY OF RESTITUTION PROVISIONS.—If a juvenile has been tried and convicted as an adult, or adjudicated delinquent for an offense with which the juvenile is otherwise tried pursuant to section 5032, the restitution provisions contained in this section have become final, shall be made available only as provided in applicable to an adult defendant; and

made available in the same manner as is applicable to an adult defendant."

"Fingerprints and photographs of a juvenile—§ 994(h) of title 28, United States Code, is amended by inserting ``, or in which the defendant is a juvenile who is tried as an adult,'' after "old or older".

Subtitle B—Juvenile Gangs

SEC. 1141. TITLE.

This subtitle may be cited as the "Federal Gang Violence Act".

SEC. 1142. INCREASE IN OFFENSE LEVEL FOR PATTERN OF CRIMES IN CRIME AS A GANG MEMBER.

(a) Definition.—In this section, the term "criminal street gang" has the same meaning as that term in title 18, United States Code, as amended by section 1243 of this title.

(b) Amendment of sentencing guidelines.—Pursuant to its authority under section 994(h)(1)(A) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement, increasing the offense level by not less than 6 levels, for any offense, if the offense was both committed in connection with, or in furtherance of, the activities of a criminal street gang and the defendant was a member of the criminal street gang at the time of the offense.

(c) Construction with other guidelines.—The amendment made pursuant to subsection (b) shall provide that the increase in the offense level shall be in addition to any other adjustment under chapter 3 of the Federal sentencing guidelines.

SEC. 1143. AMENDMENT OF TITLE 18 WITH RESPECT TO CRIMINAL STREET GANGS.

(a) In general.—Section 521 of title 18, United States Code, is amended—

(1) by striking the words "adult, and"

(2) by striking "and agreeing to money laundering,"

(3) by striking "offenses involving a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or"

(4) by striking "or in which the defendant is a juvenile who is tried as an adult,''

"(A) at least 1 of which was committed after the date of enactment of the Federal Gang Violence Act;" and

"(B) the first of which was committed not more than 5 years before the date of conviction of another predicate gang crime; and"

"(C) that were committed on separate occasions.

"(2) Predicate gang crime.—The term "predicate gang crime" means any offense, including an act of juvenile delinquency that, if committed by an adult, would be an offense that is—"

"(A) a federal offense—"

"(i) that is a crime of violence (as that term is defined in section 16) including carjacking, drive-by-shooting, shooting at an occupied dwelling or motor vehicle, assault with a deadly weapon, and homicide;"

"(B) that involved a controlled substance (as that term is defined in section 1012 of the Controlled Substances Act (21 U.S.C. 802)) for which the penalty is imprisonment for not less than 5 years;" and

"(iii) that is a violation of section 844, section 875 or 876 (relating to extortion and threats), section 1084 (relating to gambling), section 3555 (relating to gambling), chapter 44 (relating to firearms), or chapter 73 (relating to obstruction of justice);"

"(iv) that is a violation of section 1956 (relating to money laundering) for which the violation of such section is related to a federal or State offense involving a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or"

"(v) that is a violation of section 274A(1)(A), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324a(1)(A), 1327, or 1328) (relating to alien smuggling);"

"(B) the forfeiture prescribed in section 412 of the Controlled Substances Act (21 U.S.C. 853); and"

"(2) if any person engages in a pattern of crimes as described in subparagraph (A) or (B),

"(C) a conspiracy, attempt, or solicitation to commit an offense described in subparagraph (A) or (B);"

"(3) State.—The term ‘State’ includes a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and any other territory of possession of the United States.; and"

"(D) that were committed on separate occasions.

"(4) More than 5 years before the commission of an offense that is—"

"(A) a term of imprisonment of not less than 20 years and not more than life, fined in accordance with this title, or both; and"

"(B) the forfeiture prescribed in section 412 of the Controlled Substances Act (21 U.S.C. 853); and"

"(2) if any person engages in such activity after 1 or more prior convictions under this section have become final, shall be sentenced to—"

"(A) a term of imprisonment of not less than 20 years and not more than life, fined in accordance with this title, or both; and"

"(B) the forfeiture prescribed in section 412 of the Controlled Substances Act (21 U.S.C. 853)."

(b) Conforming amendment.—Section 3663c(4) of title 18, United States Code, is amended by inserting before "and" paragraph (c)(1)

"(1) the following: "section 1121 of the Controlled Substances Act (21 U.S.C. 852) for which the penalty is imprisonment for not less than 5 years;"

"(C) that were committed on separate occasions.

"(2) Pattern of criminal gang activity.—The term ‘pattern of criminal gang activity’ means the commission of 2 or more predicate gang crimes in connection with, or in furtherance of, the activities of a criminal street gang—"
"(A) travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to commit any crime of violence to further any unlawful activity; and

"(B) after travel or use of the mail or any facility in interstate or foreign commerce described in subparagraph (A), performs, attempts to perform, or conspires to perform an act described in clause (i) or (ii) of subparagraph (A), shall be fined under this title, imprisoned not more than 10 years, or both.

"(2) CRIMES OF VIOLENCE.—Any person who—

"(A) travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to commit any crime of violence to further any unlawful activity; and

"(B) after travel or use of the mail or any facility in interstate or foreign commerce described in subparagraph (A), performs, attempts to commit, or conspires to commit any crime of violence to further any unlawful activity, shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be sentenced to death or be imprisoned for life or for any term of years or for both.

"(2) DEFINITIONS.—In section 520b of title 18, United States Code, is amended by adding at the end the following:

"§ 522. Recruitment of persons to participate in criminal street gang activity

"(a) PROHIBITED ACTS.—Chapter 26 of title 18, United States Code, is amended by adding at the end the following:

"(c) DEFINITIONS.—In this section—

"(1) the term `crime of violence' has the same meaning as in section 16 of title 18, United States Code;

"(b) the term `criminal street gang' has the same meaning as in section 521(a) of title 18, United States Code, as amended by section 1243 of this title; and

"(c) the term `criminal street gang activity' has the same meaning as in section 1952(b) of title 18, United States Code, as amended by this section.

SEC. 1145. SOLICITATION OR RECRUITMENT OF PERSONS IN CRIMINAL GANG ACTIVITY

"(a) PROHIBITED ACT.—Chapter 26 of title 18, United States Code, as amended by adding at the end the following:

"§ 522. Recruitment of persons to participate in criminal street gang activity

"(a) PROHIBITED ACT.—It shall be unlawful for any person to—

"(1) use any facility in, or travel in, interstate or foreign commerce, or cause another to do so, to recruit, solicit, request, induce, counsel, command, or cause another person to be a member of a criminal street gang, or conspire to do so; or

"(2) recruit, solicit, request, induce, counsel, command, or cause another person to engage in a predicate gang crime for which such person may be prosecuted in a court of the United States, fined in accordance with this title, or both; and

"(b) PENALTIES.—A person who violates subsection (a) shall—

"(1) if the person recruited—

"(A) is a minor, be imprisoned for a term of not less than 4 years and not more than 10 years, fined in accordance with this title, or both; or

"(B) is not a minor, be imprisoned for a term of not less than 1 year and not more than 10 years, fined in accordance with this title, or both; and

"(2) be liable for any costs incurred by the Federal Government or by any State or local government for housing, maintaining, and treating the minor until the minor reaches the age of 18.

"(c) DEFINITIONS.—In this section—

"(1) the terms `criminal street gang' and `predicate gang crime' have the same meanings as in section 521; and

"(2) the term `minor' means a person who is younger than 18 years of age.

"(b) SENTENCING ENHANCEMENT.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend chapter 2 of the Federal sentencing guidelines to provide an appropriate sentencing enhancement for any offense involving the recruitment of a minor to participate in a gang activity.

"(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 26 of title 18, United States Code, is amended by adding at the end the following:

"§ 522. Recruitment of persons to participate in criminal street gang activity

SEC. 1146. ARMED CAREER CRIMINAL PREDICATES

"(1) by striking subparagraph (A);

"(2) by redesigning subparagraph (B) as subparagraph (A); and

"(3) in subparagraph (A), as redesignated—

"(A) by striking—

"(B) A person other than a juvenile who knowingly'';

"(C) the term `unlawful activity' has the same meaning as in section 16 of title 18, United States Code; and

"(D) the term `crime of violence' has the same meaning as in section 16 of title 18, United States Code, as amended by section 1243 of this title.

SEC. 1147. TREASURY OF THE UNITED STATES

"(A) the term `crime of violence' has the same meaning as in section 16 of title 18, United States Code, as amended by section 1243 of this title; and

"(B) the term `criminal street gang' has the same meaning as in section 521(a) of title 18, United States Code, as amended by section 1243 of this title; and

"(C) the term `criminal street gang activity' has the same meaning as in section 1952(b) of title 18, United States Code, as amended by this section.

SEC. 1148. AMENDMENT OF SENTENCING GUIDELINES WITH RESPECT TO BODY ARMOR.

"(a) DEFINITIONS.—In this section—

"(1) the term `body armor' means any protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment; and

"(2) the term `law enforcement officer' means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any criminal law.

"(b) PENALTIES.—The United States Sentencing Commission shall amend chapter 2 of the Federal sentencing guidelines to provide an appropriate sentencing enhancement, increasing the offense level not less than 2 levels, for any crime in which the defendant used body armor.

"(c) APPLICABILITY.—No Federal sentencing guideline amendment made pursuant to this section shall apply if the Federal crime in which the body armor is used constitutes a violation of, attempted violation of, or conspiracy to violate the civil rights of a person by a law enforcement officer acting under color of the authority of such law enforcement officer.

SEC. 1149. ADDITIONAL PROSECUTORS.

There are authorized to be appropriated $20,000,000 for each of the fiscal years 1998, 1999, 2000, and 2001 for the hiring of Assistant United States Attorneys and attorneys in the Criminal Division of the Department of Justice to prosecute juvenile criminal street gang crimes (as that term is defined in section 521(a) of title 18, United States Code, as amended by section 1243 of this subtitle).

SEC. 1150. JUVENILE CRIME CONTROL AND ACCOUNTABILITY

SEC. 1151. FINDINGS; DECLARATION OF PURPOSE; DEFINITIONS.

Title I of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended to read as follows:
"TITLE I—FINDINGS AND DECLARATION OF PURPOSE

"SEC. 101. FINDINGS. "Congress finds that—
(1) during the past several years, the United States has experienced an alarming increase in arrests of adolescents for murder, assault, and weapons offenses;
(2) in 1994, juveniles accounted for 1 in 5 arrests, convictions, including murder, robbery, aggravated assault, and rape, including 524 such arrests per 100,000 juveniles 10 through 17 years of age;
(3) overcrowded juvenile courts, prosecutorial and public defender offices, probation services, and correctional facilities have longer adequately addressed the changing nature of juvenile crime, protect the public, and correct youth offenders;
(4) the juvenile justice system has proven inadequate to meet the needs of society, because insufficient sanctions are imposed on serious youth offenders and the needs of children, who may be at risk of becoming delinquents;
(5) existing programs and policies have not adequately responded to the particular threat of drugs, alcohol abuse, violence, and gangs pose to the youth of the Nation;
(6) increases projected in the number of youth offenders require reexamination of the prosecution and incarceration policies of a significant nature;
(7) State and local communities that experience directly the devastating failures of the juvenile justice system require assistance to deal comprehensively with the problems of juvenile delinquency;
(8) existing Federal programs have not provided the States with necessary flexibility, and have not provided coordination, resources, and leadership required to meet the crisis of youth violence.
(9) Overlapping and coordinated Federal programs have created a multitude of Federal funding streams to State and local governments, that have become a barrier to effective program coordination, responsive public safety initiatives, and the provision of comprehensive services for children and youth.
(10) Violent crime by juveniles constitutes a threat to the national welfare that requires an immediate and comprehensive governmental response, combining flexibility and coordinated evaluation.
(11) juveniles are being wasted complying with the unnecessary Federal mandate that static offenders be desinstitnalized. Some communities believe these programs appropriate for juveniles, and those communities should not be prohibited from using confinement for status offenses as a means of dealing with delinquent behavior before it becomes criminal conduct.
(12) limited State and local resources are being wasted complying with the unnecessary Federal mandate that no juvenile be detained or confined in any jail or lockup for adults, because it can be feasible to separate adults and juveniles in 1 facility. This mandate burdensome for rural communities.
(13) the role of the Federal Government should be to encourage and empower communities to develop and implement policies to protect adequately the public from serious juvenile crime as well as comprehensive programs to reduce risk factors and prevent juvenile delinquency.
(14) A strong partnership among law enforcement, local government, juvenile and family courts, schools, businesses, philanthropic foundations, families, and the larger community, can create a community environment that supports the youth of the Nation in reaching their highest potential and reduces the destructive trend of juvenile crime.

"SEC. 102. PURPOSE AND STATEMENT OF POLICY. "(a) IN GENERAL.—The purposes of this Act are—
(1) to protect the public and to hold juveniles accountable for their acts;
(2) to develop and implement comprehensive programs to support families and reduce risk factors and prevent serious youth crime and juvenile delinquency;
(3) to provide for the thorough and ongoing evaluation of all federally funded programs addressing juvenile crime and delinquency;
(4) to provide technical assistance to public and private nonprofit entities that protect public safety, administer justice and corrections to delinquent youth, or provide services to youth at risk of delinquency, and their families;
(5) to establish a centralized research effort on the problems of youth crime and juvenile delinquency, including the dissemination of the findings of such research and related data;
(6) to establish a Federal assistance program to deal with the problems of runaway and homeless youth;
(7) to assist States and local governments in improving the administration of justice for juveniles;
(8) to assist the States and local governments in reducing the level of youth violence;
(9) to assist States and local governments in promoting public safety by supporting juvenile delinquency prevention and control activities;
(10) to encourage and promote programs designed to keep school juvenile delinquents expelled or suspended for disciplinary reasons;
(11) to assist State and local governments in promoting public safety by encouraging accountability through the imposition of meaningful sanctions for acts of juvenile delinquency;
(12) to assist States and local governments in promoting public safety by improving the extent, accuracy, availability and usefulness of juvenile court and law enforcement records and the openness of the juvenile justice system;
(13) to assist State and local governments in promoting public safety by encouraging the identification of violent and hardcore juveniles and transferring such juveniles out of the jurisdiction of the juvenile justice system and into the jurisdiction of adult criminal court;
(14) to assist State and local governments in promoting public safety by providing resources to States to build or expand juvenile detention facilities;
(15) to provide for the evaluation of federally assisted juvenile crime control programs, and training necessary for the establishment and operation of such programs;
(16) to ensure the dissemination of information regarding juvenile crime control programs by providing a national clearinghouse and;"
"(B) authorize successive rededegations of such functions as may be necessary or appropriate.

(2) RESPONSIBILITY.—No delegation of functions by the Administrator under this subsection or under any other provision of this title shall relieve the Administrator of responsibility for the administration of such functions.

(e) REORGANIZATION.—The Administrator may allocate or reallocate any function transferred among the officers of the Office, and consolidate, alter, or discontinue such organizational entities in that Office as may be necessary or appropriate.

(b) NATIONAL PROGRAM.—Section 204 of the Juvenile Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended to read as follows:

"SEC. 204. NATIONAL PROGRAM.

(a) National Juvenile Crime Control and Juvenile Offender Accountability Plan.

"(1) In general.—The Administrator shall develop objectives, priorities, and short- and long-term plans, and shall implement overall policy and a strategy to carry out such plan, for all Federal juvenile crime control and juvenile offender accountability programs and activities intended to improve juvenile crime control and the enhancement of accountability by offenders within the juvenile justice system in the United States.

"(2) Contents of plan.—

"(A) hard of the year, the Administrator shall publish a report on the activities related to the National Juvenile Crime Control and Juvenile Offender Accountability Plan. Each report shall contain information on the accomplishments of the Plan, the activities of the National Juvenile Crime Control and Juvenile Offender Accountability Program, and the performance of the Plan.

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"(2) Submission of Juvenile Offender Accountability Budget Request.—

"(A) in general.—Each Federal Government program manager, agency head, and department head with responsibility for any Federal juvenile crime control or juvenile offender accountability program shall submit the juvenile crime control and juvenile offender accountability budget request of the program, agency, or department to the Administration at the same time as such request is submitted to their superiors (and before submission to the Office of Management and Budget). The budget request of the President submitted to Congress under section 1105(a) of title 31, United States Code.

"(B) Timely Development and Submission.—The head of each department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountable budget request to the Administrator under paragraph (2).

"(C) in writing as to the adequacy of such request in whole or in part to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan for the year for which the request is submitted and, with respect to a request that is not certified as adequate to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan, in the certification an initiative or funding level that would make the request adequate and

"(D) notify the program manager, agency head, or department head, as applicable, regarding the certification of the Administrator under subparagraph (C).

"(3) Funding Requests.—The Administrator shall request the head of a department or agency to include in the budget submission of the department or agency to the Office of Management and Budget, funding requests for specific initiatives that are consistent with the priorities of the President for the National Juvenile Crime Control and Juvenile Offender Accountability Plan and certifications made pursuant to paragraph (2), and the head of the department or agency shall comply with such a request.

"(4) Reprogramming and Transfer Requests.—

"(A) in general.—No department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountable budget request shall submit to Congress a reprogramming or transfer request with respect to any amount of appropriated funds that is included in the National Juvenile Crime Control and Juvenile Offender Accountability Plan budget unless such request has been approved by the Administrator.

"(B) The head of any department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountable budget program may request any disapproval by the Administrator of a reprogramming or transfer request.

"(2) Review of appropriation requests.—Each Federal Government program manager, agency head, and department head with responsibility for any Federal juvenile crime control or juvenile offender accountable program shall submit the juvenile crime control and juvenile offender accountability budget request of the program, agency, or department to the Administrator at the same time as such request is submitted to their superiors (and before submission to the Office of Management and Budget). The budget request of the President submitted to Congress under section 1105(a) of title 31, United States Code.

"(B) in writing as to the adequacy of such request in whole or in part to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan for the year for which the request is submitted and, with respect to a request that is not certified as adequate to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan, in the certification an initiative or funding level that would make the request adequate and

"(C) notify the program manager, agency head, or department head, as applicable, regarding the certification of the Administrator under subparagraph (C).

"(3) Funding Requests.—The Administrator shall request the head of a department or agency to include in the budget submission of the department or agency to the Office of Management and Budget, funding requests for specific initiatives that are consistent with the priorities of the President for the National Juvenile Crime Control and Juvenile Offender Accountability Plan and certifications made pursuant to paragraph (2), and the head of the department or agency shall comply with such a request.

"(4) Reprogramming and Transfer Requests.—

"(A) in general.—No department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountable budget request shall submit to Congress a reprogramming or transfer request with respect to any amount of appropriated funds that is included in the National Juvenile Crime Control and Juvenile Offender Accountability Plan budget unless such request has been approved by the Administrator.

"(B) The head of any department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountable budget program may request any disapproval by the Administrator of a reprogramming or transfer request.

January 21, 1997

CONGRESSIONAL RECORD — SENATE

S215

"(2) Submission of Juvenile Offender Accountability Budget Request.—

"(A) in general.—Each Federal Government program manager, agency head, and department head with responsibility for any Federal juvenile crime control or juvenile offender accountable program shall submit the juvenile crime control and juvenile offender accountability budget request of the program, agency, or department to the Administrator at the same time as such request is submitted to their superiors (and before submission to the Office of Management and Budget). The budget request of the President submitted to Congress under section 1105(a) of title 31, United States Code.

"(B) Timely Development and Submission.—The head of each department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountable budget request to the Administrator under paragraph (2).

"(C) in writing as to the adequacy of such request in whole or in part to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan for the year for which the request is submitted and, with respect to a request that is not certified as adequate to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan, in the certification an initiative or funding level that would make the request adequate and

"(D) notify the program manager, agency head, or department head, as applicable, regarding the certification of the Administrator under subparagraph (C).

"(3) Funding Requests.—The Administrator shall request the head of a department or agency to include in the budget submission of the department or agency to the Office of Management and Budget, funding requests for specific initiatives that are consistent with the priorities of the President for the National Juvenile Crime Control and Juvenile Offender Accountability Plan and certifications made pursuant to paragraph (2), and the head of the department or agency shall comply with such a request.

"(4) Reprogramming and Transfer Requests.—

"(A) in general.—No department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountable budget request shall submit to Congress a reprogramming or transfer request with respect to any amount of appropriated funds that is included in the National Juvenile Crime Control and Juvenile Offender Accountability Plan budget unless such request has been approved by the Administrator.

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January 21, 1997

CONGRESSIONAL RECORD — SENATE

S215

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"(B) Timely Development and Submission.—The head of each department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountable budget request to the Administrator under paragraph (2).

"(C) in writing as to the adequacy of such request in whole or in part to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan for the year for which the request is submitted and, with respect to a request that is not certified as adequate to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan, in the certification an initiative or funding level that would make the request adequate and

"(D) notify the program manager, agency head, or department head, as applicable, regarding the certification of the Administrator under subparagraph (C).

"(3) Funding Requests.—The Administrator shall request the head of a department or agency to include in the budget submission of the department or agency to the Office of Management and Budget, funding requests for specific initiatives that are consistent with the priorities of the President for the National Juvenile Crime Control and Juvenile Offender Accountability Plan and certifications made pursuant to paragraph (2), and the head of the department or agency shall comply with such a request.

"(4) Reprogramming and Transfer Requests.—

"(A) in general.—No department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountable budget request shall submit to Congress a reprogramming or transfer request with respect to any amount of appropriated funds that is included in the National Juvenile Crime Control and Juvenile Offender Accountability Plan budget unless such request has been approved by the Administrator.

"(B) The head of any department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountable budget program may request any disapproval by the Administrator of a reprogramming or transfer request.
(7) Quarterly Reports.—The Administrator shall report to Congress on a quarterly basis regarding the need for any reprogramming or transfer of appropriated amounts from the Juvenile Crime Control and Juvenile Offender Accountability Plan activities.

(d) Information, Reports, Studies, and Surveys From Other Agencies.—The Administrator may require, through appropriate authority, Federal departments and agencies engaged in any activity involving any Federal crime control and juvenile offender accountability program to provide the Administrator with such information and data, and to conduct such studies and surveys, as the Administrator determines to be necessary to carry out the purposes of this title.

(1) Utilization of Services and Facilities of Other Agencies; Reimbursement.—The Administrator may utilize the services and facilities of any agency of the Federal Government or of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursements.

(1) Coordination of Functions of Administrator and Secretary of Health and Human Services.—All functions of the Administrator under title II shall be coordinated as appropriate with the functions of the Secretary of Health and Human Services under title I of the Public Health Service Act (42 U.S.C. 201 et seq.).

(2) Contents.—Each development statement submitted under paragraph (1) shall contain such information, data, and analyses as the Administrator may require. Such analyses shall include an analysis of the extent to which the programs of the Federal Government, as described in the development statement conforms with and furthers Federal juvenile crime control and juvenile offender accountability goals and policies.

(3) Review and Comment.—(A) In General.—The Administrator shall review and comment on each, and upon each phase of, the Federal crime control and juvenile offender accountability development statement transmitted to the Administrator under paragraph (1).

(B) Inclusion in Other Documentation.—Such development statement, together with the comments of the Administrator, shall be included by the Federal agency involved in every request or application for such agency for Federal legislation that significantly affects juvenile crime control and juvenile offender accountability.

(C) Juvenile Crime Control and Juvenile Offender Accountability Incentive Block Grants.—(1) In General.—The Administrator shall make, subject to availability of appropriations, grants to States to assist them in planning, establishing, operating, coordinating, and evaluating projects, directly or through contracts with public and private agencies, for the development of more effective investigation, prosecution, and punishment (including the imposition of graduated sanctions, including, but not limited to, treatment of the most serious juvenile offenses and offenders, sometimes known as a ‘SHOCAP Program’ (Serious Habitual Offenders Comprehensive Action Program)).

(2) Use of Grants.—Grants under this title may be used—

(A) for programs to enhance the identification, prosecution, and punishment of juvenile offenders, such as—

(i) the utilization of graduated sanctions;

(ii) the utilization of short-term confinement of offenders who are charged with or who are convicted of—

(I) a crime of violence (as that term is defined in section 16 of title 18, United States Code);

(II) an offense involving a controlled substance (as defined in section 922(a) of title 18, United States Code); or

(iii) an offense involving possession of a firearm (as that term is defined in section 922(a) of title 18, United States Code);

(iv) the hiring of prosecutors, judges, and probation officers to implement policies to control and ensure accountability of juvenile offenders; and

(v) the incarceration of violent juvenile offenders for a period of time (including up to the length of adult sentences);

(B) for programs that provide restitution to the victims of crimes committed by juveniles;

(C) for programs that require juvenile offenders to attend and successfully complete school or vocational training;

(D) for programs that require juvenile offenders who are parents to demonstrate parental responsibility by working and paying child support;

(E) for programs that seek to curb or punish truancy;

(F) for programs designed to collect, record, and disseminate information useful in the identification, prosecution, and sentencing of offenders, such as criminal history information, fingerprints, and DNA tests;

(G) for programs that provide that, whenever a juvenile who is less than 14 years of age is adjudicated delinquent, as defined by Federal or State law in a juvenile delinquency proceeding for conduct that, if committed by an adult, would constitute a felony under Federal or State law, the State shall ensure that a record is kept relating to the adjudication that is—

(i) equivalent to the record that would be kept of an adult conviction for such an offense;

(ii) retained for a period of time that is equal to the period of time that records are kept for adult convictions;

(iii) made available to law enforcement agencies of any jurisdiction; and

(iv) made available to officials of a school, school district, or postsecondary school where the individual who is the subject of the juvenile record seeks, intends, or is instructed to enroll, and that such officials are held liable to the same standards and penalties that law enforcement and juvenile justice system employees are held liable to, under Federal, State, or local law, for handling and disclosing such information;

(H) for juvenile crime control and prevention programs (such as curfews, youth organizations, andantisocial behavior programs, and after school activities that include a rigorous, comprehensive evaluation component that measures the decrease in juvenile delinquency and employs scientifically valid standards and methodologies; and

(I) for the development and implementation of coordinated multi-jurisdictional or multiagency programs for the identification, control, supervision, prevention, investigation, treatment, and prosecution of juvenile offenders and offenders, sometimes known as a ‘SHOCAP Program’ (Serious Habitual Offenders Comprehensive Action Program).
give substantial weight to the effectiveness whether to renew a grant to an entity to office may renew grants made under this title. mentation on individuals or any research in-\nany biomedical or behavior control experi-\nment shall be conducted by an independent \nsection 204(h) or part B shall be allo-\nthe State office should 
require. (m) R ENEWAL OF GRANTS.ÐThe State of-\nment exercises its authority under religious \nmeasures directly affecting the operation of \nany local council, or any similar gov-\norganization's exemption provided under sec-\nFICIARIES.ÐExcept as otherwise provided in \norganization, or which is or applies to be a contrac-\nance, or which is or applies to be a contrac-\nto favor or oppose any Act, bill, resolution, \nstates and the Commonwealth of the Northern Mariana Islands shall \nnot be less than $75,000 and not more than \nRELOCATION PROHIBITED.ÐAny amounts \npropriate but not allocated due to the \neligibility or nonparticipation of any State or otherwise, shall \namounts made available under this title to any public or \norganization to any individual under this \nauthority under religious organizations are eligible, on the same basis as any other nongovernmental provider without im-\nstitutions, or to any individual under this title, the State in which the individual re-\nfund funds under such programs shall discrimi-\nate against an individual which is or applies to \norganization or institution which from the juvenile of-\nvironment and certain alcohol treatment pro-\nplaints, or other forms of dis-\nment clause of the United States Constitution. \norganization, after their religious worship, instruction, or proselytization.

"(iii) RELIGIOUS ORGANIZATIONS.ÐAny religious organization that participates in a program authorized by this title shall retain its inde-\npendence from Federal, State, and local gov-\n\norganizations, and without impairing the reli-
acter, or which accepts certificates, vouchers, or other forms of dis-\nment exercises its authority under religious organizations are eligible, on the same basis as any other private organization, as con-\ncept of disbursement under any program de-\nare not precluded from providing religious services, or to allow religious organizations to \nsect with religious organizations to contract with religious organiza-
\norganization, after their religious worship, instruction, or proselytization.

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provision of a State constitution or State statute that prohibits or restricts the expenditure of State funds in or by religious organizations.

(S) by adding—

"(A) IN GENERAL.—If any amounts are used for the purposes prohibited in either subparagraph (D) or (E) of paragraph (4)—

"(i) the agency, organization, institution, or individual using amounts for the purposes prohibited in subparagraph (D) or (E) of paragraph (4) shall be liable for reimbursement of all amounts granted to the individual or entity for the fiscal year for which the amounts were granted;

"(B) LIABILITY FOR EXPENSES AND DAMAGES.—In relation to a violation of paragraph (4)(D) or (E), the individual filing the lawsuit or responsible for taking the legal action against the Federal, State, or local government, and any other expenses and any other expenses of the government agency, institution, or individual working for the Government, shall be individually liable for all legal expenses and any other expenses of the government agency, institution, or individual working for the Government, including damages assessed by the jury against the Government agency, institution, or individual working for the government, and any punitive damages.


SEC. 207. ADMINISTRATIVE PROVISIONS.

(a) Authority of Administrator.—The Office shall be administered by the Administrator under the general authority of the Attorney General.

(b) Applicability of Certain Crime Control Programs.—Sections 809(c), 811(a), 811(b), 811(c), 812(a), 812(b), and 812(d) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789d(c), 3789f(a), 3789f(b), 3789f(c), 3789g(a), 3789g(b), 3789g(d)) shall be applicable to amounts made available pursuant to this subsection, and allocated pursuant to paragraph (1) in any fiscal year shall remain available until expended.
(ii) for youth who need temporary placement, crisis intervention, shelter, and after-care; and

(iii) for youth who need residential placement, foster care or group home alternatives that provide access to a comprehensive array of services;

(B) community-based programs and services to develop and implement programs addressing the needs of juvenile families, including home alternatives that provide on-the-job training programs to assist communities, law enforcement, child protection agencies, mental health agencies, welfare services, health care agencies, and private nonprofit organizations providing youth services;

(C) projects designed to develop and implement programs stressing advocacy activities and services for protecting the rights of youth affected by the juvenile justice system;

(D) educational programs or supportive services for delinquent or other juveniles, provided equitably regardless of sex, race, or family income, designed to—

(i) encourage juveniles to remain in elementary and secondary schools or in alternative learning situations, including—

(I) education in settings that promote experiential, individualized learning and exploration of career options;

(ii) assistance in making the transition to the world of work and self-sufficiency;

(iii) alternatives to suspension and expulsion; and

(iv) programs to counsel delinquent juveniles and other juveniles regarding the opportunities that education provides; and

(v) coordination with the local schools that such juveniles would otherwise attend, to ensure that—

(I) the instruction that juveniles receive outside school is closely aligned with the instruction provided in school; and

(II) information regarding any learning problems identified in such alternative learning situations are communicated to the schools;

(F) expanded use of home probation and recruitment and training of home probation officers, other professional and paraprofessional personnel, and volunteers to work effectively to allow youth to remain at home with their families as an alternative to incarceration or institutionalization; and

(G) youth-initiated outreach programs designed to assist youth (including youth with limited proficiency in English) who otherwise may be neglected by traditional youth assistance programs;

(H) programs designed to develop and implement projects relating to juvenile delinquency, including—

(i) programs designed to provide for the treatment of youths’ dependence on or abuse of alcohol or other addictive or nonaddictive drugs;

(ii) education programs (and projects) for delinquent and at-risk youth designed to prevent juvenile delinquency;

(iii) programs for positive youth development that target at-risk and other youth in obtaining—

(A) a sense of safety and structure;

(B) a sense of belonging and membership;

(C) a sense of self-worth and social contribution;

(D) a sense of independence and control over one’s life;

(E) a sense of closeness in interpersonal relationships; and

(F) a sense of competence and mastery including those related to health, personal and social competence, cognitive and creative competence, vocational competence, and citizenship competence, including ethics and participation;

(I) programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in risk, take into account the specific circumstances in response to that behavior, are designed to—

(i) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded uses of probation, treatment, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

(ii) assist in the provision by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior;

(N) programs designed to prevent and reduce hate crimes committed by juveniles, including educational programs and sentencing programs designed specifically for juveniles who commit, and that provide alternatives to incarceration; and

(O) programs (including referral to, and coordination with, non-Federal funds; and

(P) programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in risk, take into account the specific circumstances in response to that behavior, are designed to—

(i) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded uses of probation, treatment, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

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(ii) assist in the provision by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior;

(N) programs designed to prevent and reduce hate crimes committed by juveniles, including educational programs and sentencing programs designed specifically for juveniles who commit, and that provide alternatives to incarceration; and

(O) programs (including referral to, and coordination with, non-Federal funds; and

(P) programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in risk, take into account the specific circumstances in response to that behavior, are designed to—

(i) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded uses of probation, treatment, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

(ii) assist in the provision by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior;
SEC. 1166. TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS.

(a) DEFINITIONS.—In this section, unless otherwise provided or indicated by the context—

(1) the term "Administrator" means the Administrator of the Office of Juvenile Crime Control and Accountability;";

(2) by striking section 404; and


(b) TRANSFER OF FUNCTIONS.—There are transferred to the Office of Juvenile Crime Control and Accountability all functions that the Administrator of the Office exercised before the date of enactment of this Act (including all related functions of any officer or employee of the Office of Juvenile Justice and Delinquency Prevention), and authorized after the enactment of this Act, relating to carrying out the Juvenile Justice and Delinquency Prevention Act of 1974, as in effect on the day before the date of enactment of this Act; and

(c) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—

(1) in general.—Except as otherwise provided in this section, the person in such new position.

(2) amounts appropriated to such functions shall be used only for the purposes for which the amounts were originally authorized and appropriated.

(B) ORDERS; APPEALS; PAYMENTS.—Orders shall be issued in such proceedings, appeals shall be taken, and payments shall be made pursuant to such orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, or by a court of competent jurisdiction, or by operation of law.

(5) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Office of Juvenile Justice and Delinquency Prevention relating to a function transferred under this section may be continued, to the extent authorized by this section, by the Office of Juvenile Crime Control and Accountability with the same effect as if this section had not been enacted.

(g) TRANSITION.—The Administrator may utilize—

(A) the services of such officers, employees, and other personnel of the Office of Juvenile Justice and Delinquency Prevention with respect to functions transferred under this section but such services need not be continued or modified if this section had not been enacted.

(2) amounts appropriated to such functions after the date of enactment of this Act that are reasonably needed to facilitate the orderly implementation of this section.
(h) REFERENCES.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the Administrator of the Office of Juvenile Justice and Delinquency Prevention with regard to functions transferred by operation of subsection (b), shall be considered to refer to the Director of the Office of Juvenile Justice and Delinquency Prevention with regard to functions transferred by operation of subsection (b), shall be considered to refer to the Office of Juvenile Justice and Delinquency Prevention; and

(2) the Office of Juvenile Justice and Delinquency Prevention with regard to functions transferred by operation of subsection (b), shall be considered to refer to the Office of Juvenile Justice and Delinquency Prevention; and

SEC. 1167. REPEAL OF UNNECESSARY AND DUPLICATE PROGRAMS.

(a) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—


(b) ELEMENTARY AND SECONDARY EDUCATION ACT.—

(1) TITLE IV.—Title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 721) is repealed.


(c) PUBLIC HEALTH SERVICE ACT.—Section 317 of the Public Health Service Act (42 U.S.C. 295b-21) is repealed.

(d) HUMAN SERVICES REAUTHORIZATION ACT.—Section 408 of the Human Services Reauthorization Act is repealed.

(e) COMMUNITY SERVICES BLOCK GRANTS ACT.—Section 802 of the Community Services Block Grants Act (42 U.S.C. 11351) is repealed.


SEC. 1169. CIVIL MONETARY PENALTY SURCHARGE.

(a) IMPOSITION.—Subject to subsection (b) and notwithstanding any other provision of law, a surcharge of 40 percent of the principal amount of a civil monetary penalty shall be added to each civil monetary penalty assessed under United States law, or any agency thereof at the time the penalty is assessed.

(b) LIMITATION.—This section does not apply to any monetary penalty assessed under the Internal Revenue Code of 1986.

(c) USE OF SURCHARGES.—Amounts collected from surcharges imposed under this section shall be used for Federal programs to combat youth violence.

(d) EFFECTIVE DATES.—

(1) GENERAL.—A surcharge under subsection (b) shall be added to each civil monetary penalty assessed on or after the later of October 1, 1997 and the date of enactment of this Act.

(2) EXPIRATION OF AUTHORITY.—The authority to add a surcharge under this subsection shall terminate at the close of September 30, 2000.

Mr. ASHCROFT. Mr. President, I am delighted to have the opportunity to be here to introduce this legislation, which I introduced with Senators Hutchinson, Lott, Nickles, Craig, Collins, Enzi, Grassley, Coats, WARNER, HELMS, B. SMITH, and GRAMM, the Family Friendly Workplace Act. This important legislation is designed to promote family-friendly workplace policies and to help families balance work and family responsibilities. The Family Friendly Workplace Act is a way of helping people do just that—meet their responsibilities to their employer and to their families. Frankly, it is a way of doing it without taking a pay cut.

Now, some have suggested that the way to do this is to have a family leave policy that allows workers to simply take time off work without pay. Well, that really exacerbates some of the tension in our family lives, because we have financial tension as well as this social tension that stretches us between the workplace and the home place. So, really, what we have in the Family Friendly Workplace Act is the ability to have flexible working arrangements at the option of the employee and at the request of the employee, when the employer will agree, that allows a person, for instance, to take time off on Friday afternoon and to make it up on Monday.

Most Americans don't realize it, but it is against the law for an employer to agree with his employee that the employee can take time off on Friday afternoon to see his daughter get an award at the local high school and then to make it up that same time on Monday. The strict laws about hours and overtime make it difficult for that to happen, make it impossible, make it illegal.

Those laws were developed in the 1930's. They put a lot of stress on American families. In the 1930's, we didn't have so many working mothers. One out of every 6 mothers of school-aged children worked in the 1930's, and 70 percent of children worked in the 1900's. As we move to the next century, it is time for us to revamp our approach and to welcome the next century by accommodating these competing demands.

Flexible work arrangements have been available to Federal Government workers since 1978—in the 1970's, 1980's, and 1990's. Government workers have had a special privilege. The Federal program has been so successful that the President of the United States, by Executive order in 1993 extended it to parts of the Federal Government that had not yet had the benefits of that program. It is high time that the workers in the private sector of this country enjoy the same benefits of agreeing with their employers on flexible working arrangements at the option of the worker, never to be imposed by the employer, which would allow the worker to accommodate the competing needs of family and the workplace.

Allowing workplace flexibility is a tremendous step forward. It has been asked for by the women of America as reflected in the Clinton administration document. It has been written about, like this Time Magazine article featuring the difficulties of Lori Lucas, a single mother, working full-time in Shrewsbury, Missouri. The President of the United States has talked about the need for family and the need to have it, and it is time for us to provide American people—albeit 15 or more years after we delivered it to the workers in the Federal Government.

I believe that working women know what they need. Working Women Magazine and Working Mother Magazine have endorsed it, and it is time to have those flexible working arrangements. Working Women Magazine said in its support of this legislation, that it is time for Congress to give women what they want, and not what you Congress thinks they need.

Similarly, when parents spend time at work, they can never replace that...
time with their families no matter how much overtime they may bring home. Sometimes people would like, instead of being paid time and a half for overtime, to take time and a half off sometime later in order to spend time with their families. Another part of this bill—to allow people to take as compensation for overtime—compensatory time instead of money. While it would allow a worker to ask for the money, the worker would have a complete, unchallenged and unfettered right to be paid money for the overtime.

This bill is really designed to give workers choices and the opportunity to choose to be with their families instead of being forced to take their overtime in money. For some workers, there comes a point when no matter how much money they have, they simply want and need to be able to spend some time with their families.

I am delighted that I have been joined in this particular endeavor in developing this legislation by one of the individuals who is most careful regarding the rights, options and choices of individuals not only in the workplace but as American citizens. I would like to thank the Senator from Texas, Senator Hutchison, who is the primary cosponsor of this legislation, the Family Friendly Workplace Act, and to call upon her for remarks.

The PRESIDING OFFICER (Mr. Frist). The Senator from Texas is recognized.

Mrs. Hutchison. Thank you, Mr. President. I thank the Senator from Missouri for providing leadership on this very important issue. He was out there fighting for this issue from the first day he came to the Senate, and he has certainly demonstrated his commitment to family flexibility throughout his Government career.

I am reminded of the speech that I heard by a very good friend, Congresswoman Susan Molinari, give this summer. Congresswoman Molinari is a working mom. She says what we need most as working moms in this country is more hours in the day. Senator Ashcroft and I would like to provide more hours in the day. That is not an option for us. But we are going to do something that we think will be second best to producing more hours in a day for a working mom or a working dad who wants to work.

This bill will primarily benefit the hourly employees in our country. Because salaried employees are presently exempt from many federal wage and hour laws, this is not as much an issue for them. They and their employers are able to work out flexible work arrangements. But in the hourly category, employers and employees do not have that option. They are not able to do what anybody would think in this country is common sense; and that is sit down and say, ‘‘Could I work 2 extra hours on Friday in order to take off at 3 o’clock to go to the PTA meeting on Monday?’’ That is what Senator Ashcroft and I would like to do with the Family Friendly Workplace Act that we have introduced today. It is a fact that in two-thirds of the households in this country, both the mother and the father are working. In fact, 75 percent of the mothers of young children are now in the workplace. So we must address the ever-increasing stresses of working moms and working dads—to allow them to have more time to do what they need to do to bring their families together and to keep them close-knit. This requires going to the PTA meetings, going to the afternoon basketball game, or to the soccer game, or whatever it is that will allow that family to bond together and maintain its strength, thereby strengthening our country. We all know that the family unit is the building block, and if we allow that to deteriorate, then nothing else is going to matter. In the history of civilization, no country has ultimately survived where the family unit has deteriorated.

That is why we are looking for creative ways to help the working family—and in this case it is the hourly wage working families who are struggling the hardest to make ends meet. They need the ability to do for their families while maintaining a good working relationship with their employers and preserving their family income.

The bill that Senator Ashcroft and I are introducing today will relieve stress in the family by allowing the employer and the hourly employee to sit down and negotiate to, for example, take off two hours today and work an additional two hours the following week; either to work an extra hour, every day and bank that time for use when a family need arises, or to work required overtime and have a choice about whether they take time-and-a-half compensation or time and a half hours because then they can bank that time and do even more with their families.

In fact, there was a poll conducted by Penn & Schen and Associates that revealed that 75 percent of all employees would like to have the ability to choose between getting time-and-a-half in either wages or time. Fifty-seven percent would take time off instead of being paid, if the option were available. So what are the options available? The Family Friendly Workplace Act makes these options available, on a totally voluntary basis. There are strict requirements in this law that will keep employers from, in any way, requiring an employee to work and not take overtime pay. We want to make sure that does not happen. That is why the law is written very carefully to make sure that it could not happen, and that it will only give employees the ability to voluntarily sit down and do what they think make sense for their schedules and needs.

Let me also mention that where there are union agreements in effect, this law will not affect those agreements. This legislation does not encroach on the collective bargaining of unions in any way. Rather, it would apply to employees who are not in unions, who now under a wage-and-hour law that says you cannot have the option of working a couple of hours on Friday in order to take off at 3 o’clock on Monday. That is exactly what Senator Ashcroft and I seek to enact with this legislation.

I commend Senator Ashcroft for his leadership in this area. We are going to work with our colleagues on both sides of the aisle and on both sides of the Rotunda to enact this very important legislation. We must grant hourly wage employees who have families in this country and the same options that people on salaries and, indeed, that federal employees already have.

Thank you, Mr. President. I yield back to the Senator from Missouri.

Mr. Ashcroft addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. Ashcroft. Mr. President, I thank the Senator from Texas for her very strong feelings on this issue and on her commitment to it. I know she is dedicated to helping resolve this. There is simply no reason why the Government of the United States should put a barrier between the employers and employees of America who want to resolve stresses and strengths. We should have laws that allow people to reach these judgments about flexibly and allocating time, with adequate protection which are enforcement mechanisms through the Department of Labor.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record there being no objection, the bill was ordered to be printed in the RECORD, as follows:

SEC. 2. PURPOSES.

The purposes of this Act are—
(1) to assist working people in the United States;
(2) to balance the demands of workplaces with the needs of families;
(3) to provide such assistance and balance such demands by allowing employers to offer compensatory time off, which employees may voluntarily elect to receive, and to establish biweekly work programs and flexible credit hours as have been enjoyed by Federal Government employees since 1978;
(4) to give private sector employees the same benefits of compensatory time off, biweekly work schedules, and flexible credit hours as have been enjoyed by Federal Government employees since 1978.

SEC. 3. WORKPLACE FLEXIBILITY OPTIONS.

(a) COMPENSATORY TIME OFF. — IN GENERAL.—Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended by adding at the end the following:
(r) Compensatory Time Off for Private Employees.—

(1) General rule.—

(A) Compensatory time off.—An employer may provide compensation in accordance with this subsection and in lieu of monetary overtime compensation, compensatory time off at a rate not less than one and one-half times the regular rate of compensation due in accordance with paragraph (6) for each overtime hour at a rate not less than one and one-half times the regular rate of compensation due in accordance with paragraph (6) for each overtime hour.

(B) Compensation date.—Not later than January 31 of each calendar year, the employer shall provide monetary compensation for any unused compensatory time off accrued during the preceding calendar year that was not used prior to December 31 of such calendar year and at the rate prescribed by paragraph (6). An employer may designate and communicate to the employees the employer's 12-month period for each calendar year, in which case such compensation shall be provided not later than 31 days after the end of such 12-month period.

(C) Use of 80 hours.—The employer may provide monetary compensation for an employee's unused compensatory time off in excess of 80 hours at any time after giving the employee at least 30 days' notice. Such compensation shall be provided at the rate prescribed by paragraph (6).

(D) Policy.—An employer that has adopted a policy providing compensatory time off to employees may discontinue such policy upon giving employees 30 days' notice.

(E) Written request.—An employer may withdraw an agreement or understanding described in paragraph (2)(A)(ii) at any time. An employee may also request in writing that monetary compensation be provided, at any time after the compensatory time off accrued that has not yet been used. Within 30 days after receiving the written request, the employer shall provide the employee the monetary compensation due in accordance with paragraph (6).

(4) Prohibition of coercion.—

(A) In general.—An employer that provides compensatory time off under paragraph (1) to employees shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of—

(i) interfering with the rights of the employee under this subsection to request or receive compensatory time off in lieu of payment of monetary overtime compensation for overtime hours; or

(ii) requiring the employee to use such compensatory time off.

(B) Definitions.—As used in subparagraph (A), the term 'intimidate, threaten, or coerce' has the meaning given the term in section 11(c), that the employee did not request the compensatory time off in lieu of payment of monetary overtime compensation for overtime hours; or

(iii) requiring the employee to use such compensatory time off.

(C) Excess of 80 hours.—The employer shall provide compensatory time off under paragraph (1) to employees for the purpose of—

(i) the regular rate received by such employee when the compensatory time off was earned; or

(ii) the final regular rate received by such employee when the compensatory time off was earned; or

(iii) the rate paid to such employee when the compensatory time off was earned.

(2) Remedies and sanctions.—Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended—

(A) in subsection (b), by striking "(b) Any employer" and inserting "(b) Except as provided in subsection (f), any employer"; and

(B) by adding at the end the following:

(f)(3) An employer that violates section 7(r)(4) shall be liable to the employee affected in an amount equal to—

(A) the product of

(i) the rate of compensation (determined in accordance with section 7(r)(6)(A)); and

(ii) the number of hours of compensatory time off involved in the violation that was initially accrued by the employee; minus

(iii) the number of such hours used by the employee; and

(B) as liquidated damages, the product of

(i) such rate of compensation; and

(ii) the number of hours of compensatory time off involved in the violation that was initially accrued by the employee.

(2) The employer shall be subject to such liability in addition to any other remedy or relief provided under this subchapter or under section 17, including a criminal penalty under subsection (a) and a civil penalty under subsection (e).

(3) Calculations and special rules.—Section 7(r) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(r)), as added by paragraph (1), is amended by adding at the end the following:

(5) Termination of employment.—An employee who has accrued compensatory time off of authorized to be provided under paragraph (1) shall, upon the voluntary or involuntary termination of employment, be paid for the unused compensatory time off in accordance with paragraph (6).

(6) Reimbursement for compensatory time off.—

(A) General rule.—If compensation is to be paid to an employee for accrued compensatory time off, such compensation shall be paid at a rate of compensation not less than—

(i) the regular rate received by such employee when the compensatory time off was earned; or

(ii) the final regular rate received by such employee, whichever is higher.

(B) Consideration of payment.—Any payment owed to an unpaid employee under this subsection for compensated time off shall be included in unpaid monetary overtime time.

(7) Use of time.—An employee—

(A) who has been compensated for compensatory time off authorized to be provided under paragraph (1); and

(B) who has requested the use of such compensatory time off shall be permitted by the employer of the employee to use such time within a reasonable period after making the request if the use of the compensatory time off does not unduly disrupt the operations of the employer.

(8) Definitions.—The terms 'monetary overtime compensation' and 'compensatory time off' shall have the meanings given in the terms 'overtime compensation' and 'compensatory time', respectively, by subsection (d).

(4) Notice to employees.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Labor shall issue regulations for purposes of a notice explaining the Fair Labor Standards Act to employees so that such notice reflects the amendments made to such Act by this section.

(b) Biweekly Work Programs and Flexible Credit Hour Programs.—

(1) In general.—The Fair Labor Standards Act of 1938 is amended by inserting after section 13 (29 U.S.C. 213) the following new section:

SECTION 13A. BIWEEKLY WORK PROGRAMS AND FLEXIBLE CREDIT HOUR PROGRAMS.

(a) Purposes.—The purposes of this section are—

(1) to assist working people in the United States;

(2) to balance the demands of work schedules with the needs of families;

(3) to provide such assistance and balance such demands by allowing employers to establish biweekly work programs and flexible credit hour programs, in which employees may voluntarily participate; and

(4) to give private sector employees the same benefits of biweekly work schedules and flexible credit hours as have been enjoyed by Federal Government employees since 1978.

(b) Biweekly Work Programs.—

(1) In general.—Notwithstanding any other provision of law, an employer may establish biweekly work programs that allow the use of a biweekly work schedule—

(A) that consists of a basic work requirement of not more than 80 hours, over a 2-week period; and

(B) in which more than 40 hours of the work requirement may occur in a week of the period.

(2) Computation of overtime.—In the case of an employee participating in such a biweekly work schedule, overtime shall be calculated in excess of such a biweekly work schedule or in excess of 80 hours in the 2-week period, that are requested in advance by an employer shall be voluntary.

(3) Overtime compensation provision.—The employee shall be compensated for each such overtime hour at a rate not less than the one and one-half times the regular rate at which the employee is employed, in accordance with section 7(a)(1), or receive compensatory time off in accordance with section 7(r)(4) at such overtime rate.

(4) Compensation for hours in schedule.—Notwithstanding section 7 or any other provision of law that relates to premium pay for overtime work, the employee shall be compensated for each hour in such a biweekly work schedule at a rate not less than the regular rate at which the employee is employed.

(c) Flexible Credit Hour Programs.—

(1) In general.—Notwithstanding any other provision of law, an employer may establish flexible credit hour programs under which, at the election of an employee, the employer and the employee jointly designate hours for the employee to work that are in excess of the basic work requirement of the employee so that the employee can accumulate flexible credit hours to reduce the hours
In a case in which a valid collective bargaining agreement provides for a flexible credit hour program, all hours worked in excess of 40 hours in a week that are requested in advance by an employer, other than flexible credit hours, shall be overtime hours.

(3) Overtime Compensation Provision. — The employee shall be compensated for each such overtime hour at a rate not less than the regular rate at which the employee is employed. In the case of employees in a unit represented by an exclusive representative, any biweekly work program or flexible credit hour program described in subsection (b) or (c), respectively, and the exclusions from the requirements of any such program, shall be subject to the provisions of this section and the terms of a collective bargaining agreement between the employer and the exclusive representative.

(4) Compensation for Flexible Credit Hours. — Notwithstanding section 7 or any other provision of law that relates to premium pay for overtime work, an employee shall be compensated for each flexible credit hour at a rate not less than the regular rate at which the employee is employed.

(5) Accumulation and Compensation. —

(A) Accumulation of Flexible Credit Hours. — An employee who is participating in such a flexible credit hour program and who is no longer subject to such a program shall be paid at a rate not less than the regular rate at which the employee is employed on the date the employee receives such payment, for not more than 50 flexible credit hours.

(B) Compensation for Annually Accumulated Flexible Credit Hours. —

(i) In General. — Not later than January 31 of each year, the employer of an employee who is participating in such a flexible credit hour program shall provide monetary compensation for any flexible credit hours accumulated as described in subparagraph (A) during the preceding calendar year that were not used prior to December 31 of such year.

(ii) Monthly Period. — An employer may designate and communicate to the employees of the employer a 1-month period other than the calendar year, in which case such compensation shall be provided not later than 31 days after the end of such 1-month period.

(d) Participation. —

(1) In General. — Except as provided in paragraph (2), no employee may be required to participate in a program described in this section. Participation in a program described in this section may not be a condition of employment.

(2) Collective Bargaining Agreement. — In a case in which a valid collective bargaining agreement exists, an employee may only be required to participate in such a program in accordance with the agreement.

(3) Prohibition of Coercion. —

(A) In General. — An employer may not directly or indirectly, threaten, coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of interfering with the rights of such employee to participate in, or not to participate in a biweekly work schedule, or to elect or not to elect to work a biweekly work schedule, to elect or not to elect to participate in a flexible credit hour program, or to elect or not to elect to work overtime hours (including working flexible credit hours in lieu of overtime hours).

(8) Flexible Credit Hours. — The term ‘flexible credit hours’ means any hours, within a flexible credit hour program established under subsection (c), that are in excess of 40 hours in a workweek that are not used prior to December 31 of such year and that are requested in advance by an employer.

(9) Overtime Hours. — The term ‘overtime hours’ means all hours worked in excess of 40 hours in a week that are requested in advance by an employer, other than flexible credit hours.

(10) Regular Rate. — The term ‘regular rate’ has the meaning given in the subsection (7).

(3) Prohibitions. —

(A) Purposes. — The purposes of this paragraph are to make violations of the biweekly work program and flexible credit hour programs by employers unlawful under the Fair Labor Standards Act of 1938, and to provide for appropriate remedies for such violations, including, as appropriate, fines, imprisonment, injunctive relief, and appropriate legal or equitable relief, including damages.

(B) Remedies and Sanctions. — Section 13(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)) is amended by inserting before the semicolon the following: ‘‘, or to violate any of the provisions of section 13(a);’’.

(C) Limitations on Salary Practices Relating to Exempt Employees. — Section 13(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(b)) is amended by adding at the end the following: ‘‘(mi)12(A) in the case of a determination of whether an employee is an exempt employee under subsection (a)(1), the fact that the employee is subject to deductions in compensation for—

(i) absences of the employee from employment for less than a full pay period, shall not be considered in making such determination.

(B) In the case of a determination described in subsection (a), an actual reduction in compensation of the employee may be considered in making the determination.

(C) For the purposes of this paragraph, the term ‘actual reduction in compensation’ does not include any reduction in accrued paid leave, or any other practice, that does not reduce the amount of compensation an employee receives for work performed.

(2) The payment of overtime compensation or other additions to the compensation of an employee employed on a salary based on hours worked shall not be considered in making the determination.

(D) For purposes of this paragraph, the term ‘actual reduction in compensation’ means all hours worked in excess of 40 hours in a week that are requested in advance by an employer.
We all know how difficult it is for working parents to balance the demands of work and family responsibilities. There are soccer games, parent-teacher conferences, and doctor's appointments that demand a few hours of time away from the workweek. One workplace law should allow workers the flexibility to work a few extra hours one week, in order to take time off later when they need to for family or personal reasons.

From my point of view, this allows workers to do the best job they can, while avoiding the higher costs of hiring temporary help. A written agreement between employer and employee is necessary. If the employer grants an employee a few hours of unpaid leave—merely has a policy which permits it—then the employee is entitled to the same amount of time off instead of cash.

The story of a woman from Poulteny, Vermont, near my home town, brought this home to me. She was employed as a school teacher in the midst of the Depression, and had the further good fortune to fall in love and get married to a man who was also employed. Upon her marriage, she quickly resigned from her job. When asked why decades later, she explained it was simply understood that you would not have two full-time jobs in one family.

Such taboos today are little more than an interesting historical footnote. With the rise of single parent families and the rise of working parents, it is incredibly difficult to balance the demands of work and family. That difficulty is increased if one spouse works full-time and the other part-time. In these circumstances, I am aware of the workweek, and the hours are adjusted to the workplace of the 21st century.

For example, the FLSA bars private employers from offering employees the choice of receiving overtime in the form of compensated time off instead of cash payment. But as Federal and public sector workers have had this option since 1985, private sector workers do not. Many employees do not necessarily want money as much as they do to attend family needs. A recent public opinion poll conducted by Lake Research which found that nearly two-thirds of poll respondents opposed the policy we propose. Frankly, if it was anything like what was described in the poll's question.

This is not to say that the question described in the survey does not exist. It does. It is not a question about whether workers wish to take partial day of unpaid leave can convert an exempt employee to a nonexempt one who is then allowed to take overtime, even if the worker has a six-figure income and is employed at the highest levels of the company. Multiply this over an entire salaried workforce, and the liability to public and private employers soars into the billions of dollars.

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The Product Liability Reform Act of 1997

Mr. ASHCROFT, Mr. President, let me quickly encapsulate this important piece of legislation for the American people.

Last year, in a bipartisan effort, we succeeded, and this year this bill is sponsored by a group of individuals including the chairman of the Commerce Committee, Senator McCaIN, Senator LOTT, Senator COVERDOLL, Senator MCCONNELL, Senator ABRAHAM, and Senator GRAMM, and I believe that we will again this year have a bipartisan approach. I have already spoken with a number of the people who were active in this measure—Senator GORTON, Senator ROCKEFELLER, Senator LIEBERMANN, Senator DODD. Last year's approach. We again have introduced a similar bill. This is a step on the road of reforming the legal system to provide reason and rationality where the legal system, the tort system has been out of control.

Three years ago, for general aviation, the private airplane business, the small plane business, we passed a law which provided a framework of responsibility which put that part of the tort system back under control. People applauded the idea. They said, "It won't help; it won't work to pass such a law." But we are now again building such airplanes in the United States. There are 9,000 new jobs in that industry alone because we made that decision, and the quality of the airplanes is better than it has ever been before. We have not deprived anyone of the capacity to receive compensatory damages as a result of inferior products or defects in products, and we want to extend the tort reform effort which began with general aviation a step further.

The second step we took last year, in 1996, when we enacted securities law tort reform. And that law went into effect this last year. So it is now time for us, having done the general aviation portion of legal reform and tort reform and having moved from that to the securities law, to move to manufacturing generally in the product liability area. It is time to bring sanity and reason to an out-of-control tort system which is hurting the quality of our products, stifling innovation and making it very difficult for some industries to survive here. I need not tell most folks that they have already made these kinds of adjustments in the European Economic Community and, of course, by our competition in the Pacific Rim. This is another step forward in tort reform, and I commend those who have agreed to help us in this respect. I look forward to working with Senators on the other side of the aisle. The President of the United States has repeatedly reiterated his desire to sign a good bill in this respect and we will be fashioning a bill this year. The bill which we have signed is the conference report from last year's effort which passed both Houses of the Congress, and it will provide a place holder as we assemble good legislation this year which we can send to the President and urge him to sign.

Mr. President, I thank you for the opportunity to introduce these two measures, S. 4 and S. 5.

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

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

S. 5

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Product Liability Reform Act of 1997".

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

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.

TITLE I—PRODUCT LIABILITY REFORM

Sec. 101. Definitions.
Sec. 102. Uniform standards for award of punitive damages.
Sec. 103. Workers' compensation subrogation.
Sec. 104. Defense based on claimant's use of intoxicating alcohol or drugs.
Sec. 105. Misuse or alteration.
Sec. 106. Uniform time limitations on liability.
Sec. 107. Alternative dispute resolution procedures.
Sec. 108. Uniform standards for award of punitive damages.
Sec. 109. Liability for certain claims relating to death.
Sec. 110. Similar liability for noneconomic injuries.
Sec. 111. Workers' compensation subrogation.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

Sec. 201. Short title.
Sec. 203. Definitions.
Sec. 204. General requirements; applicability; preemption.
Sec. 205. Liability of biomaterials suppliers.
Sec. 206. Procedures for dismissal of civil actions against biomaterials suppliers.

TITLE III—LIABILITY LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

Sec. 301. Effect of court of appeals decisions.
Sec. 302. Federal cause of action precluded.
Sec. 303. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) our Nation is overly litigious, the civil justice system is overcrowded, sluggish, and excessively costly and the costs of lawsuits, both direct and indirect, are inflicting serious and unnecessary injury on the national economy;

(2) excessive, unpredictable, and often arbitrary and unfair allocations of liability have a direct and undesirable effect on interstate commerce by increasing the cost and decreasing the availability of goods and services; and

(3) the rules of law governing product liability actions, damage awards, and allocations of liability have a direct and undesirable effect on interstate commerce.

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

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.

TITLE I—PRODUCT LIABILITY REFORM

Sec. 101. Definitions.
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Sec. 107. Alternative dispute resolution procedures.
Sec. 108. Uniform standards for award of punitive damages.
Sec. 109. Liability for certain claims relating to death.
Sec. 110. Similar liability for noneconomic injuries.
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TITLE II—BIOMATERIALS ACCESS ASSURANCE

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Sec. 302. Federal cause of action precluded.
Sec. 303. Effective date.

CONGRESSIONAL RECORD — SENATE

JANUARY 21, 1997
(45x66) economic loss'' means subjective, nonmone-
yary loss resulting from harm, including pain, suffering, inconvenience, mental suffer-
ing, emotional distress, loss of society and
companionship, loss of consortium, injury to
reputation, and humiliation.
(45x629) (13) PERSON. The term "person" means any
individual, corporation, company, associ-
ation, firm, partnership, society, joint
stock company, or any other entity (includ-
ing any governmental entity).
(45x653) (14) PRODUCT.---
(A) IN GENERAL. The term "product"
means any object, substance, mixture, or
raw material in a gaseous, liquid, or solid
state which
(i) is capable of delivery itself or as an as-
sembled whole, in a mixed or combined state,
or as a component of another product; or
(ii) is produced for introduction into trade
or commerce;
(iii) has intrinsic economic value; and
(iv) is intended for sale or lease to persons
for commercial or personal use.
(B) EXCLUSION. The term does not in-
clude
(i) tissue, organs, blood, and blood products
used for therapeutic or medical purposes, ex-
cept to the extent that such tissue, organs,
blood, and blood products (or the provision
thereof) are subject to the provisions of the
State law, to a standard of liability other than
negligence; or
(ii) electricity, water delivered by a utility,
natural gas, or steam except to the exten-
that electricity, water delivered by a utility,
natural gas, or steam, is subject, under appli-
cable State law, to a standard of
liability other than negligence.
(15) PRODUCT LIABILITY ACTION.---The term
"product liability action" means a civil ac-
tion brought on any theory for harm caused
by a product.
(16) PRODUCT SELLER.---
(A) IN GENERAL. The term "product sell-
er" means a person who in the course of a
business undertakes to sell, distribute, rent,
lease, prepare, blends, packages, labels, or otherwise is in-
volving in placing a product in the stream of
commerce; or
(ii) installs, repairs, refurbishes, recondi-
tions, or maintains the harm-causing aspect
of the product.
(B) EXCLUSION. The term "product seller"
do not include
(i) a seller or lessor of real property;
(ii) a provider of professional services in
any case in which the sale or use of a prod-
uct is incidental to the transaction and the
essence of the transaction is the furnishing
of judgment, skill, or services; or
(iii) any person who acts in only a financial
capacity with respect to the sale of a product;
or
(ii) leases a product under a lease arrange-
ment in which the lessor does not initially
select the leased product and does not during
the lease term ordinarily control the daily
operations and maintenance of the product.
(17) PUNITIVE DAMAGES.---The term "puni-
tive damages" means damages awarded
against any person or entity to punish or
deter such person or entity, or others, from
engaging in similar behavior in the future.
(18) STATE.---The term "State" means any
State of the United States, the District of
Columbia, Commonwealth of Puerto Rico,
the Northern Mariana Islands, the Virgin Is-
lands, Guam, American Samoa, and any
other territory or possession of the United
States or any political subdivision of any of
the foregoing.
SEC. 102. APPLICABILITY; PREEMPTION.---
(a) PREEMPTION.---
(1) IN GENERAL. This Act governs any
product liability action brought in any State
or Federal court on any theory for harm
caused by a product;
(2) ACTIONS EXCLUDED.---A civil action
brought for commercial loss shall be gov-
erned only by applicable commercial or con-
tract law.
(b) RELATIONSHIP TO STATE LAW.---This
title supersedes State law only to the extent
that State law applies to an issue covered by
this Act. Any issue that is not governed by
this title, including any standard of liability
applicable to a manufacturer, shall be gov-
erned by otherwise applicable State or Fed-
eral law.
(c) EFFECT ON OTHER LAW.---Nothing in this
Act shall be construed to
(1) waive or affect any defense of sovereign
immunity asserted by any State under any
law; or
(2) supersede or alter any Federal law; or
(3) waive or affect any defense of sovereign
immunity asserted by the United States;
(4) affect the applicability of any provision
of chapter 97 of title 28, United States Code;
(5) preempt State choice-of-law rules with
respect to claims brought by a foreign na-
tion or a citizen of a foreign nation;
(6) affect the right of any court to transfer
venue or to apply the law of a foreign nation
or to dismiss a claim of a foreign nation or
to a citizen of a foreign nation on the ground
of inconvenient forum; or
(7) supersede or modify any statutory or
common law, including any law providing for
an action to abate a nuisance, that author-
izes a person to institute an action for civil
damages or for civil penalties, cleanup costs,
injunctions, restitution, cost recovery, puni-
tive damages, or any other form of relief for
remediation of the environment (as defined
in section 1001(18) of the Comprehensive En-
vironmental Response, Compensation, and Li-
vability Act of 1980 (42 U.S.C. 9601(8)).
SEC. 103. LIABILITY RULES APPLICABLE TO
PRODUCT SELLERS, RENTERS, AND
LESSORS.---
(a) GENERAL RULE.---
(1) In general. In any product liability
action, a product seller other than a manufac-
turer shall be liable to a claimant only if
the claimant establishes
(1) that the product allegedly caused
the harm that is the subject of the complaint
was sold, rented, or leased by the product
seller;
(2) the product failed to exercise reasonable
care with respect to the product; and
(3) the failure to exercise reasonable
care was a proximate cause of harm to the
claimant;
(B) that the product seller made an express war-
 ranty applicable to the product that alleg-
edly caused the harm that is the subject of
the complaint, independent of any express
warranty made by a manufacturer as to the
same product;
(ii) the product failed to conform to the
warranty; and
(iii) the failure of the product to confor-
m to the warranty caused harm to the claim-
ant;
(iii) the product seller engaged in inten-
tional wrongdoing, as determined under ap-
licable State law; and
(ii) such intentional wrongdoing was a
proximate cause of the harm that is the sub-
ject of the complaint.
(2) REASONABLE OPPORTUNITY FOR INSPEc-
TION.---For purposes of paragraph (1)(A)(ii), a
product seller shall not be considered to
have failed to exercise reasonable care with
respect to a product based upon an alleged fail-
ure to inspect the product:
(i) if the product was sold, rented, or leased
because there was no reasonable opportunity to inspect the
product; or
(B) if the inspection, in the exercise of reasonable care, would not have revealed the aspect of the product which allegedly caused the claimant’s harm.

SPECIAL RULE.

(1) IN GENERAL.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product if—

(a) it did not participate in the product’s further service or process of the laws of any State in which the action may be brought; or

(b) the court determines that the claimant would have been unable to enforce a judgment against the manufacturer.

(2) STATUTE OF LIMITATIONS.—For purposes of this subsection only, the statute of limitations maintained by the manufacturer, asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer.

(c) RENTED OR LEASED PRODUCTS.—

(1) Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 101(16)(B) shall be subject to liability for a product liability action under subsection (a), but any person engaged in the business of renting or leasing a product shall not be liable to a claimant for the tortious act of another solely by reason of ownership of such product.

(2) For purposes of paragraph (1), and for determining the applicability of this title to any person subject to paragraph (1), the term “product liability action” means a civil action brought on any theory for harm caused by a product or product use.

(d) MISCONDUCT FOR NEGLIGENT ENTRUSTMENT.—A civil action for negligent entrustment shall not be subject to the provisions of this section, but shall be subject to any applicable State law.

SEC. 104. DEFENSE BASED ON CLAIMANT’S USE OF INTOXICATING ALCOHOL OR DRUGS.

(a) GENERAL RULE.—In any product liability action, it shall be a complete defense to such action if—

(1) the claimant was intoxicated or was under the influence of intoxicating alcohol or any drug when the accident or other event which resulted in such claimant’s harm occurred;

(2) the claimant, as a result of the influence of the alcohol or drug, was more than 50 percent responsible for such accident or other event;

(b) CONSTRUCTION.—For purposes of subsection (a)—

(1) the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law; and

(2) the term “drug” means any controlled substance as defined in the Controlled Substances Act (21 U.S.C. 802(6)) that was not legally prescribed for use by the claimant or that was taken by the claimant other than in accordance with the terms of a lawfully issued prescription.

SEC. 105. MISUSE OR ALTERATION.

(a) GENERAL RULE.—

(1) IN GENERAL.—In a product liability action, where the defendant is otherwise liable under Federal or State law shall be reduced by the percentage of responsibility for the claimant’s harm attributable to misuse or alteration of a product by any person if the defendant establishes that such percentage of the claimant’s harm was proximately caused by a use or alteration of a product by—

(A) in violation of, or contrary to, a defendant’s express warnings or instructions if the warnings or instructions are adequate as determined pursuant to applicable State law; or

(B) involving a risk of harm which was known or should have been known by the ordinary person who uses or consumes the product with the knowledge common to the class of persons who used or would be reasonably anticipated by the manufacturer.

(2) USE INTENDED BY A MANUFACTURER IS NOT MISUSE OR ALTERATION.—For the purposes of this Act, a use of a product that is intended by a manufacturer of the product is not misuse or alteration of the product.

(b) WORKPLACE INJURY.—Notwithstanding subsection (a), and except as otherwise provided in section 367(a) of the Longshore and Harbor Workers’ Compensation Act, the defendant is otherwise liable under State law shall not be reduced by the percentage of responsibility for the claimant’s harm attributable to misuse or alteration of a product if—

(A) the misuse or alteration is by the manufacturer’s employer or any employee who is immune from suit by the claimant pursuant to the State law applicable to workplace injuries.

SEC. 106. UNIFORM TIME LIMITATIONS ON LIABILITY ACTIONS.

(a) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (b), a product liability action may be filed not later than 2 years after the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered—

(A) the harm that is the subject of the action; and

(B) the cause of the harm.

(2) EXCEPTION.—A person with a legal disability (as determined under applicable law) may file an action not later than 2 years after the date on which the person ceases to have the legal disability.

(b) STATUTE OF REPOSE.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), any action asserted pursuant to the State law concerning a product, alleged to have caused harm (other than toxic harm) may be filed after the 15-year period beginning at the time of delivery of the product to the first purchaser or lessee.

(2) STATE LAW.—Notwithstanding paragraph (1), in any action under the State law, an action described in such paragraph is required to be filed during a period that is shorter than the 15-year period specified in such paragraph in the State law shall apply with respect to such period.

(c) EXCEPTIONS.—

(1) A motor vehicle, vessel, aircraft, or train, that is used primarily to transport passengers for hire, shall not be subject to this subsection.

(2) Paragraph (1) does not bar a product liability action against a manufacturer or a manufacturer’s agent who made or, in an express warranty in writing as to the safety or life expectancy of the specific product involved which was longer than 15 years, but it will apply at the expiration of that warranty.

(d) LIMITATION ON AMOUNT.—

(1) IN GENERAL.—The amount of punitive damages that may be awarded in an action described in subsection (a) may not exceed the greater of—

(A) 2 times the sum of the amount awarded to the claimant for economic loss and non-economic loss; or

(B) $250,000.

(2) SPECIAL RULE.—Notwithstanding paragraph (1), in any action described in subsection (a) against an individual whose net worth does not exceed $500,000 or against an association of individuals or any other partnership, corporation, association, unit of local government, or organization which has fewer than 25 full-time employees, the punitive damages shall not exceed—

(A) 2 times the sum of the amount awarded to the claimant for economic loss and non-economic loss; or

(B) $250,000.

For the purpose of determining the applicability of this paragraph to a corporation, the number of employees of a subsidiary or wholly-owned corporation shall include all employees of a parent or other corporation.

(3) EXCEPTION FOR INSUFFICIENT AWARD IN CASES OF EGRESS COUPLED CONDUCT.—

(1) DETERMINATION BY COURT.—If the court makes a determination after considering each of the factors in subparagraph (B), that the application of paragraph (1) would result in an award of punitive damages that is insufficient, the court may, if that the punitive damages are to be awarded or to deter such conduct in the future, the court shall determine an additional amount of punitive damages (referred to in this paragraph as the “additional amount”) in excess of the amount determined in accordance with paragraph (1) but shall not exceed the greater of—

(A) 2 times the amount determined in accordance with paragraph (1); or

(B) $250,000.

The court, upon motion by an offeror made prior to the expiration of the 10-day period specified in subsection (b), may, extend the period for filing a written notice under such subsection for a period of not more than 60 days after the date of expiration of the period specified in subsection (b). Discovery may be permitted during such period.

SEC. 107. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) SERVICE OF OFFER.—A claimant or a defendant in a product liability action may not later than 60 days after the service of—

(1) the initial complaint; or

(2) the applicable deadline for a responsive pleading;

whichever is later, serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure recognized under the law of the State in which the product liability action is brought or under the rules of the court in which such action is maintained.

(b) WRITTEN NOTICE OF ACCEPTANCE OR REJECTION.—Except as provided in subsection (a), an offeree shall file a written notice of acceptance or rejection of the offer.

(c) EXTENSION.—The court may, upon motion by an offeree made prior to the expiration of the 10-day period specified in subsection (b), extend the period for filling a written notice under such subsection for a period of not more than 60 days after the date of expiration of the period specified in subsection (b). Discovery may be permitted during such period.

SEC. 108. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant if the claimant establishes by clear and convincing evidence that conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the action in any product liability action.

(b) LIMITATION ON AMOUNT.—

(1) IN GENERAL.—The amount of punitive damages that may be awarded in an action described in subsection (a) may not exceed the greater of—

(A) 2 times the sum of the amount awarded to the claimant for economic loss and non-economic loss; or

(B) $250,000.

(2) SPECIAL RULE.—Notwithstanding paragraph (1), in any action described in subsection (a) against an individual whose net worth does not exceed $500,000 or against an association of individuals or any other partnership, corporation, association, unit of local government, or organization which has fewer than 25 full-time employees, the punitive damages shall not exceed—

(A) 2 times the sum of the amount awarded to the claimant for economic loss and non-economic loss; or

(B) $250,000.

For the purpose of determining the applicability of this paragraph to a corporation, the number of employees of a subsidiary or wholly-owned corporation shall include all employees of a parent or other corporation. For the purpose of determining the applicability of this paragraph to a corporation, the number of employees of a subsidiary or wholly-owned corporation shall include all employees of a parent or other corporation.
SEC. 110. SEVERAL LIABILITY FOR NON-ECONOMIC LOSS.

(a) GENERAL RULE.—In a product liability action, the liability of each defendant for non-economic loss shall be several only and shall not be joint.

(b) AMOUNT OF LIABILITY.

(1) IN GENERAL.—Each defendant shall be liable only for the amount of non-economic loss allocated to him pursuant to this subsection. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(c) BIFURCATION AT REQUEST OF ANY PARTY.

(1) IN GENERAL.—If, with respect to a product liability action that is subject to this Act, the manufacturer or product seller may be found liable under this Act, the court in which the product liability action is brought may, at the request of any party, order a bifurcation of the issues of liability and damages.

(2) IN GENERAL.—In any proceeding relating to a product liability action that is subject to this Act, an insurer may participate in the proceeding without being a necessary or proper party in the action.

(3) EFFECT OF SETTLEMENT.—If an insurer participates in the proceeding under paragraph (2), an insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer.

(4) LIMITATION.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(5) EFFECT OF SETTLEMENT.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(6) LIMITATION.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(7) EFFECT OF SETTLEMENT.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(8) LIMITATION.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(9) EFFECT OF SETTLEMENT.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(10) LIMITATION.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(11) EFFECT OF SETTLEMENT.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(12) LIMITATION.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(13) EFFECT OF SETTLEMENT.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(14) LIMITATION.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(15) EFFECT OF SETTLEMENT.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(16) LIMITATION.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(17) EFFECT OF SETTLEMENT.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(18) LIMITATION.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(19) EFFECT OF SETTLEMENT.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(20) LIMITATION.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(21) EFFECT OF SETTLEMENT.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(22) LIMITATION.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(23) EFFECT OF SETTLEMENT.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(24) LIMITATION.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(25) EFFECT OF SETTLEMENT.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(26) LIMITATION.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(27) EFFECT OF SETTLEMENT.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(28) LIMITATION.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(29) EFFECT OF SETTLEMENT.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(30) LIMITATION.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(31) EFFECT OF SETTLEMENT.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(32) LIMITATION.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(33) EFFECT OF SETTLEMENT.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(34) LIMITATION.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(35) EFFECT OF SETTLEMENT.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(36) LIMITATION.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(37) EFFECT OF SETTLEMENT.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(38) LIMITATION.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(39) EFFECT OF SETTLEMENT.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

(40) LIMITATION.—An insurer may not settle with or accept any payment from the manufacturer or product seller without written notice to the insurer if the insurer is not a party to the action.

Title II—Biomedical Materials Access Assurance Act

SEC. 201. SHORT TITLE

This title may be cited as the “Biomedical Materials Access Assurance Act of 1997”.

SEC. 202. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe.
and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) installation and support of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have a duty to provide an implant in the stream of commerce.

(SECTION 201(h) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT (21 U.S.C. 353(g)).) AND INCLUDES ANY DEVICE COMPONENT OF ANY COMBINATION PRODUCT AS THAT TERM IS USED IN SECTION 503(g) OF SUCH ACT (21 U.S.C. 353(g)).

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf of an estate of an individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(9) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(10) SELLER.—The term "seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional health care services or who, in any case in which the sale or use of an implant is incidental to the transaction; and

(iii) a person acting in the capacity of a manufacturer, seller, or biomaterials supplier.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this title; and

(B) shall be governed by applicable commercial or contract law.

(C) SCOPE OF PREEMPTION.—In general, this title supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this title establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this title and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(D) STATUTORY CONSTRUCTION.—Nothing in this title may be construed—

(1) to affect any defense available to a defendant under any provision of Federal or State law in an action alleging harm caused by an implant; or
(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 205. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(b) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller to a claimant caused by an implant if—

(1) the biomaterials supplier—

(A) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(i) the manufacture of the implant; and

(ii) the entrance of the implant in the stream of commerce;

(B) subsequently resold the implant; or

(2) the biomaterials supplier is related by ownership or control to a person meeting all the requirements described in paragraph (1), if a court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a seller because the related seller meeting the requirements of paragraph (1) failed to do so; or

(3) the biomaterials supplier—

(A) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(B) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section;

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts; or

(ii) published by the biomaterials supplier;

(ii) provided by the manufacturer to the biomaterials supplier;

(iii) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the Secretary for purposes of premarket approval of medical devices; or

(iv) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360i), and received clearance from the Secretary if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

(c) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under section 205.

(d) LIABILITY AS MANUFACTURER.—A defendant in a civil action for harm to a claimant caused by an implant, other than an action relating to liability for harm to a claimant caused by an implant as a party to the action, unless—

(1) the defendant is subject to service of process solely in a jurisdiction in which the defendant has committed an act that is the subject of the action, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(e) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a) or (2) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(f) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—In reponse to the motion to dismiss, the claimant may submit an affidavit demonstrating that the defendant has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 205(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 205(c).

(2) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(2)(B)(i) on the ground that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court.

(3) AFFIDAVITS RELATING STATUS OF DEFENDANT.—(A) IN GENERAL.—Except as provided in clauses (i) and (ii) of subparagraph (B), the application shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for harm to a claimant caused by an implant as a party to the action, unless—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of this section, be considered to be a manufacturer of the implant that is subject to such section; or

(ii) the defendant who filed the motion to dismiss is a seller of the implant that allegedly caused harm to the claimant; or

(B) the defendant has failed to establish, pursuant to section 205(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(iii) the defendant has failed to comply with the procedural requirements of subsection (b).

(b) MANUFACTURER OF IMPLANT SHALL BE NAMED AS PARTY.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(1) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(2) an action against the manufacturer is barred by applicable law.

(c) PROCEDURE ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) AFFIDAVITS RELATING TO LISTING AND DECEAULATIONS.—(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that the defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(2) AFFIDAVITS RELATING TO LISTING AND DECEAULATIONS.—(A) IN GENERAL.—(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) AFFIDAVITS RELATING TO LISTING AND DECEAULATIONS.—(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that the defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(2) AFFIDAVITS RELATING TO LISTING AND DECEAULATIONS.—(A) IN GENERAL.—(i) the pending motion to dismiss; or

(b) MANUFACTURER OF IMPLANT SHALL BE NAMED AS PARTY.—(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that the defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(b) MANUFACTURER OF IMPLANT SHALL BE NAMED AS PARTY.—(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that the defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).
The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 205 on the ground that the defendant is not a seller. The court shall not grant any motion to dismiss for liability as a seller unless the defendant meets the applicable requirements for liability as a seller under section 205(b). or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 205(c).

(b) Basis of ruling on motion to dismiss.

(A) In General. The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(2) discovery made pursuant to subsection (d).

(c) Summary judgment.

(1) In General.

(A) Basis for entry of judgment. A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds that there is no genuine issue as concerning any material fact to exist for each applicable element set forth in paragraphs (1) and (2) of section 205(d).

(2) Discussion with respect to a biomaterials supplier. A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment that the basis of the inapplicability of section 205(d) or the failure to establish the applicable elements of section 205(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(d) stay pending petition for declaratory judgment. A petitioner has filed a petition for declaratory judgment pursuant to section 205(c)(2)(A) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(e) manufacturer conduct of proceeding. The manufacturer of an implant that is the subject of an action covered under this title shall file a petition to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(f) attorney fees. The court shall require the claimant to compensate the biomaterials supplier or the manufacturer appearing in lieu of a supplier pursuant to subsection (f) for attorney fees and costs, if—

(1) the claimant or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

TITILE III—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

SEC. 301. EFFECT OF COURT OF APPEALS DECISIONS.

A decision by a Federal circuit court of appeals interpreting a provision of this Act except to the extent that the decision is overruled or otherwise modified by the Supreme Court shall be considered a controlling precedent with respect to any subsequent decision made concerning the interpretation of such provision by any Federal or State court in a subsequent proceeding within the moratorium period under subsection (a) of this section.

SEC. 302. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction pursuant to this Act based on section 1331 or 1337 of title 28, United States Code.

SEC. 303. EFFECTIVE DATE.

This Act shall apply with respect to any action commenced on or after the date of the enactment of this Act, with regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

Mr. McCain. Mr. President, the Product Liability Reform Act of 1997 overhauls an unfair and inefficient product liability system for the benefit of American consumers and entrepreneurs. The text of this bill will be familiar to all Senators who are veterans of the 104th Congress; it is the conference report the President approved over the objections of the Senate last year. Unfortunately, President Clinton vetoed that conference report, but I want to remind my colleagues that the President said in his veto statement "I support real common sense product liability reform." Well, Mr. President, we will soon again hold your words to task.

The introduction of this bill today, as one of the first 10 bills introduced in the Congress, is an indication of the importance the President and the Congress placed on this matter. Unfortunately, President Clinton vetoed that conference report, but I want to remind my colleagues that the President said in his veto statement "I support real common sense product liability reform." Well, Mr. President, we will soon again hold your words to task.

Now members from both sides of the aisle will undertake bipartisan discussions and diverse viewpoints will be addressed. In the last Congress Senator Gorton and Senator Rockefeller did an excellent job in developing a bipartisan consensus to pass this legislation and appreciate their hard work and dedication. Their efforts will be called on again. Senator Ashcroft has assumed the chairmanship of the Subcommittee with jurisdiction over this bill and I know he will be a valuable asset as this legislation advances.

As we address this important legislation I look forward to working with the President as well. The President’s veto statement outlined our concerns with the conference report. In my opinion, many of those concerns can be addressed easily and directly. Other issues, such as reform of punitive damages and joint and several liability, will require meaningful discussions.

I am nevertheless hopeful that those negotiations will succeed. I am encouraged that the President has strongly indicated his support for meaningful product liability reform. I recall that in the first Presidential debate with Senator Dole in October 1996, the President said, when discussing product liability, “we’re going to eliminate frivolous lawsuits, I’ll sign the bill.” In that debate, the President reminded the public that he has supported tort reform. In the past the President signed the General Aviation Revitalization Act which, by instituting a statute of repose, truly revitalized a withering industry and in the process created hundreds of high quality jobs.

As this legislation moves forward, I remind my colleagues that we must not let the perfect be the enemy of the good. Much is at stake. Federal liability legislation is urgently needed. The present system in the United States for resolving product liability actions is costly, slow, inequitable and unpredictable. I find it shocking that the system’s transaction costs exceed the compensation paid to individuals who have sustained injury. These transaction costs are inevitably passed on to consumers through higher product prices. The inefficiency and unpredictability of the product liability system has also stifled innovation, kept beneficial products off the market, and has handicapped American firms as they compete in a global market.

Consumers who are legitimately injured suffer most from this broken system. Many consumers who are injured by defective products and are in need of compensation are unable to recover damages or must wait years to recover them. They are thrown into a product liability litigation system where identical cases can produce shockingly different results. Sadly, severely injured victims tend to receive far less than their actual economic losses, while those with minor injuries often are dramatically overcompensated. This legislation will help fix this broken system. I feel it is important to emphasize that this legislation will greatly benefit consumers and it will not bar the door to the court house or limit the compensatory damages that an injured plaintiff can receive.

The malfunctions of this system are particularly evident in the area of bio- medical cases can produce shockingly different results. Sadly, severely injured victims tend to receive far less than their actual economic losses, while those with minor injuries often are dramatically overcompensated. This legislation will help fix this broken system. I feel it is important to emphasize that this legislation will greatly benefit consumers and it will not bar the door to the court house or limit the compensatory damages that an injured plaintiff can receive.

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me about their daughter’s desperate need for a specialized brain shunt. They were concerned this life-saving device may not be available for their daughter because companies were no longer willing to supply the raw materials necessary to the high risk of being unjustifiably sued.

In the last Congress, Senator Lieberman and I introduced legislation to address this problem. That legislation, the Biomaterials Access Assurance Act, became part of the product liability law. It was included in the Conference Report of the bill. In the closing weeks of the last Congress, Senator Lieberman and I proposed a version of our bill that excluded breast implant litigation from its coverage. I expect the legislation advanced in this Congress will also contain that exclusion for breast implant litigation. I look forward to working closely with Senator Lieberman on this matter.

I hope that bipartisan negotiations begin now. The Product Liability Fairness Act. It is my desire to have this legislation be the first bill reported in this Congress by the Committee on Commerce, Science, and Transportation.

Mr. ABRAHAM. Mr. President, I rise today in support of S. 5, a bill to reform product liability law. This legislation will significantly curb the epidemic of frivolous lawsuits that are diverting our Nation’s resources away from productive activity and into transaction costs.

Our current legal system, under which we spend $300 billion or 4½ percent of our gross domestic product each year, is not just broken, it is falling apart. This is a system in which plaintiffs receive less than half of every dollar spent on litigation-related costs. It is a system that forces necessary goods, such as pharmaceuticals that can treat a number of debilitating diseases and conditions, off the market in this country.

The bill I cosponsor today would do much to address these problems. It institutes caps on punitive damages, thereby limiting potential windfalls for plaintiffs without in any way interfering with their ability to obtain full recovery for their injuries. It provides product manufacturers with long-overdue relief from abusers of their products. And it protects these makers, and sellers, from being made to pay for all or most of the economic damages when they are responsible for only a small percentage of them.

Last year, President Clinton chose to veto the bipartisan products liability bill that passed the Congress. For the sake of all Americans, I hope this year will be different.

Mr. ASHCROFT. Mr. President, today is an exciting day as I introduce, along with Senators McCain, Coverdell, McConnell, and Abraham, S. 5, the Product Liability Fairness Act of 1977.

Justice Holmes once wisely observed that a page of history is worth a volume of logic. With respect to the effort to enact product liability law, we have hundreds of pages of history and volumes of logic to support its enactment now.

The effort of the Federal Government to address product liability goes back almost two decades when President Ford established the Federal Inter-Agency Task Force on Product Liability. Although administration changed, President Carter did not abandon the effort, but enhanced it with resulting resolutions. Today, President Carter chartered the drafting of the Model Uniform Product Liability Act, which tentatively was offered as a vehicle for state action. Product liability legislation has been reported out of the Senate Commerce Committee seven times. Last Congress, legislation and a conference report containing many compromises and bipartisan agreements was voted upon favorably in each House. A bipartisan majority in each House approved the conference report on March 21, 1996.

The bill that we introduce today is that conference report. I appreciate that today’s bill reflects a bill that was vetoed by President Clinton. But, we have been able to address the issues.

We are introducing the same bill as a “place marker” for discussions and a forum of issues. The President’s veto message suggested that he well may have been misinformed about the nature of the legislation passed by bipartisan majorities last year. Let us have discussions to clarify those matters so that the legislation is unequivocal in its meaning and purpose.

We are resolved to work with the White House to obtain the President’s support. I take the President at his word when he said in the Presidential debate in 1996, “I signed a tort reform bill that dealt with civil product reform law almost 2 years ago. I proved that I will sign a reasonable tort reform.”

It is interesting that the President referred to the General Aviation Revitalization Act of 1994, which he did sign on August 17, 1994. The aviation liability reform bill enacted a statute of repose for general aviation aircraft. In 1994, proponents of the bill said that it would create 10,000 jobs. To date, over 9,000 new jobs, good jobs, have been created. Single engine aircraft are being manufactured in America again, and an endangered industry has been revitalized. President Clinton was right to support that bill.

What did opponents say in 1994 aviation bill? They said that no new jobs would be produced. And, they said that if planes were produced, they would be unsafe and, in hyperbole, suggested that they might be made of balsa wood. What have they said? I already mentioned that 9,000 new jobs have been created. You should also know that the aircraft being made by American workers are the safest single engine aircraft produced in the history of this country.

Let us bring the result of the General Aviation Revitalization Act of 1994 to the broad segments of our country and communities. We introduce this bill to stimulate job growth. We introduce this bill to remove the chilling effects that prevent the introduction of good and useful products. We introduce this bill to encourage new product development. On the other hand, it is our goal to assure that anyone that makes dangerous and defective products is appropriately sanctioned by our tort law.

From the perspective of many, this bill is a very modest one. From their perspective, there is a need to have liability reform in other crucial areas, such as: general punitive reform, medical liability reform, and volunteers’ liability reform.

The principles contained in this bill are a good starting point to make the product liability laws in this nation fair for consumers who purchase defective products while placing the burden on those responsible for placing these products in the stream of commerce. It ensures that those who misuse products, or use them while under the influence of drugs or alcohol, do not collect a windfall which becomes a burden for American consumers in the form of increased costs for products—products that are longer available in the market, and the loss of jobs and greater opportunities.

This bill in no way limits compensatory damages. This bill would not affect the ability of plaintiffs to sue manufacturers or sellers of medical implants. It would, however, allow raw material suppliers to be dismissed from lawsuits if the generic raw material used in the medical device met contract specifications, and if the biocompatible supplier is not classified as either a manufacturer or seller of the implant.

Strong product liability reform is good for America. It ensures that consumers, injured by a product, will be fairly compensated. It will enhance American innovation, which is the best in the world, by treating responsible entrepreneurs fairly while treating the bad actors harshly and to the full extent of the law.

Chairman of the Consumer Affairs Subcommittee I am committed and look forward to working with this administration toward ending the 20-year study and painstaking endeavor to provide our Nation with sound and fair Federal product liability law. It took the European Community about 6 years to accomplish this goal and create the European product liability directive. Japan enacted its first product liability reform law almost 2 years ago.

Our Nation, this Congress, should act together and meet the challenge of our foreign competitors and enact fair and balanced product liability law. In that
spirit and for that purpose, we introduce S. 5.

By Mr. SANTORUM (for himself and Mr. SMITH):

S. 6. A bill to amend title 18, United States Code, to ban partial-birth abortions; to the Committee on the Judiciary.

THE PARTIAL-BIRTH BAN ACT OF 1997

Mr. SANTORUM. Mr. President, the agenda for the 105th Congress reflects a continuance of the very significant debate that occurred in the 104th Congress on the issue of partial birth abortion.

Four months ago, we debated and considered a presidential veto override on a bill to ban the partial birth abortion procedure. On a final vote, we came very close to banning this very gruesome procedure, and the number of colleagues who supported the override set the stage for consideration again this year.

A wide spectrum of individuals have coalesced around the effort to ban partial birth abortions. These varied individuals and groups have raised their voices in support of a ban both because of the brutality of partial birth abortions and because they recognize that this debate is not about Roe vs. Wade, the 1973 Supreme Court decision legalizing abortion—though, it may be that not about when a fetus becomes a baby. And it is certainly not about women's health. It is about infanticide, it is about killing a child as he or she is being born, an issue that neither Roe vs. Wade nor the subsequent Doe vs. Bolton decision addressed.

During the Senate debate last year, various traditionally pro-choice legislators voted in support of legislation to ban this particular procedure. Among them was a colleague who stated on the floor of the Senate, “In my legal judgement, the issue is not over a woman’s right to choose within the constitutional context of Roe versus Wade. The line of the law is drawn, in my legal judgement, when the child is partially out of the womb of the mother. It is no longer abortion; the child is partially out of the womb. It is no longer abortion; the child is partially out of the womb, and it is no longer abortion; it is infanticide.” He was joined in these sentiments by other like minded Senators.

This perspective is significant in that it underscores the scope of the tragedy that this procedure represents. And for those who may still be unclear what a partial birth abortion procedure is, it is this: a fully formed baby—in most cases a viable fetus of 23-26 weeks—is pulled from its mother’s womb, but the head is not delivered. Then, scissors are plunged into the base of the skull, a tube is inserted and the child’s brains are suctioned out so that the head of the now-dead infant collapses and is delivered.

Partial birth abortion is tragic for the infant who loses his or her life in this brutal procedure. It is also a personal tragedy for the families who choose the procedure, as it is for those who perform it—even if they aren’t aware of it. But partial birth abortion is also a profound social tragedy. It rips through the moral cohesion of our public life. It cuts into our most deeply held belief of protecting and cherishing vulnerable human life. It fractures our sense that the laws of our country should reflect long-held, commonly accepted moral norms.

Yet this kind of tragedy—even as it calls forth and exposes our outrage—can be an unexpected catalyst for consensus, for new coalitions and configurations in our public life. The partial birth abortion debate has moved beyond the traditional lines of confrontation to hollow out a place in the public square where disparate individuals and groups can come together and draw a line that they know should not be crossed.

The stark tragedy of partial birth abortion can be the beginning of a significant public discussion where we define—or re-define—our first principles. Why is this issue so important? Precisely because it throws into relief the fundamental truths around which a moral consensus is formed in this country. And, as John Courtney Murray reminds us in “We Hold These Truths, Catholic Reflections on the American Proposition”, a public consensus which finds its expression in the law should be “an ensemble of substantive truths, a structure of basic knowledge, an order of elementary affirmations.” If we were to move beyond agreement about first principles, we simply cannot engage one another in civil debate. All we have is the confusion of different factions locked in their own ideological, political and religious lines we cannot engage one another in civil discourse.

We all have the same confusion of different factions locked in their own ideological, political and religious lines. We cannot engage one another in civil discourse.

I truly believe that out of the horror and tragedy of partial birth abortions, we can find points of agreement across ideological, political and religious lines which enable us to work toward a life-sustaining culture. So, as hundreds of thousands of faithful and steadfast citizens come together to participate in this effort, let us remember that such a culture, the culture for which we hope and pray daily, might very well be achieved one argument at a time.

Mr. President, I am proud to have the opportunity to sponsor this legislation and to continue the very significant achievements of my colleague, Senator BOB SMITH. I look forward to continuing that effort in cooperation with Representatives of CHARLES CANADY, and I thank my colleagues for making this initiative a priority in our legislative agenda.

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

S. 6

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 “Partial-Birth Abortion Ban Act of 1997.”

SEC. 2. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) In General.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

“CHAPTER 74—PARTIAL BIRTH ABORTIONS

Sec. 1531. Partial-birth abortions prohibited.

(a) Whoever, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus or infant shall be fined under this title or imprisoned not more than two years, or both.

(b) Subsection (a) does not apply to a partial-birth abortion that is necessary to save the life of a mother because her life is endangered by a physical disorder, physical injury, or physical illness, including a life-endangering medical condition caused by or arising from the pregnancy itself, if no other medical procedure would suffice for that purpose.

(c) As used in this section—

(1) the term ‘partial-birth abortion’ means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the infant and completing the delivery; and

(2) the terms ‘fetus’ and ‘infant’ are interchangeable.

(d) Unless the pregnancy resulted from the rape of a woman’s criminal conduct or the plaintiff consented to the abortion, the father, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal and paternal grandparents of the fetus or infant, may in a civil action obtain appropriate relief.

(2) Such relief shall include—

(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

(B) statutory damages equal to three times the cost of the partial-birth abortion; even if the mother consented to the performance of an abortion.

(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section for a conspiracy to violate this section, or an offense under section 2, 3, or 4 of this title based on a violation of this section.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

“75. Partial-birth abortions .......... 1531.”

Mr. ABRAHAM. Mr. President, I rise today to co-sponsor S. 6. In doing so I add my voice to the chorus calling for
an end to partial birth abortion. The bill we are considering is designed to outlaw medical procedures ‘in which the person performing the abortion partially delivers a living fetus before killing the fetus and completing the delivery if the abortion were not performed’ with the intent of causing the fetus to survive. I cannot support a bill which specifically and effectively targets a rare but grisly and unnecessary practice.

I understand, Mr. President, that the American people are divided on many issues within the abortion debate. I am firmly pro-life. But in my view one need not resort to broad, ideological arguments in this case. Partial birth abortions occur only in the third trimester of pregnancy. They are never required to save the life, health, or child-bearing ability of the mother. They are unnecessary and regrettable.

We in this chamber failed to override the President’s veto of this legislation during last Congress. But I remain convinced that all of us can agree that this Nation can do without this particular, rare, and grisly procedure. I urge my colleagues to support this legislation.

By Mr. LOTT (for himself, Mr. THURMOND, Mr. SMITH, Mr. WARNER, Mr. KYL, Mr. COCHRAN, Mr. ABRAHAM, Mr. ALARD, Mr. ASHcroft, Mr. COVERDELL, Mr. CRAIG, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GRAMS, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mrs. HUTCHISON, Mr. HUTCHINSON, Mr. INHOFE, Mr. MURkowski, Mr. NICKEL, Mr. SESSIONS, and Mr. KEMPThORNE):

S. 7. A bill to establish a U.S. policy for the deployment of a national missile defense system, and for other purposes; to the Committee on Armed Services.

THE NATIONAL MISSILE DEFENSE ACT OF 1997

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

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

S. 7

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 Missile Defense Authorization Act of 1997.”

SEC. 2. NATIONAL MISSILE DEFENSE POLICY.

(a) NATIONAL MISSILE DEFENSE.—It is the policy of the United States to deploy by the end of 2003 a National Missile Defense system that—

(1) is capable of defending the territory of the United States against limited ballistic missile threats (whether accidental, unauthorized, or deliberate); and

(2) could be augmented over time to provide a layered defense against larger and more sophisticated ballistic missile threats if they emerge.

(b) COOPERATIVE TRANSITION.—It is the policy of the United States to seek a cooperative transition to such a system that does not feature an offense-only form of deterrence as the basis for strategic stability.

SEC. 3. NATIONAL MISSILE DEFENSE SYSTEM ARCHITECTURE.

(a) REQUIREMENT FOR DEVELOPMENT OF SYSTEM.—To implement the policy established in section 2(a), the Secretary of Defense shall develop for deployment a National Missile Defense (NMD) system which shall achieve an initial operational capability (IOC) by fiscal year 2003.

(b) ELEMENTS OF THE NMD SYSTEM.—The system to be developed for deployment shall include elements of—

(1) INTERCEPTORS.—An interceptor system that optimizes defensive coverage of the continental United States, Alaska, and Hawaii against a limited ballistic missile attack (whether accidental, unauthorized, or deliberate).

(2) GROUND-BASED RADARS.—Fixed ground-based radars.

(3) SPACE-BASED SENSORS.—Space-based sensors, including the Space and Missile Tracking System.

(4) BM/CIC.—Battle management, command, control, and communications (BM/CIC).

SEC. 4. IMPLEMENTATION OF NATIONAL MISSILE DEFENSE SYSTEM.

The Secretary of Defense shall—

(1) upon the enactment of this Act, promptly initiate required preparatory and planning actions that are necessary so as to be capable of meeting the initial operational capability (IOC) date specified in section 3(a);

(2) not later than the end of fiscal year 1998, conduct an integrated systems test which uses elements (including BM/CIC elements) that are representative of, and traceable to, the national missile defense system architecture specified in section 3(b);

(3) prescribe and use streamlined acquisition policies and procedures to reduce the cost and increase the efficiency of developing the system specified in section 3(a); and

(4) develop and deploy a national missile defense follow-on program that—

(A) leverages off of the national missile defense system specified in section 3(a); and

(B) could augment that system, if necessary, to provide for a layered defense.

SEC. 5. REPORT ON PLAN FOR NATIONAL MISSILE DEFENSE SYSTEM DEVELOPMENT AND DEPLOYMENT.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall report to the Congress a plan for the development and deployment of a national missile defense system pursuant to this Act. The report shall include the following matters:

(1) The Secretary’s plan for carrying out this Act, including—

(A) a detailed description of the system architecture selected for development under section 3(b); and

(B) a discussion of the justification for the selection of that particular architecture.

(2) The Secretary’s estimate of the amount of appropriations required for research, development, test, evaluation, and for procurement, for each of fiscal years 1998 through 2003 in order to achieve the initial operational capability date specified in section 3(a).

(3) A determination of the point at which any activity that is required to be carried out under this Act would conflict with the terms of the ABM Treaty, together with a description of any such activity, the legal basis for the determination, and an estimate of the time at which such point would be reached in order to meet the initial operational capability date specified in section 3(a).

SEC. 6. POLICY REGARDING THE ABM TREATY.

(a) ABM TREATY NEGOTIATIONS.—In light of the findings in section 232 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-102; 110 Stat. 228, 101 U.S.C. 2431 note) and the policy established in section 2, Congress urges the President to pursue an agreement with the Russian Federation to achieve an agreement to amend the ABM Treaty to allow deployment of the national missile defense system being developed for deployment under section 3.

(b) REQUIREMENT FOR SENATE ADVICE AND CONSENT.—If an agreement described in subsection (a) is achieved in discussions described in that subsection, the President shall present that agreement to the Senate for its advice and consent. No funds appropriated or otherwise available for any fiscal year may be obligated or expended to implement such an amendment to the ABM Treaty unless the amendment is made in the same manner as the manner by which a treaty is made.

(c) ACTION UPON FAILURE TO ACHIEVE NEGOTIATED CHANGES WITHIN ONE YEAR.—If an agreement described in subsection (a) is not achieved in discussions described in that subsection within one year after the date of the enactment of this Act, the President and Congress, in consultation with each other, shall consider exercising the option of withdrawing from the United Nations Anti-Ballistic Missile Systems, and signed at Moscow on May 26, 1972, and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974.

(d) LIMITED BALLISTIC MISSILE ATTACK.—The term “limited ballistic missile attack” refers to a limited ballistic missile attack as that term is used in the National Ballistic Missile Defense Capstone Requirements Document, dated August 24, 1996, that was issued by the United States Space Command and validated by the Joint Requirements Oversight Council of the Department of Defense.

Mr. HELMS. Mr. President, the Defense Authorization Act of 1997 is a vital piece of legislation—one which provides a clear and concise blueprint for protecting the American people from the growing threat of attack from ballistic missiles carrying nuclear, chemical, or biological warheads.

It is critical that the United States begin immediately the 8-year task of building and deploying a national missile defense. I am grateful to the distinguished majority leader, Mr. LOTT, for introducing this bill and I am honored to join him as a cosponsor.

Just over a year after the Clinton administration vetoed the 1996 Defense Authorization Act. In his veto message, the President explicitly objected to the missile defense provisions of the act. At that time, along with others, I expressed my belief that the administration could and should draw the United States from the ABM Treaty to block the deployment of a national missile defense. I remember wondering, given the fact that North Korea is known to be developing a missile capable of striking United States cities, how a decision could be made.

The chairman of the National Intelligence Council, Richard Cooper, testified before the House National Security
Committee on February 28, 1996, that ‘‘... North Korea is developing a missile which we call the Taepo Dong 2, that could have a range sufficient to reach Alaska. The missile way also be capable of reaching some U.S. territory in the Pacific and the far western portion of the 2,000-km-long Hawaiian Island chain.’’

What Mr. Cooper did not add was the fact that nations can and have increased the ranges of their ballistic missiles by reducing payloads. Mr. President, a September 29, 1995, article in the Washington Times reported that the Defense Intelligence Agency has estimated that the Taepo Dong 2 could, in fact, have a range of 4,650 miles and, with a smaller warhead, could reach 6,200 miles—approximately 10,000 km. Similarly, a September 11, 1995, article in a South Korean newspaper stated that Russia believes that once the Taepo Dong 2’s inertial navigation system, warhead weight, and other data are improved, the missile could reach over 9,600 kilometers. At those ranges, the Taepo Dong 2 could drop a nuclear or biological warfare on U.S. cities as far east as Denver or Minneapolis.

Mr. President, a unanimous consent that these two articles be printed in the RECORD.

Second, I cannot fathom why the Clinton administration objected to the deployment of national missile defense in light of Red China’s bellicose words and deeds. China fields of dozens of submarine-launched ballistic missiles, hundreds of warheads on heavy bombers, roughly 24 medium- and long-range ballistic missiles, and has several crash modernization initiatives in progress. Moreover, China intends to deploy, by the end of the century, four new types of ballistic missiles. Furthermore, the United States has very clear indications that Red China is at this moment pursuing MIRV-technology.

Mr. President, this is the same country, mind you, that flexed its military might by conducting live-missile-firing exercises in the Strait of Taiwan in an obviously intentional effort to bully and cower a valued and longstanding ally of the United States. This is the same country that issued thinly-veiled threats this spring suggesting that nuclear weapons would be used against the United States if the United States intervened on behalf of Taiwan. Assistant Secretary of State Winston Lord acknowledged that Chinese officials had declared that the United States ‘‘wouldn’t dare defend Taiwan because they—China—could rain nuclear bombs on Los Angeles.’’

Now, if this was not nuclear blackmail, it will do while the Clinton administration folds its hands until the very first nuclear missile hits the West Coast by the United States. China’s ability to hold the United States hostage to such threats is made possible by the fact that a band of latter-day Luddites here in Washington have consistently refused even to consider building the very strategic missile defenses necessary to protect the American people from such an attack.

Mr. President, it is time for the defenders of the ABM Treaty to give up their quixotic arms control theology, and to come to grips with the realities of the post-cold-war world. Dr. Henry Kissinger—the architect of the ABM Treaty—put it best when he recently wrote: ‘‘The Body of ABM Treaty has made a strategy [of mutually assured destruction (MAD)] largely irrelevant. Barely plausible when there was only one strategic opponent, the theory makes no sense in a multipolar world of proliferating nuclear powers.’’

Dr. Kissinger went on to note specifically that MAD would not work against blackmail with nuclear weapons. Yet that is exactly what we faced when China blatantly threatened Los Angeles.

The truth of the matter is that no amount of policy reformulation by the Clinton administration can change the fact that the United States is vulnerable to nuclear-tipped missiles fielded by China, or any one else. Rectifying this reality requires strategic leadership and action. It is the more pressing issue because the current course charted by the administration fails to recognize the inherent danger in China’s pursuit of an advanced nuclear arsenal.

Mr. President, any further delay in the development of the United States of a flexible, cost-effective national missile defense is unconscionable. I am honored to be a cosponsor of the Defend America Act and urge Senators to support this legislation to ensure that the American people are protected from attack by ballistic missiles.

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

From the Washington Times, Sept. 29, 1995

North Korean Missile Could Reach United States, Intelligence Warns

(Reprinted)

The Western United States could be within range of North Korea’s longest-range missile armed with nuclear, chemical or biological warheads by the year 2000, according to U.S. and foreign intelligence assessments.

Sen. Jon Kyl, Arizona Republican, said new information indicates North Korea’s Taepo Dong-2 missile, still under development, is an intercontinental ballistic missile (ICBM) capable of reaching the United States and demonstrates the need for rapidly building a national missile defense.

A U.S. intelligence official, quoting a Russian assessment said the Taepo Dong-2 will be deployed by 2000 with a maximum range of 6,200 miles once warhead modifications and technical improvements are made, the newspaper Seoul Shinmun reported Sept. 11.

Mr. Kyl, a member of the Senate Intelligence Committee, investigated the report and found it “not inconsistent with some information that I have.”

“The bottom line is that if the information is even close to the truth, it presents for the first time a very serious and relatively quick challenge to U.S. sovereignty,” he said.

The Defense Intelligence Agency (DIA) estimates the Taepo Dong-2 will have a range of about 4,650 miles and confirmed that with a smaller warhead it could reach 6,200 miles, a Pentagon source said.

Information on the North Korean ICBM comes as a House and Senate conference committee is working out of the fiscal 1996 defense authorization bill (S 386). Information on China’s missile capability is “clearly the need for rapidly building a national missile-defense system, overlayed on that intelligence information, it is clear we have to begin now if we are to avoid a ‘missile-defense gap,’” Mr. Kyl said.

“In this case it would be real,” he said, referring to the issue of the United States lagging behind the Soviet Union in strategic missiles. The missile-gap debate surfaced during the 1980 presidential election campaign and was later proved to have been unfounded.

Mr. Kyl said the intelligence report also counters claims by administration officials that national missile defenses are not needed because there is no immediate threat to the United States.

A DIA statement said the press information about the Taepo Dong-2 missile “clearly the successful deployment of these longer-range missiles would present a new dimension to the challenges to United States national security.”

One DIA computer simulation of the Taepo Dong-2 put the range of the missile at between 2,666 miles and 3,720 miles.

But according to South Korean intelligence, Russian missile experts believe the range of the Taepo Dong-2 could be extended to at least 6,000 miles once technical problems are solved, the Seoul newspaper reported.

The Russians told South Korea the greater range could be achieved if the guidance mechanism is improved, the warhead weight is decreased and fuel-injection technology is advanced.

The Pentagon’s Ballistic Missile Defense Organization drew up charts showing the targets a long-range Taepo Dong-2 could hit. They include all major cities on the West Coast, in Arizona, Colorado, Kansas and just short of Chicago. It also could reach all the major European capitals.

A U.S. intelligence official said current North Korean missile technology is “Scud technology” with rudimentary guidance and control mechanisms. “It will take a lot longer than the year 2000 to get to that point,” he said of long-range missile capability. “Although there is no question they would like to achieve that.”

But other intelligence officials said China is secretly helping the North Korean long-range missile project and a group of up to 20 North Korean missile engineers has undergone training in China.

The range of the Taepo Dong, the CIA report says only that its two versions will have ranges shorter and greater than 1,860 miles, respectively. The accuracy of the missile is so poor that U.S. analysis see it as only useful for firing weapons of mass destruction—nuclear, chemical and biological.

The CIA says North Korea has covertly developed enough nuclear fuel for four or five nuclear devices. The CIA says it has aggressive chemical and biological warfare programs.

South Korea

U.S.: REPORTEDLY WITHIN NEW NORTH MISSILE RANGE

[Report by Pak Chae-pom]

[FBIS Translated Text] The new Taepodong missile No. 2 that North Korea is
The bill we introduce today will accomplish each and every one of those goals. It improves the serious problem of brownfields, which our colleague, Senator CHAFEE, has already mentioned. Senator ABRAHAM of Michigan is very much involved in this issue. We commend his leadership and look forward to working with him on the brownfields portion of this bill.

But we provide $60 million in new funding each year for States and localities for grants and loan programs to spur the cleanup and the redevelopment of these sites.

The initiative on the part of our colleagues on the other side of our aisle on brownfields. It enhances the role of States by allowing them to take responsibility for conducting Superfund cleanups and increases citizen participation. It reinjects common sense back into the cleanup process by taking the future use of the site into consideration when cleanup remedies are elected.

It promotes the use of innovative technology to ensure that the American people can have the benefit of the most up-to-date scientific approaches to cleanup and eliminates potential liability for tens of thousands of average citizens, small businesses, schools, churches, the Boy Scouts, Girl Scouts, and others who have been caught up in this Superfund liability net. It caps the liability of municipalities and other entities that owned or operated municipal sites and did so legally.

Finally, it reduces litigation by creating a fair-share allocation process at multiparty sites where the trust fund will pick up the cost of the defunct or insolvent parties in wastes that cannot be attributable to a viable party.

Thus, Mr. President, what this bill does, in a nutshell, is it stops paying lawyers and starts paying for cleanup. I think that is a tremendous improvement over current law. So the discussions over the past 2 years, which Senator CHAFEE has mentioned, which I have been involved in with the administration, Administrator Browner, and my colleagues on the other side of the aisle, have been productive. We have learned a lot. We are ready to roll up our sleeves again and get it done. We are ready to stay close to an agreement last time. We look forward to working with our colleagues and with the President of the United States to get it done in a bipartisan way.

As the Chairman of the Senate Subcommittee on Superfund, Waste Control and Risk Assessment, I am here today, along with Senator CHAFEE, the Chairman of the Environment Committee, to introduce some commonsense...
legislation to put the Superfund law back on track toward achieving its original goal of protecting our Nation’s children from environmental pollutants in the quickest practical manner possible.

I would like to thank the Republican Leader, Senator LOTT, and all of the members of the Republican Conference who have co-sponsored our legislation—The Superfund Cleanup Acceleration Act—for recognizing the importance of making the Superfund program work. By making this one of the “top 10” Senate priorities for the 105th Congress, I believe we have demonstrated our strong commitment toward protecting our environment, improving environmental laws, and preserving the health of our Nation’s children.

Before I describe our legislation, I would like to take a few minutes to talk about Superfund and how we find ourselves here today.

The history of Superfund is long and somewhat checkered. The program was created in 1980 to clean up abandoned hazardous waste sites, and at that time, it was anticipated that this program would clean up around 400 sites nationwide. With the best of intentions, the program has not performed the way it should. So far Superfund has cost our Nation more than $40 billion dollars, yet, only 125 out of a total of around 1,300 sites have been removed from the Superfund list over the last 16 years. Superfund has become the classic example of a Federal program awash in red tape, litigation and gold plated spending.

The problems in Superfund are many. First, the Superfund liability scheme allows the Environmental Protection Agency to hold any potentially responsible party liable for the entire cleanup cost at a site—irrespective of the type of contamination, when the material was disposed of, or whether the activity that created the contamination is simple or complex, and, not surprisingly, results in enormous litigation costs with 30 to 70 percent of every dollar spent on lawyers.

Because of the fear of Superfund liability, many of our Nation’s inner cities contain abandoned or underutilized properties—dubbed Brownfields—which lay fallow because private developers and municipalities don’t want to be dragged into Superfund’s litigation quagmire. In order to spur economic redevelopment, it is essential to meet three primary goals.

Superfund sets out unrealistic cleanup goals which frequently ignore common sense in considering the future use of the site. All too often, sites that are destined to become industrial parks or parking lots are required to be cleaned up to standards compatible with school playgrounds. We need to reorient common sense back into this program so that we protect real people from real risks, not hypothetical people from hypothetical sites. We must also recognize that the States, which are much better able to understand the concerns and needs of residents who live near these sites, should have the lead in determining how these sites are going to be cleaned up, and when.

Because I am also the Chairman of the Armed Services Subcommittee on Strategic Forces, which funds the Department of Energy cleanup program, I am keenly aware that the real costs of Superfund are not limited solely to the private sector. Not only are there more than 255 Federal facilities on the Superfund list, these sites represent the most complex and costly cleanup challenges in the program. The inability to create commonsense cleanup plans results in billions of dollars of additional liability to Federal agencies—costs that ultimately come from the taxes we all pay. In a period of budget deficits and declining resources, we need to do a better job of making cleanup decisions.

While Superfund was created with the hope of quickly dealing with the serious problem of toxic waste sites endangering our citizens, it is evident that Superfund has proceeded at a snail’s pace and that most sites are still not cleaned up. I commend Carol Browner, the Administrator of the EPA, for recognizing this fact, and for instituting a series of administrative reforms in the last year—reforms that reflect changes that I, and other Republicans have advocated for many years.

Although I applaud the administration for making these changes, I believe it is too soon to declare victory in the effort to make Superfund work better. While improvements have been made in some areas, it is far too early to determine their true or lasting effect. I certainly do not agree with some in the Administration who feel that the administrative reforms have corrected all the problems of Superfund. The fact remains that even with the administrative reforms, too much money is spent on litigation, sites aren’t being cleaned up fast enough, and children are being needlessly exposed to toxic risks.

Rather than reform Superfund on a piecemeal basis, as some may suggest, it is clear that comprehensive legislation is necessary to correct Superfund’s deeper problems. The bill we have introduced will address those problems in a top-to-bottom fashion so that we can clean up all of these waste sites as quickly as possible.

To achieve meaningful Superfund reform, it is necessary to meet three goals. The first is to cut the transaction costs of the program. That means cutting out the lawyers and ensuring that every dollar spent for cleanup goes to cleanup. The second goal is to create incentives to complete cleanup at these sites. Currently, it takes more than 12 years to clean up a site. We can do better than that. The last goal is to inject common sense into our cleanup program to protect our children and protect the environment.

The bill we are introducing today will accomplish each of these goals.

Our legislation improves the serious problem of brownfields by providing $60 million in new funding each year to States and localities for grant and loan programs to spur the cleanup and redevelopment of these sites.

It increases citizen participation by setting up Citizen Response Organizations to improve coordination between citizens, government and responsible parties.

It renames common sense back into the cleanup process by taking the future use of the site into consideration when cleanup remedies are selected.

It promotes the use of innovative technologies to insure that the citizenry can have the benefit of the most up-to-date scientific approaches to cleanup.

It eliminates potential liability from tens of thousands of average citizens, small businesses, schools, churches, and others who are currently caught in the Superfund liability net.

It caps the liability of municipalities and other entities that owned or operated the facilities in question.

And finally, it reduces litigation by creating a fair-share allocation process at multi-party sites where the Trust fund will pick up the cost of defunct or insolvent parties, or wastes that cannot be attributed to a viable party.

Among the significant issues we have focused on is the issue of brownfields. As many of my colleagues may know, there are a variety of bills that have been introduced by Senator Abraham, Senator Lieberman, Senator Lautenberg and others which attempt to tackle this issue.

Many of the brownfield bills that have been introduced rely on tax credits or tax deductions to promote the cleanup of these sites. But, the issue of tax credits does not fall within the jurisdiction of the Environment Committee, as this bill progresses toward passage, it is my intention to work with my colleagues to find common ground and provide additional support for these areas.

Liability has always been one of the most contentious issues in the Superfund reform debate. My position has been clear from the beginning. I believe that retroactive liability is fundamentally unfair and if I had my way, I would repeal it. Some of my colleagues see things differently. It is important to understand that the bill we are introducing represents many hours of intense discussions and all the parties involved did recognize some of their positions. The bill does not go as far as I would like. Equally, it asks that the other side to take a step forward as well. We each must take this step to improve a system which is not serving our citizens as it should.

Over the last 2 years, my staff and that of Senator Chafee have been engaged in bi-partisan discussions with
Democrats and the Clinton administration. These discussions were long and sometimes pointed, but the participants in these negotiations understood that the Superfund program has flaws which need to be corrected.

What we have here is a general agreement that cleanups should occur faster, and that there are too many lawyers in the system, there are many ideas about how to correct these problems. The discussions over the past 2 years have been productive and on many issues we are close to agreement. We look forward to working with our colleagues and the with the President to craft a bipartisan solution to the problems of Superfund.

The bill we introduce today incorporates many good ideas from our bipartisan negotiations. It represents a significant step away from where we started last Congress, and I believe it deserves, and will receive, bipartisan support.

Much has been said about the Republican and Democratic positions on the environment. I urge my colleagues to move beyond the rhetoric and the posturing of the last election and examine the real situation. The bill we are introducing today will speed cleanups, take lawyers out of the system, inject common sense back into the process, and protect children much faster from toxic exposure than under current law. This should not merely be a top-10 priority on the Republican agenda, but it should be a top ten item on our shared agenda. I urge all of my colleagues to join with us to reform this program this year.

I thank you, Mr. President. I thank my colleagues.

Mr. CHAFEE addressed the Chair. The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I want to stress the comments that Senator SMITH made about a bipartisan approach.

As I mentioned before, this is legislation that we worked on. We believe it is very, very good legislation. We are not just signing it on the end all and be all. Obviously, in our committee we will have hearings on it. All the members of the committee will have a chance to have their views expressed.

We look forward to contributions from the members of the Democratic Party who are part of our Environment Committee. It is our hope that when we come forward with a bill to present on this floor finally for consideration by the body, that it will come unanimously from our committee, will have the support of the administration, and will fulfill the desires of all of us that this legislation become law.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
(a) SHORT TITLE.—This Act may be cited as the “Superfund Cleanup Acceleration Act of 1997.”
(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:
Sec. 1. Short title; table of contents. 
TITLE I—BROWNFIELDS REVITALIZATION
Sec. 101. Brownfields.
Sec. 102. Assistance for qualifying State voluntary response programs.
Sec. 103. Enforcement in cases of a release subject to a State plan.
Sec. 104. Contiguous properties.
Sec. 105. Prospective purchasers and windfall liens.
Sec. 106. Safe harbor for innocent landholders.
TITLE II—STATE ROLE
Sec. 201. Delegation to the States of authorities with respect to national priorities list facilities.
TITLE III—COMMUNITY PARTICIPATION
Sec. 301. Community response organizations; technical assistance grants; improvement of public participation in the superfund decisionmaking process.
TITLE IV—SELECTION OF REMEDIAL ACTIONS
Sec. 401. Definitions.
Sec. 402. Selection and implementation of remedial actions.
Sec. 403. Remedy selection methodology.
Sec. 404. Remedy selection procedures.
Sec. 405. Completion of physical construction.
Sec. 406. Transition rules for facilities currently involved in remedy selection.
Sec. 407. National Priorities List. 
TITLE V—LIABILITY
Sec. 501. Liability exceptions and limitations.
Sec. 502. Contribution from the Fund.
Sec. 503. Allocation of liability for certain facilities.
Sec. 504. Liability of response action contractors.
Sec. 505. Release of evidence.
Sec. 506. Contribution protection.
Sec. 507. Treatment of religious, charitable, scientific, and educational organizations as owners or operators.
Sec. 508. Common carriers.
Sec. 509. Limitation on liability of railroad owners.
Sec. 510. Liability of recyclers.
TITLE VI—FEDERAL FACILITIES
Sec. 601. Transfer of authorities.
Sec. 602. Limitation on criminal liability of Federal officers, employees, and agents.
Sec. 603. Innovative technologies for remediation of Federal facilities.
TITLE VII—NATURAL RESOURCE DAMAGES
Sec. 701. Restoration of natural resources.
Sec. 702. Assessment of injury to and restoration of natural resources.
Sec. 703. Consistency between response actions and resource restoration standards.
Sec. 704. CERCLA ELIGIBLE ENTITY. —The term ‘eligible entity’ means—
{(A) a general purpose unit of local government;}
{(B) a land clearance authority or other quasi-governmental entity that operates under the supervision and control of or as an agent of a general purpose unit of local government;}
{(C) a regional council or group of general purpose units of local government;
Sec. 901. Authorization of appropriations from the Fund.
Sec. 902. Orphan share funding.
Sec. 903. Department of Health and Human Services.
Sec. 904. Limitations on research, development, and demonstration programs.
Sec. 905. Authorization of appropriations from the Superfund.
Sec. 906. Additional limitations.
Sec. 907. Reimbursement of potentially responsible parties. 

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There being no objection, the bill was passed, sent to the House of Representatives, and ordered to be engrossed.
“(D) a redevelopment agency that is chartered or otherwise sanctioned by a State; and

“(E) an Indian tribe.

“(1) BROWNFIELD CHARACTERIZATION GRANT PROGRAM.—

“(A) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to provide grants for the site characterization and assessment of brownfield facilities.

“(B) ASSISTANCE FOR SITE CHARACTERIZATION AND ASSESSMENT.—

“(1) IN GENERAL.—On approval of an application made by an eligible entity, the Administrator may make grants out of the Fund to eligible entities for the site characterization and assessment of 1 or more brownfield facilities or to capitalize a revolving loan fund.

“(2) APPROPRIATE INQUIRY.—A site characterization and assessment carried out with the use of a grant under subparagraph (A) shall be performed in accordance with section 101(35)(B).

“(3) MAXIMUM GRANT AMOUNT.—A grant under subparagraph (A) shall not exceed, with respect to any individual brownfield facility covered by a grant, $150,000 for any fiscal year or $200,000 in total.

“(c) BROWNFIELD REMEDIATION GRANT PROGRAM.—

“(1) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to provide grants to be used for capitalization of revolving loan funds for response actions (excluding site characterization and assessment made by a State or an eligible entity, through a regional office of the Environmental Protection Agency and in such form as the Administrator may require, for a grant under this section for 1 or more brownfield facilities).

“(2) APPLICATION REQUIREMENTS.—An application for a grant under this section shall include—

“(A) an identification of each brownfield facility for which the grant is sought and a description of the redevelopment plan for the area or areas in which the brownfield facilities are located, including a description of the nature and extent of any known or suspected environmental contamination within the area;

“(B) an analysis that demonstrates the potential of the grant to stimulate economic development through the planned response action, including a projection of the number of jobs expected to be created at each facility after remediation and redevelopment and, to the extent feasible, a description of the type and skill level of the jobs and a projection of the increases in revenues accruing to Federal, State, and local governments from the jobs; and

“(C) information relevant to the ranking criteria stated in paragraph (4).

“(3) APPROVAL.—

“(A) INITIAL GRANT.—On or about March 30 and September 30 of the first fiscal year following the date of enactment of this section, the Administrator shall make grants under this section to eligible entities that submit applications before those dates that the Administrator determines have the highest rankings under the ranking criteria established under paragraph (4).

“(B) SUBSEQUENT GRANTS.—Beginning with the second fiscal year following the date of enactment of this section, the Administrator shall make an annual evaluation of each application received during the prior fiscal year and make grants under this section to eligible entities that submitted applications during the prior year that the Administrator determines have the highest rankings under the ranking criteria established under paragraph (4).

“(4) RANKING CRITERIA.—The Administrator shall establish a system for ranking grant applications that includes the following criteria:

“(A) The extent to which a grant will stimulate the availability of other funds for environmental remediation and subsequent redevelopment in the area in which the brownfield facilities are located.

“(B) The potential of the development plan for the area in which the brownfield facilities are located to stimulate economic development of the area on completion of the cleanup, such as the following:

“(i) The relative increase in the estimated fair market value of the area as a result of any necessary response action.

“(ii) The potential of a grant to create new or expand existing business and employment opportunities (including opportunities for disadvantaged workers and other persons with limited opportunities) on completion of any necessary response action.

“(iii) The estimated additional tax revenues generated by economic redevelopment in the area in which a brownfield facility is located.

“(4) VOTING.—An eligible entity that receives a grant under paragraph (1) may use the funds provided for the redevelopment of a brownfield facility for which funding is received from other sources, but the grant shall be used only for the purposes described in subsection (b)(2) or (c)(2).

“(e) GRANT APPLICATIONS.—

“(1) IN GENERAL.—Any eligible entity may submit an application to the Administrator for a grant under this section for 1 or more brownfield facilities.

“(2) APPLICATION REQUIREMENTS.—An application for a grant under this section shall include—

“(A) an identification of each brownfield facility for which the grant is sought and a description of the redevelopment plan for the area or areas in which the brownfield facilities are located, including a description of the nature and extent of any known or suspected environmental contamination within the area;

“(B) an analysis that demonstrates the potential of the grant to stimulate economic development through the planned response action, including a projection of the number of jobs expected to be created at each facility after remediation and redevelopment and, to the extent feasible, a description of the type and skill level of the jobs and a projection of the increases in revenues accruing to Federal, State, and local governments from the jobs; and

“(C) information relevant to the ranking criteria stated in paragraph (4).

“(3) APPROVAL.—

“(A) INITIAL GRANT.—On or about March 30 and September 30 of the first fiscal year following the date of enactment of this section, the Administrator shall make grants under this section to eligible entities that submit applications before those dates that the Administrator determines have the highest rankings under the ranking criteria established under paragraph (4).

“(B) SUBSEQUENT GRANTS.—Beginning with the second fiscal year following the date of enactment of this section, the Administrator shall make an annual evaluation of each application received during the prior fiscal year and make grants under this section to eligible entities that submitted applications during the prior year that the Administrator determines have the highest rankings under the ranking criteria established under paragraph (4).

“(4) RANKING CRITERIA.—The Administrator shall establish a system for ranking grant applications that includes the following criteria:

“(A) The extent to which a grant will stimulate the availability of other funds for environmental remediation and subsequent redevelopment in the area in which the brownfield facilities are located.

“(B) The potential of the development plan for the area in which the brownfield facilities are located to stimulate economic development of the area on completion of the cleanup, such as the following:

“(i) The relative increase in the estimated fair market value of the area as a result of any necessary response action.

“(ii) The potential of a grant to create new or expand existing business and employment opportunities (including opportunities for disadvantaged workers and other persons with limited opportunities) on completion of any necessary response action.

“(iii) The estimated additional tax revenues generated by economic redevelopment in the area in which a brownfield facility is located.

“(IV) The estimated extent to which a grant would facilitate the identification of or facilitate a reduction of health and environmental risks.

“(V) The financial involvement of the State and local government in any response action planned for a brownfield facility and the extent to which the response action and subsequent development of a brownfield facility involves the active participation and support of the local community.

“(C) in the case of an application by a person that conducts a voluntary response action fails to complete the voluntary response action plan.

“(D) if the person conducting the voluntary response action fails to complete the voluntary response action plan.

“(E) requires that the eligible entity shall capitalize a revolving loan fund to be used for response actions (excluding site characterization and assessment made by a State or an eligible entity, through a regional office of the Environmental Protection Agency and in such form as the Administrator may require, for a grant under this section for 1 or more brownfield facilities).

“(F) SUBSEQUENT GRANTS.—Beginning with the second fiscal year following the date of enactment of this section, the Administrator shall make an annual evaluation of each application received during the prior fiscal year and make grants under this section to eligible entities that submitted applications during the prior year that the Administrator determines have the highest rankings under the ranking criteria established under paragraph (4).

“(4) RANKING CRITERIA.—The Administrator shall establish a system for ranking grant applications that includes the following criteria:

“(A) The extent to which a grant will stimulate the availability of other funds for environmental remediation and subsequent redevelopment in the area in which the brownfield facilities are located.

“(B) The potential of the development plan for the area in which the brownfield facilities are located to stimulate economic development of the area on completion of the cleanup, such as the following:

“(i) The relative increase in the estimated fair market value of the area as a result of any necessary response action.

“(ii) The potential of a grant to create new or expand existing business and employment opportunities (including opportunities for disadvantaged workers and other persons with limited opportunities) on completion of any necessary response action.

“(iii) The estimated additional tax revenues generated by economic redevelopment in the area in which a brownfield facility is located.

“(1) OPPORTUNITIES FOR TECHNICAL ASSISTANCE.—

“(A) ASSISTANCE TO STATES.—The Administrator shall provide technical assistance to States to establish and expand voluntary response programs that include the elements listed in subsection (b).

“(B) ELEMENTS.—The elements of a qualifying State voluntary response program are the following:

“(i) Opportunities for technical assistance for voluntary response actions.

“(ii) Adequate opportunities for public participation, including prior notice and opportunity for comment, in selecting response actions.

“(iii) Streamlined procedures to ensure expeditious voluntary response actions.

“(iv) Oversight and enforcement authorities or other mechanisms that are adequate to ensure that—

“(A) voluntary response actions will protect human health and the environment and be conducted in accordance with applicable Federal and State law; and

“(B) if the person conducting the voluntary response action fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities, the necessary response activities are completed.

“(v) Mechanisms for approval of a voluntary response action plan.
“(a) DEFINITION.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) (as amended by section 102(a)) is amended by adding at the end the following:

“(o) PROSPECTIVE PURCHASER AND WIND-FALL LIENS.—

“(1) DEFINITION.—The term ‘prospective purchaser’ means a person that acquires ownership of a facility after the date of enactment of this Act to take an administrative or judicial enforcement action or to bring a private civil action against any person regarding any matter that is within the scope of the plan.

“(b) LIABILITY.—A person that acquires ownership of a facility who is not liable by reason of section 103(a)(2) or who is liable only for unrecovered costs is carried out at the facility.

“(c) LIEN.—A person shall be considered to have a lien on any other property or other assurances of payment satisfactory to the Administrator, for such unrecovered costs.

“(3) CONDITIONS.—The conditions referred to in paragraph (1) are as follows:

“(A) RESPONSE ACTION.—A response action for which there are unrecovered costs is carried out at the facility.

“(B) FAIR MARKET VALUE.—The fair market value of the facility above the fair market value of the facility that existed 180 days before the response action was initiated.

“(C) SALE.—A sale or other disposition of all or a portion of the facility has occurred.

“(D) AMOUNT.—A lien under paragraph (2)—

“(I) shall not exceed the fair market value of the property attributable to the response action at the time of a subsequent sale or other disposition of the property;

“(II) shall arise at the time at which costs are first incurred by the United States with respect to a response action at the facility;

“(III) shall be subject to the requirements of subparagraph (I)(3); and

“(D) shall continue until the earlier of satisfaction of the lien or recovery of all response costs incurred at the facility.

“SEC. 105. SAFE HARBOR INNOCENT LAND-HOLDERS.

“(a) AMENDMENT.—Section 101(35) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(35)) is amended by striking sub-paragraph (B)(ii) and inserting the following:

“(B) USE OF LIEN.—The person provided all legal and correct inquiry and investigation with respect to the discovery or release of any hazardous substances at the facility.

“SEC. 106. COMPLIANCE WITH ACT.

“(a) COMPLIANCE WITH ACT.—A person that conducts a voluntary response action under this section that is listed or proposed on the National Priorities List shall implement applicable provisions of this Act of or similar provisions of State law in a manner comporting with State policy, so long as the voluntary response action that is selected protects human health and the environment to the same extent as would a remedial action selected by the Administrator under section 121(a).

“(b) ISSUING AN ORDER UNDER SECTION 106.—If, in the Administrator’s judgment, the response action at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed, is not adequate to protect human health and the environment to the same extent as would a responsible party’s compliance with this Act, the Administrator may—

“(1) issue an assurance that no enforcement action under this Act will be initiated against a person described in paragraph (1); and

“(2) grant a person described in paragraph (1) protection against a cost recovery or contribution action under section 113.

“(c) NOTICING.—The person provided all legal and correct inquiry and investigation with respect to the discovery or release of any hazardous substances at the facility by taking reasonable steps to stop any continuing release and prevent or limit human or natural resource exposure to any previously released hazardous substance.

“(d) COOPERATION, ASSISTANCE, AND ACCESS.—The person provides full cooperation, assistance, and facility access to the persons that are responsible for response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility.

“(e) RELATIONSHIP.—The person is not liable, and is not affiliated with any person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.”
"(i) All appropriate inquiries.—To establish that the defendant had no reason to know of the matter described in subparagraph (A)(i), the defendant must show that, at or prior to the date on which the defendant acquired the facility, the defendant undertook all appropriate inquiries into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices.

(ii) Standards and practices.—The Administrator shall by regulation establish as standards and practices for the purpose of clause (i)—

"(A) any specialized knowledge or experience on the part of the defendant;

(B) the relationship of the purchase price to the value of the property if the property was uncontaminated;

(C) commonly known or reasonably ascertainable information about the property;

(D) the degree of obviousness of the presence or likely presence of contamination at the property; and

(E) the ability to detect the contamination by appropriate investigation.

Title II—State Role

Sec. 201. Delegation to the States of Authorities with Respect to National Priorities List Facilities.

(a) In general.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 103) is amended by adding a new section 104.

(b) Idenification of delegable authorities.

"(1) In general.—The President shall by regulation identify all of the authorities of the categories of delegable authority to perform fewer than all of the activities necessary to recover response costs, including—

(A) issuance of an order under section 106(a);

(B) a response action cost recovery under section 107;

(C) imposition of a civil penalty or award under section 109 (a)(1) or (b)(4); and

(D) settlement under section 122; and

(E) any other authority identified by the Administrator under subsection (b).

(2) Nondelegable authority.—The term 'nondelegable authority' means a delegable authority that has been delegated to a nonfederal listed facility.

(3) Enforcement authority.—The term 'enforcement authority' means all authorities necessary to recover response costs, including—

(A) a feasibility study under section 104; and

(B) any other authority identified by the Administrator under subsection (b).

(4) Delegable authority.—The term 'delegable authority' means a delegable authority that has been delegated to a State under this section.

(5) Noncomprehensive delegation state.—The term 'noncomprehensive delegation state' means a State to which the Administrator has delegated authority to perform fewer than all of the categories of delegable authority.

(6) Delegated authority.—The term enforcement authority means all authorities necessary to recover response costs, require potentially responsible parties to perform response actions, and otherwise compel implementation of a response action, including—

(A) issuance of an order under section 106(a).

(b) Standards and practices.—

(i) Establishment by regulation.—The Administrator of the Environmental Protection Agency shall issue the regulation required by section 101(35)(B)(ii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as added by subsection (a) not later than 1 year after the date of enactment of this Act).

(ii) Standards and practices.—Until the Administrator issues the regulation described in paragraph (1), in making a determination under section 101(35)(B)(ii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as added by subsection (a)), there shall be taken into account—

(A) any specialized knowledge or experience on the part of the defendant;

(B) the relationship of the purchase price to the value of the property if the property was uncontaminated;

(C) commonly known or reasonably ascertainable information about the property;

(D) the degree of obviousness of the presence or likely presence of contamination at the property; and

(E) the ability to detect the contamination by appropriate investigation.

Title II—State Role

Sec. 201. Delegation to the States of Authorities with Respect to National Priorities List Facilities.

(a) In general.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 103) is amended by adding a new section 104.

(b) Identification of delegable authorities.

"(1) In general.—The President shall by regulation identify all of the authorities of the categories of delegable authority to perform fewer than all of the activities necessary to recover response costs, including—

(A) a feasibility study under section 104; and

(B) any other authority identified by the Administrator under subsection (b).

(2) Nondelegable authority.—The term 'nondelegable authority' means a delegable authority that has been delegated to a nonfederal listed facility.

(3) Enforcement authority.—The term 'enforcement authority' means all authorities necessary to recover response costs, require potentially responsible parties to perform response actions, and otherwise compel implementation of a response action, including—

(A) issuance of an order under section 106(a);

(B) a response action cost recovery under section 107;

(C) imposition of a civil penalty or award under section 109 (a)(1) or (b)(4); and

(D) settlement under section 122; and

(E) any other authority identified by the Administrator under subsection (b).

(4) Delegable authority.—The term 'delegable authority' means a delegable authority that has been delegated to a nonfederal listed facility.

(5) Enforcement authority.—The term enforcement authority means all authorities necessary to recover response costs, require potentially responsible parties to perform response actions, and otherwise compel implementation of a response action, including—

(A) issuance of an order under section 106(a);

(B) a response action cost recovery under section 107;

(C) imposition of a civil penalty or award under section 109 (a)(1) or (b)(4); and

(D) settlement under section 122; and

(E) any other authority identified by the Administrator under subsection (b).

(7) Noncomprehensive delegation state.—The term 'noncomprehensive delegation state' means a State to which the Administrator has delegated authority to perform fewer than all of the categories of delegable authority.

(8) Nondelegable authority.—The term 'nondelegable authority' means authority to—

(A) make grants to community response organizations under section 117; and

(B) conduct research and development activities under any provision of this Act.

(9) Non-federal listed facility.—The term 'non-federal listed facility' means a facility that—

(A) is not owned or operated by a department, agency, or instrumentality of the United States in any branch of the Government and

(B) is listed on the National Priorities List.

(10) Identification of delegable authority.

"(1) In general.—The President shall by regulation identify all of the authorities of the categories of delegable authority.
the Administrator that shall be included in a delegation of any category of delegable authority described in subsection (a)(2).

(2) LIMITATION.—The Administrator shall not request delegable authority for inclusion in a delegation of any category of delegable authority.

(3) DELEGATION OF AUTHORITY.—

(I) IN GENERAL.—Pursuant to an approved State application, the Administrator shall delegate authority to perform 1 or more delegable authorities with respect to or for more non-Federal listed facilities in the State.

(II) APPLICATION.—An application under paragraph (I) shall—

(A) identify each non-Federal listed facility for which delegation is requested;

(B) identify each delegable authority that is requested to be delegated for each non-Federal listed facility for which delegation is requested; and

(C) certify that the State, supported by such documentation as the State, in consultation with the Administrator, considers to be appropriate—

(i) has statutory and regulatory authority (including appropriate enforcement authority) to requested delegable authorities and authorities in a manner that is protective of human health and the environment;

(ii) is in place to adequately administer and enforce the authorities;

(iii) has procedures to ensure public notice and, as appropriate, opportunity for comment on corrective action plans, consistent with sections 117 and 133; and

(iv) agrees to exercise its enforcement authorities to require that persons that are potentially liable under section 107(a), to the extent practicable, perform and pay for the response actions set forth in each category described in subsection (a)(2).

(3) APPLICATION.—

(A) IN GENERAL.—Not later than 60 days after receiving an application under paragraph (2) by a State that is authorized to administer and enforce the corrective action requirements of a hazardous waste program under section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), and not later than 120 days after receiving an application from a State that is not authorized to administer and enforce the corrective action requirements of a hazardous waste program under section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), unless the State agrees to a greater length of time for the Administrator to make a determination, the Administrator shall—

(i) issue a notice of approval of the application (including approval or disapproval of all or any portion of an application with respect to any of the facilities with respect to which a delegation of authority is requested or with respect to any or all of the authorities that are requested to be delegated); and

(ii) if the Administrator determines that the State does not have adequate legal authority, financial and personnel resources, or any other Federal or State law from any other Federal or State law from any other Federal or State law; or

(B) EFFECT OF DELISTING.—A delisting under subparagraph (A) (ii) or (iii) shall not affect—

(i) the authority or responsibility of the State to complete remedial action and operate or maintain the facility; or

(ii) the eligibility of the State for funding under this Act; or

(iii) notwithstanding the limitation on section 121(3), the authority of the Administrator to make expenditures from the Fund relating to the facility; or

(iv) the enforceability of any consent order or decree relating to the facility.

(C) NO RELISTING.—

(I) IN GENERAL.—Except as provided in clause (ii), the Administrator may not delist a facility from the National Priorities List described in section 104(c)(1), the authority of the Administrator to make expenditures from the Fund relating to the facility; or

(ii) with the concurrence of the potentially responsible parties, if the State has an enforceable agreement to perform all required remedial action and operation and maintenance for the facility or the facility is not a part of a facility that has been removed from the National Priorities List under subparagraph (A).

(5) DELISTING OF NATIONAL PRIORITIES LIST Facilities.—

(A) IN GENERAL.—A delegated State may enter into an agreement with a political subdivision of the State, an interstate body comprised of that State and another delegable State or States, or a combination of such subdivisions or interstate bodies, providing for the performance of any category of delegated authority with respect to a delegated facility with respect to any or all of the facilities with respect to which a delegation of authority is requested or with respect to any or all of the authorities that are requested to be delegated.

(B) AGREEMENT WITH POTENTIALLY RESPONSIBLE PARTY.—A delegated State shall not enter into an agreement under subparagraph (A) with a political subdivision or an interstate body that includes as a component an entity that is, a potentially responsible party with respect to a delegated facility, for the purposes of this Act.

(C) PERFORMANCE WITH POTENTIALLY RESPONSIBLE PARTY.—A delegated State that enters into an agreement under subparagraph (A)—

(i) shall exercise supervision over and approve the activities of the parties to the agreement; and

(ii) shall remain responsible for ensuring performance of the delegated authority.

(6) NONCOMPREHENSIVE DELEGATION STATES.—A noncomprehensive delegation State shall implement each applicable provision of this Act, including regulations and guidance issued by the Administrator, so as to perform each delegated authority with respect to a delegated facility in the same manner as an Administrator.

(7) COST RECOVERY.—If a delegated State selects a more costly remedial action under subsection (c), the State shall not be entitled to seek cost recovery under this Act or any other Federal or State law from any other person for the difference in cost.

(8) NO ADDITIONAL TERMS OR CONDITIONS.—In the case of a State that does not otherwise have the authority to make expenditures from the Fund under section 104(c)(1), the authority of the Administrator to make expenditures from the Fund relating to the facility; or

(9) CONSTRUCTION.—This Act shall be considered to be a delegated State if the parties to the agreement agree in the agreement to undertake response actions that are consistent with this Act.
a facility, plus an amount equal to the amount of response costs incurred by the State with respect to the facility, may be retained by the State; and

"(ii) the Administrator shall deposit in the Hazardous Substances Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1986.

"(B) FAILURE TO CORRECT.—If the Administrator finds that the deficiencies have not been corrected within the time specified in a notice under subparagraph (C), the Administrator may withdraw delegation of authority after providing public notice and opportunity for comment.

"(E) FAILURE TO CORRECT.—If the Administrator finds that the deficiencies have not been corrected within the time specified in a notice under subparagraph (C), the Administrator may withdraw delegation of authority after providing public notice and opportunity for comment.

"(F) JUDICIAL REVIEW.—A decision of the Administrator to withdraw a delegation of authority shall be subject to judicial review under section 133(b).

"(3) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to affect the authority of the Administrator under this Act to—

"(A) take a response action at a facility listed on the National Priorities List in a State to which a delegation of authority has not been made under this section or at a facility not included in a delegation of authority;

"(B) perform a delegable authority with respect to a facility that is not included among the facilities listed on the National Priorities List in a State to which a limited delegation of authority has been made under this section or at a facility not included in a delegation of authority;

"(C) establish a formula under which funds available for nonfacility-specific grants shall be allocated among the delegated States, taking into consideration—

"(i) the cost of administering the delegated authority;

"(ii) the number of sites for which the State has been delegated authority;

"(iii) the types of activities for which the State has been delegated authority;

"(iv) the number of facilities within the State that are listed on the National Priorities List or are delegated facilities under section 130(d)(5); and

"(v) the number of other priority facilities within the State;

"(vi) the need for the development of the State program;

"(vii) the need for additional personnel; and

"(viii) the resources available through State programs for the cleanup of contaminated sites; and

"(ix) the benefit to human health and the environment of providing assistance under this Act.

"(7) PERMITTED USE OF GRANT FUNDS.—A delegated State may use grant funds, in accordance with this Act and the National Contingency Plan, to take any action or perform any duty necessary to implement the authority delegated to the State under this section.

"(8) COST SHARE.—

"(A) ASSURANCE.—A delegated State to which a grant is made under this subsection shall provide an assurance that the State will provide any amount required under section 104(c)(3).

"(B) PROHIBITED USE OF GRANT FUNDS.—A delegated State to which a grant is made under this subsection may not use grant funds to pay any amount required under section 104(c)(3).

"(9) CERTIFICATION OF USE OF FUNDS.—

"(A) IN GENERAL.—The Governor of the State to which this grant has been made shall submit to the Administrator a certification that the State has used the funds in accordance with the requirements of this Act and the National Contingency Plan.

"(ii) information describing the manner in which the State used the funds.
``(B) REGULATIONS.—Not later than 1 year after the date of enactment of this section, the Administrator shall issue a regulation describing with particularity the information that is required to be provided under subparagraph (A)(ii).

``(g) COOPERATIVE AGREEMENTS.—Nothing in this section shall affect the authority of the Administrator to enter into a contract or cooperative agreement with the State, a political subdivision of a State, or an Indian tribe to carry out actions under section 104.

``(h) STATE COST SHARE.—Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) is amended by striking subsection (c) and inserting the following:

``(3) TECHNICAL ASSISTANCE GRANTS.—Nothing in subsection (c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) is amended by striking "removal" each place it appears and inserting "response".

``(2) CONFORMING AMENDMENT.—Section 103(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9603(b)) is amended by striking "section 114(c)" and inserting "section 114(b)".

``TITLE III—COMMUNITY PARTICIPATION SEC. 301. COMMUNITY RESPONSE ORGANIZATIONS; TECHNICAL ASSISTANCE GRANTS; IMPROVEMENT OF PUBLIC PARTICIPATION IN THE SUPERFUND DECISIONMAKING PROCESS.

``(a) AMENDMENT.—Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) is amended by striking subsection (e) and inserting the following:

``(g) COMMUNITY RESPONSE ORGANIZATIONS.—

``(1) ESTABLISHMENT.—The Administrator shall create a community response organization at a facility if a facility is listed or proposed for listing on the National Priorities List.

``(2) TECHNICAL ASSISTANCE GRANTS.—Nothing in subsection (b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) is amended by striking subsection (e) and inserting the following:

``(3) TECHNICAL ASSISTANCE GRANTS.—Nothing in subsection (b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) is amended by striking subsection (e) and inserting the following:

``(e) COMMUNITY RESPONSE ORGANIZATIONS.—

``(1) ESTABLISHMENT.—The Administrator shall create a community response organization at a facility if a facility is listed or proposed for listing on the National Priorities List.

``(2) TECHNICAL ASSISTANCE GRANTS.—Nothing in subsection (b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) is amended by striking subsection (e) and inserting the following:

``(3) TECHNICAL ASSISTANCE GRANTS.—Nothing in subsection (b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) is amended by striking subsection (e) and inserting the following:

``(3) ADMINISTRATIVE SUPPORT.—The Administrator, to the extent practicable, shall provide administrative services and meeting facilities to the community response organization.
facilities for community response organizations.

"(9) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a community response organization.

"(f) TECHNICAL ASSISTANCE GRANTS.—

"(i) DEFINITIONS.—In this subsection:

"(A) AFFECTED CITIZEN GROUP.—The term "affected citizen group" means a group of 2 or more individuals who may be affected by the release or threatened release of a hazardous substance, pollutant, or contaminant at a facility on the State Registry or the National Priorities List.

"(B) TECHNICAL ASSISTANCE GRANT.—The term "technical assistance grant" means a grant made under paragraph (2).

"(2) AUTHORITY.—

"(A) IN GENERAL.—In accordance with a regulation issued by the Administrator, the Administrator may make grants available to affected citizen groups.

"(B) AVAILABILITY OF APPLICATION PROCESS.—To ensure that the application process for a technical assistance grant is available to all affected citizen groups, the Administrator shall periodically review the process and, based on the review, implement appropriate changes to improve availability.

"(C) SPECIAL RULES.—

"(A) NO MATCHING CONTRIBUTION.—No matching contribution shall be required for a technical assistance grant.

"(B) AVAILABILITY IN ADVANCE.—The Administrator shall make all or a portion that is not less than $5,000 or 10 percent of the grant amount, whichever is greater) of the grant amount available to a grant recipient in advance of the total expenditures to be covered by the grant.

"(4) LIMIT PER FACILITY.—

"(A) GRANT PER FACILITY.—Not more than 1 technical assistance grant may be made with respect to a single facility, but the grant may be renewed to facilitate public participation at all stages of response action.

"(B) DURATION.—The Administrator shall set a limit by regulation on the number of years for which a technical assistance grant may be made available based on the duration, type, and extent of response action at a facility.

"(5) AVAILABILITY FOR FACILITIES NOT YET LISTED.—Not later than 90 days after the date of enactment of this paragraph, the Administrator shall publish guidelines concerning the management of technical assistance grants by grant recipients.

"(6) ALTERNATIVES.—Members of the community may propose remedial action alternatives, and the Administrator shall consider such alternatives in the same manner as the Administrator considers alternatives proposed by potentially responsible parties.

"(7) INFORMATION.—

"(A) THE COMMUNITY.—The Administrator, with all significant phases of the response action at the facility.

"(B) TECHNICAL STAFF.—The Administrator shall ensure that information gathered from the community during community outreach efforts reaches appropriate technical staff in a timely and effective manner.

"(C) RESPONSES.—The Administrator shall ensure that reasonable written or other appropriate responses will be made to such information.

"(8) NONPRIVILEGED INFORMATION.—Throughout all phases of response action at a facility, the Administrator shall make all nonprivileged information relating to a facility available to the public for inspection and copying without the need to file a formal request for reasonable service charges as appropriate.

"(9) PRESENTATION.—

"(A) DOCUMENTS.—The Administrator, in preparing documents prepared by the Administrator and made available to the public that purport to
describe the degree of risk to human health shall be consistent with the risk communica-
tion principles outlined in section 131(c).

(B) COMPARISONS.—The Administrator, in carrying out the requirements under this Act, shall provide comparisons of the level of risk from hazardous substances found at the facil-
ity to comparable levels of risk from those hazardous substances routinely encountered by the general public through other sources of exposure.

(10) REQUIREMENTS.—

"(a) REMOVAL ACTIONS.—Notwithstanding any other provision of this sub-
section, in the case of a removal action taken in accordance with section 104 that is expected to require more than 180 days to complete, and in any case in which imple-
mentation of a removal action is expected to obviate or that in fact obviates the need to conduct a long-term remedial action—

"(i) the Administrator shall, to the max-
imum extent practicable, allow for public participation consistent with paragraph (1); and

"(ii) the removal action shall achieve the goals of protecting human health and the en-
vironment in accordance with section 121(a).

"(b) OTHER REMOVAL ACTIONS.—In the case of all other removal actions, the Admin-
istrator may provide the community with no-
tice of the remedial action and a public comment period, as appropriate.

(b) ISSUANCE OF GUIDELINES.—The Adminis-
trator of the Environmental Protection Agency shall issue guidelines under section
117(e)(9) of the Comprehensive Environ-
mental Response, Compensation, and Liabil-
ity Act of 1980 (42 U.S.C. 9601) (as amended by subsection (a)), not later than 90 days after the date of en-
actment of this Act.

TITLE IV—SELECTION OF REMEDIAL ACTIONS

SEC. 401. DEFINITIONS

Section 101 of the Comprehensive Environ-
mental Response, Compensation, and Liabil-
ity Act of 1980 (42 U.S.C. 9601) (as amended by section 105(a)) is amended by adding at the end the following:

"(41) ACTUAL OR PLANNED OR REASONABLY
ANTICIPATED FUTURE USE OF THE LAND AND
WATER RESOURCES OF THE FACILITY, at a facil-
ty site or at a facility specified in the date of submittal of the proposed remedial action plan; and

"(B)(i) with respect to land—

"(I) that is authorized by the zoning or land use decisions formally adopted, at or prior to the time of the initi-
ation of the facility evaluation, by the local land use planning authority for a facility or the land immediately adjacent to the facil-
ity; and

"(ii) any other reasonably anticipated use that the term ‘actual or planned or reasonably anticipated future use of the land and water resources’ means—

"(A) the actual use of the land, surface water, or ground water at a facility or at a facil-
ty site or at a facility specified in the date of submittal of the proposed remedial action plan; and

"(B)(ii) with respect to land—

"(I) that is authorized by the zoning or land use decisions formally adopted, at or prior to the time of the initi-
ation of the facility evaluation, by the local land use planning authority for a facility or the land immediately adjacent to the facil-
ity; and

"(ii) any other reasonably anticipated use that the term ‘actual or planned or reasonably anticipated future use of the land and water resources’ means—

"(A) the actual use of the land, surface water, or ground water at a facility or at a facil-
ty site or at a facility specified in the date of submittal of the proposed remedial action plan; and

"(ii) with respect to water resources, the future use of the surface water and ground water that is potentially affected by releases from a facility that is reasonably antici-
pated to be in existence after the facility is no-

(21) SUSTAINABILITY.—The term ‘sustain-
ability’, for the purpose of section

123(a)(1)(B)(ii), means the ability of an eco-
system to continue to function within the normal range of its variability absent the ef-
facts of a release of a hazardous substance.

SEC. 402. SELECTION AND IMPLEMENTATION OF REMEDIAL ACTIONS.

Section 121 of the Comprehensive Environ-
mental Response, Compensation, and Liabil-
ity Act of 1980, as added by subsection (a),

SEC. 121. SELECTION AND IMPLEMENTATION OF REMEDIAL ACTIONS.

(a) GENERAL RULES.—

"(1) PROTECTION OF HUMAN HEALTH.—A rem-
edial action shall be considered to be pro-
eticive of the environment if the reme-
dial action—

"(I) protects ecosystems from significant threats to their sustainability arising from exposure to releases of hazardous substances that are expected to result in greater risk to human health or the environment than alternatives described in any of the following find-
ings:

"(aa) IMPROPER IDENTIFICATION.—The standard, requirement, criterion, or limita-
tion, which was improperly identified as an applicable requirement under clause (i) or (ii), fails to comply with the rule-
making requirements adopted under clause (i) or (ii) of section 104(a).

"(bb) PART OF REMEDIAL ACTION.—The se-
clected remedial action is only part of a total remedial action that will comply with or attain Federal and State standards, require-
ments, criteria, and limitations as re-
quired by clause (i).

"(cc) GREATER RISK.—Compliance with or attainment of the standard, requirement, criterion, or limitation will result in greater risk to human health or the environment than alternatives described in any of the following find-
ings:

"(dd) TECHNICALLY IMPractical.—Com-
pliance with or attainment of the standard, requirement, criterion, or limitation is technically impracticable.

"(ee) Equivalent to Standard Performance.—The selected remedial action will attain a standard of performance that is equivalent to that required under a standard,
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...the Administrator shall balance the factors stated in paragraph (1)(B) and the requirements of this paragraph...
scientically objective and inclusive of all relevant data.

"(b) Risk Evaluation Principles.—A facility-specific risk evaluation shall—

(1) be comprised of components each of which is, to the maximum extent practicable, scientifically objective, and inclusive of all relevant data;

(2) be based on facility-specific data and analysis (such as bioavailability, exposure, and fate and transport evaluations) in preference to default assumptions when—

(A) contingency analysis is likely to vary by facility; and

(B) facility-specific risks are to be communicated to the public or the use of such data and analysis alters the basis for decisions to be made;

(3) use a range and distribution of realistic and scientifically supportable assumptions when chemical and facility-specific data are not available, if the use of such assumptions would communicate more accurately the consequences of the various decision options.

"(c) Risk Communication Principles.—The document reporting the results of a facility-specific risk evaluation shall—

(1) contain a statement that clearly communicates the risks at the facility; and

(2) include all assumptions used in the evaluation, any alternative assumptions that, if made, could materially affect the outcome of the evaluation, the policy or value judgments used in choosing the assumptions, and whether empirical data conflict with or validate the assumptions;

(3) present—

(A) a range and distribution of exposure and risk estimates, including, if numerical estimates are provided, central estimates of exposure and risk using—

(i) the most scientifically supportable assumptions or a weighted combination of multiple assumptions based on different scenarios; or

(ii) any other methodology designed to characterize the scientifically supportable estimate of risk given the information that is available at the time of the facility-specific risk evaluation; and

(B) the nature and magnitude of the scientific and other uncertainties associated with those estimates;

(4) state the size of the population potentially at risk from releases from the facility and the likelihood that potential exposures will occur based on the actual or planned or reasonably anticipated future use of the land and water resources; and

(5) compare the risks from the facility to other risks commonly experienced by members of the local community in their daily lives and similar risks regulated by the Federal Government.

"(d) Regulations.—Not later than 18 months after the date of enactment of this section, the Administrator shall issue a final regulation implementing this section that promotes a realistic characterization of risk that neither exaggerates nor downplays the risks and potential risks posed by facility-specific or a proposed remedial action.

"SEC. 132. PRESUMPTIVE REMEDIAL ACTIONS.

(a) General.—Not later than 1 year after the date of enactment of this section, the Administrator shall issue a final regulation establishing presumptive remedial actions that shall be determined by the Administrator based on well understood contamination problems and exposure potential.

"(b) Practicability and Cost-Effectiveness.—Such presumptive remedies must have been demonstrated to be technically practicable and cost-effective methods of addressing human health and the environment stated in section 121(a)(1)(B).

(2) Use of Presumptive Remedial Actions.—Presumptive remedial actions are limited to treatment remedial actions, but may be based on, or include, institutional and standard engineering controls.

"SEC. 404. REMEDY SELECTION PROCEDURES.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) as amended by section 403 is amended by adding at the end the following:

"SEC. 133. REMEDIAL ACTION PLANNING AND IMPLEMENTATION.

(a) in General.—

(1) Basic Rules.—

(A) Procedures.—A remedial action with respect to a facility that is listed or proposed for listing on the National Priorities List shall be comprised and implemented in accordance with the procedures set forth in this section.

(B) Other Requirements.—The procedures stated in this section are in lieu of any procedures or requirements under any other law to conduct remedial investigation, feasibility study, or risk assessment.

(2) Remedy Evaluation, Proposed Remedial Action, and Remedial Design.

(A) Explanations that clearly communicate the risks at the facility; and


(1) if a potentially responsible party or group of potentially responsible parties—

(i) expresses an intention to prepare a work plan, facility evaluation, proposed remedial action, and remedial design and implement the remedial action plan (not including any such expression of intention that the Administrator finds is not made in good faith); and

(ii) demonstrates that the potentially responsible party or group of potentially responsible parties—

(I) has the financial resources and the technical expertise to perform those functions, and

(II) demonstrates that the potentially responsible party or group of potentially responsible parties has the financial resources and the technical expertise to perform those functions, and

(B) a discussion of the potentially viable remedies for the facility.

(c) Initial Review.—In a case in which a potentially responsible party expresses an intention to prepare a remedial action plan, only the work plan, facility evaluation, proposed remedial action plan, and final remedial design shall be subject to review, comment, and approval by the Administrator.

(d) Designation of Potentially Responsible Parties to Prepare Work Plan, Facility Evaluation, Proposed Remedial Action, and Remedial Design and to Implement the Remedial Action Plan.—In the case of a facility for which the Administrator is not required to conduct a facility evaluation, proposed remedial action, and remedial design and implement the remedial action plan—

(I) if a potentially responsible party or group of potentially responsible parties—

(i) expresses an intention to prepare a work plan, facility evaluation, proposed remedial action, and remedial design and to implement the remedial action plan (not including any such expression of intention that the Administrator finds is not made in good faith); and

(ii) demonstrates that the potentially responsible party or group of potentially responsible parties—

(I) has the financial resources and the technical expertise to perform those functions; and

(II) demonstrates that the potentially responsible party or group of potentially responsible parties has the financial resources and the technical expertise to perform those functions, the Administrator, based on an assessment of the various parties’ comparative financial resources, technical expertise, and histories of cooperation with respect to facilities that are listed or proposed for listing on the National Priorities List, shall designate 1 potentially responsible party or group of potentially responsible parties to perform those functions.

(e) Approval Required at Each Step of Procedure.—No action shall be taken with respect to a facility evaluation, proposed remedial action plan, remedial action plan, or remedial action, except as provided under section 121(a)(1)(B) and after the Administrator shall have approved the same.

(f) National Contingency Plan.—The Administrator shall conform the National Contingency Plan regulations to reflect the procedures stated in this section.

(2) Use of Presumptive Remedial Actions.—

(A) Proclamation to Use.—In a case in which a potentially responsible party expresses an intention to prepare a remedial action plan, the Administrator (if the Administrator is conducting the remedial action plan) or the preparer (if conducting a facility evaluation, proposed remedial action plan, remedial action plan, or remedial action plan) shall, after conducting a facility evaluation, propose a presumptive remedial action for the facility, if the Administrator or preparer shows with a high degree of confidence that the facility fits the generic classification for which a presumptive remedial action has been issued and that the remedial action to implement the presumptive remedial action can be applied at the facility.

(B) Limitation.—The Administrator may not require a potentially responsible party to implement a presumptive remedial action.

(2) Contents.—A remedial action plan shall consist of—

(a) the results of a facility evaluation, including any screening analysis performed at the facility;

(b) a discussion of the potentially viable remedies that are considered to be reasonable under section 121(a), the capital costs, operation and maintenance costs, and estimated present worth costs of the remedies, and how the remedies balance the factors stated in section 121(a); and

(c) a description of the remedial action to be taken;

(2) Description of the Facility-Specific Risk-Based Evaluation Under Section 121(a). A demonstration that the selected remedial action will satisfy sections 121(a) and 132, and a realistic schedule for conducting the remedial action, taking into consideration facility-specific factors.

(3) Work Plan.—

(A) in General.—Prior to preparation of a remedial action plan, the Administrator shall develop a work plan, including a community information and participation plan, which generally describes how the remedial action plan will be developed in cooperation with the local community, a notice announcing that the work plan will be developed in cooperation with the local community, and that comments concerning the work plan can be submitted to the preparer.
of the work plan, the Administrator, the State, or the local community response organization.

(D) FOR FEEDING OF COMMENTS.—If comments are submitted to the Administrator, the State, or the community response organization, the Administrator, State, or community response organization shall forward the comments to the preparer of the work plan.

(E) NOTICE OF DISAPPROVAL.—If the Administrator does not approve a work plan, the Administrator shall—

(i) identify to the preparer of the work plan, with specificity, any deficiencies in the submission; and

(ii) require that the preparer submit a revised work plan within a reasonable period of time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

(F) FACILITY EVALUATION.—

(A) IN GENERAL.—The Administrator (or the preparer of the facility evaluation) shall conduct a facility evaluation at each facility to characterize the risk posed by the facility by gathering enough information necessary to—

(i) assess potential remedial alternatives, including ascertaining, to the degree appropriate, the volume and nature of the contamination, the presence of potential waste pathways and receptors;

(ii) discern the actual or planned or reasonably anticipated future use of the land and water resources;

(iii) screen out any uncontaminated areas, contaminants, and potential pathways from further consideration.

(B) SUBMISSION.—A draft facility evaluation shall be submitted to the Administrator for approval and

(C) PUBLICATION.—Not later than 30 days after submission, or in a case in which the Administrator is preparing the remedial action plan, after the completion of the draft facility evaluation, the Administrator shall publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice announcing that the draft facility evaluation is available for review and that comments concerning the evaluation can be submitted to the Administrator, the State, and the community response organization.

(D) AVAILABILITY OF COMMENTS.—If comments are submitted to the Administrator, the State, or the community response organization, the Administrator, State, or community response organization shall make the comments available to the preparer of the facility evaluation.

(E) NOTICE OF APPROVAL.—If the Administrator approves a facility evaluation, the Administrator shall—

(i) notify the community response organization; and

(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

(F) REMEDIAL DESIGN.—

(A) SUBMISSION.—A remedial design shall be submitted to the Administrator, in a case in which the Administrator is preparing the remedial action plan, on or before the date of completion of the remedial design.

(B) PUBLICATION.—After receipt by the Administrator of (or completion by the Administrator of) the remedial design, the Administrator shall—

(i) notify the community response organization; and

(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval of the remedial design.

(C) PUBLICATION.—A proposed remedial action plan, with specificity, of any deficiencies in the submission; and

(D) REQUEST TO SUBMIT A REVISED REMEDIAL ACTION PLAN within a reasonable period of time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

(E) NOTICE OF APPROVAL.—If the Administrator approves a proposed remedial action plan, the Administrator shall—

(i) notify the community response organization; and

(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

(F) NOTICE OF DISAPPROVAL.—If the Administrator does not approve a proposed remedial action plan, the Administrator shall—

(i) inform the preparer of the proposed remedial action plan, with specificity, of any deficiencies in the submission; and

(ii) request that the preparer submit a revised proposed remedial action plan within a reasonable time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

(G) REMEDIAL DESIGN.—

(A) SUBMISSION.—A remedial design shall be submitted to the Administrator, in a case in which the Administrator is preparing the remedial action plan, on or before the date of completion.

(B) PUBLICATION.—After receipt by the Administrator of (or completion by the Administrator of) the remedial design, the Administrator shall—

(i) notify the community response organization; and

(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval of the remedial design.
deviated significantly from the plan, the Administrator shall provide the implementing party a notice that requires the implementing party, within a reasonable period of time specified by the Administrator—

(A) comply with the terms of the remedial action plan; or

(B) submit a notice for modifying the plan.

(2) FAILURE TO COMPLY.—

(A) CLASS ONE ADMINISTRATIVE PENALTY.— In issuing a notice under paragraph (1), the Administrator may impose a class one administrative penalty consistent with section 109(a).

(B) ADDITIONAL ENFORCEMENT MEASURES.— If the party fails to either comply with the plan or submit a proposed modification, the Administrator may pursue all additional appropriate enforcement measures pursuant to this Act.

(d) MODIFICATIONS TO REMEDIAL ACTION.—

(1) DEFINITION.—In this subsection, the term ‘major modification’ means a modification that—

(A) fundamentally alters the interpretation of site conditions at the facility;

(B) fundamentally alters the interpretation of the facility or the obligation of any person to satisfy section 121(a).

(C) fundamentally alters the scope of protection to be achieved by the selected remedial action; or

(D) fundamentally alters the performance of the selected remedial action; or

(E) delays the completion of the remedy by more than 180 days.

(2) MAJOR MODIFICATIONS.—

(A) IN GENERAL.—If the Administrator or other implementing party proposes a major modification to the plan, the Administrator or other implementing party shall demonstrate that—

(i) the major modification constitutes the most cost-effective remedial alternative that is technologically feasible and is not unreasonably costly; and

(ii) that the revised remedy will continue to satisfy section 121(a).

(B) NOTICE AND COMMENT.—The Administrator shall provide the implementing party, the community response organization, and the local community notice of the proposed major modification and at least 30 days’ opportunity to comment on any such proposed modification.

(C) PRIORITY ACTION.—At the end of the comment period, the Administrator shall promptly approve or disapprove the proposed modification and order implementation of the modification in accordance with any reasonable requirements that the Administrator may specify.

(3) MINOR MODIFICATIONS.—Nothing in this section modifies the discretionary authority of the Administrator to make a minor modification of a record of decision or remedial action plan to conform to the best science and engineering, the requirements of this Act, or changing conditions at a facility.

SEC. 405. COMPLETION OF PHYSICAL CONSTRUCTION AND DELISTING.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 406) is amended by adding at the end the following:

"SEC. 135. TRANSITION RULES FOR FACILITIES CURRENTLY INVOLVED IN REMEDY SELECTION.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 406) is amended by adding at the end the following:

"SEC. 135. TRANSITION RULES FOR FACILITIES INVOLVED IN REMEDY SELECTION ON DATE OF ENACTMENT.

(a) NO RECORD OF DECISION.—

(1) OPTION.—In the case of a facility or operator that, as of the date of enactment of this section, is the subject of a remedial investigation and feasibility study (whether completed or incomplete), the potentially responsible parties or the Administrator may elect to follow the remedial action plan process stated in section 133 rather than the remedial investigation and feasibility study and record of decision process under regulations in effect on the date of enactment of this section that would otherwise apply if the requesting party notifies the Administrator of its election not later than 90 days after the date of enactment of this section.

(2) SUBMISSION OF FACILITY EVALUATION.—In a case in which the potentially responsible parties have or the Administrator has made an election under subsection (a), the potentially responsible parties shall submit the proposed facility evaluation within 180 days after the date on which notice of the election is given.

(3) REMEDY REVIEW BOARDS.—

A remedial review board established under section 133(b)(5)(E) (referred to in this subsection as a ‘remedy review board’) shall have authority to consider a petition under paragraph (3) or (4) of this subsection.
"(A) COMPLETION OF REVIEW.—The review of a petition submitted to a remedy review board under this subsection shall be completed not later than 180 days after the receipt, unless the Administrator, for good cause, grants additional time.

(B) COSTS OF REVIEW.—All reasonable costs incurred by a remedy review board, the Administrator, or a State in conducting a review or evaluating a petition for possible objections shall be borne by the petitioner.

(C) DECISION.—The completion of the 180-day review period, a remedy review board shall issue a written decision including responses to all comments submitted during the review process with regard to a petition.

(D) OPPORTUNITY FOR COMMENT AND MEETINGS.—In reviewing a petition under this subsection, the remedy review board shall provide an opportunity for all interested parties, including representatives of the State and local community in the facility, to comment on the petition and, if requested, to meet with the remedy review board under this subsection.

(E) REVIEW BY THE ADMINISTRATOR.—

(i) The Administrator shall have final review of any decision of a remedy review board under this subsection.

(ii) STANDARD OF REVIEW.—In conducting a review of a remedy review board, the Administrator shall accord substantial weight to the decisions rendered by the remedy review board under this subsection.

(iii) REJECTION OF DECISION.—Any determination to reject a remedy review board's decision under this subsection must be approved by the Administrator or the Assistant Administrator for Solid Waste and Emergency Response.

(F) JUDICIAL REVIEW.—A decision of a remedy review board may be appealed to the remedy review board's decision under this subsection.

(G) CALCULATIONS OF COST SAVINGS.—

(i) IN GENERAL.—A determination with respect to relative cost savings and whether construction has begun shall be based on operable units or distinct elements or phases of remediation and not on the entire record of decision.

(ii) ITEMS NOT TO BE CONSIDERED.—In determining the amount of cost savings—

(A) Petition.—In the case of a facility or operable unit with respect to which a record of decision has been signed and construction has begun prior to the date of enactment of this section, the implementation of an alternative remedial action shall be considered as cost savings.

(B) Petition.—In the case of a record of decision submitted pursuant to subparagraph (B), a remedy review board may approve a petition described in subparagraph (A) if—

(i) the alternative remedial action proposed in the petition satisfies section 121(a); and

(ii) in the case of a record of decision valued at a total cost greater than $5,000,000 and less than $10,000,000, the alternative remedial action achieves cost savings of at least 25 percent of the total costs of the record of decision; or

(iii) in the case of a record of decision valued at a total cost greater than $10,000,000, the alternative remedial action achieves cost savings of $2,500,000 or more; or

(iv) in the case of a record of decision involving ground water extraction and treatment, nonaqueous phase liquids, the alternative remedial action achieves cost savings of $2,000,000 or more.

(C) CONTENTS OF PETITION.—For the purposes of facility-specific risk assessment and monitoring described in subparagraph (A) shall rely on risk assessment data that were available prior to issuance of the record of decision but shall consider the actual or planned or reasonably anticipated future use of the land and water resources.

(D) INCORRECT DATA.—Notwithstanding subparagraph (B) and (C), a remedy review board may approve a petition if the petitioner demonstrates that technical data generated subsequent to the issuance of the record of decision indicates that the decision was based on faulty or incorrect information.

(F) ADDITIONAL CONSTRUCTION.—

(A) PETITION.—In the case of a facility or operable unit with respect to which a record of decision has been signed and construction has begun prior to the date of enactment of this section, the implementation of an alternative remedial action shall be considered as cost savings.

(B) CRITERIA FOR APPROVAL.—Subject to subparagraph (A), a remedy review board shall approve a petition described in subparagraph (A) if—

(i) the alternative remedial action proposed in the petition satisfies section 121(a); and

(ii) in the case of a record of decision valued at a total cost greater than $5,000,000 and less than $10,000,000, the alternative remedial action achieves cost savings of at least 50 percent of the total costs of the record of decision; or

(iii) in the case of a record of decision valued at a total cost greater than $10,000,000, the alternative remedial action achieves cost savings of $5,000,000 or more; or

(iv) in the case of a record of decision involving ground water extraction and treatment, nonaqueous phase liquids, the alternative remedial action achieves cost savings of $5,000,000 or more.

(G) DENIAL.—On receipt of an objection and demonstration under subparagraph (C), the remedy review board shall—

(i) deny the petition; or

(ii) consider any other action that the Governor may recommend.

(H) SAVINGS CLAUSE.—Notwithstanding any other provision of this subsection, in the case of a remedial action plan for which a final record of decision under section 121 has been published, if remedial action was not completed pursuant to the remedial action plan before the date of enactment of this section, the Governor or a State exercising authority under section 130(d) may modify the remedial action plan in order to conform to the requirements of this Act, as in effect on the date of enactment of this section.

SECT. 407. NATIONAL PRIORITIES LIST

(a) AMENDMENTS.—Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) is amended—

(i) in subsection (a)(8) by adding at the end the following:

(C) provision that in listing a facility on the National Priorities List, the Administrator shall not include any parcel of real property at which no release has actually occurred, but to which a released hazardous substance, pollutant, or contaminant has migrated through subsurface strata from another parcel of real estate at which the release actually occurred, unless—

(A) the owner or operator of the facility is liable, or is affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect financial relationship, or any contractual,corporate, or other relationship other than that created by the instruments by which title to the facility is conveyed or financed; and

(B) by adding at the end the following:

(i) DEFINITION.—In subsection (a)(8)(C) and paragraph (2) of this subsection, the term "parcel of real property" means a parcel, lot, or tract of land that has a separate legal description from that of any other parcel, lot, or tract of land the legal description and ownership of which has been recorded in accordance with the law of the State in which it is located.

(ii) STATUTORY CONSTRUCTION.—Nothing in subsection (a)(8)(C) shall be construed to limit the Administrator's authority under section 104 to obtain access to and undertake response actions at any parcel of real property where release of a released hazardous substance, pollutant, or contaminant has migrated in the ground water."
(b) Revision of National Priorities List.—The President shall revise the National Priorities List to conform with the amendments made by subsection (a) not later than 180 days of the date of enactment of this Act.

Title V—Liability

Section 503. Liability Exceptions and Limitation

(a) Definitions.—Section 101 of the Comprehensive Environmental Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9601) (as amended by section 401) is amended by adding at the end of the following:

"(43) CODISPOSAL LANDFILLS.—The term 'codisposal landfill' means a landfill that—

(A) means waste material generated by—

(i) a household (such as a single- or multi-family residence) or a public lodging (such as a hotel or motel); or

(ii) a commercial, institutional, or industrial source, to the extent that—

(I) the waste material is essentially the same as waste normally generated by a household or public lodging; or

(II) the waste material is collected and disposed of with other municipal solid waste or sewage sludge as part of normal municipal solid waste collection services, and, regardless of when generated, would be conditionally exempt small quantity generator waste under the criteria stated in (B)(ii), (C)(ii), and (D)(ii); and

(B) includes food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, elementary or secondary school science laboratory waste, and household hazardous waste; but

(C) does not include combustion ash generated by resource recovery facilities or municipal solid waste or sewage sludge as part of normal municipal solid waste collection services, and, regardless of when generated, would be conditionally exempt small quantity generator waste under the criteria stated in (B)(ii), (C)(ii), and (D)(ii).

"(44) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' means waste material generated by—

(A) means waste material generated by—

(i) a household (such as a single- or multi-family residence) or a public lodging (such as a hotel or motel); or

(ii) a commercial, institutional, or industrial source, to the extent that—

(I) the waste material is essentially the same as waste normally generated by a household or public lodging; or

(II) the waste material is collected and disposed of with other municipal solid waste or sewage sludge as part of normal municipal solid waste collection services, and, regardless of when generated, would be conditionally exempt small quantity generator waste under the criteria stated in (B)(ii), (C)(ii), and (D)(ii); and

(B) includes food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, elementary or secondary school science laboratory waste, and household hazardous waste; but

(C) does not include combustion ash generated by resource recovery facilities or municipal solid waste or sewage sludge as part of normal municipal solid waste collection services, and, regardless of when generated, would be conditionally exempt small quantity generator waste under the criteria stated in (B)(ii), (C)(ii), and (D)(ii).

"(45) SEWAGE SLUDGE.—The term 'sewage sludge' means solid, semisolid, or liquid residue resulting from the treatment of municipal waste water, domestic sewage, or other waste water at or by publicly owned treatment works.

(b) Exception and Limitation.—Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9603) (as amended by section 306(b)) is amended by adding at the end of the following:

"(i) LIABILITY EXEMPTION FOR MUNICIPAL SOLID WASTE AND SEWAGE SLUDGE.—No person (other than the United States or a department, agency, or instrumentality of the United States) shall be liable to the United States or to any other person (including liability for contribution) for any response costs at a facility listed on the National Priorities List to the extent that—

(1) the person is liable solely under subparagraph (C) or (D) of subsection (a)(1); and

(2) the arrangement for disposal, treatment, or transport for disposal or treatment, or the acceptance for disposal or treatment, involved only municipal solid waste or sewage sludge.

(ii) DE MINIMIS CONTRIBUTOR EXEMPTION.—No person shall be liable to the United States or to any other person (including liability for contribution) for any response costs at a facility listed on the National Priorities List to the extent that—

(1) the person is liable solely under subparagraph (C) or (D) of subsection (a)(1); and

(2) the costs of compliance with the requirements of subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) for the facility (as if the facility had continued to accept municipal solid waste through January 1, 1997).

(c) Aggregate Liability of Large Municipalities.—With respect to a codisposal landfill listed on the National Priorities List that is owned or operated only by large municipalities and that is not subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation), the aggregate liability of all large municipalities for response costs incurred on or after the date of enactment of this subsection shall be the lesser of—

(1) 10 percent of the total amount of response costs at the facility; or

(2) the costs of compliance with the requirements of subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) for the facility (as if the facility had continued to accept municipal solid waste through January 1, 1997).

(d) Aggregate Persons Other than Municipalities.—With respect to a codisposal landfill listed on the National Priorities List that is owned or operated in whole or in part by persons other than municipalities and that is not subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation), the aggregate liability of all persons other than municipalities shall be the lesser of—

(1) 10 percent of the total amount of response costs at the facility; or

(2) the costs of compliance with the requirements of subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) for the facility (as if the facility had continued to accept municipal solid waste through January 1, 1997).

(e) Aggregate Liability for Municipalities and Non-Municipalities.—With respect to a codisposal landfill listed on the National Priorities List that is owned and operated by a combination of small and large municipalities, and that is not subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation), the aggregate liability of all persons other than municipalities shall be the lesser of—

(1) 10 percent of the total amount of response costs at the facility; or

(2) the costs of compliance with the requirements of subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) for the facility (as if the facility had continued to accept municipal solid waste through January 1, 1997).
"(F) LIABILITY AT SUBTITLE D FACILITIES.—With respect to a codisposal landfill listed on the National Priorities List that is owned and operated by a small municipality, large municipality, tribe, or local government authority; or a combination of thereof, and that is subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation), the aggregate liability of such municipalities and governments shall be no greater than the costs of compliance with the requirements of subtitle D of the Solid Waste Disposal Act that is subject to an administrative order.—

"(3) APPLICABILITY.—This subsection shall not apply to—

(A) a person that acted in violation of subtitle C of the Solid Waste Disposal Act (42 U.S.C. Sec. 6921 et seq.);

(B) a person that owned or operated a codisposal landfill in violation of the applicable requirements for municipal solid waste landfill units under subtitle D of the Solid Waste Disposal Act (42 U.S.C. Sec. 6941 et seq.) after October 9, 1991;

(C) a facility that was not operated pursuant to and in substantial compliance with any other applicable permit, license, or other approval or authorization relating to municiplal waste or sewage sludge disposal issued by an appropriate State, Indian tribe, or local government authority;

(D) added in section 136L; or

(E) a person that impedes the performance of a response action.

(2) EFFECTIVE DATE AND TRANSITION RULES.—The amendments made by this section—

(A) shall take effect with respect to an action under section 106, 107, or 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 406, is amended by adding at the end the following:

"SEC. 503. ALLOCATION OF LIABILITY FOR CERTAIN FACILITIES.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 406, is amended by adding at the end the following:

"SEC. 136. ALLOCATION OF LIABILITY FOR CERTAIN FACILITIES.

"(a) DEFINITIONS.—In this section:

"(1) ALLOCATION.—The term `allocation' means—

(A) a response action after the date of enactment of this section; and

(B) a federal allocation that is subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act that is subject to an administrative order.

"(2) EXPEDITION.—The Administrator shall conduct the allocation process under this subsection if the Administrator determines that such costs are consistent with the National Contingency Plan.

"SEC. 505. ALLOCATION OF LIABILITY FOR CER
dOMMISSIONS.

(a) DEFINITIONS.—In this section:

"(1) ALLOCATION.—The term `allocation' means—

(A) a response action after the date of enactment of this section; and

(B) a federal allocation that is subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act that is subject to an administrative order.

"(2) EXPEDITION.—The Administrator shall conduct the allocation process under this subsection if the Administrator determines that such costs are consistent with the National Contingency Plan.

"SEC. 506. CONTRIBUTION FROM THE FUND.

"(a) DEFINITIONS.—In this section:

"(1) ALLOCATION.—The term `allocation' means—

(A) a response action after the date of enactment of this section; and

(B) a federal allocation that is subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act that is subject to an administrative order.

"(2) EXPEDITION.—The Administrator shall conduct the allocation process under this subsection if the Administrator determines that such costs are consistent with the National Contingency Plan.

"SEC. 507. ALLOCATION OF LIABILITY FOR CER
dOMMISSIONS.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 406, is amended by adding at the end the following:

"SEC. 137. ALLOCATION OF LIABILITY FOR CERTAIN FACILITIES.

"(a) DEFINITIONS.—In this section:

"(1) ALLOCATION.—The term `allocation' means—

(A) a response action after the date of enactment of this section; and

(B) a federal allocation that is subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act that is subject to an administrative order.

"(2) EXPEDITION.—The Administrator shall conduct the allocation process under this subsection if the Administrator determines that such costs are consistent with the National Contingency Plan.

"SEC. 508. ALLOCATION OF LIABILITY FOR CER
dOMMISSIONS.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 406, is amended by adding at the end the following:

"SEC. 138. ALLOCATION OF LIABILITY FOR CERTAIN FACILITIES.

"(a) DEFINITIONS.—In this section:

"(1) ALLOCATION.—The term `allocation' means—

(A) a response action after the date of enactment of this section; and

(B) a federal allocation that is subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act that is subject to an administrative order.

"(2) EXPEDITION.—The Administrator shall conduct the allocation process under this subsection if the Administrator determines that such costs are consistent with the National Contingency Plan.

"SEC. 509. ALLOCATION OF LIABILITY FOR CER
dOMMISSIONS.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 406, is amended by adding at the end the following:

"SEC. 139. ALLOCATION OF LIABILITY FOR CERTAIN FACILITIES.

"(a) DEFINITIONS.—In this section:

"(1) ALLOCATION.—The term `allocation' means—

(A) a response action after the date of enactment of this section; and

(B) a federal allocation that is subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act that is subject to an administrative order.

"(2) EXPEDITION.—The Administrator shall conduct the allocation process under this subsection if the Administrator determines that such costs are consistent with the National Contingency Plan.

"SEC. 510. ALLOCATION OF LIABILITY FOR CER
dOMMISSIONS.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 406, is amended by adding at the end the following:

"SEC. 140. ALLOCATION OF LIABILITY FOR CERTAIN FACILITIES.

"(a) DEFINITIONS.—In this section:

"(1) ALLOCATION.—The term `allocation' means—

(A) a response action after the date of enactment of this section; and

(B) a federal allocation that is subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act that is subject to an administrative order.
of the allocation process, subject to subsec-

(h)(3); the second or subsequent report, unless the

porter by the allocator under subsection (f)(4)

is 120 days after the date of issuance of a re-

location shall be stayed until the date that

claim described in paragraph (1) is pending

conduct of the allocation process.

section in a proceeding under title 11, United

ation 103, 104, 105, 106, or 122; specifically provided in this section, this sec-

ble period of limitation with respect to a

of, any response costs under this Act.

``(3) TOLLING OF PERIOD OF LIMITATION .Ð
``(D) require implementation of a response actionÐ
``(B) establish an expedited process for the selection,

contract of an impartial allocator, acceptable to

both potentially responsible parties and a

representative of the Fund, to conduct the

allocation in a fair, efficient, and

impartial manner;
``(C) permit any person to propose to name

additional potentially responsible parties as

allocation parties, the costs of any such

ominated party's costs (including reason-

able attorney's fees) to be borne by the party

that proposes the addition of the party to

the allocation process if the allocator deter-

mines that there is no adequate basis in law

or fact to conclude that a party is liable

based on the information presented by the

ominator party or otherwise available to the

locator; and
``(D) require that the allocator adopt any

settlement that allocates 100 percent of the

response costs at a facility to the signatories to the

settlement, if the settlement contains a waiver of–
``(i) a right of recovery from any other

parties or any response cost that is the subject of

the allocation; and
``(ii) a right to contribution under this Act,

with respect to any response action that is

within the scope of allocation process
``(2) TIME LIMIT .--The administrator shall

initiate the allocation process for a facility

not later than:
``(A) the date of completion of the facility

evaluation or remedial investigation for the

facility; or
``(B) the date that is 60 days after the date of

selection of a removal action.
``(3) NO JUDICIAL REVIEW.--There shall be

no judicial review of any action regarding se-

lection of an allocator under the regulation

issued under this subsection.
``(4) RECOVERY OF CONTRACT COSTS.--The costs of

the administrator in retaining an

locator shall be considered to be a response cost for all purposes of this Act.
``(B) FEDERAL, STATE, AND LOCAL AGEN-

CIES.--
``(1) IN GENERAL.--Other than as set forth

in this Act, any Federal, State, or local gov-

ermental department, agency, or instru-

mentality that is named as a potentially re-

sponsible party or an allocation party shall

have no right to

ish a civil action to enforce the sub-

poena; or
``(ii) at the earliest practicable oppor-

unity, are notified of their status; and
``(ii) are in an agreement relating to any allocation of

responsibility or any indemnity for, or sharing of,

any response costs under this Act.

``(C) SECURITIES ACT OF 1933.

``(1) IN GENERAL.--No person may assert a

claim for recovery of a response cost or con-

tribution, insurance proceeds, or any other Federal or State law in connec-

tion with a response action.

``(2) TIMING.--(A) An action against a party

if there is a contemporaneous filing of a judi-

cial consent decree resolving the liability of

the party;

(D) the validity, enforceability, finality,
or merits of any judicial or administrative order, if the date of entry of such

order is prior to the date of enactment of this section with

respect to liability under this Act; or

``(D) the validity, enforceability, finality,
or merits of any judicial or administrative order, if the date of entry of such

order is prior to the date of enactment of this section with

respect to liability under this Act; or

``(D) see section 107(q), (r), (s), (t), (v), and (w).
``(i) are identified by the administrator (before selection of an allocator or by an

locator);
``(ii) at the earliest practicable oppor-

``(C) SANCTIONS.--Any person may request

the attorney general to Ð
``(i) bring a civil action to enforce the sub-

poena; or
``(ii) if the person moves to quash the

subpoena, to defend the motion.
``(F) FAILURE OF ATTORNEY GENERAL TO RE-

Spond.--If the Attorney General fails to pro-

vide any response to the allocator within 30 days of the request for a sub-

poena or request information the allocator may retain counsel to commence a civil action to enforce the subpoena or information request.
``(2) ADDITIONAL AUTHORITY.--An allocator may Ð

``(A) schedule a meeting or hearing and re-

quire the attendance of allocation parties at the meeting or hearing;

``(B) sanction an allocation party for fail-

ing to cooperate with the orderly conduct of the allocation process;

``(C) require that allocation parties wish-

ing to present similar legal or factual posi-

tions consolidate the presentation of the posi-

tions;

``(D) obtain or employ support services, in-

cluding secretarial, clerical, computer sup-

port, legal, and investigative services; and

``(E) take any other action necessary to

conduct a fair, efficient, and impartial allo-

cation process.
``(3) CONDUCT OF ALLOCATION PROCESS.--

``(A) IN GENERAL.--The allocator shall con-

duct the allocation process and render a de-

cision based solely on the provisions of this section, including the allocation factors de-

scribed in subsection (g).
``(B) OPPORTUNITY TO BE HEARD.--Each allo-

cation party shall be afforded an opportunity to be heard (orally or in writing, at the op-

tion of an allocation party) and an oppor-

tunity to comment on a draft allocation re-

port.
``(C) RESPONSES.--The allocator shall not be

required to respond to comments.
``(D) STREAMLINING.--The allocator shall

make every effort to streamline the alloca-

tion process and minimize the cost of con-

ducting the allocation.
``(4) ALLOCATION REPORT.--The allocator shall

provide a written allocation report to the administrator and the allocation parties that specifies the allocation share of each allo-

cation party and any orphan shares, as de-

termined by the allocator.
``(5) EQUITABLE FACTORS FOR ALLOCATION.--

The allocator shall prepare a nonbinding allo-

cation of percentage shares of responsibil-

ity, with each allocation party and to the or-

phan share, in accordance with this section and without regard to any theory of joint and several liability, based on Ð
``(i) the amount of hazardous substances contributed by each allocation party;
``(2) the degree of toxicity of hazardous substances contributed by each allocation party;
``(3) the mobility of hazardous substances contributed by each allocation party;
``(4) the degree of involvement of each allo-

cation party in the generation, transport-

ation, treatment, storage, or disposal of hazardous substances;
``(5) the degree of care exercised by each allo-

cation party with respect to hazardous substances, taking into account the charac-

teristics of the hazardous substances;
"(6) the cooperation of each allocation party in contributing to any response action and in providing complete and timely information to the allocator; and

(7) the following factors as the allocator determines are appropriate:

(h) ORPHAN SHARES.—

(i) (I) GENERAL.—The allocator shall determine whether any percentage of responsibility for the response action shall be allocable to the orphan share.

(ii) The allocation of the orphan shall be based on a determination of the percentage of responsibility as of the date of enactment of this section attributable to a person and the aggregate share actually assumed by the person in a settlement with the United States otherwise. If

(i) the person is eligible for an expedited settlement with the United States under section 122 based on limited ability to pay response costs;

(ii) the liability of the person is eliminated, limited, or reduced by any provision of this Act; or

(iii) the person settled with the United States before the completion of the allocation:

(C) all response costs at a disposal landfill listed on the National Priorities List shall be paid by the party that originally submitted the item or testified in the allocation process; or

(D) discovery and admissibility.—

(A) IN GENERAL.—Each document or material submitted to the allocator or placed in the document repository shall be available only to an allocator and to the person who originally submitted the item or testified in the allocation process.

(B) AVAILABILITY.—Subject to paragraph (A), the documents and information in the document repository shall be available only to an allocator and to the person who originally submitted the item or testified in the allocation process.

(C) DISCLOSURE.—Notwithstanding any other law, the documents and materials and the record of any information generated or obtained during the allocation process shall be confidential.

(D) DISCOVERY AND ADMISSIBILITY.—

(i) (I) GENERAL.—The allocator shall establish in the document repository, containing copies of all documents and information provided by the Administrator or any allocation party under this section or generated by the allocator during the allocation process.

(ii) (A) IN GENERAL.—The allocator shall establish in the document repository, containing copies of all documents and information provided by the Administrator or any allocation party under this section or generated by the allocator during the allocation process.

(ii) (B) ASSESSMENT OF PENALTY.—A penalty may be assessed by the Administrator in accordance with section 109 or by any allocator in a civil suit brought under section 310.

(2) CRIMINAL.—A person that knowingly and willfully makes a false statement or representation in connection with the allocation process shall be considered to have made a false statement on a matter within the jurisdiction of the United States within the meaning of section 1001 of title 18, United States Code.

(3) DOCUMENT REPOSITORY.—

(A) IN GENERAL.—The allocator shall establish a document repository, containing copies of all documents and information provided by the Administrator or any allocation party under this section or generated by the allocator during the allocation process.

(B) AVAILABILITY.—Subject to paragraph (A), the documents in the document repository shall be available only to an allocator and to the person who originally submitted the item or testified in the allocation process.
``(3) JUDICIAL REVIEW.—Any determination by the Administrator or the Attorney General under this subsection shall not be subject to judicial review unless 2 successive allocations at significant milestones are rejected in accordance with the provisions of paragraph (5) and the Administrator may commence an action for contribution with the United States.

``(4) DELEGATION.—The authority to make a determination under this subsection may not be delegated to any officer or employee below the level of an Assistant Administrator or Acting Assistant Administrator or an Assistant Attorney General or Acting Assistant Attorney General with authority for implementing this Act.

``(m) SECOND AND SUBSEQUENT ALLOCATIONS.—(1) IN GENERAL.—If a report is rejected under subsection (l), the allocation parties shall select an allocator to perform, on an expedited basis, a new allocation based on the same record available to the previous allocator.

``(2) MORATORIUM AND TOLLING.—The moratorium and tolling provisions of subsection (c) shall apply to all the dates that are 180 days after the date of issuance of any second or subsequent allocation report under paragraph (1).

``(3) SAME ALLOCATOR.—The allocation parties may select the same allocator who performed 1 or more previous allocations at the facility, except that the Administrator may determine that an allocator whose previous report at the same facility has been rejected under subsection (l) is unqualified to serve.

``(n) SETTLEMENTS BASED ON ALLOCATIONS.—(1) DEFINITION.—In this subsection, the term 'all settlements' includes any orphan share allocated under subsection (h).

``(2) ALLOCATION REPORT.—If an allocation report relating to the same rejection of a settlement under this section is rejected, the Administrator may require independent auditing of the work in a proper and timely manner.

``(A) DELAY IF FUNDS ARE UNAVAILABLE.—If funds are unavailable, the Administrator may delay the allocation parties' obligation to perform under this section for implementation of a response action that is the subject of an allocation under this subsection to an extent that exceeds the percentage share of the allocation party, as determined by the allocator, that has not resolved the liability of the party to the United States, excluding a party that is subject to an order of the court under subchapter II of chapter 5 of part I of title 5, United States Code.

``(B) RIGHT TO CONTRIBUTION.—A right to contribution under subparagraph (A)(iii)(5) shall not be awarded by the United States of any response costs from any person other than the settling party.

``(4) REPORT.—The Administrator shall report annually to Congress on the administration of the allocation process under this section, providing in the report—

``(A) information comparing allocation results with actual settlements at multiparty facilities;

``(B) a cumulative analysis of response action costs recovered through post-allocation litigation or settlements of post-allocation litigation; and

``(C) a description of any impediments to achieving complete recovery.

``(5) IN GENERAL.—Subject to subsections (i) and (j), the Administrator or Acting Administrator or Acting Assistant Administrator may require independent auditing of the work in a proper and timely manner.

``(A) information comparing allocation results with actual settlements at multiparty facilities;

``(B) a cumulative analysis of response action costs recovered through post-allocation litigation or settlements of post-allocation litigation; and

``(C) a description of any impediments to achieving complete recovery.

``(6) IN GENERAL.—Subject to subsections (i) and (j), the Administrator or Acting Administrator or Acting Assistant Administrator may require independent auditing of the work in a proper and timely manner.

``(A) information comparing allocation results with actual settlements at multiparty facilities;

``(B) a cumulative analysis of response action costs recovered through post-allocation litigation or settlements of post-allocation litigation; and

``(C) a description of any impediments to achieving complete recovery.
local governmental agency, department, or instrumentality.

"(3) IMPLEADER.—A defendant in an action under paragraph (1) may implead an allocation party or allocation party agreement, and the allocation party did not resolve liability to the United States.

"(4) CERTIFICATION.—In commencing or maintaining an action under section 107 against another party after the expiration of the moratorium period under subsection (c)(4), the Attorney General shall certify in the complaint that the defendant failed to file an allocation agreement, that the allocation report required that the allocation report assigned to the party.

"(5) RESPONSE COSTS.—

"(A) CURRENT PROCEDURE.—The cost of implementing the allocation procedure under this section, including reasonable fees and expenses of the allocator, shall be considered as a necessary response cost.

"(B) FUNDING OF ORPHAN SHARPS.—The cost attributable to funding an orphan sharps under this section shall be considered as a necessary response cost, and

"(ii) shall be recoverable in accordance with section 107 only from an allocation party or service or equipment arrangement, and only after the date of any settlement or decision to enter into an agreement under section 106 or 107 other than a person associated solely with the provision of a response action or a service or equipment arrangement, and

"(C) DILIGENCE.—

"(i) IN GENERAL.—An allocation under this section shall be final, except that any seting party, including the United States, may maintain an action under section 107 for purposes of establishing, with respect to the response action that was the subject of the settlement by presenting the Administrator with clear and convincing evidence that—

"(A) the allocator did not have information concerning—

"(i) 30 percent or more of the materials containing hazardous substances at the facility, or

"(ii) 1 or more persons not previously named as an allocation party that contributed 15 percent or more of materials containing hazardous substances at the facility; and

"(B) the information was discovered subsequent to the issuance of the report by the allocator.

"(2) NEW ALLOCATION.—Any new allocation of responsibility—

"(A) shall proceed in accordance with this section;

"(B) shall be effective only after the date of the new allocation report; and

"(C) shall not alter or affect the original allocation with respect to any response costs previously incurred.

"(D) DISCRETION OF ALLOCATOR.—A contract by which the Administrator retain an allocator shall give the allocator broad discretion to conduct the allocation process in a fair, efficient, and impartial manner, and the Administrator shall not issue any rule or order that limits the discretion of the allocator in the conduct of the allocation.

"(f) LEGAL ACTIVITIES.—

"(1) in section 107(a), (b), (c), (d), (e), and (f) of section 112(g) shall not apply to any person whose liability for response costs under section 107(a) is otherwise based on any act, omission, or status that is determined by a court or administrative body of competent jurisdiction, within the applicable statute of limitation, to have been a violation of any Federal or State law pertaining to the treatment, storage, disposal, or handling of hazardous substances if the violation pertains to a hazardous substance, the release or threat of release of which caused the incurring of response costs at the vessel or facility.''

**SEC. 504. LIABILITY OF RESPONSE ACTION CONTRACTORS.**—Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)) is amended by adding at the end thereof:

"(I) DECISION TO INDEMNIFY.—

"(A) IN GENERAL.—For each response action contract for a vessel or facility, the Administrator shall make a decision whether to enter into an indemnification agreement with a response action contractor.

"(B) The Administrator shall enter into an indemnification agreement to the extent that the potential liability (including the risk of harm to public health, safety, and the environment) involved in response action or exceed or are not covered by insurance available to the contractor at the time at which the response action contract is entered into that is likely to provide adequate long-term protection to the public for the potential liability on fair and equitable terms (including consideration of premium, policy terms, and deductibles).

"(C) DILIGENT EFFORTS.—The Administrator shall enter into an indemnification agreement only if the Administrator determines that the response action contractor has made diligent efforts to obtain insurance coverage from non-Federal sources to cover potential liabilities.

"(D) CONTINUED DILIGENT EFFORTS.—An indemnification agreement shall require the response action contractor to continue, not only at the time the indemnification is entered into, but also to make diligent efforts to obtain insurance coverage from non-Federal sources to cover potential liabilities.

"(E) LIMITATIONS ON INDEMNIFICATION.—An indemnification agreement provided under this subsection shall include deductibles and shall place limits on the amount of indemnification made available in amounts determined by the contracting agency to be appropriate in light of the unique risk factors associated with the cleanup activity.

"(f) EXTENSION OF COVERAGE TO ALL RESPONSE ACTIONS.—

"(1) in paragraph (1) by striking "title or under any other Federal or State law" and inserting "title or under any other Federal or State law"; and

"(2) in paragraph (2)—

"(A) by striking "NEGLIGENCE, ETC.—Paragraphe (I)" and inserting the following:

"(2) NEGLIGENCE AND INTEGRATIONAL MISCONDUCT.—Paragraphe (I) shall not apply in determining the liability of a response action contractor under the law of a State if the State has made diligent efforts to determine the liability of a response action contractor.''; and

"(C) EXTENSION OF INDEMNIFICATION AUTHORITY.—

"(1) in paragraph (1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)(1)) is amended by adding at the end thereof:

"(H) LIABILITY OF CONTRACTORS. —

"(1) by striking paragraph (4) and inserting the following:

"(D) DECISION TO INDEMNIFY.—

"(A) IN GENERAL.—For each response action contract for a vessel or facility, the Administrator shall make a decision whether to enter into an indemnification agreement with a response action contractor.

"(B) The Administrator shall enter into an indemnification agreement to the extent that the potential liability (including the risk of harm to public health, safety, and the environment) involved in response action or exceed or are not covered by insurance available to the contractor at the time at which the response action contract is entered into that is likely to provide adequate long-term protection to the public for the potential liability on fair and equitable terms (including consideration of premium, policy terms, and deductibles).

"(C) DILIGENT EFFORTS.—The Administrator shall enter into an indemnification agreement only if the Administrator determines that the response action contractor has made diligent efforts to obtain insurance coverage from non-Federal sources to cover potential liabilities.

"(D) CONTINUED DILIGENT EFFORTS.—An indemnification agreement shall require the response action contractor to continue, not only at the time the indemnification is entered into, but also to make diligent efforts to obtain insurance coverage from non-Federal sources to cover potential liabilities.

"(E) LIMITATIONS ON INDEMNIFICATION.—An indemnification agreement provided under this subsection shall include deductibles and shall place limits on the amount of indemnification made available in amounts determined by the contracting agency to be appropriate in light of the unique risk factors associated with the cleanup activity.
"(C) other expenses or costs arising out of the performance of services under the contract; or

"(D) contribution or indemnity for damages sustained as a result of an injury described in subparagraph (A) through (C).

"(2) Exception.—Paragraph (1) does not bar recovery for a claim caused by the conduct of the response action contractor that is grossly negligent or that constitutes intentional misconduct.

"(3) Indemnification.—This subsection does not affect any right of indemnification that a response action contractor may have under this section or may acquire by contract with any person.

"(i) STATE STANDARDS OF REPOSE.—Subsections (a)(1) and (h) shall not apply in determining the liability of a response action contractor if the State has enacted a statute of repose determining the liability of a response action contractor.”.

SEC. 505. RELEASE OF EVIDENCE.

(a) Timely Access to Information Furnished Under Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606(a)) is amended—

(A) by adding at the end the following:

"(1) IN GENERAL.—In addition, and

(B) by adding at the end the following:

"(2) CONTENTS OF ORDER.—An order under paragraph (1) shall provide information concerning the evidence that indicates that each element of liability described in section 107(a)(1), (A), (B), (C), and (D), as applicable, is present.”.

(b) Settlements.—Section 122(e)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(a)) is amended—

(A) by striking “(a) In addition” and inserting the following:

"(a) by striking “(a) In addition” and inserting “(a) IN GENERAL.—In addition.”;

(B) by adding at the end the following:

"(2) CONTENTS OF ORDER.—An order under paragraph (1) shall provide information when necessary concerning the evidence that indicates that each element of liability described in section 107(a)(1), (A), (B), (C), and (D), as applicable, is present.”.

SEC. 506. CONTRIBUTION PROTECTION.

Section 113(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(f)(2)) is amended by inserting after subparagraph (C) the following:

"(D) establish by a preponderance of the evidence that all active disposal of hazardous substances at the vessel or facility occurred before the organization acquired the vessel or facility.

"(2) LIMITATION.—Nothing in this subsection affects the liability of a person other than a person described in section 101(20)(I) that meets the conditions specified in paragraph (2).”.

SEC. 508. COMMON CARRIERS.

Section 107(b)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(b)(3)) is amended by striking “a published tariff and acceptance” and inserting “a contract”.

SEC. 509. LIABILITY OF RAILROAD OWNERS.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

"(o) LIABILITY OF RAILROAD OWNERS.—Notwithstanding subsection (a)(1), a person that does not operate a railroad in the transaction described in section 107(a)(1) shall not be liable under this Act if the evidence is non-essential to the operation of the railroad or if the presence of the material on the railroad is incidental to the railroad's normal use, and

"(p) the railroad owner or operator does not cause or contribute to a release or threatened release of hazardous substances at the vessel or facility.”.

SEC. 510. LIABILITY OF RECYCLERS.

(a) Definition of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9603) (as amended by section 101(a)) is amended by adding at the end the following:

"(47) RECYCLABLE MATERIAL.—The term ‘recyclable material’—

"(A) means—

"(i) scrap metal, glass, paper, plastic, rubber, or textile;

"(ii) scrap metals and;

"(iii) scrap paper, plastic, rubber, or textile;

"(B) does not include—

"(i) any steel shipping container that—

"(I) has (or, when intact, had) a capacity of not less than 30 and not more than 3,000 liters; and

"(ii) any hazardous substance contained or adherent to or in any small piece of metal that may remain after a hazardous substance has been removed from the container or any alloy or other material that may be chemically or metallurgically bonded in the steel itself; and

"(C) establishes by a preponderance of the evidence that the organization did not cause or contribute to a release or threatened release of hazardous substances at the vessel or facility.

"(3) LIMITATION.—Nothing in this subsection affects the liability of a person other than a person described in section 101(20)(I) that meets the conditions specified in paragraph (2).”.

SEC. 507. TREATMENT OF RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS AS OWNERS.

(a) Definition.—Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)) is amended by adding at the end the following:

"(I) RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS.—The term ‘owner or operator’ includes an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is organized and operated exclusively for religious, charitable, scientific, educational purposes and that holds legal or equitable title to a vessel or facility.

"(j) LIMITATION ON LIABILITY.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

"(u) RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS.—The term ‘owner or operator’ includes an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is organized and operated exclusively for religious, charitable, scientific, educational purposes and that holds legal or equitable title to a vessel or facility.

"(k) LIMITATION ON LIABILITY.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

"(v) RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS.—The term ‘owner or operator’ includes an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is organized and operated exclusively for religious, charitable, scientific, educational purposes and that holds legal or equitable title to a vessel or facility.”.
``(4) SCRAP METAL.—For the purposes of paragraph (2), a person shall be considered to arrange for the recycling of scrap metal if the person sells or otherwise arranges for the recycling of scrap metal in a transaction in which, at the time of the transaction—

(A) the conditions stated in subparagraphs (A) through (D) of paragraph (3) are met; and

(B) in the case of a transaction that occurs after the effective date of a standard, established by the Administrator by regulation under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), regarding the storage, transport, management, or other activity associated with the recycling of scrap metal, the person is in compliance with the standard.

``(5) SPENT BATTERIES.—(A) In General.—For the purposes of paragraph (1), a person shall be considered to arrange for the recycling of a spent lead-acid battery, nickel-cadmium battery, or other battery if the person sells or otherwise arranges for the recycling of the battery in a transaction in which, at the time of the transaction—

(i) the person does not claim the recyclable material by hazardous substances;

(ii) the person paid or received in the recycling transaction for a determination of the recyclable material by hazardous substances; and

(iii) the person provided the material for recycling in a manner that does not affect—

(A) the consumer or the consumer's agent with respect to the management or handling of the material as a result of its inclusion in the recycled material; and

(B) the consumer's or the consumer's agent's ability to comply with a substantive provision (including a regulation); and

(C) whether a person has an objectively reasonable basis to believe—

(i) the person has an objectively reasonable basis for belief described in subparagraph (A)(ii) that the person is relieved of liability.

(B) Objection.—A person may object to the determination of liability under paragraph (A)(i) if—

(i) the person has an objectively reasonable basis for belief described in subparagraph (A)(ii).

(C) Proof of Liability.—A person shall be considered to be liable for a response action taken after January 1, 1997, and before the date of enactment of this subsection, but incurred response costs for a response action taken prior to the date of enactment of this subsection shall be considered to be a failure to comply with the United States that was entered, or in the case of an administrative order, became effective, on or after January 1, 1997, and before the date of enactment of this subsection, but incurred response costs for a response action taken prior to the date of enactment of this subsection shall be borne by a person that is relieved of liability.

TITLE VI—FEDERAL FACILITIES

SEC. 601. TRANSFER OF AUTHORITIES.

Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620) is amended by striking subsection (g) and inserting the following:

``(g) TRANSFER OF AUTHORITIES.—

(I) DEFINITIONS.—In this section:

(A) ADMINISTRATIVE ORDER.—The term 'administrative action' means an administrative order issued under section 133 governing the design and remedial action plan, and remedial design; and

(B) TRANSFER OF AUTHORITIES.—The term 'transfer of authorities' means a transfer agreement under paragraph (3).

(C) TRANSFEREE STATE.—The term 'transferee State' means a State to which authorities have been transferred under a transfer agreement.

(2) STATE APPLICATION FOR TRANSFER OF AUTHORITIES.—A State may apply to the Administrator to exercise the authorities vested in the Administrator under this Act at any facility located in the State that is—

(A) owned or operated by any department, agency, or instrumentality of the United States (including the executive, legislative, and judicial branches of government); and

(B) listed on the National Priorities List.

(3) TRANSFER OF AUTHORITIES.—

(A) DETERMINATIONS.—The Administrator shall enter into a transfer agreement to transfer to a State the authorities described in subsection (g) if—

(i) the State has the ability to exercise such authorities in accordance with this Act, and has adequate legal authority, expertise, and personnel resources, organization, and expertise;

(ii) the State has demonstrated experience in exercising similar authorities;

(iii) the State has agreed to be bound by all Federal requirements and standards under section 133 governing the design and implementation of the facility evaluation, remedial action plan, and remedial design; and

(iv) the State has agreed to abide by any interagency agreement or agreements covering the Federal facility or facilities with respect to which authorities are being transferred in effect at the time of the transfer of authorities.

(B) CONTENTS OF TRANSFER AGREEMENT.—A transfer agreement—
“(i) shall incorporate the determinations of the Administrator under subparagraph (A); and
“(ii) in the case of a transfer agreement covering a facility with respect to which there is no interagency agreement that specifies a dispute resolution process, shall require that within 120 days after the effective date of the transfer agreement, the State shall agree with the head of the Federal department, agency, or instrumentality that owns or operates the facility on a process for the resolution of any disputes between the State and the Federal department, agency, or instrumentality regarding the selection of a remedial action, the in-cremental cost of implementing that remedial action over the most cost-effective remedial action that would result from the application of section 121.

(4) EFFECT OF TRANSFER.—
“(A) STATE AUTHORITIES.—A transferee State—
“(i) shall not be deemed to be an agent of the Administrator but shall exercise the authorities transferred under a transfer agreement in the name of the State; and
“(ii) shall exercise the authority to exercise authorities that have been transferred.

(5) SELECTED REMEDIAL ACTION.—The re-medial action selected for a facility under section 133 by a transferee State shall constitute the only remedial action required to be conducted at the facility, and the transferee State shall be precluded from enforcing any other remedial action requirement under Federal or State law, except for—
“(A) any correction action under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) that was initiated prior to the date of enactment of this subsection; and
“(B) any action in excess of remedial action under section 133 that the State selects in accordance with paragraph (10).

(6) DEADLINE.—
“(A) IN GENERAL.—The Administrator shall make a determination on an application by a State under paragraph (2) not later than 120 days after the date on which the Administrator receives the application.

(7) RESUBMISSION OF APPLICATION.—
“(A) IN GENERAL.—If the Administrator disapproves an application under paragraph (1), the State may resubmit the application at any time after receiving the notice of disapproval.

(8) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of a resubmitted application within the time period specified in subparagraph (A), the application shall be deemed to have been granted.

(9) WITHDRAWAL OF AUTHORITIES.—The Administrator may withdraw the authorities transferred under a transfer agreement in whole or in part if the Administrator determines that—
“(A) the Administrator is exercising the authorities, in whole or in part, in a manner that is inconsistent with the requirements of this Act;
“(B) the transferee State is exercising the transfer agreement, in whole or in part; or
“(C) no longer meets one of the requirements of paragraph (3).

(10) STATE COST RESPONSIBILITY.—The State may require a remedial action that exceeds the remedial action selection requirement of paragraph (3) as provided for in the incremental cost of implementing that remedial action over the most cost-effective remedial action that would result from the application of section 121.

(11) DISPUTE RESOLUTION AND ENFORCEMENT.—
“(A) FACILITIES COVERED BY BOTH A TRANSFER AGREEMENT AND AN INTERAGENCY AGREEMENT.—In the case of a facility with respect to which there is both a transfer agreement and an interagency agreement, if the State does not concur in the remedial action proposed for selection by the Federal department, agency, or instrumentality, the Federal department, agency, or instrumentality and the State shall engage in the dispute resolution process provided for in the interagency agreement and the final level for resolution of the dispute shall be the head of the Federal department, agency, or instrumentality and the Governor of the State.

(B) FACILITIES COVERED BY A TRANSFER AGREEMENT BUT NOT AN INTERAGENCY AGREEMENT.—In the case of a facility with respect to which there is a transfer agreement but no interagency agreement, if the State does not concur in the remedial action proposed for selection by the Federal department, agency, or instrumentality, the Federal department, agency, or instrumentality and the State shall engage in dispute resolution as provided in paragraph (3)(B)(ii) under which the final level for resolution of the dispute shall be the head of the Federal department, agency, or instrumentality and the Governor of the State.

(12) COMMUNITY PARTICIPATION.—If, prior to the date of enactment of this Act, a Federal department, agency, or instrumentality had established for a facility covered by a transfer agreement a facility-specific advisory board or an area-based advisory group (designated as a `site-specific advisory board", a `restoration advisory board", or otherwise), and the Administrator determines that the board is willing and able to perform the responsibilities of a community response organization under section 117(e)(2), the board—
“(A) shall be considered a community response organization for the purposes of section 117 (e) (2), (3), (4), and (9) and sections 131 and 133 but
“(B) shall not be required to comply with, and shall not be considered to be a community response organization for the purposes of, section 117 (e) (1), (5), (6), (7), or (8) or

SEC. 602. LIMITATION ON CRIMINAL LIABILITY OF FEDERAL OFFICERS, EMPLOYEES, AND AGENTS.

Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620) is amended by adding at the end the following:

“(K) CRIMINAL LIABILITY.—Notwithstanding any other provision of this Act or any other law, an officer, employee, or agent of the United States liability for a failure to comply, in any fiscal year, with a requirement to take a response action at a facility that is owned or operated by a department, agency, or instrumentality of the United States, under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), or any other Federal or State law unless—
“(i) the officer, employee, or agent has not fully performed any direct responsibility or duties assigned to the officer, employee, or agent as a result of any other provision of this Act or any other law, an officer, employee, or agent of the United States liability for a failure to comply, in any fiscal year, with a requirement to take a response action at a facility that is owned or operated by a department, agency, or instrumentality of the United States, under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), or any other Federal or State law unless—

SEC. 603. INNOVATIVE TECHNOLOGIES FOR REMEDIAL ACTION AT FEDERAL FACILITIES.

(a) IN GENERAL.—Section 311 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660) is amended by adding at the end the following:

“(N) DESIGNATION.—The President may designate a facility that is owned or operated by any department, agency, or instrumentality of the United States, and that is listed or proposed for listing on the National Priorities List, to facilitate the research, development, and application of innovative technologies for remedial action at the facility.

(2) USE OF FACILITIES.—
“(A) IN GENERAL.—A facility designated under paragraph (1) shall be made available to Federal departments and agencies, State and local governments, and private instrumentalities, to carry out activities described in paragraph (1).

(3) CONSIDERATIONS.—
"(A) EVALUATION OF SCHEDULES AND PENALTIES.—In considering whether to permit the application of a particular innovative technology for remedial action at a facility designated under paragraph (1), the Administrator shall evaluate the schedules and penalties applicable to the facility under any agreement or order entered into under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)) is amended—

"(B) AMENDMENT OF AGREEMENT OR ORDER.—If, after an evaluation under subparagraph (A), the Administrator determines that there is a need to amend any agreement or order entered into pursuant to section 120, the Administrator shall comply with all provisions of the agreement or order, respectively, relating to the amendment of the agreement or order.”.

"(b) REPORT TO CONGRESS.—Section 311(e) of Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660(e)) is amended—

1. by striking “At the time” and inserting the following:

"(1) In general.—At the time; and

2. by adding at the end the following:

"(2) ADDITIONAL INFORMATION.—A report under paragraph (1) shall include information on projects or activities described in section 311(e) for the research, development, and application of innovative technologies for remedial activity, as authorized under subsection (h)."

TITLE VII—NATURAL RESOURCE DAMAGES

SEC. 701. RESTORATION OF NATURAL RESOURCES.

Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)) is amended—

1. by inserting “NATURAL RESOURCE DAMAGES.—” after “(f);”

2. by striking “[I] NATURAL RESOURCES LIABILITY.—In the case” and inserting the following:

"(1) LIABILITY.—

"(A) IN GENERAL.—In the case; and

3. in paragraph (1)(A), as designated by paragraph (2)—

(A) by inserting after the fourth sentence the following: “Sums recovered by an Indian tribe at a facility undergoing restoration shall be available for use only for restoration, replacement, or acquisition of the equivalent of such natural resources by the Indian tribe. A restoration, replacement, or acquisition conducted by the United States, a State, or an Indian tribe shall proceed only if it is technologically feasible from an engineering perspective at a reasonable cost and consistent with any known or anticipated response actions at or near the facility;”;

and

(B) by striking “The measure of damages in any action” and all that follows through the end of the paragraph and inserting the following:

"(B) LIMITATIONS ON LIABILITY.—

"(1) The measure of damages in any action for damages for injury to, destruction of, or loss of natural resources shall be limited to—

(i) the expected cost of restoration, replacement, or acquisition of the equivalent of natural resources that suffer injury, destruction, or loss caused by a release and

(ii) the reasonable costs of assessing damages.

(iii) NO DOUBLE RECOVERY.—A person that obtains a recovery of damages, response costs, assessment costs, or any other costs under this Act for the costs of restoring an injury to or destruction of loss of a natural resource (including injury assessment costs) shall not be entitled to recovery under this Act or any other Federal or State law for the same injury to or destruction or loss of the natural resource.

(iv) RESTRICTIONS ON RECOVERY.—

(i) LIMITATION ON LOSS USE DAMAGES.— There shall be no recovery from any person under this section for the costs of a loss of use recovery plan and natural resources injury, destruction, or loss that occurred before December 11, 1980.

(ii) RESTORATION, REPLACEMENT, OR ACQUISITION.—The cost of restoration from any person under this section for the costs of restoration, replacement, or acquisition of the equivalent of a natural resource if the natural resource injury, destruction, or loss for which the restoration, replacement, or acquisition is sought and the release of the hazardous substance from which the injury resulted occurred wholly before December 11, 1980.

SEC. 702. ASSESSMENT OF INJURY TO AND RESTORATION OF NATURAL RESOURCES.

(a) NATURAL RESOURCE INJURY AND RESTORATION ASSESSMENTS.—Section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)) is amended by striking paragraph (C) and inserting the following:

"(C) NATURAL RESOURCE INJURY AND RESTORATION ASSESSMENT.—

(i) REGULATION.—A natural resource injury and restoration assessment conducted for the purposes of this Act made by a Federal, State, or tribal trustee shall be performed, to the extent practicable, by facility-specific information.

(ii) FACTORY-SPECIFIC CONDITIONS.—Injury assessment, restoration planning, and quantification of restoration costs shall, to the extent practicable, be based on facility-specific information.

(iii) RECOVERABLE COSTS.—A trustee’s claim for assessment costs—

(I) may include only—

(aa) costs that arise from work performed for the purpose of assessing injury to a natural resource to support a claim for restoration of the natural resource; and

(bb) costs that arise from developing and evaluating a reasonable range of alternative restoration measures; but

(ii) may not include the costs of conducting any type of study relying on the use of contingent valuation methodology.

(iv) PAYMENT PERIOD.—In a case in which injury to or destruction or loss of a natural resource caused by a release that occurred over a period of years, payment of damages shall be permitted to be made over a period of years that is appropriate in view of the period over which the damages occurred. The period of time over which the payments are expected to be made for restoration, replacement, and acquisition activities.

"(B) TRUSTEE RESTORATION PLANS.—

(i) ADMINISTRATION.—A lead administrative trustee or trustees, as appropriate, shall—

(A) specify protocols for conducting an assessment of injury to a natural resource; and

(B) provide for the designation of a single lead decisionmaking trustee for each facility at which an injury to natural resources has occurred within 180 days after the date of first notice to the responsible parties that an assessment of injury and restoration alternatives will be made; and

(C) develop a plan for conducting the assessment.

(ii) TRUSTEE RESOURCES.—A lead decisionmaking trustee or group of lead decisionmaking trustees may designate a lead decisionmaking trustee or group of lead decisionmaking trustees to base selection of a plan for restoration of a natural resource. The plan shall include a determination of the scope of the restoration action and the restoration plan shall be made available to the public at or near the facility at which the release occurred.

"(II) PUBLIC PARTICIPATION.—The Administrator shall issue a regulation for the participation of interested persons, including potentially responsible parties, in the development of the administrative record on which the trustees will base selection of a revision of the administrative record on which the trustees will base selection of a plan for restoration of a natural resource. The procedures for participation shall include, at a minimum, each of the requirements stated in section 113(a), and

(b) REGULATIONS.—Section 301 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)) is amended by striking subsection (c) and inserting the following:

"(C) REGULATIONS FOR INJURY AND RESTORATION ASSESSMENT.—

(i) IN GENERAL.—The President, acting through Federal officials designated by the National Contingency Plan under section 107(f)(2), shall issue a regulation for the purposes of this Act and for determination of the time periods in which payment of damages will be required.

(ii) CONTENT.—The regulation under paragraph (1) shall—

(A) specify protocols for conducting assessments in individual cases to determine the injury, destruction, or loss of natural resources;

(B) identify the best available procedures to determine the reasonable costs of restoration and assessment;

(C) take into consideration the ability of a natural resource to recover naturally and the availability of replacement or alternative resources;

(D) provide for the designation of a single lead decisionmaking trustee for each facility at which an injury to natural resources has occurred within 180 days after the date of first notice to the responsible parties that an assessment of injury and restoration alternatives will be made; and

(E) set forth procedures under which—

(i) all pending and potential trustees are notified of the injury and natural resources within their respective trust responsibilities, and the identity under which such responsibilities are established, as soon as practicable after the date on which a release occurs;

(ii) an assessment of injury and restoration alternatives will be conducted in the greatest extent practicable between the lead Federal decisionmaking trustee and any present or potential State or tribal trustees, as applicable; and

(iii) time periods for payment of damages in accordance with section 107(f)(2)(C)(iv) shall be determined.

DEADLINE FOR ISSUANCE OF REGULATION; PERIODIC REVIEW.—The regulation under paragraph (1) shall be issued not later than 1 year after the date of enactment of this Superfund Cleanup Acceleration Act of 1997 and shall be reviewed and revised as appropriate every 5 years.”.

SEC. 703. CONSISTENCY BETWEEN RESPONSE ACTIONS AND RESTORATION STANDARDS.

(a) RESTORATION STANDARDS AND ALTERNATIVES.—Section 107(f)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)) is amended by adding at the end the following:

"(3) COMPATIBILITY WITH REMEDIAL ACTION.—Both response actions and restoration measures may be implemented at the same facility and shall be not be inconsistent with existing activities at the same facility. Such response actions and restoration measures shall be not be inconsistent with..."
one another and shall be implemented, to the extent practicable, in a coordinated and integrated manner.’’.

(b) Consideration of Natural Resources in Response Actions—Section 121(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(a)) (as amended by section 402(1)) is amended by adding at the end the following:

‘‘(6) COORDINATION.—In evaluating and selecting remedial actions, the Administrator shall consider the potential for injury to a natural resource resulting from such actions.’’

SEC. 704. CONTRIBUTION.

Subsection (A) of section 113(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(f)(1)) is amended in the third sentence by inserting after ‘‘facilities’’ the following:

‘‘...and to the same degree as those sections apply to response actions; and...’’.

SEC. 801. RESULT-ORIENTED CLEANSUPS.

(a) AMENDMENT.—Section 105(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9005(a)) is amended—

(1) by striking ‘‘and’’ at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting ‘‘; and’’; and

(3) by inserting after paragraph (10) the following:

‘‘(11) procedures for conducting response actions, including facility evaluations, remedial investigations, feasibility studies, remedial action plans, remedial designs, and remediaional actions, which procedures shall—

(A) use a results-oriented approach to minimize the time required to conduct response actions, to reduce the potential for exposure to the hazardous substances, pollutants, and contaminants in an efficient, timely, and cost-effective manner;

(B) require, at a minimum, expedited facility evaluations and risk assessments, timely negotiation of response action goals, a single engineering study, streamlined oversight of response actions, and consultation with interested parties throughout the response action process;’’.

(b) CONSIDERATION OF NATURAL RESOURCES—Section 117(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(f)(1)) is amended in the second sentence by inserting ‘‘and natural resource damages’’ after ‘‘costs’’.

TITLE VIII—MISCELLANEOUS

SEC. 803. OBLIGATIONS FROM THE FUND FOR RECLAMATION AMOUNTS.

Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)(1)) is amended—

(1) in subparagraph (C) by striking ‘‘consistent with the remedial action to be taken’’ and inserting ‘‘not inconsistent with any remedial action that has been selected or is anticipated at the time of any removal action at a facility’’;

(2) by striking ‘‘$2,000,000’’ and inserting ‘‘$4,000,000’’; and

(3) by striking ‘‘12 months’’ and inserting ‘‘2 years’’.

TITLE IX—FUNDING

Subtitle A—General Provisions

SEC. 901. AUTHORIZATION OF APPROPRIATIONS FROM THE FUND.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended in the first sentence by striking ‘‘not more than $8,500,000,000 for the 5-year period beginning on October 1, 1998’’ and inserting ‘‘not more than $8,550,000,000 for the 5-year period beginning on October 1, 1999’’.

SEC. 902. ORPHAN SHARE FUNDING.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)), as amended by section 301(c), is amended by inserting after paragraph (8) the following:

‘‘(9) ORPHAN SHARE FUNDING.—Payment of orphan shares under section 136.’’.

SEC. 903. DEPARTMENT OF HEALTH AND HUMAN SERVICES.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by striking subsection (m) and inserting the following:

‘‘(m) Health Authorities.—There are authorized to be appropriated from the Fund for the Secretary of Health and Human Services to be used for the purposes of carrying out the activities described in subsection (c)(14) and the activities described in section 104(i), $50,000,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002. Funds appropriated under this subsection may be used for the purposes of this Act but not obligated by the end of the fiscal year, shall be returned to the Fund.’’.

SEC. 904. LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by striking subsection (n) and inserting the following:

‘‘(n) LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.—

(A) LIMITATION.—For each of fiscal years 1998, 1999, 2000, 2001, and 2002, not more than $30,000,000 of the amounts available in the Fund may be used for the purposes of carrying out the applied research, development, and demonstration program for alternative or innovative technologies and training program authorized under section 111(b) other than the basic research.

(B) AVAILABILITY.—Such amounts shall remain available until expended.

(C) LIMITATIONS.—There are authorized to be appropriated for the Hazardous Substance Research, Development, and Training, $15,000,000,000 for fiscal year 1998, $15,500,000,000 for fiscal year 1999, $16,000,000,000 for fiscal year 2000, $16,500,000,000 for fiscal year 2001, and $17,000,000,000 for fiscal year 2002.

(D) LIMITATIONS.—There are authorized to be appropriated for the Hazardous Substance Research, Development, and Training, $15,000,000,000 for fiscal year 1998, $15,500,000,000 for fiscal year 1999, $16,000,000,000 for fiscal year 2000, $16,500,000,000 for fiscal year 2001, and $17,000,000,000 for fiscal year 2002.

SEC. 905. AUTHORIZATION OF APPROPRIATIONS FROM GENERAL REVENUES.

Section 111(p) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(p)) is amended by striking paragraph (1) and inserting the following:

‘‘(1) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund—

(i) for fiscal year 1998, $250,000,000;

(ii) for fiscal year 1999, $250,000,000; and

(iii) for fiscal year 2000, $250,000,000;

(iv) for fiscal year 2001, $250,000,000; and

(v) for fiscal year 2002, $250,000,000.

(B) ADDITIONAL AMOUNTS.—There are authorized to be appropriated from the Hazardous Substance Superfund for each such fiscal year an amount not more than the amount authorized by subparagraph (A) equal to so much of the aggregate amount authorized to be appropriated under this subsection and section 9507(b) of the Internal Revenue Code of 1986 as has not been appropriated before the beginning of the fiscal year.’’.

SEC. 906. ADDITIONAL LIMITATIONS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) (as amended by section 102(c)) is amended by adding at the end the following:

‘‘(10) COMMUNITY RESPONSE ORGANIZATION.—For the period commencing January 1, 1997, and ending September 30, 2002, not more than $15,000,000 of the amounts available in the Fund may be used for the purposes of carrying out the Community Response Organization Program (related to Community Response Organizations).

(C) EFFECTIVE DATES.—Effective beginning January 1, 1997, any response cost recoveries collected by the United States under this Act...}
shall be credited as offsetting collections to the Superfund appropriations account.

SEC. 907. REIMBURSEMENT OF POTENTIALLY RESPONSIBLE PARTIES.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) (as amended) shall be amended by inserting after paragraph (9) the following:

"(10) Reimbursement of potentially responsible parties.—If—

(A) a potentially responsible party and the Administrator enter into a settlement under this Act under which the Administrator is reimbursed for the response costs of the Administrator; or

(B) the Administrator determines, through a Federal audit of response costs, that the costs for which the Administrator is reimbursed—

(i) are unallowable due to contractor fraud;

(ii) are unallowable under the Federal Acquisition Regulation; or

(iii) should be adjusted due to routine contract and Environmental Protection Agency response cost audit procedures, a potentially responsible party may be reimbursed for costs associated with the settlement or audit.

Mr. ABRAHAM. Mr. President, I would like to join the others on the Senate floor here today to congratulate Senator CHAFFEE and Senator SMITH on the introduction of their Superfund legislation and to support their efforts to speed the cleanup of polluted sites across this country. And while this legislation has provisions to clean up these sites currently on the national priority list, I should point out that it also has provisions to speed the remediation of less seriously contaminated sites—so-called brownfields.

I am someone who is deeply concerned about brownfields and the economic and environmental damage they impose on communities.

First, Senator CHAFFEE, thank you very much for agreeing to speak with me on this very important issue. As the Senator knows, last year I introduced legislation along with Senator LIEBERMAN which would provide tax incentives for the remediation of brownfields. That legislation was very important to communities across the country, and I intend to reintroduce similar legislation in this Congress. It is my understanding that the bill introduced today focuses, in part, on our brownfields problem.

Mr. CHAFFEE. The Senator from Michigan is correct. The focus of the Environment and Public Works Committee will extend beyond the National Priorities List to include solutions to our national brownfields problem. And while my committee does not have jurisdiction over tax measures, I recognize the leadership exerted by Senator ABRAHAM to address the problem of brownfields and hope to work with him on a variety of solutions to the environmental problems faced by this Nation's communities.

Mr. ABRAHAM. I thank the Senator and I yield the floor.

By Mr. NICKLES (for himself, Mr. GREGG, Mr. WARNER, Mr. LOTT, Mr. ALLARD, Mr. ASHCROFT, Mr. COVERDELL, Mr. CRAIG, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMS, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mrs. HINefs, Mr. HUTCHISON, Mr. KYL, Mr. MURKOWSKI, Mr. ROBERTS, Mr. SESSIONS, Mr. SMITH, Mr. THOMAS, Mr. THURMOND, Mr. COATS, and Mr. KEMPTHORNE):

S. 9. A consensus is the big issue. If we are going to have campaign reform, I am going to tell my colleague, this is going to have to be part of the package.

This is America. No one should be compelled to contribute to political purposes for which they disagree. And that applies for an individual where maybe their company has a PAC (political action committee), and maybe the board of directors or the officers say, "We want everybody to contribute." They say, "What if we don't do it?" They can't compel. No one should be compelled to contribute to a political organization, a political action committee, or to a labor organization against their will for political purposes. It is that simple.

As Thomas Jefferson said, "To compel a man to furnish funds for the propagation of ideas he disbelieves or abhors... is sinful and tyrannical." And as John F. Kennedy said, "One can't impart ideas and dimes here, but untold millions of dollars in partisan political campaigns and propaganda. Since such funds are not required to be disclosed, it is impossible to determine the exact amount of this spending. However, estimates of this under-the-radar spending is somewhere between $300 million and $1 billion for this most recent election.

The way it is now, an employee paying dues to a labor organization has no choice over whether or not that labor organization can collect the money for politics. The only choice these employees have in the matter is to ask for a refund of the portion dues which is to be used for politics. This refund process is so lengthy and burdensome that it is next to impossible for someone to get their money back. Furthermore, for an employee to exercise their right to a refund of such dues, they are required to give up their right to vote in the labor organization that they are still required to pay for representing them. This is taxation without representation.

The Supreme Court has consistently ruled that employees paying dues to a labor organization cannot be forced to also pay for the activities outside the core representational activities, such as costs associated with political activities. The Clinton administration, however, has kept employees in the dark regarding the minimal rights they do have. One of the first acts of this administration was to repeal the very regulations to carry out the Supreme Court's decision, which protected employees forced to pay for politics.
People are recognizing the wrong brought upon Americans who have been given no choice in supporting causes for which they oppose. Even the administration's own National Labor Relations Board (NLRB), which has strong labor organization sentiments, recently ruled dues-paying employees are in the least entitled to information setting forth the percentage of those dues not related to collective bargaining activities. While this is a step in the right direction, more needs to be done.

The Paycheck Protection Act protects employees from having their money involuntarily taken from them and used for politics. The act protects stockholders and employees of a corporation from having, as a condition of employment, dues, initiation fees, or other payments for politics taken from them without the separate, prior, written, voluntary authorization. Similarly, the act protects employees paying dues or having such dues, initiation fees, or other payments taken from them which are used for politics.

Mr. President, this act furthers the basic civil right spoken of by Thomas Jefferson. It does so by requiring that individuals not be compelled to fund or support activities outside the legitimate scope of the employer or labor organization. This bill pro-worker, pro-labor organization, and most importantly, pro-worker can.

I look forward to broad bipartisan support for this bill.

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

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

S. 9

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 "Paycheck Protection Act".

SEC. 2. WORKERS' POLITICAL RIGHTS.

Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding the following new subsection:

"(c)(1) Except with the separate, prior, written voluntary authorization of each individual, it shall be unlawful—

(A) for any national bank or corporation described in this section to collect from or assess any stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political or other activities which involve carrying on propaganda, attempting to influence legislation, or participating in or intervening in any political campaign or political party;''

By Mr. HATCH (for himself, Mr. SESSIONS, Mr. ASHCROFT, Mr. DOMENICI, Mr. LOTT, Mr. PARRISH, Mr. ALLARD, Mr. BOND, Mr. ROPER, Mr. CRAIG, Mr. D'AMATO, Mr. ENZI, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HELMS, Mr. HUTCHINSON, Mr. Kyl, Mr. MURKOWSKI, Mr. RICHARD, Mr. SMITH, Mr. THOMAS, Mr. THURMOND, and Mr. WARNER):

S. 10. A bill to reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, and for other purposes; to the Committee on the Judiciary.

VIOLENT AND REPEATE JUVENILE OFFENDER ACT OF 1997

Mr. ASHCROFT, Mr. President, earlier today Senator HATCH introduced S. 10, the Violent and Repeat Offender Act of 1997. Senators LOTT, DOMENICI, SESSIONS, and I worked with him in developing the bill. While not perfect, the bill does take the initial steps in dealing with the epidemic of violent juvenile crime sweeping the Nation.

Mr. President, the face of crime in America is indeed changing. Throughout our history, one thing has been clear: Government's first responsibility is to keep the citizenry safe. John Jay wrote in The Federalist, No. 3 “Among the many objects to which a wise and free people find it necessary to direct their attention, that of providing for their safety seems to be first."

The murderers, robbers, rapists, and drug dealers of yesteryear were typically adults. Now they are typically juveniles. As the age of these criminal offenders shrinks, we must do more to protect our children. While we must focus on the problem of rising juvenile crime, we must also focus on the failure of the juvenile justice system.

Mr. President, from 1984 to 1994, the number of juveniles murdered in this country increased 82 percent. In 1994, one of every five juveniles murdered was killed by another juvenile. The rate at which juveniles 14 to 17 years old were arrested for murder grew by 22 percent from 1990 to 1994 and the problem is going to get worse, much worse.

Congress, over the last three decades, has established 131 separate Federal programs—administered by 16 different departments and agencies—to serve delinquent and at-risk youth, according to a report issued by GAO last March. Conservative estimates of Federal appropriations used for these at-risk and delinquent youth programs was more than $4 billion in fiscal year 1995.

Despite this ongoing massive expenditure, the Federal Government has failed to meet its responsibility of providing public safety in this arena because it has not focused on holding juveniles accountable for their actions. It must focus on the problem of rising juvenile violence. We have a new category of offense, the violent juvenile offender.

The juvenile offenders of today will become the career offenders of tomorrow. If Government continues to fail to adequately address the social illness that cannot be cured with money spent solely on social programs. This legislation takes a commonsense approach in dealing with the epidemic of juvenile violence. It would help States to restore safety in urban, suburban, and rural communities.

This legislation would provide $2.5 billion in new incentive grants for States to enact certain accountability-based reforms to their juvenile justice systems. This legislation would authorize funding for various programs, including trying violent juveniles as adults; establishing the ability of States to collect juvenile criminal records, fingerprints, and photographs, and to share that information; criminal history information within the State, with other States, and with the Federal Government; and establishing the Serious Habitual Offender Comprehensive Action Program (SHOCAP). In addition, religious organizations would be permitted to participate in rehabilitative programs.

Serious, violent, and repeat juvenile offenders must be held responsible for their crimes. Today we are living with a juvenile justice system that was created around the time of the silent film. We are living with a juvenile justice system that reprimands the crime victim for being at the wrong place at the wrong time, and then turns around and hugs the juvenile terrorist, whispering ever so softly into his ear, “Don’t worry, the State will cure you.”

The juvenile justice system’s primary goal is to treat and rehabilitate the juvenile offender. Such a system can hold runaways, truants, and other status offenders, but it is ill-equipped to deal with those who commit serious, violent, and repeat juvenile crime.
The criminal justice system, not the juvenile justice system, can emphasize that adult criminal acts have real consequences. The purpose of the criminal justice system is to punish, that is, to hold defendants accountable.

This would provide financial assistance to States to help them reform their juvenile system. A State would be eligible to receive Federal funds if the State agrees to enact legislation that would provide for the adult prosecution—as a matter of law or proscription—of juveniles 14 or older who commit a violent crime, such as murder, forcible rape, armed robbery and assault with a deadly weapon; an offense involving a controlled substance; or an offense involving possession of a firearm or a destructive device.

Punishment of dangerous juvenile offenders as adults is an effective tool in fighting violent juvenile crime. For example, Jacksonville, FL State Attorney Harry Shortin instituted a program to prosecute and incarcerate such offenders in 1992. Two years later, arrests for juveniles dropped from 7,184 to 5,475. While juvenile arrests increased for the Nation, Jacksonville's arrest rate decreased by 30 percent.

States need to create and maintain juvenile criminal records. Typically, State statutes seal juvenile criminal records and expunge these records when the juvenile reaches age 18. The time has come to discard anachronistic ideas that crimes, no matter how heinous, by juveniles must be kept confidential.

Our laws view juveniles through the benevolent prism of kids gone astray. It should view them as young criminals who know that they can commit crimes, repeatedly as juveniles because their juvenile records are kept hidden under the veil of secrecy. These young criminals know that when they reach their majority, they can begin their second career as adult criminals with an unblemished record. In rhetoric we are protecting juveniles from the stigma of a record but in reality we are coddling criminals. We must separate rhetoric from reality by lifting the veil of secrecy.

Law enforcement officers need to know the prior juvenile criminal records of individuals to assist them in criminal investigations and apprehension.

Law enforcement is in desperate need of access to juvenile criminal records, according to Police Chief David G. Walchak, who is also president of the International Association of Chiefs of Police. The police chief says, "Current juvenile records (both arrest and adjudication) are inconsistent across the states, and are usually unavailable to the various programs' staff who work with youthful offenders." The police chief further states that "There are only 26 states that even allow law enforcement access to juvenile records."

In the words of Chief Walchak, "If we [law enforcement] don't know who the youthful offenders are, we can't appropriately intervene." It is that simple. As juvenile gangs spread from urban to suburban to rural areas, as they travel from State to State, the veil of secrecy draped over their criminal history records undermines law enforcement efforts.

This legislation would also provide money to States to create, maintain, and share juvenile criminal records, and to share those records with other Federal, State, and local law enforcement agencies. Access to that information should be a top priority.

School officials need access to juvenile criminal records to assist them in providing for the best interests of all students. Students are vulnerable in unsafe school environments. The decline in school safety can be attributed to laws that protect dangerous students rather than innocent students. While visiting with school officials in Sikeston, MO, a teacher told me that a student living an electronic monitoring ankle bracelet. The student told the teacher, "You don't know if I'm a murderer or a rapist and I ain't gonna tell you." That student was brutally honest. No one should be in a position of power with any knowledge of what he had done, and more important, a way of finding out.

If schools know the identity of a violent juvenile, they can respond to misbehavior by imposing stricter sanctions, assigning particular teachers, or having the student's locker near a teacher's doorway entrance so that the teacher can monitor his conduct during the changing of class periods. In short, this bill would allow school officials to take measures that could prevent violence at school.

For purposes of adult sentencing, adult courts need to know if a convicted felon has a history of criminal behavior. According to the 1991 Survey of the Sentencing of Juvenile Offenders, nearly 40 percent of prison inmates had a prior record as a juvenile. That is approximately 4 in 10 prison inmates. This legislation will not enable criminals to masquerade as neophytes before the criminal justice system.

The bill allows State and local governments to use Federal funds to implement the Serious Habitual Offenders Comprehensive Action Program (SHOCAP). SHOCAP is a multiagency crime analysis and case management process for identifying and targeting the violent and hard-core juvenile offenders in a community.

SHOCAP targets those serious habitual offenders for most intensive social supervision interventions, the most intensive accountability in school attendance and discipline, and the most investigation and prosecution when they commit a crime.

The OJJDP conducted five test pilots of SHOCAP. Oxnard, CA was one of the selected sites. SHOCAP was implemented in 1983. Oxnard found that less than 2 percent of all juveniles arrested in that community were responsible for 35 percent of felonies by juveniles. Four years later, Oxnard's violent crime dropped 38 percent. Illinois and Florida both have recently established state-wide SHOCAP's. This bill would allow all jurisdictions to use Federal funds to implement SHOCAP.

Reforms are necessary at the Federal level as well. This legislation would make it easier for Federal prosecutors to try juveniles as adults. Under the bill, U.S. attorneys would have discretion to decide whether to try as adults juveniles 14 years or older who are alleged to have committed an act which if committed by an adult would be a felony. This would eliminate juvenile transfer hearings that leave the transfer decision to juvenile court judges.

Federal juvenile court proceedings would be open to the general public. When imposing a sentence, the district court would be allowed to consider the juvenile's entire prior juvenile records. In cases in which the juvenile is tried as an adult, access to the record of the offenses of the juvenile shall be made available in the same manner as is applicable to adult defendants. And in those cases in which the juvenile was adjudicated delinquent in Federal juvenile delinquency proceedings, the U.S. attorney would be allowed to release such records to law enforcement authorities of any jurisdiction and to school officials.

The bill would also provide $100 million to hire assistant U.S. attorneys to prosecute juvenile criminal street gangs.

We must challenge this culture of violence and restore the culture of personal responsibility. It is high time to consider hardheaded and sensible juvenile justice policies. Where possible we must give second chances. Where necessary we must punish. This is a first step to restore justice to a nation that has grown weary of injustice.

In sum, this legislation would send a clear, cogent, and convincing message: serious acts have serious consequences. Where necessary we must punish severely. When the act committed by the juvenile is heinous, the punishment will be weighed accordingly. If tried and sentenced as an adult, the juvenile would be subject to the death penalty as an adult. In addition, the death penalty would be lowered from age 18 to 16.

The Government should mount a counterattack on gang violence. This legislation targets violent youth gangs, like the notorious Simple City Crew in the District. There would be new Federal penalties for offenses committed by criminal street gangs. Gangs are no longer concentrated in the big cities; they are now in rural towns. The bill would also provide $100 million to hire assistant U.S. attorneys to prosecute juvenile criminal street gangs.
SECTION I. SHORT TITLE; TABLE OF CONTENTS.
(a) SHORT TITLE.—This Act may be cited as the "Violent and Repeat Juvenile Offender Act of 1997."  
(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

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TITLE II—JUVENILE GANGS
Sec. 201. Short title.  
Sec. 202. Increase in offense level for participation in crime as a gang member.  
Sec. 203. Amendment of title 18 with respect to criminal street gangs.  
Sec. 204. Interstate and foreign travel or transportation in aid of criminal gangs.  
Sec. 205. Solicitation or recruitment of persons in criminal gang activity.  
Sec. 206. Crimes involving the recruitment of persons to participate in criminal street gangs and firearms offenses as RICO predicates.  
Sec. 207. Prohibitions relating to firearms.  
Sec. 208. Amendment of sentencing guidelines with respect to body armor.  
Sec. 209. Additional prosecutors.

TITLE III—JUVENILE JUSTICE REFORM
Sec. 301. Findings; declaration of purpose; and definitions.  
Sec. 302. Youth Crime Control and Accountability Block Grants.  
Sec. 303. Runaway and homeless youth.  
Sec. 304. Authorization of appropriations.  
Sec. 305. Repeal.  
Sec. 306. Transfer of functions and savings provisions.  
Sec. 307. Repeal of unnecessary and duplicative programs.  
Sec. 308. Housing juvenile offenders.  
Sec. 309. Civil monetary penalty surcharge.

SEC. 2. FINDINGS AND PURPOSES.
(a) In General.—Section 101 of title 18, United States Code, is amended—  
(1) by striking section 5001; and  
(2) by redesigning section 5003 as section 5001.  
(b) Technical Amendments.—The chapter analysis for chapter 401 of title 18, United States Code, is amended—  
(1) by striking the item relating to section 5003; and  
(2) by redesigning the item relating to section 5003 as 5001.
and 53 of the Federal Rules of Criminal Procedure, in accordance with rules 10, 26, 31(a), and S3 of the Federal Rules of Criminal Procedure, unless good cause is established by the moving party or is otherwise found by the court.

"(2) STATUS ALONE INSUFFICIENT.—The status of the defendant as a juvenile, absent other factors, shall not constitute good cause for purposes of this subsection.

"(g) AVAILABILITY OF RECORDS.—

"(1) IN GENERAL.—In making a determination concerning the prosecution of a juvenile in a district court of the United States under this section, subject to the requirements of section 5038, the United States Attorney of the appropriate jurisdiction shall have complete access to the prior Federal juvenile records of the subject juvenile, and to the extent permitted by State law, the prior State juvenile records of the subject juvenile.

"(2) CONSIDERATION OF ENTIRE RECORD.—In any case in which a juvenile is found guilty in an action pursuant to this section, the district court responsible for imposing sentence shall have complete access to the prior juvenile records of the subject juvenile, and, to the extent permitted under State law, the prior State juvenile records of the subject juvenile. In sentencing, the district court shall consider the entire available prior juvenile record of the subject juvenile.

"(H) RECORDS.—The United States Attorney may release such Federal records, and, to the extent permitted by State law, such State records, to law enforcement authorities of any jurisdiction and to officials of any school, school district, or postsecondary school at which the individual who is the subject of the juvenile record is enrolled or seeks, intends, or is instructed to enroll, if such school officials are held liable to the same standards and penalties to which law enforcement and juvenile justice system employees are held liable under Federal and State law, for the handling and disclosure of such information.

"(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 403 of title 18, United States Code, is amended by striking the item relating to section 5032 and inserting the following:

"5032. Delinquency proceedings in district court shall be tried as adults; transfer for other offenses.

"SEC. 103. CAPITAL CASES.

"Section 5031 of title 18, United States Code, is amended by striking "18 years" each place that term appears and inserting "16 years".

"SEC. 104. DEFINITIONS.

"Section 5031 of title 18, United States Code, is amended by striking the following: "§5031. Definitions."

"In this chapter—

"(1) the term `juvenile' means a person who is less than 18 years of age; and

"(2) the term `delinquency' means the violation of a law of the United States committed by a juvenile that would be a crime if committed by an adult.

"SEC. 105. NOTIFICATION AFTER ARREST.

"Section 5033 of title 18, United States Code, is amended in the first sentence by striking "Attorney General" and inserting "United States Attorney of the appropriate jurisdiction".

"SEC. 106. DETENTION PRIOR TO DISPOSITION.

"Section 5035 of title 18, United States Code, is amended—

"(1) by striking "A juvenile" and inserting the following:

"(a) IN GENERAL.—A juvenile; and

""(b) by adding at the end the following:

""(b) DETENTION OF CERTAIN JUVENILES.—Notwithstanding subsection (a), a juvenile who is to be tried as an adult pursuant to section 5032 is subject to detention in accordance with chapter 203 in the same manner and to the same extent as an adult would be subject to detention at that chapter.

""SEC. 107. SPEEDY TRIAL.

"Section 5036 of title 18, United States Code, is amended—

"(1) by striking "thirty" and inserting "70"; and

"(2) by striking "the court," and all that follows through the end of the section and inserting "the court. The periods of exclusion under section 316(h) shall apply to this section.

"SEC. 108. DISPOSITIONAL HEARINGS.

"Section 5037 of title 18, United States Code, is amended—

"(a) IN GENERAL.—

""(1) DISPOSITIONAL HEARING.—In any case in which a juvenile is found to be a juvenile delinquent in a district court pursuant to section 5032, but is not tried as an adult under that section, not later than 20 days after the hearing in which a finding of juvenile delinquency is made, the court shall hold a disposition hearing concerning the appropriate disposition unless the court has ordered further study pursuant to subsection (d).

""(2) ACTIONS OF COURT AFTER HEARING.—

""After the hearing;

""(b) in subsection (b), by striking "extend—", and all that follows through "juvenile"; and

""(c) in subsection (c), by striking "extend—", and all that follows through "Section 3624" and inserting the following: "extend beyond the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult. No juvenile sentenced to a term of imprisonment shall be released from custody simply because the juvenile reaches the age of 18 years. Section 3624";

""(d) by redesignating subsection (d) as subsection (e), and

""(e) by inserting after subsection (c) the following:

""(d) APPLICABILITY OF RESTITUTION PROVISIONS.—If a juvenile has been tried and convicted as an adult, or adjudicated delinquent for any offense in which the juvenile is otherwise tried pursuant to section 5032, the restitution provisions contained in this title (including sections 3663, 3663A, 2248, 2259, 2264, and 2327) and title 21 shall apply to that juvenile in the same manner and to the same extent as those provisions apply to adults.

""SEC. 109. USE OF JUVENILE RECORDS.

"Section 5038 of title 18, United States Code, is amended—

"(a) IN GENERAL.—

"(1) DISPOSITIONAL HEARING.—In any case in which a juvenile is found to be a juvenile delinquent in a district court pursuant to section 5032, but is not tried as an adult under that section, not later than 20 days after the hearing in which a finding of juvenile delinquency is made, the court shall hold a disposition hearing concerning the appropriate disposition unless the court has ordered further study pursuant to subsection (d).

"(2) ACTIONS OF COURT AFTER HEARING.—

"After the hearing;
United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement, increasing the offense level by not less than 6 levels if the offense is a felony. If the offense was both committed in connection with, or in furtherance of, the activities of a criminal street gang, then it was a member of the criminal street gang at the time of the offense.

(a) IN GENERAL.—Section 521 of title 18, United States Code, is amended—

(i) in subsection (a)—

(A) by striking ‘‘(a) DEFINITIONS.—’’; and inserting the following:

‘‘(a) DEFINITIONS.—In this section, and

(B) by striking ‘‘(i) conviction’’ and all that follows through the end of the subsection and inserting the following:

‘‘(i) CRIMINAL STREET GANG.—The term ‘criminal street gang’ means an ongoing group, club, organization, or association of 3 or more persons, whether formal or informal—

(A) a primary activity of which is the commission of 1 or more predicate gang crimes;

(B) any members of which engage, or have engaged during the 5-year period preceding the date of the base offense, in a pattern of criminal gang activity; and

(C) the activities of which affect interstate or foreign commerce.

(2) PATTERN ORGANIZATIONAL GANG ACTIVITY.—The term ‘pattern of criminal gang activity’ means the commission of 2 or more predicate gang crimes committed in connection with, or in furtherance of, the activities of a criminal street gang—

(A) at least 1 of which was committed after the date of enactment of the Federal Gang Violence Act; and

(B) the first of which was committed not more than 5 years before the commission of another predicate gang crime; and

(C) that were committed on separate occasions.

(3) PRECINCT ORGANIZATION.—The term ‘precinct gang crime’ means an offense, including an act of juvenile delinquency that, if committed by an adult, would be an offense that is—

(A) a Federal offense;

(i) that is a crime of violence (as that term is defined in section 16) including carjacking, drive-by-shooting, shooting at an unoccupied dwelling or motor vehicle, as assault with a deadly weapon, and homicide;

(ii) that involves a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the person is imprisoned for not less than 5 years; or

(iii) that is a violation of section 844, section 845, or section 846 (relating to extortion and threats to life or injury, section 1951 (relating to gambling), section 1955 (relating to gambling), section 1959 (relating to firearms), or section 1963 (relating to obstruction of justice);

(iv) that is a violation of section 1956 (relating to money laundering), insofar as the violation of such section is related to a Federal or State offense involving a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

(v) that is a violation of section 1961(a)(1)(A), 1961(a)(2), or 1962 of the Immigration and Nationality Act (8 U.S.C. 1327(a)(1)(A), 1327, or 1328) (relating to alien smuggling);

‘‘(B) a State offense involving conduct that would constitute an offense under subparagraph (A) if Federal jurisdiction existed or had been exercised; or

(C) a conspiracy, attempt, or solicitation to commit an offense described in subparagraph (A) or (B).

(4) STATE.—The term ‘State’ includes a State that is a party to the United States, the District of Columbia, the Virgin Islands, and any other territory of the United States.

(2) IN SUBSECTIONS (B) AND (C) AND INSERTING THE FOLLOWING:

(B) CRIMINAL PENALTIES.—Any person who—

(i) commits any offense described in clause (i) or (ii) of subparagraph (A), performs an act described in clause (i) or (ii) of subparagraph (A) shall be fined under this title, imprisoned for not less than 4 years and not more than 10 years, or both.

(B) CRIMINAL PENALTIES.—Any person who—

(i) commits any offense described in clause (i) or (ii) of subparagraph (A), performs an act described in clause (i) or (ii) of subparagraph (A) shall be fined under this title, imprisoned for not less than 4 years and not more than 10 years, or both.

(4) STATE.—The term ‘State’ includes a State that is a party to the United States, the District of Columbia, the Virgin Islands, and any other territory of the United States.

(2) IN SUBSECTIONS (B) AND (C) AND INSERTING THE FOLLOWING:

(B) CRIMINAL PENALTIES.—Any person who—

(i) commits any offense described in clause (i) or (ii) of subparagraph (A), performs an act described in clause (i) or (ii) of subparagraph (A) shall be fined under this title, imprisoned for not less than 4 years and not more than 10 years, or both.

(B) CRIMINAL PENALTIES.—Any person who—

(i) commits any offense described in clause (i) or (ii) of subparagraph (A), performs an act described in clause (i) or (ii) of subparagraph (A) shall be fined under this title, imprisoned for not less than 4 years and not more than 10 years, or both.
"(B) is not a minor, be imprisoned for a term of not less than 1 year and not more than 10 years, fined in accordance with this title, or both; and

(2) programs for any costs incurred by the Federal Government or by any State or local government for housing, maintaining, and treating the minor until the minor reaches the age of 18 years.

"(c) DEFINITIONS.—In this section—

"(1) the terms 'criminal street gang' and 'predicate gang crime' have the same meanings as in section 522; and

"(2) the term 'minor' means a person who is younger than 18 years of age.''.

SEC. 206. CRIMES INVOLVING THE RECRUITMENT OF PERSONS TO PARTICIPATE IN CRIMINAL STREET GANG ACTIVITY.

_PROHIBITIONS RELATING TO FIREARMS._

SEC. 207. PROHIBITIONS RELATING TO FIREARMS.

(a) PENALTIES.—Section 924(a)(6) of title 18, United States Code, is amended—

(1) by striking paragraph (A); and 

(2) by redesignating subparagraph (B) as subparagraph (A).

(b) IN GENERAL.—Section 521 of title 18, United States Code, is amended—

(1) by striking paragraph (A); and 

(2) by inserting before the period at the end the following: "Sec. 521. Definitions.

"(1) the term 'criminal street gang' means a national, regional, or local association of persons who commit, conspire to commit, attempt to commit, or participate in, violent crimes; 

"(2) the term 'minor' means a person who is younger than 18 years of age.''.

SEC. 208. AMENDMENT OF SENTENCING GUIDELINES TO PROVIDE AN APPROPRIATE ENHANCEMENT FOR ANY OFFENSE INVOLVING THE RECRUITMENT OF A MINOR TO PARTICIPATE IN A GANG ACTIVITY.

(a) DEFINITIONS.—In this section—

"(1) the term 'body armor' means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, regardless of whether the product is worn alone or sold as a complement to another product or garment; and

"(2) the term 'law enforcement officer' means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(b) SENTENCING ENHANCEMENT.—The United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement, increasing the offense level not less than 2 levels, for any crime in which the defendant used body armor.

(C) APPLICABILITY.—No Federal sentencing guideline amendment made pursuant to this section shall apply if the Federal crime in which the body armor is used constitutes a violation of, attempted violation of, or conspiracy to violate the criminal laws of a State, the District of Columbia, or the Commonwealth of Puerto Rico.

SEC. 209. ADDITIONAL PROSECUTOR.

There are authorized to be appropriated $20,000,000 for each of the fiscal years 1998, 1999, 2000, 2001, and 2002 for the hiring of Assistant United States Attorneys and attorneys in the Criminal Division of the Department of Justice to prosecute juvenile criminal street gang crimes (as that term is defined in section 522 of title 18, United States Code, as amended by section 101 of this title).

TITLE III—JUVENILE CRIME CONTROL AND ACCOUNTABILITY

SEC. 301. FINDINGS; DECLARATION OF PURPOSE; CERTIFICATION OF NEED.

TITLE I of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended to read as follows:

"TITLE I—FINDINGS AND DECLARATION OF PURPOSE

TITLES II, III, and IV are enacted—

(1) to protect the public and to hold juveniles accountable for their acts;

(2) to empower States and communities to develop and implement comprehensive programs that support families and reduce risk factors and prevent serious youth crime and juvenile delinquency;

(3) to provide for the thorough and ongoing evaluation of all federally funded programs addressing juvenile crime and delinquency;

(4) to provide technical assistance to public and private nonprofit entities that provide services to young people;

(5) to establish a centralized research effort on the problems of youth crime and juvenile delinquency, including the dissemination of the findings of such research and all related data;

(6) to establish a Federal assistance program to deal with the problems of runaway youth and homeless children;

(7) to assist State and local governments in improving the administration of justice for juveniles;

(8) to assist the State and local governments in reducing the level of youth violence;

(9) to assist the States and local governments to continue to provide public safety initiatives, and the provision of comprehensive services for children and youth.

There are authorized to be appropriated $20,000,000 for each of the fiscal years 1998, 1999, 2000, 2001, and 2002 for the hiring of Assistant United States Attorneys and attorneys in the Criminal Division of the Department of Justice to prosecute juvenile criminal street gang crimes (as that term is defined in section 522 of title 18, United States Code, as amended by section 101 of this title)."
(10) to encourage and promote programs designed to keep in school juvenile delinquents expelled or suspended for disciplinary reasons;,
(12) to assist State and local governments in promoting public safety by encouraging accountability through the imposition of meaningful sanctions for acts of juvenile delinquency;
(13) to assist State and local governments in promoting public safety by improving the extent, accuracy, availability and usefulness of juvenile arrest and law enforcement records and the openness of the juvenile justice system;
(14) to assist State and local governments in promoting public safety by providing resources to States to build or expand juvenile detention facilities;
(15) to provide for the evaluation of federally assisted juvenile crime control programs and the demonstration necessary for the establishment and operation of such programs;
(16) to ensure the dissemination of information regarding juvenile crime control programs by providing a national clearinghouse; and
(17) to provide technical assistance to public and private nonprofit juvenile justice and delinquency prevention programs.

(a) STATEMENT OF POLICY.—It is the policy of Congress to provide resources, leadership, and coordination to combat youth violence and to prosecute and punish effectively violent juvenile offenders; and
(2) to improve the quality of juvenile justice in the United States.

SEC. 103. DEFINITIONS.
"In this Act:"
"(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Office of Juvenile Crime Control and Accountability.
"(2) CONSTRUCTION.—The term "construction" includes the acquisition, construction, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including any fee for the cost of acquisition of land for buildings).
"(3) JUVENILE POPULATION.—The term "juvenile population" means the population of a State under 18 years of age.
"(4) OFFICE.—The term "Office" means the Office of Juvenile Crime Control and Accountability established under section 201.

(5) OUTCOME OBJECTIVE.—The term "outcome objective" means an objective that relates to the impact of a program or initiative, that measures the reduction of high risk behaviors, that is incident to, or the commission of criminal acts or acts of delinquency, failure in school, violence, the use of alcohol or illegal drugs, involvement of youth gangs, and teenage pregnancy, among youth in the community.
"(6) PROCESS OBJECTIVE.—The term "process objective" means an objective that relates to the manner in which a program or initiative is carried out, including—

(A) an objective relating to the degree to which the program or initiative is reaching the targeted population; and
(B) an objective relating to the degree to which the program or initiative addresses known risk factors for youth problem behaviors and activities that inhibit the behaviors and that build on protective factors for youth.

(7) STATE.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the Canal Zone, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(8) STATE OFFICE.—The term 'State office' means the office of exec-utive officer of a State to carry out this title, as provided in section 507 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757).

(9) TREATMENT.—The term 'treatment' includes medical and other rehabilitative services designed to help the public, including the services designed to benefit addicts and other users by—

(A) eliminating their dependence on alcohol or other addictive or nonaddictive drugs; or
(B) controlling their dependence and susceptibility to addiction or use.

(10) YOUTH.—The term 'youth' means an individual who is not less than 6 years of age and not more than 17 years of age.

SEC. 302. YOUTH CRIME CONTROL AND ACCOUNTABILITY BLOCK GRANTS.
(a) OFFICE OF JUVENILE CRIME CONTROL AND ACCOUNTABILITY.—Section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611) is amended—

(1) in subsection (a) by inserting "Office of Juvenile Justice and Delinquency Prevention" before "and Delinquency Prevention Act of 1974"; and
(2) by adding at the end the following:

"(d) DELEGATION AND ASSIGNMENT.—
"(1) IN GENERAL.—Except as otherwise expressly prohibited by law or otherwise provided by the title, the Administrator may—

(A) delegate any of the functions of the Administrator, and any function transferred or granted to the Administrator after the date of enactment of this Act, to such officers and employees of the Office as the Administrator may designate; and
(B) authorize successive rededications of such functions as may be necessary or appropriate.

(2) RESPONSIBILITY.—No delegation of functions by the Administrator under this subsection shall cease until the provision of this title shall relieve the Administrator of responsibility for the administration of such functions.

(b) REORGANIZATION.—The Administrator may allocate or reallocate any function transferred among officers of the Office, and establish, alter, or discontinue such organizational entities in that Office as may be necessary or appropriate.

(c) NATIONAL PROGRAM.—Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611) is amended to read as follows:

"(1) IN GENERAL.—The Administrator shall develop objectives, priorities, and short- and long-term plans, and shall implement overall policy and a strategy to carry out such plan, for all Federal juvenile crime control and juvenile offender accountability programs and activities relating to juvenile crime control and the enhancement of accountability by offenders within the juvenile justice system in the United States.

(2) CONTENT OF PLANS.—

(A) IN GENERAL.—Each plan described in paragraph (1) shall—

(i) contain specific, measurable goals and criteria; and
(ii) be coordinated by the Administrator; and
(iii) be provided for the administration of all Federal juvenile crime control and juvenile offender accountability programs and activities, including proposals for joint funding to be provided by the Federal Government, and Federal grants and contracts, for conducting research and for carrying out other activities under this title;

(3) provide for the coordination of administration of programs and activities under this title with the administration of other Federal juvenile crime control and juvenile offender accountability programs and activities, including proposals for joint funding to be provided by the Federal Government, and Federal grants and contracts, for conducting research and for carrying out other activities under this title;

(4) to provide for the evaluation of Federal juvenile crime control and juvenile offender accountability programs and activities, including proposals for joint funding to be provided by the Federal Government, and Federal grants and contracts, for conducting research and for carrying out other activities under this title;

(5) to provide a detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody under this title, juveniles who are taken into custody, and the trends demonstrated by such data.

(6) to provide a description of the activities for which amounts are expended under this title;

(7) to provide specific information relating to the attainment of goals set forth in the plan, including specific, measurable standards for assessing progress toward national juvenile crime reduction and juvenile offender accountability goals; and

(8) to provide for the coordination of Federal juvenile crime control, and local initiatives for the reduction of youth crime and ensuring accountability for juvenile offenders.

(b) SUMMARY AND ANALYSIS.—Each summary and analysis described in paragraph (A)(iii) shall set out the information required by clauses (i), (ii), (iii) of this subparagraph separately for juvenile nonoffending status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

(i) the types of offenses with which the juveniles are charged;

(ii) the ages of the juveniles;

(iii) the types of facilities used to hold the juveniles (including juveniles treated as adults for purposes of prosecution) in custody, including secure detention facilities, secure correctional facilities, jails, and lock-ups; and

(iv) the number of juveniles who died while in custody and the circumstances under which each juvenile died.

(3) ANNUAL REVIEW.—The Administrator shall annually—

(A) review each plan submitted under this subsection;

(B) revise the plans, as the Administrator considers appropriate; and

(C) not later than March 1 of each year, present the plans to the Committees on the Judiciary of the Senate and the House of Representatives.

(b) DUTIES OF ADMINISTRATOR.—In carrying out this title, the Administrator shall—

(1) advise the President through the Attorney General as to all matters relating to federally assisted juvenile crime control and juvenile offender accountability programs, and Federal policies relating to juvenile crime control and justice, including policies relating to juveniles prosecuted or adjudicated in the Federal courts;

(2) implement and coordinate Federal juvenile crime control and juvenile offender accountability programs and activities among Federal departments and agencies and between such programs and activities and other Federal programs and activities that the Administrator determines may have an important bearing on the success of the entire national juvenile crime control and juvenile offender accountability effort;

(3) provide for the auditing of grants provided pursuant to this title;
"(4) collect, prepare, and disseminate useful data regarding the prevention, correction, and control of juvenile crime and delinquency, and issue, not less frequently than once each calendar year, a report on successfully funded programs and juvenile crime reduction methods utilized by States, localities, and private entities;

"(5) ensure the performance of comprehensive rigorous independent scientific evaluations, each of which shall—

"(A) be independent in nature, and shall employ methods scientifically valid standards and methodologies; and

"(B) include measures of outcome and process that reductions in juvenile crime, youth gang activity, youth substance abuse, and other high risk factors, as well as increases in protective factors that reduce the likelihood of delinquency and criminal behavior;

"(6) involve consultation with appropriate authorities in the States and with appropriate private entities in the development, review, and revision of the plans required by subsection (a) and in the development of policies relating to juvenile prosecuted or adjudicated in the Federal courts; and

"(7) provide technical assistance to the States, units of local government, and private entities in implementing programs funded by grants under this title.

"(b) When making, subject to the availability of appropriations, grants to States to assist them in planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts to public and private agencies, for the development of juvenile crime control and juvenile offender accountability programs, the Federal Government and of any other public agency and facilities of any agency of the Federal Government and of any other public agency or facility may appeal to the President for the National Juvenile Crime Control and Juvenile Offender Accountability Program to provide the President with such information, reports, studies, or surveys as the President determines to be necessary to carry out the purposes of this title.

"(c) The Federal Government and of any other public agency or facility may require, through appropriate authority, Federal departments and agencies, or through grants and contracts to public and private agencies, for the development of juvenile crime control and juvenile offender accountability programs, the development of juvenile crime control and juvenile offender accountability programs to further the purposes of this title by—

"(1) in general—The Administrator shall—

"(A) develop for each fiscal year, with the advice of the program managers of departments and agencies with responsibilities for any Federal juvenile crime control or juvenile offender accountability program, a consolidated National Juvenile Crime Control and Juvenile Offender Accountability Plan budget proposal to implement the National Juvenile Crime Control and Juvenile Offender Accountability Program, include in the National Juvenile Crime Control and Juvenile Offender Accountability Plan budget proposal to implement the National Juvenile Crime Control and Juvenile Offender Accountability Plan budget plan budget—

"(B) transmit such budget proposal to the President and to Congress;

"(2) SUBMISSION OF JUVENILE OFFENDER ACCOUNTABILITY BUDGET REQUEST.—

"(A) IN GENERAL.—Each Federal Government program manager, agency head, or department head, as applicable, responsible for any Federal juvenile crime control or juvenile offender accountability program shall submit to the Administrator of the Office of Management and Budget an independent request to implement the juvenile crime control and juvenile offender accountability program budget request transmitted pursuant to this subsection, in such format as may be designated by the Administrator with the concurrence of the Administrator of the Office of Management and Budget;

"(3) REVIEW AND CERTIFICATION.—The Administrator shall—

"(A) review each juvenile crime control and juvenile offender accountability program request transmitted to the Administrator under paragraph (2);

"(B) certify in writing as to the adequacy of such funds and data in part to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan for the year for which the request is submitted and, with respect to a request that is not certified as adequate to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan, include in the certification an initiative or funding level that would make the request adequate; and

"(C) notify the agency head, or department head, as applicable, regarding the certification of the Administrator under subparagraph (B).

"(4) FUNDING REQUESTS.—The Administrator shall request the head of a department or agency to include in the budget submission of the department or agency to the Office of Management and Budget funding requests for specific initiatives that are consistent with the priorities of the President for the National Juvenile Crime Control and Juvenile Offender Accountability Plan and certifications made pursuant to paragraph (3), and the head of the department or agency shall comply with such a request.

"(5) REPROGRAMMING AND TRANSFER REQUESTS.—

"(A) IN GENERAL.—No department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program shall submit to Congress a reprogramming or transfer request with respect to any amount of appropriated amounts greater than $5,000,000 that is included in the National Juvenile Crime Control and Juvenile Offender Accountability Plan budget request submitted to the Administrator under title I of this Act.

"(B) The head of any department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program shall report to Congress on any approval or any disapproval made by the Administrator of a reprogramming or transfer request.

"(7) QUARTERLY REPORTS.—The Administrator shall report to Congress on a quarterly basis regarding the need for any reprogramming or transfer of appropriated amounts for National Juvenile Crime Control and Juvenile Offender Accountability Plan activities.

"(d) INFORMATION, REPORTS, STUDIES, AND SURVEYS—

"(A) FOR PROGRAMS THAT REQUIRE JUVENILE OFFENDER ACCOUNTABILITY BUDGET REQUEST.—

"(I) a crime of violence (as that term is defined in section 921(a) of title 18, United States Code);

"(II) an offense involving a controlled substance (as that term is defined in section 110(a) of title 21, United States Code);

"(III) an offense involving possession of a firearm (as that term is defined in section 922(a) of title 18, United States Code);

"(IV) an offense involving possession of a destructive device (as that term is defined in section 922(a) of title 18, United States Code);

"(V) the utilization of graduated sanctions;

"(VI) the utilization of short-term confinement of juveniles who are charged with or who have been convicted of a crime (as that term is defined in section 110(a) of title 18, United States Code);

"(VII) the hiring of prosecutors, judges, and probation officers to implement policies to control juvenile crime and ensure accountability of juvenile offenders; and

"(VIII) the incarceration of violent juvenile offenders for extended periods of time (including the terms to which the individuals are sentenced);

"(8) ANNUAL JUVENILE DELINQUENCY DEVELOPMENT STATEMENTS.—

"(A) IN GENERAL.—The Administrator shall require the head of any Federal agency that administers a Federal juvenile crime control and juvenile offender accountability program to submit annually to the Office a juvenile crime control and juvenile offender accountability development statement. Such statement shall be in addition to the development statement of the Office of Management and Budget that the Administrator may require under subsection (d).

"(b) CONTENTS.—Each development statement submitted to the Administrator under paragraph (1) shall contain such information, data, and analyses as the Administrator may require. Such analyses shall include an analysis of the extent to which the programs of the Federal agency submitting such development statement conforms with and furthers Federal juvenile crime control and juvenile offender accountability development statement and treatment goals and policies.

"(3) REVIEW AND COMMENT.—

"(A) IN GENERAL.—The Administrator shall review and comment upon each juvenile crime control and juvenile offender accountability development statement transmitted to the Administrator under paragraph (3).

"(B) INCLUSION IN OTHER DOCUMENTATION.—Such development statement, together with the comments of the Administrator, shall be included by the Federal agency involved in each Appropriations Act, and such information shall be made available to Federal, State, and local authorities in the States and with appropriate private entities in implementing programs funded by grants under this title.
"(D) for programs that require juvenile of-
fenders who are parents to demonstrate pa-
rental responsibility by working and paying
child support;

(E) for programs that seek to cure or pun-
ish truancy;

(F) for programs designed to collect,
record, and disseminate information useful in
the identification, prosecution, and sen-
tencing of offenders, such as criminal history
information, fingerprints, and DNA tests;

(G) for programs that provide that, when-
ever a juvenile is not less than 14 years of age is adjudicated delinquent, as defined by
Federal or State law in a juvenile delin-
quency proceeding for conduct that, if com-
mitted by an adult, would constitute a fel-
ony under Federal or State law, the State
shall ensure that a record is kept relating to
the adjudication that is Ð

(i) equivalent to the record that would be
kept of an adult conviction for such an of-
fense;

(ii) retained for a period of time that is
equal to the period of time that records are
kept for adult convictions;

(iii) made available to law enforcement
agencies for investigation; and

(iv) made available to officials of a
school, school district, or postsecondary
school where the individual who is the sub-
ject of the record seeks, and the individual
is instructed to enroll, and that such offi-
cials are held liable to the same standards
and penalties for the protection and invisi-
ble justice system employees are held liable
to, under Federal and State law, for handling
and disclosing such information;

(H) for juvenile crime control and preven-
tion programs (such as curfews, youth orga-
nizations, antigang programs, and after
school activities) that in-
clude a rigorous, comprehensive evaluation
component that measures the decrease in
risk factors associated with the juvenile crime
and delinquency and employs scientifi-
cally valid standards and methodologies;

(I) for the development and implementa-
tion of coordinated multijurisdictional or
multijurisdictional programs for the identifica-
tion, control, supervision, prevention, inves-
tigation, and treatment of the most serious juve-
nile offenses and offenders, sometimes
know as the "SHOCAP Program" (Serious Ha-
bitual Offenders Comprehensive Action Pro-
gram); or

(J) for the development and implementa-
tion of coordinated multijurisdictional
multiagency programs for the identification,
control, supervision, prevention, investiga-
tion, and disruption of youth gangs;

(K) To be eligible to re-
ceive a grant under this title, a State shall
make reasonable efforts, as certified by the
Governor, to ensure that, not later than 1
July 1, 2003,

(A) juveniles age 14 and older can be pros-
cuted under State law as adults, as a mat-
ter of law or prosecutorial discretion for a
crime by a juvenile older than 14 years of age for which the juvenile has regular sustained
parental responsibility by working and paying
child support;

(B) the juvenile record seeks, and the juvenile
is instructed to enroll, and that such offi-
cials are held liable to the same standards
and penalties for the protection and invisi-
ble justice system employees are held liable
to, under Federal and State law, for handling
and disclosing such information;

(C)slider text continued...
to influence a Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or other legislation, or any referendum, initiative, or amendment at any other procedure of Congress, any State legislature, any local council, or any similar governing body.

(ii) Exception.—This subparagraph does not preclude the use of amounts made available under this title in connection with communications to Federal, State, or local elected officials, upon the request of such officials through proper official channels, pertaining to authorization, appropriation, or oversight measures directly affecting the operation of the program involved.

(E) Legal Action.—No amounts made available under this title to any public or private agency, organization, institution, or to any individual, shall be used in any way directly or indirectly to file an action or otherwise take any legal action against any Federal, State, or local agency, institution, or employee.

(F) Religious Organizations.—(i) In General.—The purpose of this subparagraph is to allow State and local governments or religious organizations, or to allow religious organizations to accept certificates, vouchers, or other forms of disbursement under any program described in this title, on the same basis as any other nongovernmental provider without impairing the religious character of such organizations, and without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

(ii) Non-Discrimination Against Religious Organizations.—If a State or local government exercises its authority under religious organizations are eligible, on the same basis as any other nongovernmental provider, to provide assistance to, or to accept certificates, vouchers, or other forms of disbursement, under any program described in this title, so long as the programs are implemented consistent with the Establishment Clause of the United States Constitution. Except as provided in clause (k), neither the Federal nor a State or local government shall fund under such programs shall discriminate against an organization which is or applies to be a contractor to provide assistance, or which accepts certificates, vouchers, or other forms of disbursements, on the basis that the organization is religious.

(iii) Religious Character and Freedom from Discrimination.—(a) Religious organizations. A religious organization that participates in a program authorized by this title shall retain its independence from Federal, State, and local governments, including such organization’s control over the definition, development, practice, and expression of its religious beliefs.

(b) Additional Safeguards.—Neither the Federal nor a State or local government shall require a religious organization to—

(aa) alter its form of internal governance; or

(bb) remove religious art, icons, scripture, or other symbols; or

in order to be eligible to contract to provide assistance, or to accept certificates, vouchers, or other forms of disbursements, funded under a program described in this title.

(iv) Rights of Beneficiaries of Assistance.—If a juvenile offender has an objection to the religious character of the organization or individual to which the juvenile offender receives, or would receive, assistance funded under any program described in this title, the State in which the individual resides shall provide such individual (if otherwise eligible for such assistance) within a reasonable period of time after the date of such objection, with assistance from an alternative provider.

(v) Employment Practices.—A religious organization’s exemption provided under section 703(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1a) regarding employment practices shall not be affected by its participation in, or receipt of funds from, programs described in this title.

(vi) Non-Discrimination Against Beneficiaries.—Except as otherwise provided in this title, a religious organization shall not discriminate against an individual in regard to rendering assistance provided under any program described in this title on the basis of a religion, in a refusal to actively participate in religious practice.

(vii) Fiscal Accountability.—(I) In General.—Subject to subclause (ii), any religious organization contracting to provide assistance funded under any program described in this title shall be subject to the same regulations as other contractors to the extent generally accepted auditing principles for the use of such funds provided under such programs.

(II) Limitation.—If such organization segregates funds made available under such programs into separate accounts, then only the financial assistance provided with such funds shall be subject to audit.

(viii) Compliance.—Any party which seeks to enforce its rights under this subparagraph may assert a civil action in any Federal court to recover damages for a violation of this title.

(x) Premption.—Nothing in this subparagraph shall be construed to preempt any provision of a State or Federal statute that prohibits or restricts the expenditure of State funds in or by religious organizations.

(g) Penalties.—(A) In General.—If any amounts are used for the purposes prohibited in either subparagraph (D) or (E) of paragraph (4)—

(i) all funding for the agency, organization, institution, or individual at issue shall be immediately discontinued; or

(ii) the agency, organization, institution, or individual using amounts for the purposes prohibited in subparagraph (D) or (E) of paragraph (4) shall be liable for reimbursement of all amounts granted to the individual or entity in any fiscal year for which the amounts were granted.

(B) Liability for Expenses and Damages.—In relation to a violation of paragraph (4)—

(i) the program or activity for which the grant or contract involved was made has been so changed that the program or activity no longer complies with this title; or

(ii) in paragraph (1) in each fiscal year—

(A) $565,000,000 shall be for programs under section 204(h); and

(B) $150,000,000 shall be for programs under section 205.

SEC. 207. ADMINISTRATIVE PROVISIONS.

(a) Authority of Administrator.—The Office shall be administered by the Administrator under the general authority of the Attorney General.

(b) Applicability of Certain Crime Control Provisions.—Sections 900(c), 801(a), 801(b), 811(c), 812(a), 812(b), and 812(d) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789d(c), 3789f(a), 3789f(b), 3789f(c), 3789g(a), 3789g(b), and 3789g(d)) shall apply with respect to the administration of and compliance with this Act, except that, for purposes of this Act—

(i) any reference to the Office of Juvenile Justice Programs in such sections shall be considered a reference to the Attorney General who heads the Office of Juvenile Justice Programs; and

(ii) the term ‘this title’ as it appears in such sections shall be considered to be a reference to this Act.

(c) Applicability of Certain Other Crime Control Provisions.—Sections 803(a), 801(c), and 806 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711(a), 3711(c), and 3711) shall apply with respect to the administration of and compliance with this Act, except that, for purposes of this Act—

(i) any reference to the Attorney General, the Assistant Attorney General who heads the Office of Justice Programs, the Director of the National Institute of Justice, or the Director of the Bureau of Justice Statistics, or the Director of the Bureau of Justice Assistance shall be considered to be a reference to the Administrator; and

(ii) any reference to the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, the Director of the Bureau of Justice Statistics, or the Director of the Bureau of Justice Assistance shall be considered to be a reference to the Administrator.

(d) Rules, Regulations, and Procedures.—The Administrator may, after appropriate consultation with representatives of States and units of local government, establish such rules, regulations, and procedures as are necessary for the exercise of the functions of the Office and as are consistent with the purpose of this Act.

(e) Separation of Concerns.—The Administrator shall initiate such proceedings as the Administrator determines to be appropriate if the Administrator, after giving reasonable notice and hearing, finds that—

(i) a program or activity for which the grant or contract involved was made has been so changed that the program or activity no longer complies with this title; or

(ii) in paragraph (1) in each fiscal year—

(A) $565,000,000 shall be for programs under section 204(h); and

(B) $150,000,000 shall be for programs under section 205.
January 21, 1997

SEC. 222. STATE PLANS.

(1) by striking "section 223(c)" and inserting "section 222(c)";

(ii) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas; and

(iii) a plan for the concentration of State funds under this part, a State shall submit a plan for carrying out its purposes applicable to a 3-year period. The State shall submit annual performance reports to the Administration which describe progress in implementing programs contained in the original plan, and shall describe the status of compliance with State plan requirements. In accordance with regulations which the Administrator shall prescribe, such plan shall—

"(I) designate a State agency as the sole agency for supervising the preparation and administration of the plan;

"(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) has or will have authority, by legislation if necessary, to implement such plan in conformity with this part; and

"(3) provide for the active consultation with and participation of units of general local government having facilities therein for the development of a State plan which adequately takes into account the needs and requests of such governments, and nothing in the plan requirements, or any regulations promulgated to carry out such requirements, shall be construed to prohibit or impede any unit of general local government from entering into contracts with, local private agencies, including religious organizations;

"(4) provide that the chief executive officer of the unit of general local government shall assign responsibility for the preparation and administration of the local government's part of a State plan, or for the supervision of the preparation and administration of the local government's part of the State plan, to that agency within the local government's structure or to a regional planning agency (in this part referred to as the 'local agency') which can most effectively carry out the purposes of this part and shall provide for supervision of the programs funded under this part by the local agency;

"(5) (A) provide for—

"(i) an analysis of juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) within the relevant jurisdiction (including any geographical area in which an Indian tribe performs law enforcement functions), a description of the services to be provided, and a description of performance goals and priorities, including a specific statement of the criteria for such programs are expected to meet the identified juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) of the jurisdiction;

"(ii) an indication of the manner in which the programs relate to other similar State or local programs and combinations thereof in the development of a State plan which adequately takes into account the needs and requests of such governments, and nothing in the plan requirements, or any regulations promulgated to carry out such requirements, shall be construed to prohibit or impede any unit of general local government from entering into contracts with, local private agencies, including religious organizations;

"(iii) an analysis of mental health services available to juveniles in the juvenile justice system (including an assessment of the appropriateness of the particular placements of juveniles in order to receive such services) and of barriers to access to such services; and

"(iv) a plan for the concentration of State funds under section 223(c) to provide access to a comprehensive array of services;

"(B) community-based programs and services to promote delinquency and risk reduction that assist delinquent and other at-risk youth; and

"(i) for youth who need temporary placement, crisis intervention, shelter, and aftercare; and

"(ii) for youth who need residential placement, a foster care or a group home alternative that provide access to comprehensive array of services;

"(C) comprehensive juvenile justice and delinquency prevention programs that meet the needs of youth through the collaboration of the criminal justice systems before which a youth may appear, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare and social service agencies, and private nonprofit agencies offering youth services;

"(D) projects designed to develop and implement programs stressing advocacy activities, education, and training services for and protecting the rights of youth affected by the juvenile justice system;

"(E) educational programs or supportive services for delinquent youth and other at-risk juveniles, provided equitably regardless of sex, race, or family income, designed to—

"(i) encourage juveniles to remain in elementary and secondary schools or in alternative learning situations, including

"(ii) education in settings that promote exceptional, individual needs, and the exploration of academic and career options;

"(iii) assistance in making the transition to the world of work and self-sufficiency; and

"(iv) programs to counsel delinquent juveniles and other juveniles regarding the opportunities that education and training offer; and

"(ii) enhance coordination with the local schools that such juveniles would otherwise attend, to ensure that

"(I) the instruction that juveniles receive outside school is closely aligned with the instruction provided in school; and

"(G) youth-initiated outreach programs designed to assist youth (including youth with limited proficiency in English) who otherwise would not be reached by traditional youth assistance programs;

"(H) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including

"(i) programs and projects designed to provide for the treatment of youths' dependence on or abuse of alcohol or other addictive or nonaddictive drugs;

"(J) community service, law enforcement, and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped youth;

"(K) law-related education programs (and projects) for delinquent and at-risk youth designed to prevent juvenile delinquency;

"(L) programs for positive youth development that assist delinquent and other at-risk youth in obtaining a sense of safety and structure;

"(2) a sense of belonging and membership;

"(3) a sense of self-worth and social contribution;

"(4) information relating to any learning problems identified in such alternative learning situations are communicated to the schools;

"(F) expanded use of home probation and recruitment and training of home probation officers, other professional and paraprofessional personnel, and volunteers to work effectively to allow youth to remain at home with their families as an alternative to incarceration or institutionalization;

"(G) youth-initiated outreach programs designed to assist youth (including youth with limited proficiency in English) who otherwise would not be reached by traditional youth assistance programs;

"(H) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including

"(i) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of parst of whose membership is substantially composed of youth;

"(i) programs and projects designed to provide for the treatment of youths' dependence on or abuse of alcohol or other addictive or nonaddictive drugs;

"(K) law-related education programs (and projects) for delinquent and at-risk youth designed to prevent juvenile delinquency;

"(L) programs for positive youth development that assist delinquent and other at-risk youth in obtaining a sense of safety and structure;

"(2) a sense of belonging and membership;

"(3) a sense of self-worth and social contribution;

"(4) information relating to any learning problems identified in such alternative learning situations are communicated to the schools;

"(F) expanded use of home probation and recruitment and training of home probation officers, other professional and paraprofessional personnel, and volunteers to work effectively to allow youth to remain at home with their families as an alternative to incarceration or institutionalization;

"(G) youth-initiated outreach programs designed to assist youth (including youth with limited proficiency in English) who otherwise would not be reached by traditional youth assistance programs;

"(H) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including

"(i) programs and projects designed to provide for the treatment of youths' dependence on or abuse of alcohol or other addictive or nonaddictive drugs;

"(K) law-related education programs (and projects) for delinquent and at-risk youth designed to prevent juvenile delinquency;

"(L) programs for positive youth development that assist delinquent and other at-risk youth in obtaining a sense of safety and structure;

"(2) a sense of belonging and membership;

"(3) a sense of self-worth and social contribution;

"(4) information relating to any learning problems identified in such alternative learning situations are communicated to the schools;
to other support services such as health, mental health, education (remedial and special), job training, and recreation; and

(ii) assist in the provision by the Administrator, and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice systems in establishing appropriate sanctions for delinquent behavior;

(’’(N) programs designed to prevent and reduce hate crimes committed by juveniles, including programs and technical assistance programs designed specifically for juveniles who commit hate crimes and that promote respect and understanding for cultural diversity;

(’’O) programs (including referral to literacy programs and social service programs) to assist families with limited English-speaking ability that include delinquent juveniles to overcome language and cultural barriers that may prevent the complete treatment of such juveniles and the preservation of their families;

(’’(9) provide for the development of an adequate research, training, and evaluation capacity within the State;

(’’(10) provide that the State shall not detain or confine juveniles who are alleged to be or determined to be delinquent in any institution in which the juvenile has regular sustained physical contact with adult persons who are detained or confined;

(’’(11) provide for an adequate system of monitoring jails, detention facilities, correctional institutions, and other secure or semisecure facilities to insure that the requirements of paragraph (10) are met, and for annual reporting of the results of such monitoring to the Administrator, except that such reporting requirements shall not apply in the case of a State which is in compliance with the other requirements of this section, in determining which is in compliance with the requirements in paragraph (10), and which has enacted legislation which conforms to such requirements and which contains, in the opinion of the Administrator, sufficient enforcement mechanisms to ensure that such legislation will be administered effectively;

(’’(12) provide assurance that youth in the juvenile justice system are treated equitably on the basis of gender, race, family income, and mentally, emotionally, or physically handicapped status; and

(’’(13) provide assurance that consideration will be given to and that assistance will be available and accessible for those programs designed to strengthen the families of delinquent and other youth to prevent juvenile delinquency (which approaches should include the involvement of the families of the delinquent family members when possible and appropriate and the provision of family counseling during the incarceration of juvenile family members and coordination of family services when appropriate and feasible);

(’’(14) provide for procedures to be established for protecting the rights of recipients of services, including appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

(’’(15) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

(’’(16) provide reasonable assurance that Federal funds made available under this part shall not be used for any period unless as provided in the State plan, and shall not be used for any period shall be so used as to supplement any and all Federal funds made available under this part, and shall not be used to replace such State, local, and other non-Federal funds; and

(’’(17) provide that the State agency designated under paragraph (1) will from time to time, but not less often than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of non-Federal funds and local needs, which it considers necessary.

(b) APPROVAL BY STATE AGENCY.—The State agency designated under subsection (a) of this section and any modification thereof prior to submission to the Administrator.

(‘’(c) APPROVAL BY ADMINISTRATOR; COMPLIANCE WITH STATUTORY REQUIREMENTS.—

(’’(1) IN GENERAL.—The Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.

(’’(2) REDUCED ALLOCATIONS.—If a State fails to comply with any requirement of subsection (a) in any fiscal year beginning after January 1, 1998, the State shall be ineligible to receive any allocation under that section for such fiscal year unless—

(A) the State agrees to expend all the remaining funds the State receives under this part (excluding funds required to be expended to comply with subsection (a)(4)(C)) for that fiscal year to achieve compliance with such paragraph; or

(B) the Administrator determines, in the discretion of the Administrator, that the State has—

(i) achieved substantial compliance with such paragraph; and

(ii) has made, through appropriate executive or legislative action or decision, a commitment to achieving full compliance within a reasonable time.

(3) by striking parts C, D, E, F, G, H, and I, each part designated as part I.

SEC. 303. RUNAWAY AND HOMELESS YOUTH.

Section 385 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5751) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996” and inserting “1993 and such sums as may be necessary for fiscal years 1999, 2000, 2001, and 2002”;

(B) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3);

(2) in subsection (b), by striking “1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996” and inserting “1993 and such sums as may be necessary for fiscal years 1999, 2000, 2001, and 2002”; and


SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5771 et seq.) is amended—

(1) in section 403, by striking paragraph (2) and inserting the following:

(2) the term ‘‘Administrator’’ means the Administrator of the Office of Juvenile Crime Control and Accountability;’’;


SEC. 305. REPEAL.

Title V of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5781 et seq.) is repealed.

SEC. 306. TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS.

(a) DEFINITIONS.—In this section, unless otherwise provided or indicated by the context—

(1) the term ‘‘Administrator of the Office’’ means the Administrator of the Office of Juvenile Justice and Delinquency Prevention;

(2) the term ‘‘Bureau of Justice Assistance’’ means the bureau established by section 401 of title I of the Omnibus Crime Control and Safe Streets Act of 1968;

(3) the term ‘‘Administrator’’ means the Administrator of the Office of Juvenile Crime Control and Accountability established by operation of subsection (b);

(4) the term ‘‘Federal agency’’ has the meaning given the term ‘‘agency’’ by section 551(5) of title 5, United States Code;

(5) the term ‘‘function’’ means any duty, obligation, power, authority, responsibility, right, privilege, activity, or function;

(6) the term ‘‘Office of Juvenile Crime Control and Accountability’’ means the office established by operation of subsection (b);

(7) the term ‘‘Office of Juvenile Justice and Delinquency Prevention’’ means the Office of Juvenile Justice and Delinquency Prevention within the Department of Justice, established by operation of subsection (b); and

(c) INCIDENTAL TRANSFERS.—Any unexpended amounts transferred pursuant to this section shall be used only for the purposes for which the amounts were originally authorized and appropriated.

SEC. 307. EFFECT ON PERSONNEL.—

(1) IN GENERAL.—The Director of the Office of Management and Budget, at such time or times as the Director of that Office shall prescribe, shall be transferred to the Office of Juvenile Crime Control and Accountability all functions that the Director of that Office exercises under this Act (including all related functions of any officer or employee of the Office of Juvenile Justice and Delinquency Prevention), and all personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other amounts held, used, held, arising from, available to, or to be transferred to the Office by operation of this Act, relating to carrying out the Juvenile Justice and Delinquency Prevention Act of 1974, and such sums as may be necessary for fiscal years 1999, 2000, 2001, and 2002.

(2) UNEXPENDED AMOUNTS.—Any unexpended amounts transferred pursuant to this section shall be used only for the purposes for which the amounts were originally authorized and appropriated.

(3) TRANSFER OF PERSONNEL.—

(a) IN GENERAL.—The Director of the Office of Juvenile Justice and Delinquency Prevention, the Administrator of the Bureau of Justice Assistance, and each person who was, immediately before such transfer, employed by the Bureau of Justice Assistance or the Office of Juvenile Justice and Delinquency Prevention, as the case may be, shall be transferred to the Office of Juvenile Crime Control and Accountability and shall be considered to be transferred by this section, subject to section 1531 of title 31, United States Code, as if the transfer to the Office of Juvenile Crime Control and Accountability had been made by operation of this Act.

(b) EFFECT ON PERSONNEL.—
(1) IN GENERAL.—Except as otherwise provided by this section, the transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel to the Office shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer of such employee.

(2) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this section, any person who, on the day before the date of enactment of this Act, is appointed by the President, by the Administrator, or by an authorized official, a court of competent jurisdiction, or by operation of law, to any position in the Office shall continue to be compensated at the rate of compensation at which such position is held on the day before the date of enactment of this Act.

(3) TRANSITION.—

(A) IN GENERAL.—The incumbent Administrator and the incumbent of any other position immediately preceding the date of enactment of this Act shall continue to serve as Administrator after the enactment of this Act until such position has been filled by the President, by the Administrator, or by an authorized official.

(B) TRANSITION OF PERSOMS.—The incumbent Administrator and the incumbent of any other position immediately preceding the date of enactment of this Act shall continue to serve as Administrator after the enactment of this Act until such position has been filled by the President, the Administrator, or by an authorized official.

(4) TEMPORARY PERSONNEL.—Any temporary personnel holding permanent positions or by operation of law.

(5) PERSONNEL.—Any personnel of the Office shall remain in their positions as of the date immediately preceding the date of enactment of this Act shall remain in their positions as of the date immediately preceding the date of enactment of this Act.

(6) CIVIL SERVICE.—Any person appointed to the positions of Assistant Administrator and such other positions as may be added to the Office by the President, by the Administrator, or by an authorized official, shall be considered to be employees of the Office.

(7) AUTHORITY.—Any authority authorized by this section shall continue in effect until modified, terminated, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(8) TITLES.—The titles of the Office shall be continued in effect and shall be added to each civil monetary penalty assessed on or after the later of October 1, 1997 and the date of enactment of this Act.

(9) IMPLEMENTATION.—The implementation of this section shall be made pursuant to such orders, as if this section had been enacted.

(10) PROHIBITED ACTIONS.—Any action, or other proceeding commenced by or against the Office of Juvenile Justice and Delinquency Prevention, or any individual in the official capacity of such individual as an officer of the Office of Juvenile Justice and Delinquency Prevention, shall be abated by reason of the enactment of this section.

(11) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Office of Juvenile Justice and Delinquency Prevention relating to a function transferred under this section may be continued, to the extent authorized by this section, by the Office of Juvenile Crime Control and Accountability with the same effect as if this section had not been enacted.

(g) TRANSITION.—The Administrator may utilize—

(1) the services of such officers, employees, and other personnel of the Office of Juvenile Justice and Delinquency Prevention with respect to functions transferred to the Office of Juvenile Crime Control and Accountability by this section and

(2) amounts appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(h) REFERENCES.—In this section and any other Federal law, Executive order, rule, regulation, or delegation of authority, any document of or relating to

(1) the Administrator of the Office of Juvenile Justice and Delinquency Prevention with regard to functions transferred to the Office of Juvenile Crime Control and Accountability by this section and

(2) the Office of Juvenile Justice and Delinquency Prevention with regard to functions transferred by operation of subsection (b), shall be considered to be a continuation of the Office of Juvenile Crime Control and Accountability.

(i) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TITLE III.—Title III of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 7101) is repealed.

corporations and unions, we have seen corporations and unions contribute or spend millions of dollars to aid in the election or defeat of congressional and Presidential candidates.

For a system that was supposed to cap campaign expenditures at no more than $25,000 a year to national political parties and individual campaigns combined, we have seen hundreds of contributions from individuals to both parties that equal or exceed $100,000. For a system that was supposed to require that campaign advertisements be paid for with money subject to the contribution restrictions of our campaign finance laws, we have seen probably hundreds of commercials, many of which had a significant impact on the outcome of elections in which they were run, hundreds of commercials paid for with unregulated, unrestricted, so-called “soft” money.

For the vast majority of these ads, the public does not know the basic facts of who contributed to the payments for these ads or how much was spent to air them. For years, we have pretended that we actually have had somewhat meaningful restrictions on campaign communications. But with the past election cycle, the facade has fallen and we are faced with the naked truth that this system is wide open.

That is why I am joining with Senator Daschle today in sponsoring his proposal. Senator Daschle has incorporated in his bill several provisions that I authored dealing with issue ads and independent expenditures by parties. The approach that my provision in this bill takes with respect to so-called issue ads is to redefine “express advocacy” to include any advertising broadcast on radio or television 90 days before a primary or general election which specifically mentions a candidate.

The approach that Senator Daschle has tried to draw a bright line in defining “express advocacy” by applying it only to those ads which include certain magic phrases like “Vote for Mrs. X” or “Defeat Mr. Y.” Such a test though leaves out ads which target a specific candidate and which do not use the magic words that deliver “express advocacy” by applying it only to those ads which a candidate is explicitly mentioned as “express advocacy” and payable therefore out of regulated funds. The approach which my provision takes with respect to independent expenditures by a party is to require a party to choose between making coordinated expenditures on behalf of a candidate or making independent expenditures. A party would not be allowed to have it both ways. And that is because it is impossible, practically speaking, for a national party to be truly independent today. It is also engaged in coordinated expenditures on that candidate’s behalf. To argue otherwise defies common sense. It is one way or the other. If there is a coordinated campaign on the candidate’s behalf, it is kind of hard to argue that that same national party can engage in coordinated expenditures relative to that campaign.

We should not delay the consideration of campaign finance reform legislation, but we can always find a reason not to do it. This week there is a new reason. I have heard the suggestion that we should put off consideration of campaign finance reform until the hearings before the Governmental Affairs Committee on campaign finance reform. That reasoning is fallacious, but the argument for delay has been used in one form or another for many, many Congresses, and the bill now is to show the American people that we can do it and we can do it now.

The typical sophisticated analysis of the likelihood of campaign finance reform is that any reform is virtually impossible. “It will not happen,” you hear among those so-called well-informed folks. “The gap simply cannot be bridged,” some people say.

We witnessed the end of the cold war 5 years ago. No one ever thought that was going to end. If we can achieve the end of the nuclear arms race, we surely can achieve the end of the money race. But the system is broken, but the argument for delay has been used in one form or another for many, many Congresses, and our job now is to show the American people that we can do it and we can do it now.

The typical sophisticated analysis of the likelihood of campaign finance reform is that any reform is virtually impossible. “It will not happen,” you hear among those so-called well-informed folks. “The gap simply cannot be bridged,” some people say.

The Wall Street Journal, reporting on this CEO meeting, suggests that the threat is more explicit than implied. The Wall Street Journal of January 9, 1997, reported:

Companies that want to have it both ways, vows one top GOP strategist, no longer will have access—and it looks awful. That is the message behind this action—no money, no access—and it looks awful. That is how far we have come in this scramble for campaign money, and that is why we have to make the effort now to get going on campaign finance reform.

And this action is not because the Business Roundtable did not contribute to Republican candidates. No, according to the Wall Street Journal, the BRT gave twice as much to Republicans as they did to Democrats—$25 million to Republicans and only $11 million to Democrats. It is not enough that the BRT members already give to Republicans, they “should give a bigger percentage to the Republicans” than they are now giving, according to Haley Barbour, the Republican Party Chairman.

This is punishment, Mr. President, to be imposed on an organization by party and presidential leaders. That is the message behind this action—no money, no access—and it looks awful. That is how far we have come in this scramble for campaign money, and that is why we have to make the effort now to get going on campaign finance reform.
Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S 502

Title I—Control of Congressional Campaign Spending

Subtitle A—Senate Election Campaign Spending Limits and Benefits

Sec. 101. Senate spending limits and benefits.
Sec. 102. Ban on activities of political action committees in senate elections.
Sec. 103. Reporting requirements.
Sec. 104. Disclosure by candidates other than eligible senate candidates.
Sec. 105. Excess campaign funds of senate candidates.
Sec. 106. Contribution limit for eligible senate candidates.

Subtitle B—General Provisions

Sec. 111. Broadcast rates and preemption.
Sec. 112. Reporting requirements for certain independent expenditures.
Sec. 113. Campaign advertising amendments.
Sec. 114. Definitions.
Sec. 115. Provisions relating to franked mass mailings.

Title II—Independent Expenditures

Subtitle A—Personal Funds; Credit

Sec. 201. Definition of independent expenditure.
Sec. 202. Independent versus coordinated expenditures by political party committees.
Sec. 203. Treatment of qualified nonprofit corporations.
Sec. 204. Equal broadcast time.

Subtitle B—Soft Money of Political Parties

Sec. 211. Preparation and distribution by volunteers of materials in connection with State and local political party voter registration and get-out-the-vote activities so as not to be considered a contribution or expenditure.
Sec. 212. Contributions to political party committees.
Sec. 213. Provisions relating to national, State, and local party committees.
Sec. 214. Restrictions on fundraising by candidates and officeholders.
Sec. 215. Reporting requirements.

Subtitle C—Soft Money of Persons Other Than Political Parties

Sec. 221. Soft money of persons other than political parties.

Title IV—Contributions

Sec. 401. Prohibition of certain contributions.
Sec. 402. Contributions by dependents not of voting age.
Sec. 403. Contributions to candidates from State and local committees of political parties to be aggregated.
Sec. 404. Contributions and expenditures using money secured by physical force or other intimidation.
Sec. 405. Prohibition of acceptance by a candidate of cash contributions from any one person aggregating more than $100.

Title V—Alliances and Disbursements of Funds

Sec. 501. Filing of reports using computers and facsimile machines.
Sec. 502. Increase in threshold for reporting requirements.
Sec. 503. Audits.
Sec. 504. Authority to seek injunction.
Sec. 505. Penalties.
Sec. 506. Independent litigating authority.
Sec. 507. Reference of suspected violations to the attorney general.
Sec. 508. Powers of the commission.

Title VI—Miscellaneous

Sec. 601. Prohibition of leadership committees.
Sec. 602. Telephone voting by persons with disabilities.
Sec. 603. Certain tax-exempt organizations not subject to corporate limits.
Sec. 605. Campaign advertising that refers to an opponent.
Sec. 606. Limitation on professional use of the franking privilege.
Sec. 607. Participation by foreign nationals in political activities.
Sec. 608. Certification of compliance with foreign contribution and solicitation limitations.

Title VII—Effective Dates; Authorizations

Subtitle A—Senate Election Campaign Spending Limits and Benefits

Sec. 101. Senate spending limits and benefits.
Sec. 102. Ban on activities of political action committees in senate elections.
Sec. 103. Reporting requirements.
Sec. 104. Disclosure by candidates other than eligible senate candidates.
Sec. 105. Excess campaign funds of senate candidates.
Sec. 106. Contribution limit for eligible senate candidates.

Subtitle B—General Provisions

Sec. 111. Broadcast rates and preemption.
Sec. 112. Reporting requirements for certain independent expenditures.
Sec. 113. Campaign advertising amendments.
Sec. 114. Definitions.
Sec. 115. Provisions relating to franked mass mailings.

Sec. 101. Senate spending limits and benefits.
...

The declaration under paragraph (1) shall be filed not later than the date on which the candidate files as a candidate for the primary election.

(c) General Election Eligibility Certification and Declaration

(1) In general.—The requirements of this subsection are met if the candidate files with the Secretary of the Senate a declaration that—

(i) the candidate and the candidate’s authorized committees—

(ii) met the primary and runoff election expenditure limits of subsection (d); and

(iii) will accept only an amount of contributions for the primary and runoff elections that does not exceed those limits;

(B) the candidate and the candidate’s authorized committees will meet the general election expenditure limit; and

(D) the candidate and the candidate’s authorized committees will meet the general election expenditure limit.

(2) Deadline for filing declaration.—
The declaration under paragraph (1) shall be filed not later than the date on which the candidate files as a candidate for the primary election.

(3) The candidate and the candidates’ authorized committees—

(i) met the primary and runoff election expenditure limits under subsection (d); and

(ii) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (d), whichever is applicable, reduced by any amounts transferred to the current election cycle from a preceding election cycle;

(iii) the candidate met the threshold contribution requirement under subsection (e), and that only allowable contributions were taken into account in meeting such requirement; and

(iv) at least 1 other candidate has qualified for the same general election ballot under the law of the candidate’s State.

(B) A declaration that the candidate and the authorized committees of the candidate—

(i) except as otherwise provided by this title, will not make expenditures that exceed the general election expenditure limit;

(ii) will not accept any contributions in violation of section 301;

(iii) except as otherwise provided by this title, will not accept any contribution for...
the general election to the extent that the contribution would cause the aggregate amount of contributions to exceed the sum of the amount of the general election expenditure limit and the amounts described in subsections (c), (d), and (e) of section 503, reduced by any amounts transferred to the current election cycle from a previous election cycle and other appropriate information to the Commission;

(iii) would cause the aggregate amount of contributions received for the general election to exceed the limits under subsection (c)(3)(D)(iii).

(c) THRESHOLD CONTRIBUTION REQUIREMENTS.

(1) IN GENERAL.—The requirements of this subsection are met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to 5 percent of the general election expenditure limit.

(2) REQUIREMENTS.—A legal and accounting compliance fund meets the requirements of this paragraph if—

(A) the fund is established with respect to qualified legal or accounting expenditures made from the fund with respect to any candidate shall be increased by the lesser of—

(i) 15 percent of the general election expenditure limit for the election for which the fund was established; or

(ii) $300,000; plus

(iii) the amount determined under paragraph (4); and

(B) no funds received by the candidate under section 503(a)(3) are transferred to the fund.

(3) DEFINITION OF QUALIFIED LEGAL OR ACCOUNTING EXPENDITURE.—For purposes of this subsection, the term 'qualified legal or accounting expenditure' means—

(A) an expenditure for costs of legal or accounting services provided in connection with—

(i) an administrative or court proceeding initiated under this Act for the election for which the legal and accounting fund was established; or

(ii) the preparation of a document or report required by this Act or by the Commission;

(B) an expenditure for legal or accounting services provided in connection with the election cycle for which the legal and accounting fund was established to ensure compliance with this Act with respect to the election cycle.

(4) INCREASE.—

(A) PETITION.—If, after a general election, primary election, or runoff election, a candidate determines that qualified legal or accounting expenditures will exceed the limit applicable to the candidate under this title, the candidate or a member of the candidate's immediate family, or the candidate's authorized committees may authorize an increase in the limit applicable to the candidate under this title.

(B) DETERMINATION.—The Commission shall authorize an increase in the limit under paragraph (2)(C)(i) in the amount (if any) by which the Commission determines that the qualified legal or accounting expenditures exceed the limit.

(C) JUDICIAL REVIEW.—A determination under subparagraph (B) shall be subject to judicial review under section 507.

(D) CONTRIBUTIONS AND EXPENDITURES NOT COUNTED.—Except as provided in section 315, a contribution received or expenditure made under this paragraph shall not be counted against any contribution or expenditure limit applicable to the candidate under this title.

(E) TREATMENT.—Funds in a legal and accounting compliance fund shall be treated for purposes of this Act as a separate segregated fund, except that any portion of the fund used to pay qualified legal or accounting expenditures, and not transferred to a legal and accounting compliance fund for the election cycle for the next general election, shall be treated in the same manner as other campaign funds for purposes of section 313(b).
‘(d) Payment of Taxes on Earnings.—The limitation under subsection (b) shall not apply to any expenditure for Federal, State, or local income taxes on the earnings of a candidate’s campaign committees.

(e) Certain Expenses.—In the case of an eligible Senate candidate who holds a Federal office under subsection (b) shall not apply to ordinary and necessary expenses of travel of the candidate and the candidate’s spouse and children between Washington, D.C., and the candidate’s State in connection with the candidate’s activities as a holder of Federal office.

SEC. 504. BENEFITS FOR ELIGIBLE SENATE CANDIDATES.

(a) In General.—An eligible Senate candidate shall be entitled to...

(1) the broadcast media rates provided under section 315(b) of the Communications Act of 1934; and

(2) payments in an amount equal to—

(A) the excess expenditure amount determined under subsection (b); and

(B) the independent expenditure amount determined under subsection (c).

(2) Excess Expenditure Amount.—

(1) In General.—The expenditure amount is the expenditure in excess of the general election expenditure limit, an amount equal to one-third of the general election expenditure limit, plus an amount equal to one-third of the general election expenditure limit, plus an amount equal to one-third of the general election expenditure limit; plus

(ii) any other candidate in the same general election who is not an eligible Senate candidate;

(iii) if the opponent’s excess equals or exceeds 66 2/3 percent of the general election expenditure limit, an amount equal to one-third of the general election expenditure limit; plus

(B) Limitation.—The amount of contributions that may be received by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit.

(c) Acceptance of Contribution without Regard to Section 502(c)(3)(D).(ii)—

(1) In General.—A candidate who receives benefits under this section may accept a contribution for the general election without regard to section 502(c)(3)(D)(ii).

(d) Expenditure Amount.—

(1) In General.—The Commission shall notify the eligible Senate candidate under section 505(a)(1), the...
or the general election expenditure limit, the Commission shall notify the eligible Senate candidate, and the eligible Senate candidate shall pay an amount equal to the amount of the excess expenditures.

(d) Agency Action.—For purposes of this section, the term ‘agency action’ has the meaning given in section 551(13) of title 5, United States Code.

SEC. 508. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

(a) Appearances.—The Commission may appear in and defend against any action instituted under this section.

(b) Actions for Recovery of Amount of Benefits.—The Commission, by attorneys and counsel described in subsection (a), may bring an action in United States district court to recover any amounts determined under this title.

(c) Action for Injunctive Relief.—The Commission, by attorneys and counsel described in subsection (a), may petition the courts of the United States for such injunctive relief as is appropriate in order to prevent or enjoin any violation of this title.

(d) Appearances Under Section 509.—The Commission, on behalf of the United States, may appear in and defend against any action contemplated by this title.

SEC. 509. REPORTS TO CONGRESS; REGULATIONS.

(a) Reports.—Each report under paragraph (1), the amount of repayments, if any, required under section 506 and the amount that the Secretary estimates an individual becomes such a candidate (or, if, later, the individual becomes such a candidate) of the amount that the Secretary will be the pro rata withholding from each eligible Senate candidate under this title.

(b) Applications Under Paragraph (1).—If, at the time of a certification by the Commission under section 505 for payment to an eligible Senate candidate, the Secretary determines that there are not, or may not be, sufficient funds to satisfy the full entitlement of all eligible Senate candidates, the Secretary shall withhold from the amount of the payment the amount necessary to ensure that each eligible Senate candidate receives an equal pro rata share of the candidate’s full entitlement.

(c) Increase in Limitation on Payments.—The amount of an eligible candidate’s contribution limitation under section 502(c)(1)(D)(iii) shall be increased by the amount of the estimated pro rata withholding under subparagraph (B).

(d) Notification.—If the Secretary determines under subparagraph (A) that there will be insufficient funds for any calendar year preceding a regularly scheduled general election, the Secretary, after consultation with the Commission, shall make an estimate of—

(i) the amount of funds that will be available to make payments under title III in the general election year; and

(ii) the costs of implementing this title in the general election year;

and shall notify the Commission and each eligible Senate candidate of the amount of such estimate of available funds and project costs.

(e) Effective Dates.—The amendment made by subsection (b) shall be in effect—

(1) if the amendment is in effect, in all elections occurring—

(A) after December 31, 1996; and

(B) in 1997 and succeeding years, when—

(i) the amendment is in effect, in all elections occurring—

(A) in 1997; and

(B) in each calendar year preceding a regularly scheduled general election, if—

(1) the amendment is in effect, and the amount of the estimated pro rata withholding under subparagraph (B) is increased by the amount of the estimated pro rata withholding under subparagraph (B) as determined by the Secretary; and

(2) the Secretary determines that the amount of funds available for the general election shall be insufficient funds for any calendar year preceding a regularly scheduled general election.

SEC. 510. CLOSED CAPTIONING IN TELEVISION BROADCASTS.

(a) Requirement.—Any television broadcast prepared or distributed by an eligible Senate candidate shall be prepared in a manner that contains, to the extent practicable, the information, as the Commission determines to be appropriate in order to—

(1) ensure that the availability of appropriate accommodations is equal to the availability of an eligible Senate candidate;

(2) ensure that the availability of appropriate accommodations is equal to the availability of an eligible Senate candidate;

(3) ensure that the availability of appropriate accommodations is equal to the availability of an eligible Senate candidate;

(4) ensure that the availability of appropriate accommodations is equal to the availability of an eligible Senate candidate;

(5) ensure that the availability of appropriate accommodations is equal to the availability of an eligible Senate candidate;

(6) ensure that the availability of appropriate accommodations is equal to the availability of an eligible Senate candidate; and

(b) Effective Dates.—The amendments made by subsection (a) shall apply to elections occurring after December 31, 1996.
(2) APPLICABILITY TO CONTRIBUTIONS AND EXPENDITURES.—For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a),

(A) a contribution or expenditure made before January 1, 1997, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided in support of an election;

(B) all cash, cash items, and Government securities on hand as of January 1, 1997, shall be taken into account in determining whether the aggregate amount of such contributions or expenditures exceeds 200 percent of the general election expenditure limit with the Secretary of the Senate within 2 business days after each time additional contributions are received, or expenditures are made, that, in the aggregate exceed an amount equal to 10 percent of the general election expenditure limit.

(c) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF TITLE.—If section 502, 503, or 504 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) or any part of those sections is held to be invalid, this Act and any amendment made by this Act shall be treated as invalid.

SEC. 102. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN SENATE ELECTIONS.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 324. BAN ON SENATE ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES.

"(a) In General.—Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election, or nomination for election, to the office of United States Senator.

"(b) Executive Officers and Administrative Employees.—In the case of an individual who is an executive officer or administrative employee of a connected organization that is a bank, corporation, or other organization described in section 316(a) of the Act.

"(c) Restrictions on Contributions to Political Committees.—Sections 302(a), 302(b), 302(c), 302(d), and 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(a), as redesignated by section 312), are amended by striking "$5,000" and inserting "$1,000".

"(d) Effective Dates. — (1) In General.—Except as provided in paragraph (2), the amendments made by this section shall apply to elections and the election cycles relating thereto occurring after November 30, 1996.

"(2) Applicability.—In applying the amendments made by this section, there shall not be taken into account—

(A) a contribution made or received before January 1, 1997; or

(B) a contribution made to, or received by, a candidate on or after January 1, 1997, to the extent the aggregate amount of such contributions made to or received by the candidate is not greater than the excess (if any) of—

(i) the aggregate amount of such contributions made to or received by any opponent of the candidate before January 1, 1997; over

(ii) the aggregate amount of such contributions made to or received by the candidate before January 1, 1997.

SEC. 103. REPORTING REQUIREMENTS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by inserting at the end section 304 the following:

"SEC. 304A. REPORTING REQUIREMENTS FOR SENATE CANDIDATES.

"(a) Meaning of Terms.—Any term used in this section that is defined in title V shall have the same meaning as when used in title V.

"(b) Candidate Other Than Eligible Senate Candidate.—

"(1) Declaration of Intent.—A candidate for the office of Senator who does not file a certification with the Secretary of the Senate under section 502(c) shall, at the time provided in subsection (c)(2), file with the Secretary of the Senate a declaration as to whether he or she intends to make aggregate expenditures for the general election in excess of the general election expenditure limit.

"(2) Reports.—

(A) Initial Report.—A candidate for the Senate who qualifies for the ballot for a general election—

(i) who is not an eligible Senate candidate under section 502; and

(ii) who receives contributions in an aggregate amount or makes or obligates to make expenditures in an aggregate amount for the general election that exceeds 75 percent of the general election expenditure limit;

shall file a report with the Secretary of the Senate on or before the general election of the making of the determination that a candidate in a general election who is not an eligible Senate candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts that would require a report under paragraph (2).

(B) Notification of Other Candidates.—

"(1) Notwithstanding the reporting requirements under this subsection, the Commission shall notify each eligible Senate candidate and each other Senate candidate of the filing of the declaration or report;

"(2) within 2 business days after making a determination under subparagraph (A), notify each eligible Senate candidate of the filing of the declaration or report; and

"(3) if the aggregate amount of contributions received and aggregate expenditures made or loans incurred in excess of the amount under paragraph (1) exceeds 200 percent of the general election expenditure limit, certify, under subsection (e), the aggregate amount of contributions or expenditures exceeding the general election expenditure limit, and the amount of such contributions or expenditures in excess of the amount under paragraph (1).

"(4) Action by the Commission Absent a Report.—

"(A) In General.—Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible Senate candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the amount under paragraph (1).

"(B) When the Aggregate Amount of Contributions or Expenditures Exceeds 200 Percent of the General Election Expenditure Limit. —

(i) When the aggregate amount of contributions or expenditures in excess of the general election expenditure limit, certify, under subsection (e), the aggregate amount of contributions or expenditures exceeding the general election expenditure limit, and the amount of such contributions or expenditures in excess of the amount under paragraph (1).

(ii) Beginning 2 business days after a report has been filed under paragraph (1), the Commission shall notify each eligible Senate candidate of the filing of the report.

"(C) Reports on Personal Funds.—

"(1) Filing.—A candidate for the Senate who, during an election year, exceeds the aggregate amount of contributions or loans to which the personal funds expenditure limit during the election year that shall file a report with the Secretary of the Senate within 2 business days after expenditures have been made, or loans have been made or obligated to make aggregate expenditures, in the amount of the personal funds expenditure limit.

"(2) Notification of Other Candidates.—Within 2 business days after a report has been filed under paragraph (1), the Commission shall notify each eligible Senate candidate of the filing of the report.

"(D) Action by the Commission Absent a Report.—

"(A) In General.—Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible Senate candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the amount under paragraph (1).
the Commission shall notify each eligible Senate candidate in the general election of the making of the determination.

(d) CANDIDATES FOR OTHER OFFICES.— (1) the individual has been held before the individual becomes a candidate for the office of United States Senator; (2) who, during the election cycle for that office, held any other Federal, State, or local election office or was a candidate for any such office; and (3) who expended any amount during the election cycle before becoming a candidate for the office of United States Senator that would have been treated as an expenditure if the individual had been such a candidate (including amounts for activities to promote the image or name recognition of the individual); shall, within 7 days after becoming a candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

(2) APPLICABILITY.—Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local election that has been held before the individual becomes a candidate for the office of United States Senator.

(3) DETERMINATION.—The Commission shall, as soon as practicable, make a determination as to whether any amounts reported under paragraph (1) were made for expenditures during the election cycle, as defined in this section, to the extent that the amount transferred does not exceed 20 percent of the sum of the primary election expenditure limits under section 437c of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c) and the general election expenditure limit for the election cycle from which the amounts are transferred.

SEC. 106. CONTRIBUTION LIMIT FOR ELIGIBLE SENATE CANDIDATES.

Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (A), by inserting "expenditures aggregating an additional $10,000 or more after the 20th day," before "(B);"

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(3) by inserting after subparagraph (A) the following:

"(B) to an eligible Senate candidate (as defined in section 501) and the authorized political committees of the candidate which, in the aggregate, exceed $2,000, if an opponent of the eligible Senate candidate fails to comply with the expenditure limits contained in this Act or has expended personal funds in excess of 10 percent of the general election limits contained in this Act;"

SEC. 107. EXPENDITURES AGGREGATING $10,000 OR MORE.—(a) that amount of independent expenditures has been made.

(b) by inserting "as provided in subparagraph (B)" before ""(1);"

(c) by inserting after subparagraph (A), the following:

"(2) EXPENDITURES AGGREGATING $10,000.Ð(1) in paragraph (1)(A), by inserting ""as described in subsection (a); or"

(b) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and

(c) by inserting after subparagraph (A) the following:

"(B) to an eligible Senate candidate (as defined in section 501) and an independent expenditure aggregating an additional $10,000 or more after the 20th day," before "(B);"

SEC. 108. INITIAL REPORT.ÐA person that makes independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before an election shall file a report describing the expenditures within 48 hours that amount of independent expenditures has been made.

(b) EXPENDITURES AGGREGATING $10,000 OR MORE.—A person that makes independent expenditures aggregating $10,000 or more after the 20th day, but more than 24 hours, before an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

(c) PLACE OF FILING; CONTENTS; TRANSMITTAL.—(1) PLACE OF FILING; CONTENTS.—A report under this subsection—

"(a) a report under paragraph (a), (b) a report under paragraph (b); and

(b) an additional report each time that independent expenditures aggregating an additional $10,000 or more after the 20th day are made with respect to the same election as that to which the initial report relates.

(c) PLACE OF FILING; CONTENTS; TRANSMITTAL.—(1) PLACE OF FILING; CONTENTS.—A report under this subsection—

"(a) shall be filed with the Secretary of the Senate or the Commission, and the Secretary shall make available such report to the public; and

(b) shall contain the information required by subsection (b)(ii), including whether each independent expenditure was made in support of, or in opposition to, a candidate.

(b) TRANSMITTAL.—
INDEPENDENT EXPENDITURES. — (i) To the Commission. — As soon as possible (but not later than 4 working hours of the Commission) after receipt of a report under this subsection, the Secretary of the Commission shall transmit a copy of the report to each candidate seeking nomination for election to, or election to, the office in question.

(ii) To candidates. — Not later than 48 hours after receipt of a report under this subsection, the Commission shall transmit the notice to the Com- mission after receipt of a report under this subsection, the Commission shall transmit a copy of the report to each candidate seeking nomination for election to, or election to, the office in question.

(iii) Transmission. — For purposes of this subsection, an expenditure shall be treated as being made when it is made or obligated to be made.

(iv) Administration. — The Commission shall be treated as being made when it is made or obligated to be made.

(v) Advance notice of intention to make independent expenditure. — (A) In general. — A person that intends to make independent expenditures totaling $5,000 or more during the 20 days before an election shall file a notice of that intention not later than the 20th day before the election.

(B) Place of filing; contents; transmittal. — (i) Place of filing; contents. — A statement under subparagraph (A) —

(1) shall be filed with the Secretary of the Senate or the Commission, and the Secre- tary of State of the candidate's State; and

(2) shall include information to whom the expenditure will support or oppose.

(ii) Transmission. — (I) To the Commission. — As soon as possible (but not later than 4 hours of working hours of the Commission) after receipt of a notice of intention under this paragraph, the Com- mission shall transmit the notice to the Commis- sion.

(II) To candidates. — Not later than 48 hours after the receipt of a notice of intention under this paragraph, the Commission shall notify each candidate identified in the notice.

(III) Determinations by the Commission. — (A) In general. — The Commission may make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any Federal election in the aggregate exceed the applicable amounts under para- graph (1) or (2).

(B) Notification. — The Commission shall notify each candidate in the election of the making of the independent expenditure within 24 hours after making the determination.

(C) Certification of eligibility to receive benefits under section 304(a). — (1) Certification of eligibility to receive benefits. — A candidate may file a certification with the Commission to receive benefits under section 304(a) after filing a notice under paragraph (A) and notifying each candidate in the election of the making of the independent expenditure.

(2) Certification of eligibility to receive benefits. — After filing a notice under paragraph (A) and notifying each candidate in the election of the making of the independent expenditure, a candidate may file a certification with the Commission to receive benefits under section 304(a). The certification shall be treated as being made when it is made or obligated to be made.

(D) Requirements for broadcast and cablecast communications. — (i) Paid for or authorized by the candidate. — (A) In general. — A broadcast or cablecast communication described in paragraph (1) or (2) of subsection (a) shall include, in addition to the audio statement required by paragraph (A), a written statement—

(1) that states: [name of candidate] am a candidate for [the office the candidate is seeking] and [this is my campaign message]; and

(2) that appears at the end of the communica- tion; and

(3) consists of a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds;

and (ii) that is accompanied by a clearly identifiable photographic or similar image of the candidate.

(II) Not paid for or authorized by the candidate. — A broadcast or cablecast communication described in paragraph (1) or (2) of subsection (a) shall include, in addition to the audio statement under subparagraph (A), a written statement—

(1) that states: I [name of candidate] am a candidate for [the office the candidate is seeking] and [this is my campaign message]; and

(2) that appears at the end of the communica- tion in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

(III) that is accompanied by a clearly identifiable photographic or similar image of the candidate.

(E) Requirement for broadcast and cablecast communications. — (i) Public availability; preservation. — The Secretary of the Senate or the Commission, and the Secre- tary of State of the candidate's State, and the candidate, shall preserve the report or notice of intention received under section 315(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) in the same manner as under section 9002(e) of the Internal Revenue Code of 1986, except that if a candidate qualified for the ballot in a general election in an open primary in which all candidates for the office were required to file, which resulted in the candidate and at least 1 other candidate's qualifying for the ballot in the general election, the candidate shall be treated as a candidate of a major party for purposes of title V.

(ii) Certification of eligibility to receive benefits. — (A) Definition. — (I) In general. — A person that may result in the selection of a candidate for the ballot in a general election for a Federal office.

(ii) Certification of eligibility to receive benefits. — (A) Definition. — (I) In general. — A person that may result in the selection of a candidate for the ballot in a general election for a Federal office.

(iii) Certification of eligibility to receive benefits. — (A) Definition. — (I) In general. — A person that may result in the selection of a candidate for the ballot in a general election for a Federal office.

(iv) Certification of eligibility to receive benefits. — (A) Definition. — (I) In general. — A person that may result in the selection of a candidate for the ballot in a general election for a Federal office.

(v) Certification of eligibility to receive benefits. — (A) Definition. — (I) In general. — A person that may result in the selection of a candidate for the ballot in a general election for a Federal office.
TITLE II—INDEPENDENT EXPENDITURES
SEC. 201. DEFINITION OF INDEPENDENT EXPENDITURE.
Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

``(17) INDEPENDENT EXPENDITURE.—
``(A) IN GENERAL.—The term ‘independent expenditure’ means an expenditure that is made by a person other than the candidate and that is not an independent expenditure by a person other than a candidate or candidate’s authorized committee—
``(i) that is made for a communication that contains express advocacy; and
``(ii) is made without the participation or cooperation of and without coordination with a candidate.
``(B) EXPRESS ADVOCACY.—The term ‘express advocacy’ means a communication advocating the election or defeat of a clearly identified candidate and includes any communication that—
``(i) contains a phrase such as ‘vote for’, ‘re-elect’, ‘support’, ‘cast your ballot for’, (name of candidate) for Congress’, (name of candidate) in 1997, ‘vote against’, ‘defeat’, ‘reject’;
``(ii) recommends a position on an issue and clearly identifies 1 or more candidates as supporting or opposing the position; or
``(iii) contains campaign slogans or individual words that in context can have no reasonable other than to recommend the election or defeat of 1 or more clearly identified candidates;
``(iv) clearly identifies 1 or more candidates and is broadcast by a radio broadcast station or a television broadcast station (including a cable system) within 60 calendar days preceding the date of an election (or with respect to a candidate for the office of Vice President or President in a general election, within 90 calendar days preceding the date of the general election); or
``(v) is broadcast as whole and with limited reference to external events, such as proximity to an election, expresses unmistakable support for or opposition to 1 or more clearly identified candidates;
``(C) WITHOUT THE PARTICIPATION OR COOPERATION OF AND WITHOUT COORDINATION WITH A CANDIDATE.—The term ‘without the participation or cooperation of a political party that is subject to this subsection’ shall file with the Commission a certification, signed by the treasurer, stating whether the committee will make coordinated expenditures or independent expenditures with respect to the candidate. A committee of a political party that is subject to this subsection shall file with the Commission a certification, signed by the treasurer, stating whether the committee will make coordinated expenditures or independent expenditures with respect to the candidate and if so, the message to be broadcast is intended to be coordinated expenditures with respect to a candidate shall not, in the same election cycle, make a transfer of funds to, or receive a transfer of funds from, any other party committee that has certified under this paragraph that it will make independent expenditures with respect to the candidate."

SEC. 203. TREATMENT OF QUALIFIED NONPROFIT CORPORATIONS.
Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following:

``(19) COORDINATED EXPENDITURE.—The term ‘coordinated expenditure’ means an expenditure that is made by a person other than the candidate and that is not an independent expenditure by a person other than a candidate or candidate’s authorized committee—
``(A) IN GENERAL.—A committee of a political party shall not make both a coordinated expenditure and an independent expenditure with respect to the same candidate during a single election cycle.
``(B) CERTIFICATION.—Before making a coordinated expenditure or an independent expenditure with respect to a candidate, a committee of a political party shall not make both a coordinated expenditure and an independent expenditure with respect to the same candidate during a single election cycle.

SEC. 204. EQUAL BROADCAST TIME.
Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended by striking subsection (a) and inserting the following:

``(a) EQUAL OPPORTUNITY TO USE BROADCASTING STATION.—
``(1) IN GENERAL.—A person who is a legally qualified candidate for public office to use a broadcasting station (other than any use required to be provided under paragraph (2)) shall afford the opponent such candidate for that office in the use of the broadcasting station.
``(2) INDEPENDENT EXPENDITURES.—
``(A) INFORMATION TO BE PROVIDED TO LICENSEE BY PERSON RESERVING BROADCAST TIME.—A person that reserves broadcast time for the payment for which would constitute an independent expenditure (as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) shall—
``(i) inform the licensee that payment for the broadcast time will constitute an independent expenditure;
``(ii) inform the licensee of the names of all candidates for the office for which the proposed broadcast relates and state whether the message to be broadcast is intended to be made in support of or in opposition to each such candidate; and
``(iii) provide the licensee a copy of the statement described in section 304(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).
``(B) RESPONSE BY LICENSEE.—A licensee that is informed as described in subparagraph (A)—
``(i) notify the person of the proposed making of the independent expenditure; and
``(ii) allow such a candidate (other than a candidate for whose benefit the independent expenditure is made) to purchase the same amount of broadcast time immediately after the broadcast time paid for by the independent expenditure; and
``(iii) in the case of an opponent of a candidate for whose benefit the independent expenditure is made who certifies to the licensee that the opponent have the cost of response broadcast time paid using funds derived from a payment made under section 504(a)(2)(B) of the Federal Election Campaign Act of 1971, afford the opponent such broadcast time without requiring payment in advance and at the cost specified in subsection (b).
``(C) NO CENSORSHIP.—A licensee shall have no power of censorship over the material broadcast under this section.
``(D) NO OBLIGATION.—Except as provided in paragraph (2), no obligation is imposed under this subsection on any licensee to allow the use of its station by any candidate.

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"(5) Certain appearances not considered use of broadcasting station.—
"(a) In general.—An appearance by a legally qualified candidate on—
"(i) a local broadcast or cable television program, or
"(ii) bona fide news interview;
"(iii) bona fide news documentary (if the appearance of the candidate is incidental to the program subject and the subject or subjects covered by the news documentary); or
"(iv) on-the-spot coverage of bona fide news events (including political conventions and any other similar types of public political advertising, if the extension of credit is—
"(I) in an amount greater than $1,000, and in a period greater than the period not in excess of 60 days, for which credit is generally extended in the normal course of business after the date on which the goods or services are furnished or the date of a mailing.

Subtitle B—Soft Money of Political Parties

SEC. 315. PREPARATION AND DISTRIBUTION BY VOTERS OF MATERIALS IN CONNECTION WITH STATE AND LOCAL POLITICAL PARTY REGISTRATION AND GET-OUT-THETE-VOTE ACTIVITIES SO AS NOT TO BE CONSIDERED A CONTRIBUTION OR EXPENDITURE.

(a) Contributions.—Section 301(b)(x)(ii) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)(x)(ii)) is amended—
"(1) by striking "such committee" and inserting "the committee in connection with volunteer activities";
"(2) by striking "Provided, That" and inserting "If";
"(3) by redesignating the items designated as items "(1)", "(2)", and "(3)", respectively, as subclauses (I), (II), and (III); and
"(4) by striking "and" at the end of subclause (II) as redesignated; and
"(5) by inserting "and" at the end of subclause (III) as redesignated; and
"(6) by adding at the end the following:
"(IV) the activities are conducted solely by, and the materials are distributed solely by, volunteers.

(b) Expenditure.—Section 301(b)(ix)(I) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)(ix)(I)) is amended—
"(1) by striking "such committee" and inserting "the committee in connection with volunteer activities";
"(2) by striking "Provided, That" and inserting "If";
"(3) by redesignating the items designated as items "(1)", "(2)", and "(3)", respectively, as subclauses (I), (II), and (III); and
"(4) by striking "and" at the end of subclause (II) as redesignated; and
"(5) by inserting "and" at the end of subclause (III) as redesignated; and
"(6) by adding at the end the following:
"(IV) any materials in connection with the activities are prepared for distribution (and are distributed) solely by volunteers; and

SEC. 316. LIMITATION ON EXPENDITURES.

(a) Individual Contributions to State Party Grassroots Funds.—Section 316(b)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)(3)) is amended by striking subparagraph (A) and inserting the following:
"(A) Election cycle.—No individual shall make contributions during any election cycle (as defined in section 301(b)(8)(B)) that, in the aggregate, exceed $60,000.

(b) Calendar Year.—
"(1) General.—No individual shall make contributions during any calendar year—
"(I) to all candidates and their authorized political committees that, in the aggregate, exceed $25,000 or
"(II) to all political committees established and maintained by State committees of a political party that, in the aggregate, exceed $20,000.

(c) Election Year.—For purposes of clause (i), a contribution made to a candidate or the candidate's authorized political committees in a year other than the calendar year in which the election is held with respect to which the contribution is made shall be treated as being made during the calendar year in which the election is held.

(d) Federal Candidate Committee Transfers.—
"(1) Amendment of FECA.—Section 315(b)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)(1)) is amended by striking subparagraph (B) and inserting the following:
"(B) in the case of a campaign for election to that office, an amount equal to the sum of—
"(i) $20,000,000, plus
"(ii) the lesser of—
"(I) 2 cents multiplied by the voting age population of the United States (as certified under subsection (e); or
"(II) the amounts transferred by the candidate and the authorized committees of the candidate to the national committee of the candidate's political party for distribution to State Party Grassroots Funds.

(2) Amendment of Internal Revenue Code.—Subtitle A—Personal Funds; Credit

Section 301(b)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)(3)) is amended by inserting after subparagraph (A) the following:
"(B) CALENDAR YEAR.—
"(I) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed $15,000; or
"(II) any other political committee established and maintained by a State committee of a political party that, in the aggregate, exceed $5,000; except that the aggregate contributions described in this subparagraph that may be made to the State Party Grassroots Fund and all committees of a State committee of a political party in any calendar year shall not exceed $20,000; or".

(b) Multicandidate Committee Contributions.—Section 315(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(a)(2)) is amended—
"(1) by striking "or" at the end of subparagraph (B);
"(2) by redesignating subparagraph (C) as subparagraph (D); and
"(3) by inserting after subparagraph (B) the following:
"(C) to—
"(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed $15,000; or
"(ii) any other political committee established and maintained by a State committee of a political party that, in the aggregate, exceed $5,000; except that the aggregate contributions described in this subparagraph that may be made to the State Party Grassroots Fund and all committees of a State committee of a political party in any calendar year shall not exceed $20,000; or".
SEC. 313. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES.

(a) SOFT MONEY OF COMMITTEES OF POLITICAL PARTIES.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 102(a)) is amended by adding at the end the following:

"SEC. 325. POLITICAL PARTY COMMITTEES.

(a) LIMITATIONS ON NATIONAL COMMITTEES.—

"(1) IN GENERAL.—A national committee of a political party shall not solicit or accept any amount, or solicit or accept a transfer from another political committee, that is not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) EXCLUSIONS.—Paragraph (1) shall not apply to any amount received—

(A) that—

(i) is to be transferred to a State committee of a political party and is used solely for an activity described in clause (xi), (xii), (xiii), (xiv), (xv), (xvi), or (xvii) of section 301(9)(B); or

(ii) is described in section 301(9)(B)(ii); and

(B) with respect to which a contributor has been notified that the amount will be used solely for the purposes described in subparagraph (A).

(b) TRANSFERS TO TAX-EXEMPT ORGANIZATIONS.—A national committee of a political party shall not transfer any funds to an organization that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 and is described in section 501(c)(3) of the Code.

(c) ACTIVITIES SUBJECT TO THIS ACT.—

"(1) IN GENERAL.—Any amount solicited, received, expended, or disbursed directly or indirectly by a national, State, district, or local committee of a political party (including an appropriate subcommittee) with respect to any of the following activities shall be treated as a contribution subject to the limitations, prohibitions, and reporting requirements of this Act:

(A) any activity that identifies or promotes a Federal candidate, regardless of whether—

(i) a State or local candidate is also identified; or

(ii) any portion of the funds disbursed constitutes a contribution or expenditure under this Act.

(B) the transfer or registration.

(C) the making of a payment described in section 315(a)(4) or (5) of the Internal Revenue Code of 1986 (as defined in section 315(a)(4) or (5) of the Internal Revenue Code of 1986); and

(D) any other activity that—

(i) significantly affects a Federal election; or

(ii) is not described in section 301(8)(B)(ii).

(2) FUNDRAISING COSTS.—Any amount spent to raise funds that are used, in whole or in part, in connection with an activity described in paragraph (1) shall be treated as an expenditure subject to the limitations, prohibitions, and reporting requirements of this Act.

"(d) GET-OUT-THE-VOTE ACTIVITIES BY STATE, DISTRICT, AND LOCAL COMMITTEES OF A POLITICAL PARTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any get-out-the-vote activity for a State or local candidate, or for a ballot measure that is conducted by a State, district, or local committee of a political party (including an appropriate subcommittee) shall be treated as an expenditure subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) EXCLUSIONS.—Paragraph (1) shall not apply to any activity that the State committee of a political party certifies to the Commission that—

(A) is conducted during a calendar year other than a calendar year in which an election for the office of President is held;

(B) is exclusively on behalf of (and specifically identifies only) 1 or more State or local candidates or ballot measures; and

(C) does not include any effort or means used to identify or turn out those identified to be supporters of any Federal candidate (including any activity that is undertaken in connection with, or on behalf of, a candidate for Federal office).

"(e) STATE PARTY GRASSROOTS FUNDS.—

"(1) IN GENERAL.—A State committee of a political party may make disbursements and expenditures from its State Party Grassroots Fund only for—

(A) a generic campaign activity;

(B) the making of a payment described in clause (v), (x), or (xii) of paragraph (8)(B) or clause (iv), (viii), or (x) of paragraph (9)(B) of section 301;

(C) subject to the limitations of section 313(d), the making of a payment described in paragraph (8)(B)(xii) or (9)(B)(ix) of section 313 on behalf of a candidate other than a candidate for President or Vice President;

(D) voter registration; and

(E) development and maintenance of voter files during an even-numbered calendar year.

"(2) TRANSFERS.—

"(A) IN GENERAL.—Notwithstanding section 315(a)(4) and except as provided in subparagraph (B), no funds may be transferred by a State committee of a political party from its State Party Grassroots Fund to any other State Party Grassroots Fund or to any other political committee.

"(B) TRANSFER TO SEPARATE SEGREGATED FUND OF DISTRICT OR LOCAL COMMITTEE.—A transfer may be made from a State Party Grassroots Fund to a district or local committee of the same political party in the same State if the district or local committee—

(i) has established a separate fund for the purposes described in paragraph (1); and

(ii) uses the transferred funds solely for those purposes.

"(f) AMOUNTS RECEIVED BY STATE PARTY GRASSROOTS FUND FROM NON-FEDERAL CANDIDATE COMMITTEES.—

"(1) IN GENERAL.—Any amount received by a State Party Grassroots Fund from a non-Federal candidate committee for expenditures described in section 315(a)(1) that are for the benefit of that candidate shall be treated as meeting the requirements of subsection (b) and section 304(f).

"(A) the amount received from funds that meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount specified in paragraphs (a) or (b) of section 315(a); and

(B) the non-Federal candidate committee—

(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether those requirements are met; and

(ii) certifies that the requirements were met.

"(2) DETERMINATION OF COMPLIANCE.—For purposes of paragraph (1)(A), in determining whether the funds transferred met the requirements of this Act referred to in paragraph (1)(A)—

(A) a non-Federal candidate committee's candidate fund shall be treated as receiving the funds most recently received by the committee; and

(B) the committee must be able to demonstrate that its transfers of sufficient funds meeting those requirements as are necessary to cover the transferred funds.

"(3) REPORTING.—Notwithstanding paragraph (1), a State Party Grassroots Fund that receives a transfer described in paragraph (1) from a non-Federal candidate committee—

(A) shall meet the reporting requirements of this Act; and

(B) shall submit to the Commission all certifications received with respect to receipt of the transfer from the candidate committee.

(b) DEFINITIONS.—

"(1) CONTRIBUTION.—Section 301(b)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)(8)) is amended—

(A) by striking 'and' at the end of clause (xiii);

(B) by striking the period at the end of clause (xiv) and inserting a semicolon; and

(C) by adding at the end the following:

"(xv) any amount contributed to a candidate for other than Federal office;

"(xvi) any amount received or expended to pay the costs of a State or local political convention;

"(xvii) any amount contributed to a candidate for other than Federal office, or

"(xviii) any amount received or expended to pay the costs of a State or local political convention;

"(2) EXPENDITURE.—Section 301(b)(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)(9)) is amended—

(A) by striking 'and' at the end of clause (ix); and

(B) by striking the period at the end of clause (x) and inserting a semicolon; and

(C) by adding at the end the following:

"(x) any amount contributed to a candidate for other than Federal office;
For purposes of this Act, a candidate, an individual holding Federal office, or any agent of the candidate or individual may not solicit funds to, or receive funds on behalf of, any person—

(A) that are to be expended in connection with any election for Federal office unless the funds are subject to the limitations, prohibitions, and requirements of this Act; or

(B) that are to be expended in connection with any election other than Federal office unless the funds are not in excess of amounts permitted with respect to Federal candidates and political committees under paragraphs (1) and (2) of subsection (a) and are not from sources prohibited by these paragraphs with respect to elections for Federal office.

(2) LIMITATION ON SOLICITATIONS.—

(A) IN GENERAL.—The aggregate amount that a person described in subparagraph (B) may solicit from a multicandidate political committee that is not a State committee shall be determined in accordance with section 325(c) (without regard to paragraph (6)(B)) or section 325(d).

(B) APPLICABILITY.—A person is described in this subparagraph if the person is a candidate, an individual holding Federal office, or a national, State, district, or local committee of a political party (including a subordinate committee) or an agent of such a committee.

(3) APPEARANCE OR PARTICIPATION IN A FUNDRAISING EVENT.—The appearance or participation by a candidate or individual holding Federal office in a political committee to which paragraph (1) applies shall be treated as a solicitation for purposes of paragraph (1) if the candidate or individual does not solicit or receive, or make disbursements from, any funds resulting from the activity.

(4) STATE LAW.—Paragraph (1) shall not apply to any political committee to which section (a)(2)(B) for the calendar year.

(5) ITEMIZATION.—If a political committee

section 325 applies shall report all receipts and disbursements of the organization that are described in subsection (a).''.

(b) REPORT OF EXEMPT CONTRIBUTIONS.—

(1) GENERAL.—In lieu of any report required to be filed under this Act, the political committee may allow a State committee of a political party to, or any agent of the committee of a political party, a congressional campaign committee of a political party, shall report any receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 325 APPLIES.—A political committee (not described in paragraph (1)) to which section 325 applies shall report any receipts and disbursements, including separate schedules for receipts and disbursements for a State Grassroots Fund.

(3) TRANSFERS.—A political committee to which section 325 applies shall—

(A) include in a report under paragraph (1) or (2) the amount of any transfer described in section 325(b)(4); and

(B) itemize those amounts to the extent required by section 326(b)(3)(A).

(4) OTHER POLITICAL COMMITTEES.—Any political committee that is not described in paragraph (1) or (2) does not apply shall report any receipts or disbursements that are used in connection with a Federal election.

(5) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for the person in the same manner as under paragraphs (3) and (5) and (6) of subsection (b).

(6) REPORTING PERIOD.—Reports required to be filed by this section shall be filed for the same time periods as reports are required for political committees under subsection (a).

(c) REPORT OF EXEMPT CONTRIBUTIONS.—

(1) IN GENERAL.—The exclusion provided in subparagraph (B) of section 325(b)(4) shall also not apply to political committees to which section (a) applies and to political committees to which section 325 applies shall report all receipts and disbursements of the organization that are described in subsection (a).

(2) FILING OF STATE REPORTS.—In lieu of any report required to be filed under this Act, the Commission may allow a State committee of a political party to which the Commission a report required to be filed under State law if the Commission determines that such a report contains substantially the same information as a report required under this Act.

(3) OTHER REPORTING REQUIREMENTS.—

(a) IN GENERAL.—If an individual is a candidate for, or holds, Federal office during any period in which section 325 applies and is not during that period solicit contributions to, or on behalf of, any organization that is described in section 501(c) of the Internal Revenue Code of 1986 if a significant portion of the activities of the organization include voter registration or get-out-the-vote campaigns.

(2) LIMITATION ON SOLICITATIONS.—

(A) IN GENERAL.—The aggregate amount that a person described in subparagraph (B) may solicit from a multicandidate political committee that is not a State committee shall be determined in accordance with section 325(c) (without regard to paragraph (6)(B)) or section 325(d).

(B) APPLICABILITY.—A person is described in this subparagraph if the person is a candidate, an individual holding Federal office, or a national, State, district, or local committee of a political party (including a subordinate committee) or an agent of such a committee.

(3) APPEARANCE OR PARTICIPATION IN A FUNDRAISING EVENT.—The appearance or participation by a candidate or individual holding Federal office in a political committee to which paragraph (1) applies shall be treated as a solicitation for purposes of paragraph (1) if the candidate or individual does not solicit or receive, or make disbursements from, any funds resulting from the activity.

(4) STATE LAW.—Paragraph (1) shall not apply to any political committee to which section (a)(2)(B) for the calendar year.

(5) ITEMIZATION.—If a political committee

section 325 applies shall report all receipts and disbursements of the organization that are described in subsection (a).''.

(b) REPORT OF EXEMPT CONTRIBUTIONS.—

(1) IN GENERAL.—The exclusion provided in subparagraph (B) of section 325(b)(4) shall also not apply to political committees to which section (a) applies and to political committees to which section 325 applies shall report all receipts and disbursements of the organization that are described in subsection (a).

(2) FILING OF STATE REPORTS.—In lieu of any report required to be filed under this Act, the Commission may allow a State committee of a political party to which the Commission a report required to be filed under State law if the Commission determines that such a report contains substantially the same information as a report required under this Act.

(3) OTHER REPORTING REQUIREMENTS.—

(a) IN GENERAL.—If an individual is a candidate for, or holds, Federal office during any period in which section 325 applies and is not during that period solicit contributions to, or on behalf of, any organization that is described in section 501(c) of the Internal Revenue Code of 1986 if a significant portion of the activities of the organization include voter registration or get-out-the-vote campaigns.

(2) LIMITATION ON SOLICITATIONS.—

(A) IN GENERAL.—The aggregate amount that a person described in subparagraph (B) may solicit from a multicandidate political committee that is not a State committee shall be determined in accordance with section 325(c) (without regard to paragraph (6)(B)) or section 325(d).

(B) APPLICABILITY.—A person is described in this subparagraph if the person is a candidate, an individual holding Federal office, or a national, State, district, or local committee of a political party (including a subordinate committee) or an agent of such a committee.

(3) APPEARANCE OR PARTICIPATION IN A FUNDRAISING EVENT.—The appearance or participation by a candidate or individual holding Federal office in a political committee to which paragraph (1) applies shall be treated as a solicitation for purposes of paragraph (1) if the candidate or individual does not solicit or receive, or make disbursements from, any funds resulting from the activity.

(4) STATE LAW.—Paragraph (1) shall not apply to any political committee to which section (a)(2)(B) for the calendar year.

(5) ITEMIZATION.—If a political committee

section 325 applies shall report all receipts and disbursements of the organization that are described in subsection (a).''.

(b) REPORT OF EXEMPT CONTRIBUTIONS.—

(1) IN GENERAL.—The exclusion provided in subparagraph (B) of section 325(b)(4) shall also not apply to political committees to which section (a) applies and to political committees to which section 325 applies shall report all receipts and disbursements of the organization that are described in subsection (a).

(2) FILING OF STATE REPORTS.—In lieu of any report required to be filed under this Act, the Commission may allow a State committee of a political party to which the Commission a report required to be filed under State law if the Commission determines that such a report contains substantially the same information as a report required under this Act.

(3) OTHER REPORTING REQUIREMENTS.—

(a) IN GENERAL.—If an individual is a candidate for, or holds, Federal office during any period in which section 325 applies and is not during that period solicit contributions to, or on behalf of, any organization that is described in section 501(c) of the Internal Revenue Code of 1986 if a significant portion of the activities of the organization include voter registration or get-out-the-vote campaigns.
(A) by striking "and" at the end of subparagraph (H);
(B) by inserting "and" at the end of subparagraph (I); and
(C) by adding at the end the following:

"(j) in the case of an authorized committee, disbursements for the primary election, the general election, and any other election in which the candidate participates;"

(2) NAMES AND ADDRESSES.—Section 304(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended—

(A) by striking "within the calendar year"; and

(B) by striking "such operating expenditures" and inserting "operating expense, and the election to which the operating expense relates";

Subtitle C—Soft Money of Persons Other Than Political Parties

SEC. 321. SOFT MONEY OF PERSONS OTHER THAN POLITICAL PARTIES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 315(c)) is amended by adding at the end the following:

"(h) ELECTION ACTIVITY OF PERSONS OTHER THAN POLITICAL PARTIES.—

"(1) INITIAL STATEMENT.—A person to which section 325 does not apply that makes (or obligates to make) aggregate disbursements of $2,000 for activities described in section 325(c) shall file a statement with the Commission ("statement")—

"(A) within 48 hours after the disbursements or obligations in excess of $2,000 are made; or

"(B) in the case of disbursements or obligations that are made within 14 days of an election, on or before the 14th day before the election;

"(2) ADDITIONAL STATEMENTS.—An additional statement shall be filed each time additional disbursements aggregating $2,000 are made by a person described in paragraph (1).

"(4) APPLICABILITY.—This subsection does not apply to—

"(A) a candidate or a candidate's authorized committees; or

"(B) an independent expenditure.

"(5) CONTENTS.—A statement under this section shall contain such information about the disbursements as the Commission shall prescribe, including information as to whether the disbursement was in support of, or in opposition to, a candidate or a political party.

"(6) PLACE OF FILING.—A statement under this section shall be filed with the Secretary of the Senate or the Clerk of the House of Representatives, and the Secretary of State (or equivalent official) of the candidate's State. The Secretary of the Senate or Clerk of the House of Representatives shall, as soon as possible (but not later than 24 hours after receipt), transmit a copy of the statement to the Commission.

"(7) TRANSMITTAL.—Not later than 48 hours after receipt, the Commission shall transmit a statement filed under this subsection—

"(A) to the candidates or political parties involved in the election in question; or

"(B) if the disbursement is not in support of, or in opposition to, a candidate or political party, to the State committees of each political party in the State in question.

"(8) DETERMINATIONS BY THE COMMISSION.—The Commission may make its own determination that disbursements described in paragraph (1) have been made or are obligated to be made. The Commission shall notify the political parties described in paragraph (1) that disbursements described in paragraph (2) not later than 24 hours after its determination;"

TITLE IV—CONTRIBUTIONS

SEC. 401. PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.

Section 303 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) (as amended by section 314(b)) is amended by adding at the end the following:

"(m) PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.—

"(1) IN GENERAL.—A lobbyist, or a political committee controlled by a lobbyist, shall not make a contribution to—

"(A) a Federal officer or candidate for Federal office if, during the preceding 12 months, the lobbyist made a lobbying contact with the officeholder or candidate;

"(B) any authorized committee of the President or the Vice President of the United States if, during the preceding 12 months, the lobbyist has made a lobbying contact with a covered executive branch official.

"(1) IN GENERAL.—A lobbyist, or a political committee controlled by a lobbyist, shall not make a contribution to—

"(A) a Federal officer or candidate for Federal office if, during the preceding 12 months, the lobbyist made a lobbying contact with the officeholder or candidate;

"(B) any authorized committee of the President or the Vice President of the United States if, during the preceding 12 months, the lobbyist has made a lobbying contact with a covered executive branch official.

"(2) ADDITIONAL STATEMENTS.—An additional statement shall be filed each time additional disbursements aggregating $2,000 are made by a person described in paragraph (1).

"(3) DEFINITIONS.—In this subsection the terms covered executive branch official, lobbying contact, and lobbyist have the meanings given those terms in section 3 of the Federal Lobbying Disclosure Act of 1995 (2 U.S.C. 1602).

"(A) the term 'lobbyist' includes a person required to register under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.);

"(B) for purposes of this subsection, a lobbyist shall be considered to make a lobbying contact or communication with a member of Congress if the lobbyist makes a lobbying contact or communication with—

"(i) the member of Congress;

"(ii) any person employed in the office of the member of Congress;

"(iii) any person employed by a committee, joint committee, or leadership office who, to the knowledge of the lobbyist, was employed at the time of the request or of the employment referred to, represents, or acts as the agent of the member of Congress.''.

SEC. 402. CONTRIBUTIONS BY DEPENDENTS NOT VOTING AGE.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) (as amended by section 313) is amended by adding at the end the following:

"(n) DEPENDENTS NOT OF VOTING AGE.—

"(1) IN GENERAL.—For purposes of this section, any contribution by an individual who—

"(A) is a dependent of another individual; and

"(B) has not, as of the time of the making of the contribution, attained the legal age for voting in an election to Federal office in the State in which the individual resides; shall be treated as having been made by the other individual.

"(2) ALLOCATION BETWEEN SPOUSES.—If an individual described in paragraph (1) is the dependent of another individual and the other individual's spouse, a contribution described in paragraph (1) shall be allocated among those individuals in a manner determined by the individuals.''.

SEC. 403. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) (as amended by section 102(b)) is amended by adding at the end the following:

"(10) AGGREGATION OF CONTRIBUTIONS FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES.—Notwithstanding paragraph 3(b), a candidate may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such a committee), if the contribution, when added to the total of contributions previously accepted from all such committees of that political party, would cause the amount of contributions to exceed a limitation on contributions to a candidate under this section.

SEC. 404. CONTRIBUTIONS AND EXPENDITURES USING MONEY SECURED BY PHYSICAL FORCE OR OTHER INTIMIDATION.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

"SEC. 326. USE OF PHYSICAL FORCE OR INTIMIDATION TO OBTAIN A CONTRIBUTION OR EXPENDITURE OR DETER THE FILING OF A COMPLAINT.

"It shall be unlawful for any person to—

"(1) cause another person to make a contribution or expenditure by using physical force, job discrimination, a financial reprisal, a threat of physical force, job discrimination, or financial reprisal, or taking or threatening to take other adverse action; or

"(2) make a contribution or expenditure utilizing money or anything of value secured in the manner described in (1); or

"(3) use physical force, job discrimination, or financial reprisal, a threat of physical force, job discrimination, or financial reprisal, or take or threaten to take other adverse action, against an employee, union member, or other person—

"(A) to deter or prevent any person from filing a complaint, providing testimony, or otherwise cooperating with enforcement efforts under this Act; or

"(B) to retaliate against any person who has filed a complaint, provided testimony, or otherwise cooperated with enforcement efforts under this Act.''.

SEC. 405. PROHIBITION OF ACCEPTANCE OF A CONTRIBUTION OR EXPENDITURE FROM ANY ONE PERSON AGGREGATING MORE THAN $100.

Section 321 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441g) is amended by inserting ', and no candidate or authorized committee of a candidate shall accept from any 1 person,' after "make".

TITLE V—AUTHORITIES AND DUTIES OF THE FEDERAL ELECTION COMMISSION

SEC. 501. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(g) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(g)) is amended by adding at the end the following:

"(D) FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.—

"(A) COMPUTERS.—The Commission, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, may issue a regulation under a person required to file a designation, statement, or report under this Act—

"(i) to require a person to maintain and file the designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

"(ii) to require a person to file or maintain and file the designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission;

"(B) FACSIMILE MACHINES.—

"(1) IN GENERAL.—A person who is required to file a designation, statement, or report under this Act, as determined by the Commission, shall deliver, or cause to be delivered, the designation, statement, or report at the time and place required by this Act by facsimile transmission if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and
"(ii) may maintain and file the designation, statement, or report in that manner if not required to do so under a regulation under clause (i).

(B) Facsimile Machines.—The Commission, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, shall prescribe a regulation that a candidate or an eligible committee shall be permitted to file a designation, statement, or report required by this Act through the use of a facsimile machine.

(C) Verification.—In a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying a designation, statement, or report. Any document certified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

(D) Compatibility of Systems.—The Secretary of the Senate and the Clerk of the House of Representatives shall ensure that any computer or other system that the Secretary or the Clerk may develop and maintain to receive designations, statements, and reports in the forms required or permitted under this paragraph is compatible with any system the Commission may develop and maintain.

SEC. 502. INCREASE IN THRESHOLD FOR REPORTING REQUIREMENTS.

(a) Identification of Contributors.—Section 302(c)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(c)(3)) is amended by striking "$200" and inserting "$500".

(b) Identification of Disbursements.—Section 302(c)(5) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(c)(5)) is amended by striking "$200" and inserting "$500".

SEC. 503. AUDITS.

(a) Random Audits.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 443(b)) is amended—

(1) by inserting "(IV) before "The Commission";

(2) by adding at the end the following:

"(II) IN GENERAL.—The Commission shall establish a schedule of mandatory monetary penalties that shall be imposed by the staff director of the Commission for any failure to meet the time requirements for filing under section 304.

(B) Required Filing of Late Report.—The Commission may require a report that has not been filed within the time requirements of section 304 to be filed by a specific date.

(C) Procedure for Assessing Penalties and Filing Deadlines.—Penalties and filing requirements imposed under this paragraph shall not be subject to paragraph (1), (2), (3), (4), or (5) or (12).

(D) Appeals.—(i) In General.—A political committee shall have 30 days after the imposition of penalty or filing requirement under this paragraph to file an exception with the Commission.

(ii) Commission Determination.—Within 30 days after receiving the exception, the Commission shall make a determination that is final and conclusive, without review by the United States Court of Appeals for the District of Columbia Circuit under section 706 of title 5, United States Code, and without a hearing or a public proceeding and without the power to issue summons, subpoenas, or administrative subpoenas, and without calling or requiring the attendance of any witnesses.

(iii) Service of Process.—In any matter under this Act or under chapter 95 or chapter 96 of the Internal Revenue Code of 1986, the Commission may at its discretion, without court order and with or without reimbursement, require the United States Marshal Service to serve process on behalf of the Commission, including serving a summons, subpoena, or complaint, upon any person.

(SEC. 505. PENALTIES.

(a) Increased Penalties.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 439(a)) is amended—

(1) by adding at the end the following:

"(b) EQUITY REMEDIES.—Section 309(a)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 439(a)(5)) is amended by striking "$5,000" and inserting "$10,000".

(2) in paragraph (5) by striking "$1,000" and inserting "$3,000".

(b) Automatic Penalty for Late Filing.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 439(a)) is amended by striking "$125" and inserting "$500".

(c) Procedure for Assessing Penalties and Filing Deadlines.—Penalties and filing requirements imposed under this paragraph shall not be subject to paragraph (1), (2), (3), (4), (5), or (12).

(D) Appeals.—(i) In General.—A political committee shall have 30 days after the imposition of penalty or filing requirement under this paragraph to file an exception with the Commission.

(ii) Commission Determination.—Within 30 days after receiving the exception, the Commission shall make a determination that is final and conclusive, without review by any court.

(iii) Commission's Powers.—In any matter under this Act or under chapter 95 or chapter 96 of the Internal Revenue Code of 1986, the Commission may at its discretion, without court order and with or without reimbursement, require the United States Marshal Service to serve process on behalf of the Commission, including serving a summons, subpoena, or complaint, upon any person.

(C) Venue for Violations Adjudicated in Court.—Section 309(a)(6) of the Federal Election Campaign Act of 1971 (2 U.S.C. 439(a)(6)) is amended by striking "section 2203" and inserting "section 2207".
such action is brought is found, resides, or transacts business and inserting “in which the defendant resides, transacts business, or is found or in which the violation occurred.”

(ii) FILING OF REPORTS WITH COMMISSION INSTEAD OF THE SECRETARY OF THE SENATE.—

(i) SECTION 202.—Section 202 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(g)) is amended by

(A) by striking “(g)(l)” and all that follows through “(G) FILING.—”;

(B) by striking paragraph (4); and

(C) by striking “, except designations, statements, and reports filed in accordance with paragraph (1),”.

(ii) EFFECT OF SECTION 304 OF FEDERAL ELECTION CAMPAIGN ACT OF 1971 (2 U.S.C. 434) is amended—

(A) in the first sentence of subsection (a)(6), by striking “the Secretary, or the Commission,” and inserting “the Commission”;

(B) in the third sentence of subsection (c)(4), by striking “the Secretary,” or the”;

(C) by striking “, except designations, statements, and reports filed in accordance with paragraph (1),”.

SEC. 501. AUTHORIZATION TO ACCEPT GIFTS.

(a) STUDY OF SYSTEMS TO PERMIT PERSONS WITH DISABILITIES TO VOTE BY TELEPHONE.—

(1) IN GENERAL.—In general, the Federal Election Commission shall conduct a study to determine the feasibility of developing a system or systems by which persons with disabilities may be permitted to vote by telephone.

(2) USE OF FUNDS.—The Federal Election Commission shall use funds by 1 or more of the following means:

(I) Making contributions to a person described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of the Code;

(II) Making a contribution to the Treasury of the United States;

(III) Contributing to the national, State, or local committees of a political party;

(IV) Making a contribution of not to exceed $1,000 each to 1 or more candidates or non-Federal candidates.

(b) REPORTS TO CONGRESS.—

The Federal Election Commission shall submit to Congress the study required by this section not later than 1 year after the effective date of this Act.


Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following:

“(c) PROHIBITIONS NOT TO APPLY TO INDEPENDENT EXPENDITURES OF CERTAIN TAX-EXEMPT ORGANIZATIONS.—

“(1) IN GENERAL.—Nothing in this section shall preclude a qualified nonprofit corporation from making an independent expenditure.

“(2) DEFINITION OF QUALIFIED NONPROFIT CORPORATION.—In this subsection, the term ‘qualified nonprofit corporation’ means a corporation described in section 501(c)(4) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Code and that meets the following requirements:

“(A) PURPOSE.—The only express purpose of the corporation is the promotion of political ideas.

“(B) NO TRADE OR BUSINESS.—The corporation cannot and does not engage in any activities that constitute a trade or business.

“(C) GROSS RECEIPTS.—The gross receipts of the corporation for the calendar year have not (and will not) exceed $100,000, and the net value of the total assets at any time during the calendar year do not exceed $250,000.

“(D) ESTABLISHMENT.—The corporation was not established—

“(i) by a person described in section 501(c)(6) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Code;

“(ii) by a corporation engaged in carrying out a trade or business; or

“(iii) a labor organization; and

“(iv) cannot and does not directly or indirectly accept donations of anything of value from any such person, corporation, or labor organization.

“(E) ASSETS AND EARNINGS.—The corporation—

“(i) has no shareholder or other person affiliated with it that could make a claim on its assets or earnings; and

“(ii) offers no incentives or disincentives for associating or not associating with it other than on the basis of its position on any political issue.

“(F) QUALIFIED NONPROFIT CORPORATION TREATED AS POLITICAL COMMITTEE.—If a major purpose of a qualified nonprofit corporation is the making of independent expenditures, and the requirements of section 303(a)(4) are met with respect to the corporation, the corporation shall be treated as a political committee.

“(G) NOTICE REQUIREMENT.—All solicitations by a qualified nonprofit corporation shall include a notice informing contributors that donations may be made to the corporation for the purpose of making independent expenditures.

“(H) REPORTS.—A qualified nonprofit corporation shall file reports as required by subsections (d) and (e) of section 304.


Title III of the Federal Election Campaign Act of 1971 (as amended by section 404) is amended by adding at the end the following:

“SEC. 327. AIDING AND ABETTING VIOLATIONS.

With respect to any provision of this Act that places a requirement or prohibition on any person acting in a particular capacity, any person who knowingly aids or abets the violation of that provision may be proceeded against as a principal in the violation.”
SEC. 605. CAMPAIGN ADVERTISING THAT REFERS TO AN OPPOSING CANDIDATE.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 203(c)(4) of the Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458)) is amended by adding at the end the following:

"SEC. 328. CAMPAIGN ADVERTISING THAT REFERS TO AN OPPOSING CANDIDATE.

(a) A candidate or candidate's authorized committee that places in the mail a campaign advertisement or any other communication to the general public that directly or indirectly refers to an opponent or the opponents of the candidate in an election, with or without identifying any opponent in particular, shall file an exact copy of the communication with the Commission and with the Secretary of State of the candidate's State by not later than 12:00 p.m. on the day on which the communication is first placed in the mail to the general public.

"(b) PERSONS OTHER THAN CANDIDATES.—

"(1) IN GENERAL.—A person other than a candidate or candidate's authorized committee that places in the mail a campaign advertisement or any other communication described in paragraph (2) shall file an exact copy of the communication with the Commission and with the Secretary of State of the candidate's State by not later than 12:00 p.m. on the day on which the communication is first placed in the mail to the general public.

"(2) ADVOCACY OR REFERENCE TO OPPONENT.—A communication is described in this paragraph if it is a communication to the general public that—

"(A) advocates the election of a particular candidate in an election; and

"(B) directly or indirectly refers to an opponent in a particular election, with or without identifying any opponent in particular.

SEC. 606. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6) of title 39, United States Code, is amended by striking subparagraph (A) and inserting the following:

"(A) A Member of Congress may not mail any mass mailing as franked mail during a period between January 1 of that year and the January 20 of the following year, except that a Member may mail a mass mailing as franked mail during a period between January 1 of that year and the January 21, 1997, if the mass mailing—

"(1) is first placed in the mail to the general public that—

"(A) advocates the election of a particular candidate in an election; and

"(B) directly or indirectly refers to an opponent or the opponents of the candidate in an election, with or without identifying any opponent in particular.

SEC. 608. CERTIFICATION OF COMPLIANCE WITH FOREIGN CONTRIBUTION AND SOLICITATION ACT.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended—

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

(2) by inserting after subsection (c) the following:

"(c) CERTIFICATION OF COMPLIANCE WITH FOREIGN CONTRIBUTION AND SOLICITATION LIMITATIONS.—Each report required under this section shall include a certification under penalty of perjury that the political committee has not knowingly solicited or accepted contributions prohibited by section 310.

TITLE VII—EFFECTIVE DATES; AUTHORIZATIONS

SEC. 701. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

SEC. 702. BUDGET NEUTRALITY.

(a) DELAYED EFFECTIVENESS.—This Act (other than this section) and the amendments made by this Act shall not be effective until the date that is 90 days after the date on which the Director of the Office of Management and Budget certifies that the estimated savings under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) have been offset by the enactment of legislation effectuating this Act.

(b) FUNDING.—Legislation effectuating this Act shall not provide for general revenue increases, reduce expenditures for any existing Federal program, or increase the Federal budget deficit.

SEC. 703. SEVERABILITY.

Except as provided in section 101(c), if any provision of this Act (including any amendment made by this Act), or the application of any such provision to any person or circumstance is held invalid, the validity of any other provision of this Act, or the application of the provision to other persons and circumstances shall not be affected thereby.

SEC. 704. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) DIRECTIONS TO THE SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued in a proceeding on the constitutionality of any provision of this Act or amendment made by this Act.
incompetent in numerous interviews. And Business Roundtable members say he has suddenly become unavailable when they call to talk about the problem.

"Well, they don't connect with Haley," Caterpillar's Mr. Fites said in a letter to Roundtable members two weeks ago. "When I do reach him, I want to explain" that the Business Roundtable, as a group, doesn't give money to political candidates, Mr. Fites said.

But Business Roundtable companies do, and therein lies the problem for Republicans, who have long thought of Corporate America as their own private money machine. Lately though, Republicans have been listening to their dollars more than before, and giving substantial money to the Democrats as well.

With a Democratic administration, that is expected to continue. Telecommunication giants AT&T Corp., MCI Communications Corp. and Sprint Corp., along with their political-action committees, for example, rewarded the Democrats in Congress and the Clinton administration for being sympathetic to their cause during the telecommunications battles in Washington.

"Either they're neutral, then they should pack up and ship out of the GOP decisionmaking process, or they're neutral, then they should pack up and ship out of town. Washington is a partisan town."

While clearly concerned, corporate CEOs don't want to antagonize the Business Roundtable, as a group, doesn't want to antagonize either Democrats or Republicans.

"They wanted businesses to stop and review what they did in the political arena in the past and say 'we were wrong for either Democrats or Republicans and repent'' ... that GOP leaders must remember that in the increased pressure will 'speed up the process' of that turnover, one source said.

"They want things to change, but not too quickly," said Steve Stockmeyer, spokesperson for the National Association of Business PAC, wasn't sure what the current meeting of Republican leaders, but he told Roll Call that he has sympathies on both sides.

"The Republican leadership is wise to seek out allies and ask them to be more consistent allies," said Stockmeyer, though he did say that the GOP approach has been rather "hamhanded."

"Businesses should do more. Businesses should do more."
he urged us to enact campaign finance reform within the first 100 days of this Congress. The public is looking at us with greater scrutiny in this area than they have ever looked before. We have been down this road before, and I have walked the halls with my colleagues, often on a bipartisan basis.

The likelihood is we cannot get anything done in this area unless we act on a bipartisan basis. But act we must. That is what the public is telling us, and I believe the mood they are in will hold us accountable if we fail that charge.

I thank the Chair and yield the floor.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Ms. MOSELEY-BRAUN, Ms. MIKULSKI, Mr. DODD, Mr. REID, Mr. DORGAN, Mrs. MURRAY, Mr. FORD, Mr. ROCKEFELLER, Mr. INOUYE, Mr. KERRY, Mr. LEVIN, Mr. CLEANAND, Mr. JOHNSON, BREAUX, Mr. TORRICELLI, Mr. DURBIN, Mr. GLENN, Mrs. BOXER, Mr. WELLSSTONE, and Mr. BRYAN):

S. 12. A bill to improve education for the 21st century; to the Committee on Finance.

EDUCATION FOR THE 21ST CENTURY ACT

Mr. KENNEDY. Mr. President, I give my strong support to the “Education for the 21st Century Act” introduced today by Senator DASCHLE on one of our principal democratic leadership initiatives.

Education must continue to be a top priority in this Congress. We need to do more to make college accessible and affordable for all students, to modernize school classrooms, to help communities build new school facilities and repair old ones, and to help all children learn to read so that they can read to learn.

It is not enough to maintain current spending levels for education. Modest increases are essential to meet rising enrollments and inflation. Too often, college is priced out of reach for many families. From 1980 to 1990, the cost of college rose by 126 percent, while family income increased by only 73 percent. To meet that rising cost, students are going deeper and deeper into debt. In the 1990s, students have borrowed more in student loans than in the preceding decades combined.

In 1996 alone, students borrowed $30 billion—a 65-percent increase since 1993. Since 1988, borrowing in the Federal student loan program has increased by more than 100 percent, while starting salaries for college graduates failed to increase at all. Eighty percent of young adults with student loans make under $20,000 in their first year of repayment, barely enough to support the average repayment.

Communities are struggling to repair decrepit facilities, let alone build modern classrooms. Fourteen million children in a third of the Nation’s schools are learning in sub-standard class-

rooms. Half the schools have unsatisfactory conditions. Forty-six percent of schools report insufficient electrical wiring for computers and communications equipment. The repair bill alone is estimated at $112 billion.

And what about the children? Enrollments are at an all-time high of 52 million students, and thus are continuing to rise.

Forty percent of all children are now reading below their basic grade level. Many parents do not read to their children and with their children, even though we know that when parent involvement is high, student reading scores are also high.

Technology is a powerful tool for improving schools and encouraging economic growth. Computers enable teachers to spend more time with students and teach more effective lessons. By the year 2000, 60 percent of all jobs are in the service sector, which requires computer and network use. According to a recent GAO study, one in every four schools does not have sufficient computers to meet its needs. Only 9 percent of classrooms are connected to the Internet.

Clearly, we are not prepared to meet the challenges of the next century. We have to do better, and the Education for the 21st Century Act will help us to meet the pressing needs of communities, schools, and families.

The Act includes four separate titles: The Higher Education Affordability Act, which includes President Clinton’s $1,500 Hope Tuition Tax Credit, the Educational Facilities Improvement Act, and the restoration of the tax deduction for student loan interest; The Educational Facilities Improvement Act; The America Reads Challenge Act, which includes The Parents as First Teachers Act; The Investing in America’s Young Readers Act; and The Investing in Technology in the Classroom Act.

The Hope Tax Credit will make at least 2 years of community college affordable for every student. The bill provides a $1,500 refundable tax credit for net tuition payments during the first 2 years of college after high school for full-time students. Part-time students may receive $750 per year. The tax benefit is phased out for single persons between $50,000 and $70,000 in adjusted gross income, and phased out for couples between $80,000 and $100,000. Only students who have a cumulative “B” average from high school or its equivalent qualify for the credit. Pell grants and the tax credit are additive, up to the value of the net tuition paid.

The $10,000 tax deduction will be available to all families with incomes below $200,000. The bill provides an above-the-line deduction of up to $1,000 per taxpayer per year for net tuition expenses. The deduction is available for all college and graduate schools, and the income limits are the same as those provided under the Hope Tax Credit.

The bill also restores the deduction for interest on student loans that was available before the Tax Reform Act of 1986. Unlike the previous deduction, this bill provides an above-the-line deduction. The income limits are the same as those provided under the Hope Tax Credit.

The Educational Facilities Improvement Act instructs the Federal Government to pay up to 50 percent of the interest costs on State and local bonds to finance school repair, renovation, modernization and construction. Twenty-five percent of the funds will be directed directly from the Secretary of Education to the poorest school districts under a formula based on the number of poor children. The remainder of the funds will be awarded to States to provide assistance to State or local bond authorities.

The America Reads Challenge Act includes two components: The Parents as First Teachers Act and the Challenge America’s Young Readers Act. The Parents as First Teachers Act—recognizing that parents are the best teachers—will support national and regional parent networks that disseminate information on helping parents help their children to read. It will also fund programs to expand successful programs and activities that help parents increase the reading skills of their children.

The Challenging America’s Young Readers Act will help State and local organizations help children learn to read by the third grade. Programs funded by this act will provide 30,000 reading specialists and volunteer coordinators to run tutoring assistance programs outside regular school hours to more than 3 million children.

My hope is that these proposals will receive the bipartisan support they deserve, so they can be in place for the beginning of the next academic year this fall. Improving education or opportunities for education is clearly one of our highest national priorities. Few things which this Congress does will matter more to the country’s future. Investing in education is investing in a stronger America here at home and around the world, and I look forward to working with my colleagues on both sides of the aisle to enact these important measures.

Mr. BREAUX. Mr. President, I would like to make a few remarks about S. 12, the Education for the 21st Century Act, and our efforts to improve elementary and secondary education opportunities for our Nation’s children, as well as make higher education more accessible for adults.

Quality education is necessary not only for the future of our children and our families, but for the future of our Nation. A better educated workforce is essential to compete in the global economy and to maintain a strong democracy. Every Member of this body knows that a high school diploma is worth far less in today’s workplace than it was a generation ago. According to the U.S. Bureau of Labor Statistics, 60 percent of all jobs created between 1992 and 2005 will require education beyond...
high school. Modern society has little room for those who cannot write, read, and compute effectively; solve problems; and continually learn new technologies and skills.

The Education for the 21st Century Act designates a number of important initiatives that, if enacted, will make educational opportunities more accessible for Americans: The HOPE Scholarship, the tax deduction for higher education expenses, the student loan interest deduction, and the technology literacy and America Reads initiatives. Another area of concern that S. 12 addresses is the declining physical condition of our Nation’s schools.

According to a June 1996 report by the U.S. General Accounting Office, nationwide, about a third of public elementary and secondary schools have at least one building needing extensive repair, and about 60 percent need extensive repair, overhaul, or replacement of at least one major building feature. Nationally, 21 percent of school districts spend over the national average ($1.7 million) to bring their facilities into “good condition.”

Although a national problem, it is mirrored in every State. In my own State of Louisiana, about 36 percent of public elementary and secondary schools have at least one unsatisfactory environmental condition (i.e., lighting, heating, ventilation, indoor air quality, acoustics for noise control, and physical security). Nationwide, 21 percent of schools spend over the national average to bring their facilities into “good condition.” Sixty-five percent of Louisiana schools lack telephone lines for computer modems.

It is important that we help schools, libraries, and local governments bring advanced telecommunications to millions who otherwise cannot participate in the new information age. Computer services like the Internet give young people in the most poor and remote communities access to the same information available in the best libraries and institutions in the country and the world. Unfortunately, many States and local governments have had to cut back on investment in education because of budgetary problems and limits on debt capacity.

Some have argued that the proper role of Government is to try to solve everyone’s problems from cradle to grave—to create programs to protect citizens from everything, even themselves, as they say, “Government knows best.” Others argue that Government has no role at all in helping people, other than getting out of the way and offer only a survival of the fittest model. I prefer an approach that suggests the better role for Government to play is one that equips the American people with the means to solve their own problems.

Some want to abandon the public schools, not make them better—as if removing the most motivated students and parents will somehow increase the drive to improve schools for everyone else. Others say education reform is a question of more resources and better management. I say our education system for the 21st century should be defined by its results and schools exist only if they attract students and satisfy parents; they serve everyone; and they operate on the premise that every student can succeed. Whatever your point of view, the task of making education work fails to all of us. If we have learned anything over the past decades, it is there is no quick fix. This proposal will not transform our schools overnight. However, over time, it will be a meaningful step toward improving the lives and futures of families in Louisiana and throughout this Nation. I believe we should explore, and I am exploring, other ideas and ways to help State and local governments address their infrastructure needs.

Mr. President, I hope my colleagues will favorably consider this legislation. As we move through the 105th Congress and consider all of the various proposals to produce balanced federal budgets, we must be mindful that our intent is to provide, not deny, American families the means and the opportunity to take part in our global economy.

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

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

S. 12

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 “Education for the 21st Century Act.”

SEC. 2. FINDINGS.

Congress finds as follows:

(1) Quality public education is necessary not only for the future of our children and our families but for the future of America. A better educated citizenry and workforce are essential to compete in the global economy and to maintain a strong democracy.

(2) The investment America makes today in the education of its people will determine our future as a Nation. In order to promote growth and prosperity in our economy, and to assure that America will remain a superpower, the United States must maintain education as a national priority.

(3) Strong leadership in education is needed more than ever. Schools are facing the challenge of educating more highly skilled workers to meet the demands of a modern economy. The Bureau of Labor Statistics estimates that 60 percent of all jobs created between 1992 and 2005 will require more than a high school education.

(4) Mounting evidence suggests that far more rigorous levels of academic achievement will be necessary for American students for the 21st century workplace. Employers will demand increasingly sophisticated levels of literacy, communication, mathematical, computer, and scientific skills. Sixty percent of all jobs will require computer skills.

(5) Literacy is a crucial element of academic success. However, in 1994, 40 percent of 4th grade students failed to attain the basic level of reading on the National Assessment of Educational Progress. Although the proficient percent did not attain the proficient level. Students who are not reading at grade-level are very unlikely to graduate from high school. One-on-one tutoring and the commitment of bringing students up to reading grade-level.

(6) Students are learning in decrepit school buildings. According to a recent Government Accountability Office report on 14,000,000 children in a third of the Nation’s schools are learning in substandard classrooms. Half of the children live in a building at least one unsatisfactory environmental condition, such as poor air quality.

(7) College costs are rising. College tuition has risen in private colleges and universities and in State institutions as State appropriations have eroded. From 1985 to 1994, the average cost of attending college rose by 30 percent after adjusting for inflation. During the same period, the median income increased by only 1 percent.

(8) Meeting the challenge of the next century will require the involvement of all Americans, including public officials, educators, parents, business and community leaders, and students. Encouraging active participation by all segments of communities is essential for the success of students in the 21st century.

TITLE I—TAX INCENTIVES FOR HIGHER EDUCATION

SEC. 310. REFUNDABLE CREDIT FOR HIGHER EDUCATION EXPENSES.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 25A as section 36 and by inserting after section 36 the following new section:

(1) IN GENERAL.—The amount allowed as a credit against the tax imposed by this subtitle for the taxable year of qualified higher education expenses paid by the taxpayer during such taxable year.

(2) CREDIT LIMITED TO $1,500 PER ACADEMIC YEAR.—

(3) CREDIT AMOUNT.—For purposes of paragraph (1), the term ‘qualified academic period’ means, with respect to an eligible student, any academic period for which such student is an eligible student if such academic period is within the preceding 24 months and if such academic period is the first academic period with respect to which such student is an eligible student.

(4) INFLATION ADJUSTMENT OF CREDIT LIMITATION FOR ACADEMIC YEAR.—

SEC. 325. full stop
"(A) IN GENERAL.—In the case of a taxable year beginning after 1998, the $1,500 amount in paragraph (3)(A) shall be increased by an amount equal to—

(i) such expense, multiplied by

(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined for calendar year 1997 in subparagraph (B) thereof.

(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

(A) the excess of—

(i) the taxpayer's modified adjusted gross income for such taxable year, over

(ii) $50,000 ($80,000 in the case of a joint return), bears to

(B) account

"(3) MODIFIED ADJUSTED GROSS INCOME.—

The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year.

"(A) determined without regard to section 221, and

"(B) increased by any amount excluded from gross income under section 911, 931, or 933.

"(4) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—The amount of a taxable year beginning after 2000, the $50,000 and $80,000 amounts in paragraph (2), section 221(b)(2)(B)(i)(I), and section 222(b)(2)(A)(ii) shall each be increased by an amount equal to—

(i) such dollar amounts, multiplied by

(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined for calendar year 1997 in subparagraph (B) thereof.

"(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $5,000, such amount shall be rounded to the next lower multiple of $5,000.

(d) QUALIFIED HIGHER EDUCATION EXPENSES.—

"(1) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees required for the enrollment or attendance of a student at a qualified educational institution, which is an eligible student at an institution of higher education.

"(2) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include student activity fees, athletic fees, insurance expenses, or other fees required to satisfy a student's academic course of instruction.

"(D) ELIGIBLE STUDENT.—

"(I) IN GENERAL.—The term 'eligible student' means, with respect to any academic period, a student who—

(i) meets the requirements of section 50(f)(B) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

(ii) is carrying at least ½ the normal full-time work load for the course of study the student is pursuing, as reasonably determined by the institution of higher education.

"(II) GRADE-POINT REQUIREMENT.—

(i) a student is eligible if the student did not have a grade-point average of at least 2.75 on a 4-point scale (or met a similar measure of achievement) for the students' high school education (or equivalent).

"(2) INSTITUTION OF HIGHER EDUCATION.—

The term 'institution of higher education' means an institution—

"(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1086), as in effect on the date of the enactment of this section, and

"(B) which is eligible to participate in programs under title IV of such Act.

"(3) FULL-TIME STUDENT.—The term 'full-time student' means any student who is carrying at least the normal full-time work load for the course of study the student is pursuing, as reasonably determined by the institution of higher education.

"(e) SPECIAL RULES.—

"(1) DENIAL OF CREDIT IF STUDENT CONVICTED OF DRUG OFFENSE.—No credit shall be allowed under subsection (a) for qualified higher education expenses for the enrollment or attendance of a student for any academic period if such student has been convicted of a Federal or State offense consisting of the possession or distribution of a controlled substance before the period with which such period ends.

"(2) NO DOUBLE BENEFIT.—

(A) IN GENERAL.—No credit shall be allowed under subsection (a) for qualified higher education expenses for the enrollment or attendance of a student for any academic period if any such expense for the enrollment or attendance of such student for such period is allowed as a deduction to the taxpayer under any other provision of this chapter.

(B) DEDUCTION.—If any such expense is included in gross income for purposes of this chapter, a deduction shall be allowed under subsection (a) to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year of such individual for the calendar year in which such individual's taxable year begins.

"(3) IDENTIFICATION REQUIREMENT.—

No credit shall be allowed under subsection (a) to a taxpayer with respect to an eligible student other than the taxpayer unless the taxpayer includes the name and taxpayer identification number on the return of tax for the taxable year.

"(4) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS.—The amount of qualified higher education expenses to be taken into account under subsection (a) with respect to the education of an individual for an academic period shall be reduced (but not below zero) by the amount which was included in gross income for purposes of this chapter, including—

(A) regulations requiring recordkeeping and information reporting by the taxpayer and any other person the Secretary determines appropriate, and

(B) regulations providing for a recapture of credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit.

(b) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—

Paragraph (2) of section 6213(g) of such Code (relating to the definition of mathematical or clerical errors) is amended by striking "and at the end of subparagraph (G)," and inserting in lieu thereof "and any other person the Secretary determines appropriate, and".

(c) CONFORMING AMENDMENTS.—

"(1) Paragraph (2) of section 133(b) of title 31, United States Code, is amended by inserting before the period "or from section 35 of such Code", "and before the period "or from section 35 of such Code", "(2) The table of sections for subpart C of chapter 1 of title 31, United States Code, is amended by adding the following new item and inserting the following new items:"

"Sec. 35. Higher education tuition and fees.

Sec. 36. Overpayments of tax.

(d) EFFECTIVE DATE.—

"(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

"(2) PERIODS BEFORE 1998 TAKEN INTO ACCOUNT.—For purposes of applying section 35(b)(2)(A) of the Internal Revenue Code of 1986 (as added by this section), periods before January 1, 1998, that the taxpayer begins to be an eligible student shall be taken into account.

SEC. 102. DEDUCTION FOR HIGHER EDUCATION EXPENSES.

(a) DEDUCTION ALLOWED.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by adding before the heading of section 221 as section 221 and by inserting after section 220 the following new section:

"SEC. 221. HIGHER EDUCATION TUITION AND FEES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amount of qualified higher education expenses paid by the taxpayer during the taxable year.

"(b) LIMITATIONS.—
"(B) Amount of Reduction.—The amount determined under this subparagraph equals the amount which bears the same ratio to the deduction determined without regard to this paragraph as—

(i) the taxpayer's modified adjusted gross income for such taxable year, over

(ii) $50,000 ($80,000 in the case of a joint return), bears to

(iii) $20,000.

"(C) Modified Adjusted Gross Income.—For purposes of subparagraph (B), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

(i) without regard to this section and sections 931 and 933, and

(ii) after the application of sections 86, 135, 137, 219, and 469.

For purposes of sections 86, 135, 137, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(D) Cross Reference.—For inflation adjustment of $50,000 and $80,000 amounts, see section 35(c)(4).

"(E) Definitions.—For purposes of this section—

(1) In General.—Except as provided in paragraph (2), terms used in this section which are also used in section 35 have the respective meanings given such terms in section 35.

(2) Deduction Available for Education to Acquire or Improve Job Skills.—For purposes of this section, the requirement of section 35(d)(1)(D)(ii) shall be treated as met if the student is enrolled in a course which enables the student to improve the student's job skills or to acquire new job skills.

(3) Special Rules.—(i) Denial of Double Benefit.—No deduction shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

(ii) Marriage.—Marital status shall be determined in accordance with section 7703.

(iii) Deduction Allowed Whether or Not Taxpayer Items Other Deductions.—Subsection (a) of section 62 of such Code, as amended by section 102, is amended by redesignating section 222 as section 223 and inserting after section 222 the following new section:

"SEC. 222. INTEREST ON EDUCATION LOANS.

(a) Allowance of Deduction.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

(b) Limitation Based on Modified Adjusted Gross Income.—(1) In General.—The amount allowed as a deduction under subsection (a) shall be reduced (but not below zero) by the amount determined under paragraph (2) the amount which bears the same ratio to the deduction determined without regard to this subsection as—

(A) the excess of—

(i) the taxpayer's modified adjusted gross income for such taxable year, over

(ii) $50,000 ($80,000 in the case of a joint return), bears to

(B) $20,000.

(2) Modified Adjusted Gross Income.—For purposes of clause (i), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

(A) without regard to this section and sections 911, 931, 933, and

(B) after the application of sections 86, 135, 137, 219, 221, and 469.

For purposes of sections 86, 135, 137, 219, 221, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(G) Cross Reference.—For inflation adjustment of $50,000 and $80,000 amounts, see section 35(c)(4).

"(H) Dependents Not Eligible for Deduction.—No deduction shall be allowed by this section to an individual for the taxable year to which a dependent is entitled with respect to such individual is allowed to another taxpay

"(I) Definitions.—For purposes of this section—

(1) Education Loan Interest.—The term 'education loan interest' means any indebtedness incurred to pay qualified higher education expenses.

(2) Taxable Year.—(A) Certain Prepayments Allowed.—Under this section, the term 'qualified higher education expenses paid during a taxable year if such expenses are in connection with an academic term beginning during such taxable year or during the 1st 3 months of the next taxable year.

(3) Certain Rules to Apply.—Rules similar to the following rules of section 35(e) shall apply—

(A) Paragraph 2(b), (B) (relating to denial of double benefit for dependents).

"(J) Dollar Limitation.—

"(A) In General.—The amount allowed as a deduction under subsection (a) for any taxable year shall not exceed $10,000.

"(B) Certain Prepayments Allowed.—The amount allowed under this section shall be reduced (but not below zero) by the amount determined under paragraph (B).
(2) who, in the course of such trade or business, receives from any individual interest aggregating $600 or more for any calendar year on 2 or more qualified education loans, shall be made by the officer or employee prescribed by the Secretary, in the case of intergovernmental units or any agency or instrumentality thereof.

(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return is described in subsection (b) with respect to each individual from whom such interest was received at such time as the Secretary may by regulations prescribe.

(c) RETURNS—SENSE. —The term `person' includes any governmental unit (and any agency or instrumentality thereof).

(2) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of making such return.

(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—In the case of a governmental unit or any agency or instrumentality thereof—

(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of furnishing such written return.

(e) QUALIFIED EDUCATION LOAN DEFINED.—For purposes of this section, except as provided in regulations prescribed by the Secretary, the term `qualified education loan' has the meaning given such term by section 222(d).

(f) RETURNS WHICH WOULD BE REQUIR ED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of another person, only the person first receiving such interest shall be required to make the return prescribed by this subsection.

(g) ASSESSABLE PENALTIES.—Section 6672(d) (relating to definitions) is amended—

(A) by redesignating clauses (x) through (xxvii) as clauses (x) through (xvi), respectively, in paragraph (1)(B) and by inserting after clause (ix) of such paragraph the following new clause:

(26) interest described in subsection (1)(A)(ii) of section 45B relating to returns relating to education loan interest received in trade or business from individuals, and

(B) by striking `or' at the end of the next to last sentence in such paragraph and inserting `and' at the end of the last subparagraph and inserting `or' and `and' at the end of the following new subparagraph:

(26) relating to returns relating to education loan interest received in trade or business from individuals, and

(27) relating to returns relating to education loan interest received in trade or business from individuals.

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

Sec. 222. Interest on education loans.
Sec. 223. Cross reference.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to any qualified education loan (as defined in section 222(d)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on or before October 31, 1997.

(f) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out this section.

Title II—Educational Facilities Improvement

SEC. 201. SHORT TITLE.

This title may be cited as the “Educational Facilities Improvement Act.”

SEC. 202. PROVISION OF ASSISTANCE FOR CONSTRUCTION AND RENOVATION OF EDUCATIONAL FACILITIES.

(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return is described in subsection (a) with respect to each individual from whom such interest was received at such time as the Secretary may by regulations prescribe.

(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of subsection (a)–

(1) TREATED AS PERSONS.—The term ‘person’ includes any governmental unit (and any agency or instrumentality thereof).

(2) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of furnishing such written return.

(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—In the case of a governmental unit or any agency or instrumentality thereof—

(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of furnishing such written return.

(e) QUALIFIED EDUCATION LOAN DEFINED.—For purposes of this section, except as provided in regulations prescribed by the Secretary, the term ‘qualified education loan’ has the meaning given such term by section 222(d).

(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of another person, only the person first receiving such interest shall be required to make the return prescribed by this subsection.

(g) ASSESSABLE PENALTIES.—Section 6672(d) (relating to definitions) is amended—

(A) by redesignating clauses (x) through (xxvii) as clauses (x) through (xvi), respectively, in paragraph (1)(B) and by inserting after clause (ix) of such paragraph the following new clause:

(26) interest described in subsection (1)(A)(ii) of section 45B relating to returns relating to education loan interest received in trade or business from individuals, and

(B) by striking `or' at the end of the next to last sentence in such paragraph and inserting `and' at the end of the last subparagraph and inserting `or' and `and' at the end of the following new subparagraph:

(26) relating to returns relating to education loan interest received in trade or business from individuals, and

(27) relating to returns relating to education loan interest received in trade or business from individuals.
(3) not more than 0.1 percent of the amount appropriated under section 12210 to carry out section 12209.

SEC. 12203. DIRECT GRANTS TO LOCAL BOND AUTHORITIES.

(a) IN GENERAL.—The Secretary shall award a grant under section 12202(a)(1) to eligible local bond authorities to provide assistance for construction or renovation of educational facilities in a local area.

(b) USE OF FUNDS.—The local bond authority shall use amounts received through a grant made under section 12202(a)(1) to pay a portion of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area.

(c) ELIGIBILITY AND DETERMINATION.—

(1) to be eligible to receive a grant under section 12202(a)(1) for a local area, a local bond authority shall demonstrate the capacity to issue a bond for an area that includes 1 of the 125 local areas for which the Secretary has made a determination under paragraph (2).

(2) DETERMINATION.—

(A) MANDATORY.—The Secretary shall make a determination of the 100 local areas that have the highest numbers of children who are—

(i) aged 5 to 17, inclusive; and

(ii) members of families with incomes that do not exceed 100 percent of the poverty line.

(B) DISCRETIONARY.—The Secretary may make a determination of 25 local areas, for which the Secretary has not made a determination under subparagraph (A), that have extraordinary need for construction or renovation of educational facilities that the local bond authority serving the local area is unable to meet.

(d) APPLICATION.—To be eligible to receive a grant under section 12202(a)(1), a local bond authority shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) an assurance that the application was developed in consultation with parents and classroom teachers;

(2) information sufficient to enable the Secretary to make a determination under subsection (c)(2) with respect to such local authority;

(3) a description of the architectural, civil, structural, mechanical, or electrical construction to be supported with the assistance provided under this part;

(4) a cost estimate of the proposed construction or renovation;

(5) an identification of other resources, such as unused bonding capacity, that are available to carry out the activities for which assistance is requested under this part;

(6) a description of how activities supported with funds provided under this part will promote energy conservation; and

(7) such other information and assurances as the Secretary may require.

(e) AWARD OF GRANTS.—

(1) IN GENERAL.—In awarding grants under section 12202(a)(1), the Secretary shall give preference to a local bond authority based on—

(A) the extent to which the local educational agency serving the local area involved or the educational facility for which the authority seeks the grant (as applicable) meets the criteria described in section 12205 with respect to the local area;

(B) the extent to which the educational facility is overcrowded; and

(C) the extent to which assistance provided through the grant is used to fund construction or renovation that, but for the receipt of the grant, would not otherwise be possible to undertake.

(2) FORMULA.—The Secretary shall award grants under section 12202(a)(2) in an amount that does not exceed the appropriate percentage under section 12204(f)(3) of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area.

8. 12204. GRANTS TO STATES.

(a) IN GENERAL.—The Secretary shall award a grant under section 12202(a)(2) to each eligible State to provide assistance to local bond authorities in the State, for construction and renovation of educational facilities in local areas.

(b) USE OF FUNDS.—The State shall use amounts received through a grant made under section 12202(a)(2)—

(1) to provide assistance to local bond authorities in an amount that does not exceed 10 percent of the total amount of funds made available for all local bond authorities in the State for the preceding fiscal year, for any local bond authority that has the highest numbers of children who are—

(i) aged 5 to 17, inclusive; and

(ii) members of families with incomes that do not exceed 100 percent of the poverty line.

(2) to provide assistance to local bond authorities in an amount that does not exceed 0.1 percent of the total amount of funds made available for all local bond authorities in the State for the preceding fiscal year, for any local bond authority that has the second highest numbers of children who are—

(i) aged 5 to 17, inclusive; and

(ii) members of families with incomes that do not exceed 100 percent of the poverty line.

(c) AMOUNT OF GRANT TO STATE.—

(1) IN GENERAL.—From the amount available for grants under section 12202(a)(2), the Secretary shall award a grant to each eligible State that is equal to the total of—

(A) a sum that bears the same relationship to 50 percent of such amount as the total amount of funds made available for all eligible local educational agencies in the State under title I for such year bears to the total amount of funds made available for all eligible local educational agencies in States under such part for such year; and

(B) a sum that bears the same relationship to 50 percent of such amount as the total amount of funds made available for all eligible local educational agencies in the State under title VI for such year bears to the total amount of funds made available for all eligible local educational agencies in all States under such title for such year.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—For the purposes of paragraph (1) the term eligible local educational agency means a local educational agency that does not serve a local area for which an eligible local bond authority received a grant under section 12203.

(d) STATE APPLICATIONS REQUIRED.—To be eligible to receive a grant under section 12202(a)(2), a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require. Such application shall contain—

(1) a description of the process the State will use to determine which local bond authorities will receive assistance under subsection (b)(1); and

(2) an assurance that grant funds under this section will be used to increase the amount of school construction or renovation in the State for a fiscal year compared to such amount in the State for the preceding fiscal year.

9. GRANTING AGENCY.

(1) IN GENERAL.—The State agency with authority to issue bonds for the construction or renovation of educational facilities, or with authority to finance such construction or renovation, shall administer the amount received through the grant.

(2) SPECIAL RULE.—If no agency described in paragraph (1) exists, or if there is more than one such agency, then the chief executive officer of the State and the chief State school officer shall designate a State entity or individual to administer the amounts received through the grant.

10. ASSISTANCE TO LOCAL BOND AUTHORITIES.

(a) IN GENERAL.—To be eligible to receive assistance from a State under this section, a local bond authority shall prepare and submit to the State agency designated under subsection (e) an application at such time, in such manner, and containing such information as the State agency may require, including the information described in section 12203.

(b) USE OF FUNDS.—The local bond authority serving the local area will receive assistance under subsection (a) to—

(1) to pay a portion of the interest costs applicable to any State bond issued to finance an activity described in section 12205 with respect to the local area; or

(2) to provide assistance to local bond authorities in an amount that does not exceed 10 percent of the amount received through the grant.

(c) FORMULA.—The Secretary shall award grants under section 12202(a)(2) in an amount that does not exceed 10 percent of the amount received through the grant.
shall specify that the percentage shall consist of a weighted average of the percentages referred to in subparagraphs (A) through (E) of subsection (f)(3) for the local areas involved.

SEC. 12205. AUTHORIZED ACTIVITIES.

"An activity described in this section is a project of significant size and scope that consists of:

(1) the repair or upgrading of classrooms or structures related to academic learning, including the repair of leaking roofs, crumbling walls, inadequate plumbing, poor ventilation equipment, and inadequate heating or light equipment;

(2) an activity to enhance the educational facility involved to provide access for students, teachers, and other individuals with disabilities;

(3) an activity to improve the energy efficiency of the educational facility involved;

(4) an activity to address environmental hazards at the educational facility involved, such as poor ventilation, indoor air quality, or lighting;

(5) the provision of basic infrastructure that facilitates educational technology, such as communications outlets, electrical systems, power outlets, or a communication closet;

(6) the construction of new schools to meet the needs imposed by enrollment growth;

(7) any other activity the Secretary determines achieves the purpose of this title.

SEC. 12206. STATE GRANT WAIVERS.

(a) Waiver for State Issuance of Bond.—

"(1) IN GENERAL.—A State that issues a bond described in section 12204(b)(1) with respect to a local area may request that the Secretary waive the limits described in section 12204(f)(3) for the local area, in calculating the amount the State may receive under section 12204(g). The State may request the waiver only if any local entity is able, for one of the reasons described in subparagraphs (A) through (F) of paragraph (2), to issue bonds on behalf of the local area. Under such a waiver, the Secretary may permit the State to use amounts received through a grant made under section 12204 to finance an amount that is more than 85 percent of the interest costs applicable to the State bond with respect to the local area.

"(2) DEMONSTRATION BY STATE.—To be eligible for a waiver under this subsection, a State shall demonstrate to the Secretary that the use of assistance provided under the waiver—

(A) will result in an equal or greater amount of construction or renovation of educational facilities than the provision of assistance to defray the interest costs applicable to a bond for such construction or renovation;

(B) will be used to fund activities that are effective in carrying out the activities described in section 12205, such as—

(i) the capitalization of a revolving loan fund for such construction or renovation;

(ii) the use of funds for reinsurance or guarantees with respect to the financing of such construction or renovation;

(iii) the creation of a mechanism to leverage private sector resources for such construction or renovation;

(iv) the capitalization of authorities similar to State Infrastructure Banks to leverage additional funds for such construction or renovation;

(v) any other activity the Secretary determines achieves the purpose of this title.

"(3) LOCAL BOND AUTHORITY WAIVER.—

"(A) In general.—A local bond authority may request the Secretary to waive the use requirements of section 12204(b) for a State to permit the State to carry out activities that achieve the purposes of this title.

"(B) Demonstration.—To be eligible to receive a waiver under this subsection, the local bond authority shall demonstrate to the Secretary that—

(i) the local bond authority has a history of providing an opportunity to comment on the request submitted by a local bond authority under this section, the local bond authority shall—

(A) provide the affected local educational agency with notice and a reasonable opportunity to comment on the request;

(B) submit the comments to the Secretary and;

(C) provide notice and information to the public regarding the waiver request in the manner that the applying State customarily provides similar notices and information to the public.

"(C) Grants to States.—In the case of a waiver request submitted by a local bond authority, the amount of such assistance shall be made available to the State as provided for under section 12204, during the fiscal year following the date of repayment.

"(2) LOCAL BOND AUTHORITIES AND LOCAL AREAS.—If a local bond authority that receives assistance under this part fails to issue a bond, or a local area that receives such assistance fails to become the beneficiary of a bond, for which the assistance is provided, the amount of such assistance shall be made available to the State as provided for under section 12204, during the fiscal year following the date of repayment.

"(3) M ATCHING REQUIREMENT.—The State shall—

(A) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

(B) submit the comments to the Secretary;

(C) provide notice and information to the public regarding the waiver request in the manner that the applying State customarily provides similar notices and information to the public.

SEC. 12207. GENERAL PROVISIONS.

"(a) FAILURE TO ISSUE BONDS.—

"(B) PROVIDE NOTICES AND INFORMATION.—A State that receives assistance under this part that fails to issue a bond for which the assistance is provided, the amount of such assistance shall be made available to the State as provided for under section 12204, during the fiscal year following the date of repayment.

"(2) LOCAL BOND AUTHORITIES AND LOCAL AREAS.—If a local bond authority that receives assistance under this part fails to issue a bond, or a local area that receives such assistance fails to become the beneficiary of a bond, for which the assistance is provided, the amount of such assistance—

(A) in the case of assistance received under section 12204(a)(1), shall be repaid to the Secretary and made available as provided for under section 12204;

(B) in the case of assistance received under section 12204(a)(2), shall be repaid to the State and made available as provided for under section 12204.

"(b) LIABILITY OF THE F EDERAL GOVERNMENT.—The Secretary shall not be liable for any debt incurred by a State or local bond authority for which assistance is provided under this part. If such assistance is used by a local educational agency to subsidize a debt other than the issuance of a bond, the Secretary shall have no obligation to repay the lending institution to whom the debt is owed unless the local educational agency defaults.

SEC. 12208. FAIR WAGES.

"The provisions of section 12107 shall apply with respect to all laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction or painting and decorating, of any building or work that is financed in whole or in part using assistance provided under this part.

SEC. 12209. REPORT.

"From amounts reserved under section 12202(b)(3) for each fiscal year the Secretary shall—

(1) collect such data as the Secretary determines necessary at the school, local, and State levels;
“(2) conduct studies and evaluations, including national studies and evaluations, in order to—

(A) monitor the progress of activities supported with funds provided under this part; and

(B) evaluate the state of United States educational facilities; and

(3) report to the appropriate committees of Congress regarding the findings of the studies and evaluations described in paragraph (2).

SEC. 203. FUNDING.

Section 12111 of the Educated Infrastructure Act of 1994 (as redesignated by section 302(2)) (20 U.S.C. 8513) is amended to read as follows:

"SEC. 12111. FUNDING.

(a) AUTHORIZATION.—There are appropriated to be appropriated to carry out this part $200,000,000 for fiscal year 1996 and such sums as may be necessary for each of the four succeeding fiscal years.

(b) APPROPRIATION.—There are appropriated to carry out this part $250,000,000 for each of the fiscal years 1998 through 2002.

(c) ENTITLEMENT.—Subject to subsection (b), each State or local bond authority awarded a grant under this part shall be entitled to payments under the grant.

SEC. 204. CONFORMING AMENDMENTS.

(a) Cross References.—Part A of title XII of the Elementary and Secondary Education Act of 1965 (as redesignated by section 203(4)) is amended to read as follows:

"Part A—Parents As First Teachers Challenge Grants

TITLE III—AMERICA READS CHALLENGE

SEC. 301. FINDINGS.

Congress finds as follows:

(1) under section 318(b) of the Safe and honorable under paragraph (5) for a fiscal year, the Administrators shall make an allotment to

(2) Students who are not reading at grade level are very unlikely to graduate from high school.

(3) Reading is a fundamental skill for learning, both in 1994, 40 percent of 4th graders failed to attain the basic level of reading on the National Assessment of Education Progress. Seventy percent of 4th graders did not attain the proficient level of reading.

(4) Parents are the best first teachers. Parents can help to increase their child's reading skills, by reading with their child 30 minutes a day. Evidence shows that greater parental support of children's literacy success makes a significant difference.

(5) One-on-one tutoring is a key component of bringing students up to reading grade level.

(6) Pre-school preparation and family involvement is widely recognized to improve student performance. Preparing children to learn, both through parent involvement and through pre-school preparation, plays a crucial role in preventing students from falling behind.

Subtitle A—Parents As First Teachers Challenge Grants

SEC. 311. SHORT TITLE.

This subtitle may be cited as the "Parents As First Teachers Challenge Grant Act of 1997".

SEC. 312. FINDING AND PURPOSE.

(a) FINDING.—Congress finds that parents are the best first teachers.

(b) PURPOSE.—The purpose of this subtitle is to support effective, proven efforts that provide assistance to parents who want to help their children become successful readers by the end of the 3rd grade.

SEC. 313. DEFINITIONS.

In this subtitle:

(1) ELIGIBLE CHILD.—The term "eligible child" means an individual eligible to attend preschool, kindergarten, or 1st, 2nd, or 3rd grade.

(2) SECRETARY.—The term "Secretary" means the Secretary of Education.

(3) GRANTS AUTHORIZED.

(a) GRANTS FOR NATIONAL OR REGIONAL NETWORKS.—The Secretary is authorized to award at least 2 grants to public or private agencies or institutions to enable the agencies or institutions to support national or regional networks that share information on helping eligible children read.

(b) GRANTS FOR SUCCESSFUL PROGRAMS OR ACTIVITIES.—The Secretary is authorized to award at least 2 grants to State or local government agencies, nonprofit community groups or organizations, or consortia thereof, to enable such agencies, groups, organizations, or consortia to expand or replicate successful programs or activities that help a parent:

(1) be a good teacher to the parent's eligible child; and

(2) assist the parent's eligible child in attaining reading skills while assisting the eligible child to learn to read.

SEC. 315. RECIPIENT CRITERIA.

(a) GRANTS FOR NATIONAL OR REGIONAL NETWORKS.—In order to receive a grant under section 312(a), a public or private agency or institution shall have a proved record of working with parents of eligible children.

(b) GRANTS FOR SUCCESSFUL PROGRAMS OR ACTIVITIES.—In order to receive a grant under section 314(b), an agency, group, organization, or consortium shall have a proved record of working with parents to improve their eligible children's reading.

SEC. 316. APPLICATIONS.

(a) IN GENERAL.—Each entity desiring a grant under this subtitle shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(b) APPLICATIONS FOR GRANTS FOR NATIONAL OR REGIONAL NETWORKS.—Each application submitted under subsection (a) for a grant under section 314(a) shall—

(1) demonstrate the likelihood that the proposed program or activity will have a substantial regional or national impact;

(2) demonstrate the cost-effectiveness of the proposed program or activity; and

(3) describe how the proposed program or activity will be coordinated with private sector programs and activities, and State and local programs and activities that provide support for parents of eligible children.

(c) APPLICATIONS FOR SUCCESSFUL PROGRAMS OR ACTIVITIES.—Each application submitted under subsection (a) for a grant under section 314(b) shall—

(1) describe a program or activity that is capable of successful expansion or replication;

(2) contain evidence of community support for the proposed program or activity from the private sector, a school, and another entity;

(3) contain information demonstrating the cost-effectiveness of the proposed program or activity; and

(4) provide an assurance that the applicant will coordinate the proposed program or activity with State and local programs and activities that provide support for parents of eligible children.

SEC. 317. AUTHORIZATION OF APPROPRIATIONS.

(a) APPROPRIATIONS.—There are appropriated to carry out this subtitle $45,000,000 for fiscal year 1998, $50,000,000 for fiscal year 1999, $60,000,000 for fiscal year 2000, $70,000,000 for fiscal year 2001, and $75,000,000 for fiscal year 2002.

(b) ENTITLEMENT.—Subject to subsection (a), each entity receiving a grant under this title for a fiscal year shall be entitled to payments for such year under the grant.

Subtitle B—Challenging America's Young Readers

SEC. 321. SHORT TITLE.

This subtitle may be cited as the "Challenging America's Young Readers Act of 1997".

SEC. 322. PURPOSE.

The purpose of this subtitle is to raise reading levels by providing tutoring assistance outside regular school hours to children eligible to attend preschool, kindergarten, or 1st, 2nd, or 3rd grade.

SEC. 323. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATORS.—The term "Administrators" means the Secretary of Education and the Chief Executive Officer of the Corporation for National and Community Service acting pursuant to the agreement entered into under section 324(c).

(2) ELIGIBLE CHILD.—The term "eligible child" means an individual eligible to attend preschool, kindergarten, or 1st, 2nd, or 3rd grade.

(3) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, and the Commonwealth of the Northern Mariana Islands.

(4) STATE EDUCATIONAL AGENCY.—The term "State educational agency" means the State educational agency for each of the several States of the United States, the District of Columbia, and the Commonwealth of the Northern Mariana Islands.

SEC. 324. PROGRAM AUTHORIZED.

(a) ALLOTMENT AND RESERVATIONS.—

(1) ALLOTMENT.—From the sum made available under section 314(b)(1) and not reserved under paragraph (5) for a fiscal year, the Administrators shall make an allotment to
each State educational agency for the fiscal year in an amount that bears the same relation to the sum as the amount such State received under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the previous fiscal year bears to the amount all States received under such part for the previous fiscal year.

(2) RESERVATION. 

(a) IN GENERAL.—From the sum made available under section 330(b) for a fiscal year, the Administrators—

(i) shall allot not less than 90 percent of such sum to carry out local reading programs under section 326;

(ii) shall retain at least 10 percent of such sum to carry out national leadership and evaluation activities under section 327;

(iii) shall reserve the percentage described in subparagraph (B) of such sum to make a payment to the Secretary of the Interior to enable the Secretary of the Interior to carry out the purpose of this subtitle for Indian children;

(iv) shall reserve 0.25 percent of such sum to make payments to the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau on the basis of their respective populations; and to such criteria as the Secretary determines will best carry out the purpose of this title;

(B) PERCENTAGE.—The percentage referred to in subparagraph (A)(iii) for a fiscal year is the percentage of funds reserved under section 1121(a)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331(a)(2)) for the Secretary of the Interior for such previous year.

(b) FUNDING. 

(1) IN GENERAL.—Each State educational agency receiving an allotment under section (a)(1) shall use such allotment to award grants, on a competitive basis, to organizations in the State to enable the organizations—

(A) to employ reading specialists to supervise tutoring programs that teach eligible children to read;

(B) to recruit and train tutors for tutoring programs that teach eligible children to read;

(C) to carry out tutoring programs that teach eligible children to read.

(2) SPECIAL RULE.—Each tutoring program assisted through a grant awarded under paragraph (1) shall be conducted before or after regular school hours, or during the weekend or the summer.

(c) COMMUNITY AND NATIONAL SERVICE FUNDS.—The Administrators shall use amounts reserved under section 330(a) for a fiscal year to carry out the activities described in subparagraphs (A) through (C) of subsection (b)(1) during the periods described in subsection (b)(2) in accordance with the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.).

(d) JOINT ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of Education and the Chief Executive Officer of the Corporation for National and Community Service shall administer this subtitle jointly pursuant to an agreement between the Secretary and the Chief Executive Officer.

(2) AGREEMENT.—The agreement described in paragraph (1) shall establish the responsibilities of the Secretary of Education and the Chief Executive Officer of the Corporation for National and Community Service for administering this subtitle. Such agreement shall—

(A) not require more than one application from any one State educational agency or local applicant;

(B) encourage, but not require, the use of volunteers assisted through funding made available under section 330(a) to serve as volunteer recruiters and coordinators; and

(C) include only one application review process.

SEC. 325. APPLICATIONS. 

(a) STATE.—Each State educational agency described in subsection (b) of this section shall submit an application to the Administrators at such time, in such manner, and containing such information as the Administrators may require. Each such application shall—

(1) describe how the State educational agency will award grants under this subtitle; and

(2) describe how the State educational agency will encourage use of activities assisted under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) and the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

(b) LOCAL.—Each organization desiring a grant under section 324(b) shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require. Each such application shall—

(1) describe a proposed program or activity that will be linked with the curriculum of the appropriate local educational agency, school, or classroom, and other reading enhancement activities of the school and the eligible children;

(2) contain a description of how the applicant will use the grant funds to provide assistance to the local educational agencies, communities, and schools, in which eligible children have the greatest need for reading assistance;

(3) contain an assurance that the proposed program or activity will focus on providing individualized tutoring in reading that involves trained and supervised volunteers who have been approved by the applicant; and

(4) describe the strategies that will be undertaken through the program or activity to ensure that eligible children will make progress in reading.

(c) EVALUATION.—

(1) IN GENERAL.—The Administrators may require such recipients of grants made under this section as the Administrators may require to evaluate the effectiveness of the program or activity.

(2) ENSURE EFFECTIVENESS.—The Administrators shall require each grant recipient to submit reports to Congress regarding the effective use of the funding made available under this section.

SEC. 326. LOCAL READING PROGRAMS. 

(a) GRANTS AUTHORIZED. 

(1) IN GENERAL.—From amounts reserved under section 324(a)(2)(A)(i) for a fiscal year, the Administrators shall award grants to local educational agencies, under section 324(b), to carry out local programs that serve economically disadvantaged communities.

(b) APPLICATION.—Each local entity desiring a grant under subsection (a) shall submit an application to the Administrators at such time, in such manner, and accompanied by such information as the Administrators may require. Each such application shall include the information and assurances described in section 325(b) with respect to such local entity.

SEC. 327. NATIONAL LEADERSHIP AND EVALUATION. 

(a) NATIONAL LEADERSHIP.—From a portion of the amounts reserved under section 324(a)(2)(A)(ii) for a fiscal year, the Administrators may carry out national leadership activities, including dissemination of information on effective practices, providing technical assistance to local entities, and other activities, to increase the performance of eligible children in the States.

(b) EVALUATION.—

(1) IN GENERAL.—From a portion of the amounts reserved under section 324(a)(2)(A)(iii) for a fiscal year, the Administrators, through a grant, contract, or cooperative agreement, shall evaluate, and submit reports to Congress regarding, the effectiveness of programs and activities assisted under this subtitle.

SEC. 328. ADJUSTMENT OR TERMINATION OF FUNDING. 

Notwithstanding any other provision of this subtitle, the Administrators may decrease or terminate any funding provided under this subtitle if the Administrators determine that a recipient of such funding does not—

(1) improve reading performance with respect to eligible children;

(2) implement the recipient’s strategies to improve reading performance with respect to eligible children.

SEC. 329. NONDUPLICATION AND NONDISPLACEMENT. 

(a) NONDUPLICATION.—Assistance provided under this subtitle shall be used only for a program or activity that does not duplicate, and is in addition to, an activity otherwise available in the locality of such program or activity.

(b) NONDISPLACEMENT.—An employer shall not displace an employee or position, including partial displacement such as reduction in hours, wages, or employment benefits, as a result of the use by such employer of a participant in a program or activity receiving assistance under this subtitle.

SEC. 330. FUNDING. 

(a) RESERVATION. —From amounts made available to carry out the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) for each of the fiscal years 1998 through 2002, the Chief Executive Officer of the Corporation for National and Community Service shall make available $300,000,000 to carry out this subtitle.

(b) APPROPRIATION.—There are appropriated to the Secretary of Education to carry out this subtitle $200,000,000 for fiscal year 1998; $250,000,000 for fiscal year 1999; $300,000,000 for fiscal year 2000; $350,000,000 for fiscal year 2001, and $350,000,000 for fiscal year 2002.

(c) ENTITLEMENT.—Subject to subsections (a) and (b), each entity receiving an allotment, awarded a grant, or entering into a contract or cooperative agreement, under this subtitle for a fiscal year shall be entitled to payments for such fiscal year in an amount that bears the same relation to the amount all States received under such part for the previous fiscal year.
Congress finds as follows:

(1) Technology in the schools is a central component of preparing students for the 21st century.

(2) Equipping schools with technology is no longer a luxury. It is a necessity. By the year 2000, 60 percent of all jobs in the Nation will require skills in computer and network use.

(3) Technology in the classroom improves students' basic skills, such as reading, writing, and engagement in school. With these gains come decreases in dropout rates and decreases in attendance and discipline problems.

(4) Not enough students have access to computers, distance learning, and telecommunications technologies. A 1995 Government Accounting Report report estimates that 10,000,000 students, and 1 school in every 4 schools, do not have sufficient computers to meet their needs.

(5) Of the 5,800,000 computers in United States schools, many are older models that do not have the power to perform advanced functions such as those involving video and the Internet.

(6) Only 9 percent of all instructional rooms including classrooms, laboratories, and library media, have connections to the Internet.

(7) The Federal Government began a new commitment to funding education technology by investing an additional $200,000,000 in subpart 2 of part A of title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6841 et seq.) in fiscal year 1997. Although such investment is an important initial step, it is not sufficient to meet the technology needs of schools and school children in the 21st century.

It is the Sense of the Senate that it is in the Nation’s best interest for the Federal Government to invest at least $1,800,000,000 in additional funding for education technology programs between fiscal years 1998 and 2002.

It is the purpose of this subtile to authorize a program to support regional educational technology clearinghouses that facilitate the distribution of surplus equipment and technology to schools and libraries from Federal or State governmental agencies, businesses, and other private entities.

The Secretary shall award grants under this subtile for a period of 5 years.

SEC. 423. REQUIREMENTS.

Each entity receiving a grant or contract under this subtile shall:

(1) in cooperation with State educational agencies and local educational agencies, develop a regional program to support a clearinghouse that assists schools in transferring surplus equipment and technology to schools and libraries from Federal or State governmental agencies, businesses, and other private entities;

(2) disseminate information to State educational agencies and local educational agencies about the availability and procurement of the equipment and technology through the clearinghouse;

(3) disseminate information to the public about activities under this subtile, including information about the donations being accepted by the clearinghouse;

(4) have in place a process for ensuring that surplus equipment and technology is distributed in a fair and equitable manner, with school districts with the greatest need for such equipment and technology receiving priority for donations under this subtile;

(5) provide technical assistance to a school or library to ensure that the equipment and technology being donated is consistent with the school’s educational technology plans of the school or library, respectively;

(6) use funds under this subtile to upgrade equipment or purchase additional equipment not needed to meet their needs.

There are authorized to be appropriated to carry out this subtile $5,000,000 for fiscal year 1998 and such sums as may be necessary for each of the 4 succeeding fiscal years.

By Mr. DASCHLE (for himself, Ms. MIKULSKI, Mr. KENNEDY, Mr. BREAUD, Mr. DODD, Mrs. MURRAY, Mr. INOUYE, Mr. JOHNSON, Ms. MUSELEY-BRAUN, Mr. ROCKEFELLER, Mr. DURBIN, Mr. KERRY, and Mr. GLENN):

S. 13. A bill to provide access to health insurance coverage for uninsured children and pregnant women; to the Committee on Finance.

CHILDREN’S HEALTH CARE ACT OF 1997

Mr. BREAUD. Mr. President, I rise today in support of the Children’s Health Care Act of 1997, a bill designed to expand health insurance for an estimated 10 million American children who have no health insurance.

Last year, when Congress passed the Kassebaum/Kennedy bill, it took a big step towards increasing the availability of private health insurance coverage for certain children. While the Kassebaum/Kennedy legislation will increase access to the health insurance market for many people, there are still too many low-income working families in this country who are unable to afford coverage even though it may be more readily available to them.

According to a 1994 GAO report, 14.2 percent of all children are uninsured, the highest rate in any industrialized country. In Louisiana alone there are 254,952 children without health insurance. Nine out of ten of these children live in families with working parents. These parents go to work every day to earn a living and provide for their families. Some might say that providing for one’s family should include health insurance but when you’ve got food to buy and rent to pay, health insurance is often a luxury for many parents. It is a necessary step to provide tax credits to help working families buy the health insurance they need.

Our goal is to stimulate a competitive market for children’s health plans which are relatively inexpensive but have a big economic payoff. I am hopeful that Democrats and Republicans will be able to agree on this issue because it’s in everyone’s interest that our nation’s children have the health care and health insurance they need since they are the future of this country. For the future of a healthy America, we need healthy kids now.

Ms. MIKULSKI. Mr. President, I am honored to join the Senate Minority Leader in cosponsoring the Children’s Health Care Act of 1997. This bill will help uninsured families purchase health insurance for their children and will build on the success of last year’s Kassebaum-Kennedy health care reform legislation. It makes the health of all America’s children a national priority. It takes the Democratic health care agenda one more step.

Our country has failed to meet the health care needs of America’s children. The United States has the highest rate of uninsured any industrialized country. In my home State of Maryland, nearly 1 in 5 children is uninsured. That’s almost 200,000 kids in Maryland alone. This is a disgrace for a country as bountiful as ours is. We say children are our priority. We put it in the lawbooks. These values we hold in our hearts. That makes good policy and good sense.

These are the children of working families. Their parents may both be working 40-hour a week jobs. Jobs that put them over the poverty level but offer no benefits. This problem is pervasive. Nine out of ten children without health insurance live in families with
working parents. Two thirds of uninsured children live in families with incomes above the poverty line. The problem cuts across class and race.

As I travel through my own State, working parents tell me how they worry about their children not having health insurance. They are afraid that they won't be able to take them to the doctor when they get really sick. With this bill, American parents won't have to fear for their children. This legislation meets the peace of mind test.

I want to make sure children's health care needs are met comprehensively and equitably. This bill stands up and challenges what is wrong with our health care system. It affirms our need to develop human capital as well as economic capital. It's about getting our priorities straight and putting families first. I salute the Minority Leader for moving this important issue forward.

Ms. MOSELEY-BRAUN. Mr. President, I rise today to offer my support as an original cosponsor of the Children's Health Coverage Act of 1997—S. 13. Vice President Hubert Humphrey may have summed it up best when he concluded that "the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy, and the handicapped."

We've said that the Children's Health Coverage Act is our test for the 105th Congress and how this Congress will respond to the need to care for our children, who are in the dawn of their life; 10.5 million children have no health insurance coverage. The GAO conclusion that children without insurance are less likely to grow up to be healthy, and productive adults may be the most telling fact. If we know the effect being uninsured has on our children's ability to contribute to society, how can we not respond?

The ultimate guarantee of our children's health would be to make comprehensive health insurance coverage more readily available either through a private or public source. In the interim, however, the Children's Health Coverage Act will make a number of important steps to improve the health of our children. First, enhancing health coverage for pregnant women will make health care available on the front-end through enhanced prenatal care. In 1993, almost 200,000 children were born to women who received either no prenatal care or prenatal care after the first trimester of their pregnancy. Good prenatal care can reduce rates of low-weight births and infant mortality, thus preventing avoidable disabilities.

Next, the Children's Health Coverage Act will not erode existing health coverage for children. Children are less likely than other group. In many cases, Medicaid has been the safety-net preventing children from becoming uninsured. Sec. 13 will stimulate the market for private children's health coverage and deter employers from dropping their contributions toward the coverage of their employees.

Finally, the Children's Health Coverage Act makes the next logical step from the improvements made in the Kennedy-Kassebaum health care bill, by tackling the issue of insurance affordability. The right to buy insurance that you cannot afford really is not accessible at all. Millions of Americans were given more flexibility by making insurance more portable and ending "job lock." However, if the ability to pay your premiums severely restricts the options, we have truly ended "job lock."

Mr. President, caring for our children is critical to the success and the survival of this nation. However, we must not be content with only meeting the physiological needs of our children. We must also adopt a holistic approach to meeting the needs of our children. A significant number of our children have special health care needs. There are also many children who have special educational, financial, and social needs.

During the "Stand for Children" rally in June of last year, five core principles were espoused that are essential to safeguarding our children. These principles are to give our children a Head start, a fair start, a safe start, a moral start, and a healthy start. These are fundamental principles that should govern our nation's agenda towards children. The Children's Health Coverage Act is a very good step toward ensuring a healthy start for our children. I hope that my colleagues can join me in supporting this important legislation.

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

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

S. 13

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE—This Act may be cited as the "Children's Health Coverage Act."

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

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

TITLE I—HEALTH INSURANCE COVERAGE FOR ELIGIBLE CHILDREN

Sec. 101. Establishment of program to provide health insurance coverage for eligible children.
Sec. 102. Procedure for obtaining coverage under certified health plans.
Sec. 103. Subsidy adjustment.
Sec. 104. Limitation on preexisting condition exclusion period and prohibition on discrimination.
Sec. 105. Assistance to States.
Sec. 106. Oversight by Secretary.

TITLE II—HEALTH INSURANCE COVERAGE FOR PREGNANT WOMEN

Sec. 201. Expanding health insurance coverage for pregnant women.

TITLE III—CHILDREN'S HEALTH COVERAGE SUBSIDY CREDITS

Sec. 301. Health coverage provided to premium subsidy eligible children through a tax credit for insurers.
Sec. 302. Health coverage provided to premium subsidy eligible children through a refundable income tax credit.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) CERTIFIED HEALTH PLAN.—The term "certified health plan" means a health plan that—

(A) is not an employer sponsored health plan;

(B) provides family coverage or child only coverage options; and

(C) is certified by a State under section 101(b)(1).

(2) ELIGIBLE CHILD.—The term "eligible child" means an individual who has not attained the age of 19.

(3) HEALTH INSURANCE ISSUER.—The term "health insurance issuer" means an insurance company, insurance service, or insurance organization (including health maintenance organization, as defined in paragraph (3) which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974).

(4) HEALTH MAINTENANCE ORGANIZATION.—The term "health maintenance organization" means—

(A) a Federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act (42 U.S.C. 300a(a)),

(B) an organization recognized under State law as a health maintenance organization, or

(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

(5) POVERTY LINE.—The term "poverty line" means the income official poverty line (as defined by the Office of Management and Budget and revised on November 30, 1988) which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

(6) PREMIUM SUBSIDY ELIGIBLE CHILD.—The term "premium subsidy eligible child" means any individual who—

(A) is an eligible child who was born after January 31, 1984;

(B) is a citizen or qualified alien (as defined in section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996),

(C) has a family income determined under section 102(b) which does not exceed 300 percent of the poverty line or has a family income within the limits described in section 103(b)(2);

(D) is not eligible for assistance under a program under title XIX of the Social Security Act or, except as provided in section 102(e), under a similar State program providing health insurance or other health care coverage; and

(E) is except as provided in section 101(e) or clause (ii), has not been covered, during the 12-month period ending on the date on which the individual applies for subsidy-eligible health insurance coverage under this title, through a health plan offered by a health insurance issuer (unless such plan was funded under title...
IX of the Social Security Act (42 U.S.C. 1101 et seq.) and—

(i) such individual does not have access to
employer sponsored health coverage; or

(ii) the employer of the individual or fam-
ily involved offers employer sponsored
health coverage and the employer contribu-
tion for such 12-month period does not ex-
deed—

(aa) in the case of an individual (or family)
described in section 103(a)(2)(A), 80 percent
or more of the costs of enrollment in the
plan; or

(bb) in the case of an individual (or family)
described in section 103(a)(2)(B), 50 percent
or more of the costs of enrollment in the
plan; or

(ii) is, as of the date of enactment of this
Act, covered under a health plan that is not
a group health plan (as defined in section
2791 of the Public Health Service Act), and
a group health plan (as defined in section

(7) Secretary.—The term “Secretary” means
the Secretary of Health and Human
Services.

(8) Subsidy Eligible Health Coverage.—
The term “subsidy eligible health coverage”
means health insurance coverage under—

(A) a certified health plan; or

(B) an employer sponsored health plan pro-
viding child-only coverage options;

for which a subsidy is available under this
title.

TITLE I—HEALTH INSURANCE COVERAGE
FOR ELIGIBLE CHILDREN

SEC. 101. ESTABLISHMENT OF PROGRAM TO PRO-
VIDE ELIGIBLE CHILDREN WITH AC-
CESS TO HEALTH INSURANCE COV-
ERAGE.

(a) Establishment.—The Secretary shall
establish a program under which a premium
subsidy eligible child, and the family of such
child, may receive a subsidy to be used to
pay a portion of the premium associated
with the enrollment of the child for subsidy
eligible health coverage under a certified
health plan or employer sponsored health
plan.

(b) State Responsibilities.—Under the
program established under subsection (a)—

(i) the insurance commissioner of a State
may certify a health plan if the commis-
sioner determines that—

(A) the health plan—

(1) provides family or child-only coverage;

(2) meets general coverage guidelines that
are established by the Secretary and de-
gined to ensure that the plan provides
comprehensive coverage, including preventive,
basic, and catastrophic benefits that meet
the health care needs of children (either
as part of a family plan or a child-only plan);

(3) the average premium for the enrol-
lement of a child under such plan is reason-
able when taking into consideration the demo-
graphic and health status related factors of
the population for which the plan will be
marketed;

(4) the plan provides for guaranteed
issue with respect to premium subsidy eligible
children;

(5) the plan complies with the provisions
of section 104 regarding preexisting condi-
tion exclusions;

(6) the health insurance issuer involved
is participating in any applicable reinsurance
program that has been established by the
State to defray the costs of unevenly distrib-
uted risk among issuers; and

(G) the plan meets any other criteria es-
tablished by the State;

(ii) the insurance commissioner of the
State shall provide information on the avail-
ability of certified health plans and the avail-
ability of subsidies in accordance with
this title;

(iii) the appropriate State entity (as deter-
mined by the Chief Executive Officer of the
State) shall conduct income verification and
resource determination in respect to eligi-
bility children and families desiring to par-
ticipate in the program in the State and
issue certificates in accordance with section
102;

(iv) the appropriate State entity (as deter-
mined under paragraph (i)) shall be respon-
sible for the collection of premiums from
premium subsidy eligible children and the
forwarding of such premiums to the appro-
priate certified health plans;

(v) the State (through its own authority or
acting in conjunction with the Secretary
under subsection (f)(3)) shall ensure that
each eligible child in the State has a reason-
able choice of health insurance issuers that
offer child-only coverage consistent with the
standards developed by the Secretary under
this title;

(vi) the State shall establish any other re-
quirements and procedures necessary to
carry out this title within the State; and

(vii) the State shall comply with any other
requirements established by the Secretary.

(c) Participation.—

(1) IN GENERAL.—Any health plan may sub-
mit an application with the appropriate State
insurance commissioner for certifi-
cation under this section and such plan shall
be certified if it meets the requirements of
subsection (b)(1). Employer-sponsored health
plans shall not be required to be certified
under this title.

(2) Requirement for Federal Contra-
ctors.—

(A) IN GENERAL.—Each health insurance
issuer that offers coverage under a
Federal contract with any Federal program and
that offers 1 or more health plans that provide
family coverage options shall submit an
application, with the appropriate State insur-
ce commissioner, for the certification of 1
or more health plans that provide the
children’s only coverage described in subsection
(b)(1)(A) and, upon approval for the cer-
tification of at least 1 health plan that
provides child-only coverage, and may apply
for the certification of 1 or more health plans
that provide coverage for children as de-
scribed in subsection (b)(1)(B).

(B) Penalty.—A health insurance issuer
shall not be eligible for a payment under a
Federal contract described in subparagraph
(A) if—

(i) the issuer fails, in good faith, to submit
an application as required under subpara-
graph (A);

(ii) the State insurance commissioner fails
to certify a health plan under this section;

(iii) the issuer fails to make any modifica-
tions to the application or to a health plan
as requested by the State insurance
commissioner for the certification of a health
plan;

(iv) participation in individual market.—
Notwithstanding subparagraph (A), a health
insurance issuer described in such subpara-
graph shall not be required to offer coverage
in the individual market (as defined in sec-
tion 2791(e)(1)) unless the issuer is otherwise
participating in such market. Such an issuer
shall be required to offer coverage to eligi-
bility children under this title through the partici-
pation of the issuer in all group purchasing
arrangements operating in the area served
by the issuer. The issuer shall offer to em-
ployer-sponsored health plans, the obliga-
tion of an issuer to offer child-only coverage
shall be limited to employers to which such
issuers are otherwise offering coverage.

(3) Expedited Procedures.—The State
insurance commissioner of a State shall estab-
lish expedited procedures for the certifi-
cation of health plans that have been offered
in the insurance market in the State during
the 1-year period preceding the date on
which a certification is sought.

(4) Offering of Coverage.—A health in-
surance issuer shall offer certified health
plans to each eligible child residing in the
State served by the issuer. The capacity of the
family income of such child. Coverage pro-
vided under such plans may vary in accord-
ance with this Act depending on whether the
reimbursement made available to the
subsidy eligible child. Such coverage may be
offered through insurance agents or brokers.

(d) Average Coverage Amount.—

(1) Determination.—The Secretary, in con-
sultation with State insurance commis-
sioners and other experts in the field of
health insurance, shall determine the aver-
age coverage amount with respect to cer-
tified health plans. The amount shall be
based on the average costs of comprehensive
health insurance coverage for children as de-
termined using data derived from existing
State initiatives that have been established
to provide health care coverage for unin-
sured children and data on the average mar-
ket premium for health plans reasonably similar
to that of the coverage offered under certified
health plans.

(2) Adjustments.—The Secretary shall an-
nually adjust the average coverage amount
determined under paragraph (1) to ensure that
such amount accurately reflects the reasonable
costs associated with the purchase of coverage
under health plan and regional variations in health
care costs.

(3) Application of Amount to Child Por-
tion of Plan.—In establishing and applying
the average coverage amount under para-
graph (1), the Secretary shall ensure that the
amount relates solely to the comprehensive
coverage applicable to the premium subsidy
eligible child. If coverage of a premium sub-
sidy eligible child is under a certified family
plan, the average coverage amount shall re-
late solely to that portion of the plan that
provides the coverage for the eligible child.

(e) Waiver of Previous Coverage Limita-
tions.—The Secretary shall establish a pro-
cess to waive the limitation described in sec-
tion 261(D) with respect to an individual if the Secretary de-
termines that the individual was covered
under a health plan during the period re-
ferral in such section as a dependent of
another individual and that the coverage was
terminated because the employer ceased its
operations or because of other circumstances
clearly unrelated to the availability of subsidies under this title.

(5) Provision of Technical Assistance by
Secretary.—

(1) Alternative Procedures.—The Sec-
retary, at the request of the insurance
commissioner of a State, shall assist the State in establishing alter-
native rate review and approval procedures
for health care plans under the State’s
health care plan certification under this section. Any procedures
established under this paragraph shall be
consistent with the goals and requirements of this title.

(2) STRATEGIES TO IMPROVE INSURANCE MARKET.—

(A) IN GENERAL.—The Secretary, at the request of and in conjunction with a State, shall develop and pursue strategies to encourage competition, prevent fraudulent practices, enhance quality, and ensure accessibility to health care for all individuals. The Secretary shall ensure that these strategies are designed to eliminate or reduce physicians' fees, hospital charges, and other health care costs, and to enhance the availability and affordability of health insurance. The Secretary shall consult with States and other stakeholders in developing these strategies.

(B) NOTIFICATION OF PLAN.—Upon notification under paragraph (A), the Secretary shall forward a certificate of eligibility on behalf of the applicant for coverage under a plan described in paragraph (2). Such certificate shall contain information concerning the applicant and the eligible child involved and the amount of the subsidy for which the applicant is eligible.

(2) Tel visionary agencies, and the coordination of insurance delivery systems with delivery systems under title XIX of the Social Security Act.

(3) CHOICE OF ISSUERS.—The Secretary, at the request of and in conjunction with a State, shall encourage competition among issuers and implementing strategies to ensure that choice is provided to eligible children in accordance with subsection (b)(5). Such strategies may include the strategies described in paragraph (2)(A).

(4) PROCEDURES TO IDENTIFY THOSE ELIGIBLE FOR COVERAGE.—In carrying out the program under this title, the Secretary shall establish procedures to identify premium subsidy eligible children whose enrollment in a certified health plan is subsidized under this title and who subsequently become eligible for assistance under a State plan under title XIX of the Social Security Act as a result of disability or other factors such as health care costs, or similar factors. Such procedures, while ensuring the continuity and coordination of care, shall ensure that assistance under such title XIX is the primary payer for children eligible for such assistance.

SEC. 102. PROCEDURE FOR OBTAINING COVERAGE UNDER CERTIFIED HEALTH PLANS.

(a) APPLICATION.—

(1) IN GENERAL.—To be eligible to receive a subsidy for the purchase of coverage under a certified health plan under this title, a family on behalf of a premium subsidy eligible child may file an application for a subsidy under this title at any time during the calendar year.

(b) USE OF SIMPLE FORM.—For purposes of this section, the entity shall use an application that shall be simple in form and understandable to the average individual. The application may require attestation of such documentation as deemed necessary by the Secretary in order to ensure eligibility for a subsidy.

(c) AVAILABILITY OF FORMS.—The entity shall make an application form available through health care providers and participating issuers, public assistance offices, public libraries, and at other locations (including mobile units). The form shall be accessible to a broad cross-section of families.

(d) ISSUANCE OF CERTIFICATE.—

(A) IN GENERAL.—The entity described in subsection (a) determines that an applicant is eligible for a subsidy under this title, the entity shall notify the applicant of such eligibility and request the applicant designate a certified health plan that the applicant desires to enroll in.

(B) NOTIFICATION OF PLAN.—Upon designation under subparagraph (A), the entity shall forward a certificate of eligibility on behalf of the applicant for coverage under a plan described in paragraph (2). Such certificate shall contain information concerning the applicant and the eligible child involved and the amount of the subsidy for which the applicant is eligible.

(2) DETERMINATION BY STATE.—As elected by a family at the time of submission of an application under subsection (a), the Secretary shall make a determination concerning family income either—

(A) by multiplying the amount of the income of the family for the 3-month period immediately preceding the month in which the application is made, or

(B) based upon estimated income for the entire year in which the application is submitted.

(3) TERM.—A certificate under paragraph (1) shall remain in effect for the 6-month period beginning on the date of the issuance of the certificate. To continue to be eligible for a subsidy, a family must apply to renew the certificate of eligibility at least once each 6-month period.

(c) ENROLLMENT.—Upon receipt of a certificate of eligibility under subsection (b), a certified health plan shall ensure that the eligible child in the family is appropriately enrolled and that a copy of the enrollment and coverage materials are provided to the enrollee.

(d) PAYMENT OF PREMIUMS.—

(i) IN GENERAL.—Upon receipt of the appropriate enrollment materials from a certified health plan under subsection (c), a premium subsidy eligible child, the family income of which does not exceed the limit described in title XIX for the family involved, shall be determined by subtracting the applicable percentage for “90 percent” in subparagraph (A).

(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the term “applicable percentage” shall be determined using the following table:

<table>
<thead>
<tr>
<th>Family Income</th>
<th>Applicable Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exceeds 200</td>
<td>90 percent</td>
</tr>
<tr>
<td>Exceeds 250</td>
<td>80 percent</td>
</tr>
<tr>
<td>Exceeds 300</td>
<td>70 percent</td>
</tr>
<tr>
<td>Exceeds 350</td>
<td>60 percent</td>
</tr>
<tr>
<td>Exceeds 400</td>
<td>50 percent</td>
</tr>
<tr>
<td>Exceeds 450</td>
<td>40 percent</td>
</tr>
<tr>
<td>Exceeds 500</td>
<td>30 percent</td>
</tr>
<tr>
<td>Exceeds 550</td>
<td>20 percent</td>
</tr>
<tr>
<td>Exceeds 600</td>
<td>10 percent</td>
</tr>
<tr>
<td>Exceeds 650</td>
<td>0 percent</td>
</tr>
</tbody>
</table>

(e) COVERAGE UNDER CERTAIN STATE PROGRAMS.—

(1) IN GENERAL.—The Secretary, in conjunction with States, shall provide for the coordination of the program established under this title with State programs that provide health insurance or other health care coverage for children. Such coordination may include the use of subsidies made available under this title to obtain coverage that is not available or is less expensive or otherwise comparable to coverage provided through such a State program or other coordinated arrangement.

(2) ELIGIBILITY.—With respect to eligible children described in paragraph (1), a State may, notwithstanding section 205(D), determine that such child is a premium subsidy eligible child.

(3) ADJUSTMENT OF AVERAGE COVERAGE AMOUNT.—The Secretary shall adjust the average coverage amount under section 101(d) with respect to an eligible child who is determined to be a premium subsidy eligible child under paragraph (2) to reflect the cost of enrolling the child in any plan providing supplemental coverage as described in paragraph (1).

SEC. 103. SUBSIDY ADJUSTMENT.

(a) PREMIUM SUBSIDY ELIGIBLE CHILDREN.—

(1) ELIGIBILITY.—An eligible child who has been determined by a State entity under section 101(b)(2) to be a premium subsidy eligible child shall, subject to clause (ii), be eligible for a premium subsidy adjustment in the amount determined under paragraph (2) to be applied by the certified plan to which the child is assigned when computing the amount of the premium owed by such child.

(2) AMOUNT.—

(A) FULL SUBSIDY.—In general.—With respect to a family, the family income of which does not exceed 200 percent of the poverty line for a family of the size involved, the amount of a premium subsidy adjustment specified in this paragraph is the amount of the premium subsidy eligible child shall, subject to clause (ii), be equal to 90 percent of the annual premium for the family involved for coverage of the child under a certified health plan.

(B) GRADUATED SUBSIDY.—In general.—With respect to a family, the family income of which exceeds 200 percent of the poverty line for a family of the size involved, the amount of a premium subsidy adjustment specified in this paragraph is the amount of the premium subsidy eligible child shall, subject to clause (ii), be determined by substituting “the applicable percentage” for “90 percent” in subparagraph (A).

(C) APPLICABLE PERCENTAGE.—For purposes of clause (i), the term “applicable percentage” shall be determined using the following table:

<table>
<thead>
<tr>
<th>Family Income</th>
<th>Applicable Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exceeds 200</td>
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<tr>
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</tr>
<tr>
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<td>60 percent</td>
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<tr>
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</tr>
<tr>
<td>Exceeds 450</td>
<td>40 percent</td>
</tr>
<tr>
<td>Exceeds 500</td>
<td>30 percent</td>
</tr>
<tr>
<td>Exceeds 550</td>
<td>20 percent</td>
</tr>
<tr>
<td>Exceeds 600</td>
<td>10 percent</td>
</tr>
<tr>
<td>Exceeds 650</td>
<td>0 percent</td>
</tr>
</tbody>
</table>

(b) OTHER ELIGIBLE CHILDREN.—

(d) IN GENERAL.—A premium subsidy eligible child described in this paragraph is a premium subsidy eligible child described in paragraph (2) who is determined by the Secretary to be a premium subsidy eligible child under paragraph (2) to be eligible for a premium subsidy adjustment under paragraph (3) to be obtained through a refundable tax credit it determined under section 34A of the Internal Revenue Code of 1986.

(e) IN GENERAL.—A premium subsidy eligible child described in this paragraph is a premium subsidy eligible child who is determined by the State to be a child described in paragraph (2) to be eligible for a premium subsidy adjustment under paragraph (3). A premium subsidy eligible child shall not be eligible for a premium subsidy adjustment under paragraphs (4) and (5) to be obtained through a refundable tax credit it determined under section 34A of the Internal Revenue Code of 1986.

(f) IN GENERAL.—A premium subsidy eligible child described in this paragraph is a premium subsidy eligible child who is determined by the Secretary to be a premium subsidy eligible child under paragraph (2) to be eligible for a premium subsidy adjustment under paragraph (3). A premium subsidy eligible child shall not be eligible for a premium subsidy adjustment under paragraphs (4) and (5) to be obtained through a refundable tax credit it determined under section 34A of the Internal Revenue Code of 1986.
eligible for a premium subsidy adjustment which shall, subject to subparagraph (B), be equal to 10 percent of the annual premium for the child for such year for coverage of the child under a certified health plan.

(B) LIMITATION.—The amount of a subsidy adjustment for which a premium subsidy eligible child is eligible under subparagraph clause (A) of this paragraph shall exceed the average coverage amount for the child as determined under section 101(d) with respect to the region in which the plan is offered.

(4) PURCHASE OF COVERAGE BY THOSE NOT ELIGIBLE FOR SUBSIDY.—An eligible child who is not a premium subsidy eligible child and who enrolls in a certified health plan shall be responsible for the payment of the entire premium amount for coverage under the plan. Such certified plan shall comply with the applicable State insurance requirements and if such requirements permit, may elect not to comply with the provisions of subparagraphs (D) (relating to guaranteed issue) and (E) (relating to preexisting condition exclusion) of section 101(b)(1).

(c) DETERMINATIONS OF INCOME.—For purposes of this section and section 102(b),

(1) The term “income” means adjusted gross income as defined in section 62(a) of the Internal Revenue Code of 1986;

(A) determined without regard to sections 135, 136, 136D, 1402, and 933 of such Code; and

(B) increased by—

(i) the amount of interest received or accrued which is exempt from tax, plus

(ii) the amount of any social security benefits (described in section 88(d) of such Code) which is not includible in gross income under section 86 of such Code.

(2) FAMILY INCOME.—The term “family income” means, with respect to a family, the sum of the income for all members of the family, not including the income of a dependent child, to which subparagraph (B) applies.

(3) PREEXISTING CONDITION EXCLUSION PERIOD AND ꞌPROVISON FOR PREGNANCY BENEFITS.—

(a) ESTABLISHMENT OF GRANT PROGRAM.—

The Secretary shall establish a program to provide grants to States to enable such States to purchase grants under paragraph (e) for obtaining appropriate prenatal, perinatal and postnatal care.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amount available for grants under subsection (e) for a fiscal year, the Secretary shall award a grant to each State in an amount that is equal to the number of estimated uninsured women that would otherwise be eligible for health insurance coverage for all its employees.

(2) PREGNANCY COVERAGE AMOUNT.—For purposes of paragraph (1), the pregnancy coverage amount of the State as determined under paragraph (2) bears to the pregnancy coverage amount for all States the same ratio as the average amount of a State bears to the average amount of all States.

(3) SEC. 105. MAINTENANCE OF EFFORT.

A State may not modify the eligibility requirements for children under the State program under paragraph (1) of the Public Health Service Act, as in effect on July 1, 1986, in any manner that would result in the loss of eligibility of children for coverage under such program.

(4) SEC. 106. OVERSIGHT BY SECRETARY.

In the case of a determination by the Secretary that a State has failed to carry out or substantially enforce a provision (or provisions) of this title, the Secretary shall carry out such provision (or provisions) with respect to the coverage of eligible children in such State.

(5) SEC. 107. RULES OF CONSTRUCTION.

Nothing in this title shall be construed—

(1) as establishing premiums for health plans or otherwise limiting the competitive health insurance market within a State; or

(2) as requiring an issuer of health insurance to establish health insurance purchasing pools, initiate a competitive bidding process with respect to certified health plans, or pursue other innovative strategies aimed at maximizing the potential of market forces to achieve quality and cost effectiveness; or

(3) as superseding any provision of State law which authorizes—

(A) provides for the application of criteria, in addition to those described in section 101(b)(1), for the certification of health plans so long as such criteria do not directly conflict with the goals of the criteria described in such section; or

(B) establishes, implements, or continues in effect any standard or requirement relating solely to health insurance issuers in connection with certified health plans or the competitive market for such plans, to the extent that such standard or requirement prevents the application of a requirement of this title.

(6) SEC. 108. MISCELLANEOUS PROVISIONS.

(a) TRANSITION RULE.—With respect to the 12-month period described in section 26(e)(6), such period shall be reduced as follows:

(1) PREMIUM SUBSIDY ELIGIBLE CHILDREN desiring to enroll in a certified plan during the first full month after the date on which this Act becomes effective, the period shall be 6 months.

(2) For premium subsidy eligible children desiring to enroll in a certified plan during the second full month after the date on which this Act becomes effective, the period shall be 7 months.

(3) For premium subsidy eligible children desiring to enroll in a certified plan during the fourth full month after the date on which this Act becomes effective, the period shall be 8 months.

(4) For premium subsidy eligible children desiring to enroll in a certified plan during the fourth full month after the date on which this Act becomes effective, the period shall be 9 months.

(5) For premium subsidy eligible children desiring to enroll in a certified plan during the fifth full month after the date on which this Act becomes effective, the period shall be 10 months.

(6) For premium subsidy eligible children desiring to enroll in a certified plan during the sixth full month after the date on which this Act becomes effective, the period shall be 11 months.

(7) TITLE II—HEALTH INSURANCE COVERAGE FOR PREGNANT WOMEN.

SEC. 201. EXPANDING HEALTH INSURANCE COVERAGE FOR PREGNANT WOMEN.

(a) ESTABLISHMENT OF GRANT PROGRAM.—

The Secretary shall establish a program to provide grants to States to enable such States to purchase grants under paragraph (e) for obtaining appropriate prenatal, perinatal and postnatal care.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amount available for grants under subsection (e) for a fiscal year, the Secretary shall award a grant to each State in an amount that is equal to the number of estimated uninsured pregnant women in the State in the calendar year that does not exceed 300 percent of the poverty line for a family of the size involved; and

(2) PREGNANCY COVERAGE AMOUNT.—For purposes of paragraph (1), the pregnancy coverage amount of a State shall be equal to—

(A) the number of estimated uninsured pregnant women in the State in the fiscal year which does not exceed 300 percent of the poverty line for a family of the size involved; and

(B) the average per capita cost of providing pregnancy benefits to such women.

(3) GUIDELINES.—The Secretary, in consultation with the National Association of Public Health Insurance Organizations, the American Academy of Actuaries, shall establish guidelines for the determination of the amounts...
the Hospital Insurance Trust Fund amounts equivalent to the amount of the reduction in taxes imposed by section 3111 of the Internal Revenue Code of 1986 by reason of the credit determined under section 30B (relating to the children’s health coverage subsidy credit for insurers). Any such transfer shall be made at such time, in such manner, and conforming to such regulations as may be necessary to carry out this section.

(c) CONFORMING AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“Sec. 308. Children’s health coverage subsidy credit for insurers.”.

(e) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1997.

SECOND. HEALTH COVERAGE PROVIDED TO PREMIUM SUBSIDY ELIGIBLE CHILDREN THROUGH A REFUNDABLE INCOME TAX CREDIT.

(1) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 relating to refundable personal credits is amended by inserting after section 34 the following:

“SEC. 34A. CHILDREN’S HEALTH COVERAGE CREDIT.—(a) ALLOWANCE OF CREDIT.—In the case of a premium subsidy eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the premium subsidy determined under section 103(b)(3) of the Children’s Health Coverage Act for such individual for the taxable year.

(b) PREMIUM ELIGIBLE INDIVIDUAL.—For purposes of this section, the term ‘premium subsidy eligible individual’ means, with respect to any period, an individual who has as a dependent for the taxable year 1 or more premium subsidy eligible children described in section 103(b)(2) of the Children’s Health Coverage Act.

(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.”.

(b) MEDICAL, DENTAL, ETC., EXPENSES.—Section 213(e) of such Code (relating to exclusion of amounts allowed for care of certain dependents) is amended by adding after paragraph (5) the following:

“(6) COORDINATION WITH CHILDREN’S HEALTH COVERAGE CREDIT.—Paragraph (1) shall not apply to any amount taken into account in computing the amount of the credit allowed under section 34A.”.

(c) CONFORMING AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 34 the following:

“Sec. 34A. Children’s health coverage.”

(d) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1997.

By Mr. DASCHLE (for himself, Mrs. BOXER, Mr. KENNEDY, Mr. BINGAMAN, Ms. MOSELEY-BRAUN, Mr. RICHARD, B. D. JUNIOR, Mr. JORDAN, Ms. MUKERSKII, Mr. KERRY, Mr. REID, Mr. DURBIN, Mr. INOUYE, Mr. TORRICELLI, and Mr. BREAUX):

S. 14. A bill to provide for retirement savings and security, and for other purposes; to the Committee on Finance.

RETIRED SECURITY ACT OF 1997

Mr. KENNEDY. Mr. President, today I join with the distinguished Minority Leader, Senator DASCHLE, in co-sponsoring legislation for the future of working families in this country. One of this Congress's highest priorities should be pension reform.

The Treasury now spends $56 billion a year in tax subsidies to encourage pension coverage, but working families are not getting full value for this money. 56 percent of the workforce is not currently covered by any private pension plan. The situation is worse for employees of small businesses. Eighty-five percent of those employed by firms with fewer than 25 workers have no pension coverage. For low-wage workers, the situation is worst of all. More than 26 million employees—80 percent—who earn under $15,000 a year are not covered by a pension. Forty-one million employees who earn less than $30,000 a year do not participate in a retirement plan—60 percent.

Women make up an excessive portion of the working population that is not covered by a pension. Employees covered by union agreements are nearly twice as likely to have a pension, but women are half as likely to hold these jobs. More than eight million women who work for small firms have no access to pensions. Low-wage women are especially hard-hit. Sixty percent of those earning under $15,000 a year are women. Nearly sixteen million women who earn less than $15,000 a year are not participating in a retirement plan—80 percent. Twenty-three million women earning less than $30,000 a year don’t participate in a retirement plan—nearly 60 percent.

Women are more than twice as likely as men to hold part-time jobs with no pension coverage. Women make up more than half the workforce in industries with the lowest rates of pension coverage—such as the service and retail industries. In those industries with higher rates of access to pensions—mining, durable manufacturing, and communications—women make up just one-fourth of the workforce.

We must change these figures. I am proud to join in sponsoring the Retirement Security Act that Senator DASCHLE is introducing today to deal with these serious problems.

This bill will make real progress in expanding access to pensions for all working families. It will facilitate retirement savings by millions of Americans, by enabling workers to ask their employers to set aside savings from paychecks and deposit the savings directly into retirement accounts. This “pension checkoff” is a simple, practical step to make the private pension system more accessible to all American workers. The bill will also provide tax incentives for low-wage employees to set aside money for retirement. Families

GRADE: C-
on the lower rungs of the economic ladder deserve a secure income when they retire. This bill will reform the tax laws to make them more beneficial to low-income workers. No one who works for a living should have to retire in poverty.

The bill advances other important goals as well. It strengthens the security of the pension system, so that the benefits families rely on will be there when they retire. It will stop employers from forcing employees to invest their retirement contributions in the employer's stock, against the workers' wishes. It will provide closer monitoring of pension plan terminations, to prevent companies from raiding employee pensions.

The bill also promotes pension portability. The checkoff system will allow employees to continue saving for retirement even if they change jobs or leave the labor market for a time. Wherever they go, they can take their pension plan with them. In addition, the bill makes it easier for employees to roll over their retirement accounts to a new employer's plan.

The bill will remove the most significant obstacles to pension coverage for women. It builds on the efforts of Senator MOSELEY-BRAUN and Senator BOXER in the last Congress to improve pension benefits for surviving spouses. It will also enable spouses to contribute to IRAs. The pension checkoff system will benefit millions of working women whose employers do not provide pension plans.

I commend Senator DASCHLE for the leadership he has shown in introducing this important bill. At a time when Social Security is facing tremendous budget pressure, it is essential that the private pension system be accessible and affordable to every working family. I look forward to working with colleagues on both sides of the aisle to pass this necessary legislation.

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

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

S. 14

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Retirement Security Act of 1997”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—PENSION ACCESS AND COVERAGE

Sec. 105. Amendment of 1986 Code.
Subtitle A—Improved Access to Individual Retirement Savings

CHAPTER 1—CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS THROUGH PAYROLL DEDUCTIONS

Sec. 101. Definitions.
Sec. 102. Establishment of payroll deduction and investment system.
Sec. 103. Contributions to individual retirement plans.
Sec. 104. Investment options.
Sec. 105. Accounting and information.
Sec. 106. Administrative costs.
Sec. 107. Fiduciary responsibilities; liability and penalties; bonding; investigatory authority.
Sec. 108. Selection of contractor.

CHAPTER 2—NONREFUNDABLE TAX CREDIT FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT ACCOUNTS

Sec. 111. Nonrefundable tax credit for contributions to individual retirement plans.

CHAPTER 3—EXPANDED INDIVIDUAL RETIREMENT ACCOUNTS TO INCREASE COVERAGE AND PORTABILITY

SUBCHAPTER A—IRA DEDUCTION

Sec. 121. Increase in income limitations.
Sec. 122. Inflation adjustment for deductible amount and income limitations.

SUBCHAPTER B—DISTRIBUTIONS AND INVESTMENTS

Sec. 131. Distributions from IRAs may be used without additional tax to purchase first homes, to pay higher education, or to pay financially devastating medical expenses.
Sec. 132. Contributions must be held at least 5 years in certain cases.

CHAPTER 4—PERIODIC PENSION BENEFITS STATEMENTS

Sec. 141. Periodic pension benefits statements.

Subtitle B—Improved Fairness in Retirement Plan Benefits

Sec. 151. Amendments to simple retirement accounts.
Sec. 152. Nondiscrimination rules for qualified cash or deferred arrangements matching contributions.
Sec. 153. Definition of highly compensated employees.

Subtitle C—Improving Retirement Plan Coverage

Sec. 161. Credit for pension plan start-up costs of small employers.
Sec. 162. Treatment of multiemployer plans under section 415.
Sec. 163. Exemption of mirror plans from nondiscrimination rules with respect to government employees.
Sec. 164. Special rules for self-employed individuals.
Sec. 165. Increased participation in the thrift savings plan for Federal employees.
Sec. 166. Modification of 10 percent tax for nondeductible contributions.

Subtitle D—Simplifying Plan Requirements

Sec. 171. Full funding limitation for multiemployer plans.
Sec. 172. Elimination of partial termination rules for multiemployer plans.
Sec. 173. Modifications to nondiscrimination and minimum participation rules with respect to governmental plans.
Sec. 174. Elimination of requirement for plan descriptions and the filing requirement for summary plan descriptions and descriptions of material modifications to a plan; technical corrections.
Sec. 175. New technologies in retirement plan administration.

TITLE II—SECURITY

Sec. 200. Amendment of ERISA.
Subtitle A—General Provisions
Sec. 201. Section 401(k) investment protection.
Sec. 202. Requirement of annual, detailed investment reports applied to certain 401(k) plans.
Sec. 203. Study on investments in collectibles.
Sec. 204. Qualified employer plans prohibited from making loans through credit cards and other intermediaries.
Sec. 205. Multiemployer plan benefits guaranteed.
Sec. 206. Prohibited transactions.
Sec. 207. Significant owner benefits.
Sec. 208. Reversion report.
Sec. 209. Development of additional remedies.

Subtitle B—ERISA Enforcement
Sec. 211. Repeal of limited scope audit.
Sec. 212. Additional requirements for qualified public accountants.
Sec. 213. Clarification of fiduciary penalties.
Sec. 214. Conforming amendments relating to ERISA enforcement.

TITLE III—PORTABILITY

Sec. 301. Faster vesting of employer matching contributions.
Sec. 302. Rationalize the restrictions on distributions from 401(k) plans.
Sec. 303. Treatment of transfers between defined contribution plans.
Sec. 304. Missing participants.

TITLE IV—TOWARD EQUITY FOR WOMEN

Sec. 401. Individual's participation in plan not treated as participation by spouse.
Sec. 402. Modifications of joint and survivor annuity requirements.
Sec. 403. Division of pension benefits upon divorce.
Sec. 404. Deferred annuities for surviving spouses of Federal employees.
Sec. 405. Payment of lump-sum credit for former spouses of Federal employees.
Sec. 406. Women's pension toll-free phone number.

TITLE V—DATE FOR ADOPTION OF PLAN AMENDMENTS

Sec. 501. Date for adoption of plan amendments.

TITLE I—PENSION ACCESS AND COVERAGE

Sec. 100. Amendment of 1986 Code.

Except as otherwise expressly provided, wherever in this title a reference is made to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Improved Access to Individual Retirement Savings

CHAPTER 1—CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS THROUGH PAYROLL DEDUCTIONS

Sec. 101. Definitions.

For purposes of this chapter:

(1) CONTRACTOR.—The term “contractor” means the private entity awarded a contract by the Secretary of Labor under section 108.

(2) CONTRIBUTION CERTIFICATE.—The term “contribution certificate” means a certificate submitted by an eligible employee to the employee’s employer and the contractor which—

(A) identifies the employee by name, address, and social security number;

(B) includes a certification by the employee that the employee is an eligible employee; and

(C) identifies the amount of the contribution to an individual retirement plan the employee wishes to make for the taxable year through a payroll deduction, not to exceed
the amount allowed under section 408 of the Internal Revenue Code of 1986 to an individual retirement plan for such year.

(2) Eligible Employee.—
(A) IN GENERAL.—The term "eligible employee" means, with respect to any taxable year, an employee whose employer does not sponsor a qualified retirement plan (as defined in section 407(c) of the Internal Revenue Code of 1986).
(B) EMPLOYEE.—The term "employee" does not include an employee as defined in section 414(c) of the Internal Revenue Code of 1986.

(3) Individual Retirement Plans.—
(A) IN GENERAL.—The term 'individual retirement plan' has the meaning given the term in a regulation promulgated under section 4974 of the Internal Revenue Code of 1986.
(B) APLICATION OF RULES.—Rules applicable to an individual retirement plan under the Internal Revenue Code of 1986 are applicable to an individual retirement plan referred to in this chapter.

SEC. 102. Establishment of Payroll Deduction and Investment System.

The contractor shall establish a system under which—
(1) eligible employees, through employer payroll deductions, may make contributions to individual retirement plans, and
(2) amounts in the individual retirement plans are invested as provided in section 104.

SEC. 103. Contributions to Individual Retirement Plans.

(a) In General.—The system established under section 102 shall provide that contributions made to an individual retirement plan for any taxable year are—
(1) contributions under an employer payroll deduction system, and
(2) additional contributions which, when added to contributions under paragraph (1), do not exceed the amount allowed under section 408 of the Internal Revenue Code of 1986 for the taxable year.

(b) Employer Payroll Deduction Systems.—
(1) IN GENERAL.—An eligible employee may establish and maintain an individual retirement plan simply by—
(A) completing a contribution certificate, and
(B) submitting such certificate to the employer's contractor and the contractor in the manner provided under paragraph (3).

(2) Contribution Certification.—An eligible employee establishing and maintaining an individual retirement plan under subparagraph (A) may change the amount of an employer payroll deduction by new employers to an existing plan, and make changes in elections made under section 104(d) in the same manner as under subparagraph (A).

(c) Simplified Forms.—
(i) Contribution Certificate.—The contractor shall develop a contribution certificate for purposes of subparagraph (A)—
(A) which is written in a clear and easily understandable manner, and
(B) other forms. The contractor shall develop a contribution certificate for purposes of subparagraph (B) as are necessary to enable the contractor and an employee to easily administer an individual retirement plan on behalf of an eligible employee.

(ii) Availability.—The contractor shall make available to all eligible employees and their employers the forms under this subparagraph, and shall include with such forms easy to understand explanatory materials.

(iii) Use of Certificate.—The contractor shall transmit to an eligible employee pursuant to a contribution certificate from an eligible employee shall deduct the appropriate contribution as determined by such certificate from the employee's wages in equal amounts during the remaining payroll periods for the taxable year and shall remit such amounts to the contractor for investment in the employee's individual retirement plan.

(iv) Failure to Remit Payroll Deductions.—If the contractor shall fail to remit payroll deductions to an eligible employee pursuant to a contribution certificate from an eligible employee shall deduct the appropriate contribution as determined by such certificate from the employee's wages in equal amounts during the remaining payroll periods for the taxable year and shall remit such amounts to the contractor for investment in the employee's individual retirement plan.

(b) Asset Allocation.—The contractor shall establish a system under which—
(1) IN GENERAL.—The system established under section 102 shall enter into arrangements, on a competitive basis, with qualified professional asset managers to provide individuals with the opportunity to invest sums in an individual retirement plan in each of the funds described in subsection (b).

(b) Type of Funds.—The funds described in the subsection are the following:

(1) A government securities investment fund.
(2) A fixed income investment fund.
(3) A common stock index investment fund.

(c) Asset Managers.—
(1) IN GENERAL.—The contractor shall select more than 1 qualified professional asset manager for each type of fund described in subsection (b).

(2) Asset Allocation.—The contractor may allocate funds to the contractor and shall provide the contractor with a periodic statement showing the investment performance of such options under the plan and a history of investments made under the plan, and
(3) Use of Certificate.—Each employer shall transmit to the contractor under an employer payroll deduction system, and make changes in elections made under section 104.

(d) Participant Elections.—
(1) IN GENERAL.—An eligible employee under section 102 shall provide that an individual on whose behalf an individual retirement plan is established may—
(A) elect the investment funds into which contributions to the plan are to be invested, and
(B) transfer contributions (and earnings) from one fund to another.

(2) METHOD.—Any election shall be made in the manner provided by the system, except that the contractor shall seek to ensure elections may be made in a simple, timely manner.

(3) Limitation.—Any election under this subsection shall be subject to the asset allocation limitation under subsection (c)(2).

(e) Investment Policies.—The system established under section 102 shall provide that any investment policies adopted by the contractor shall provide for—

(1) prudent investments suitable for accumulating funds for payment of retirement income, and

(2) low administrative costs.

SEC. 105. Accounting and Information.

(a) Information Provided.
(1) IN GENERAL.—The system established under section 102 shall provide for the establishment and maintenance of an individual retirement plan for each individual—
(A) for whom contributions are made to the contractor under an employer payroll deduction system pursuant to a contribution certificate, and
(B) who makes any additional contributions allowed under section 408 of the Internal Revenue Code of 1986 for the taxable year.

(2) Allocations and Reductions to Plan.—Such system shall provide for—
(A) the allocation to each plan of an amount equal to a pro rata share of the net earnings and net losses from each investment of sums in such plan, and
(B) the reduction of the plan for the plan's appropriate share of the administrative expenses to be paid out.

(3) Examination of Plans.—
(A) IN GENERAL.—The contractor shall annually, engage on behalf of all individuals for whom an individual retirement plan is maintained, an independent qualified public accountant (within the meaning of section 103(a)(3)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 103(a)(3)(D) who shall conduct an examination under subsection (b).

(B) DETERMINATION OF COMPLIANCE.—The public accountant conducting an examination under subparagraph (A) shall determine whether the plans, books, and records referred to in such subparagraph have been maintained in conformity with generally accepted accounting principles. The public accountant shall transmit to the contractor and the Secretary of Labor a report on such examination and determination.

(C) RELIANCE.—In making a determination under subparagraph (B), a public accountant may rely on the correctness of any actuarial matter certified by an enrolled actuary if the public accountant states a reliance in the report to the contractor.

(b) Additional Information.—
(1) IN GENERAL.—The system established under section 102 shall provide for the furnishing of information to all eligible employees concerning the opportunity to establish an individual retirement plan and of transferring amounts to such plans.

(2) Plan Participants.—
(A) IN GENERAL.—Such system shall provide that each individual for whom an individual retirement plan is maintained shall be periodically furnished with—
(i) a statement relating to the individual's plan, and
(ii) a summary description of the investment options under the plan, a history of the investment performance of such options during the 5-year period preceding the evaluation.

(3) Plan Valuation.—Such system shall also provide that each individual for whom an individual retirement plan is established shall be entitled, upon request, to a periodic valuation of amounts in each fund described in section 104(b) in order to enable the individual to make an election to transfer such amounts between funds.

(4) Investment Information.—The contractor shall also make available to employees information on how to make informed investment decisions and how to achieve retirement objectives.

(5) Information Not Investment Advice.—
Information provided under this subsection...
shall not be treated as investment advice for purposes of any Federal or State law.

SEC. 106. ADMINISTRATIVE COSTS.

(a) IN GENERAL.—Except as provided from amounts described in section 126, the expense incurred by the contractor in carrying out its functions under this chapter shall be paid first from the earnings of the funds in individual retirement plans and then from balances in such plans.

(b) ALLOCATION.—Expenses under subsection (a) shall be allocated to each individual retirement plan in the manner provided under section 105.

SEC. 107. FIDUCIARY RESPONSIBILITIES; LIABILITY; PENALTIES; BONDING; INVESTIGATIVE AUTHORITY.

Except as modified by the Secretary of Labor in regulations to correspond to the structure and responsibilities of the contractor, the provisions of sections 847, 847b, 847a, and 847a(a) of title 5, United States Code, shall apply to the contractor in the same manner as such provisions apply to the Thrift Savings Fund.

SEC. 108. SELECTION OF CONTRACTOR.

(a) SELECTION.—

(1) IN GENERAL.—The Secretary of Labor shall contract out, on a competitive basis, the duties under this chapter to a private entity.

(2) MEASUREMENT OF CONTRACT PERFORMANCE.—No contract shall be entered into with any entity under paragraph (1) unless the Secretary finds that the entity will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as the Secretary finds pertinent. The Secretary of Labor shall publish in the Federal Register standards and criteria for the efficient and effective performance of contract obligations under this chapter (including standards and criteria for the termination of such contract), and opportunity shall be provided for public comment prior to implementation.

(b) TREATMENT AS TRUSTEE.—For purposes of the Internal Revenue Code of 1996 the contractor shall be treated in the same manner as a trustee described in section 408(a)(2) of such Code.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for the Secretary of Labor to design and award the contract described in paragraph (1) for the contractor to begin operations under this chapter.

(d) EFFECTIVE DATE OF SYSTEM.—The system established under section 102 shall be effective on the first day of the sixth month following the month in which the contract under subsection (a) is awarded.

CHAPTER 2—NONREFUNDABLE TAX CREDIT FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT ACCOUNTS

SEC. 111. NONREFUNDABLE TAX CREDIT FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25C the following new section:

"SEC. 25A. RETIREMENT SAVINGS.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter so much of the qualified retirement contributions of the taxpayer for the taxable year as does not exceed the applicable amount of the adjusted gross income of the taxpayer for such year.

"(b) APPLICABLE AMOUNT.—For purposes of subsection (a), the applicable amount is determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Adjusted Gross Income</th>
<th>Applicable Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over $15,000</td>
<td>$4,000</td>
</tr>
<tr>
<td>Over $15,000 but not over $40,000</td>
<td>$2,000</td>
</tr>
<tr>
<td>Over $40,000 but not over $50,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Over $50,000 but not over $60,000</td>
<td>$0</td>
</tr>
<tr>
<td>Over $60,000 .................</td>
<td>$0</td>
</tr>
</tbody>
</table>

"(c) SECTION NOT TO APPLY TO CERTAIN CONTRIBUTIONS.—This section shall not apply with respect to:

(1) an employer contribution to a simplified employee pension, and

(2) any amount contributed to a simple retirement account, as established under section 408(p).

"(d) OTHER LIMITATIONS AND RESTRICTIONS.—

(1) BENEFICIARY MUST BE UNDER AGE 70 1/2.—No credit shall be allowed under this section with respect to any qualified retirement contribution for the benefit of an individual if such individual has attained age 70 1/2 before the close of such individual's taxable year for which the contribution was made.

(2) RECONTRIBUTIONS.—No credit shall be allowed under this section with respect to a rollover contribution described in section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3).

(3) AMOUNTS CONTRIBUTED UNDER ENDOWMENT CONTRACT.—In the case of an endowment contract described in section 408(b), no credit shall be allowed under this section for any amounts paid under the contract for the taxable year which is properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

(4) DENIAL OF CREDIT FOR AMOUNT CONTRIBUTED TO INHERITED ANNUITIES OR ACCOUNTS.—No credit shall be allowed under this section for any amount contributed to an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C)(ii)).

(5) NO DOUBLE BENEFIT.—No credit shall be allowed under this section for any taxable year with respect to the amount of any qualified retirement contribution for the benefit of an individual if such individual takes a deduction with respect to such amount under section 219 for such taxable year.

(6) QUALIFIED RETIREMENT CONTRIBUTION.—For purposes of this section, the term 'qualified retirement contribution' means—

(1) any amount credited by the contractor and allocable to the account for the taxable year by or on behalf of an individual to an individual retirement account or any qualified retirement plan which is maintained in such year with respect to the amount of any qualified retirement contribution for the benefit of an individual if such individual takes a deduction with respect to such amount under section 219 for such taxable year.

(7) OTHER DEFINITIONS AND SPECIAL RULES.—

(1) COMPENSATION.—For purposes of this section, the term 'compensation' has the meaning given in section 25A(f)(1).

(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

(3) TIME WHEN CONTRIBUTIONS ON MADE.—For purposes of this section, a taxpayer is treated as having made a contribution to an individual retirement plan on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is not late under the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

(4) REPORTS.—The Secretary shall prescribe regulations which prescribe the time and manner in which reports to the Sec-
"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) A D V I C E P L A N . -- I n the case of any marital distribution which is not a marital distribution described in section 408(d)(3)(A)(I).

"(2) A MENDMENTS.--In the case of any taxable year beginning after 1996, the amount under subsection (g)(3)(B) shall be increased by the amount equal to--

"(A) such dollar amount, multiplied by--

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

"(3) R O U N D I N G R U L E S .--

"(A) DEDUCTION AMOUNTS.--If any amount after adjustment under paragraph (1) is not a multiple of $500, such amount shall be rounded to the nearest lowest multiple of $500.

"(B) A P P L I C A B L E D O L L A R A M O U N T S .--If any amount after adjustment under paragraph (2) is not a multiple of $5,000, such amount shall be rounded to the nearest lowest multiple of $5,000.

"(D) CONFORMING AMENDMENTS.--

"(1) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "in excess of $2,000 on behalf of any individual.

"(2) Section 408(b)(2)(B) is amended by striking "the dollar amount in effect under section 219(b)(1)(A)" and inserting "the dollar amount in effect under section 219(b)(1)(A)."

"(3) Section 408(j) is amended by striking "$2,000".

"(E) E F F E C T I V E D A T E .--The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subchapter B--Distributions and Consumption

SEC. 131. DISTRIBUTIONS FROM IRAS MAY BE USED WITHOUT ADDITIONAL TAX TO PURCHASE FIRST HOMES, TO PAY HIGHER EDUCATION, OR TO PAY FINANCIALLY DEVASTATING MEDICAL EXPENSES.

(a) In General.--Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new paragraph:

"(E) DISTRIBUTIONS FROM CERTAIN PLANS FOR QUALIFIED ACQUISITION COSTS OR EDUCATIONAL EXPENSES.--Distributions to an individual from a qualified individual retirement account in a qualified individual retirement account and distributions after December 31, 1996.

"(ii) such portion shall not be taken into account if the date of the acquisition is on or after the date of the enactment of this section.

"(I) each distribution is allocable to contributions made to the account at the time of the distribution, and

"(ii) the taxpayer, (iii) the taxpayer's spouse, (iv) a dependent of the taxpayer with respect to whom the taxpayer is allowed a dependency exception under section 151(c)(3) or grandchild, or (v) an eligible student at an institution of higher education.

"(B) CONFORMING AMENDMENTS.--

"(A) In General.--The term 'qualified higher education expenses' means tuition and fees required for the enrollment or attendance of--

"(1) Special Rule Where Delay in Acquisition.--Any portion of any distribution from any individual retirement plan which fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that--

"(I) the tax year in which the taxable year begins, determined by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

"(D) CONFORMING AMENDMENTS.--Subparagraph (B) of section 72(t)(2)(C) is amended by striking "(D) and (E)" and inserting "(D), or (E)".

"(C) Definitions.--Section 72(t)(1) is amended by adding at the end the following new paragraphs:

"(1) Qualified First-Time Homebuyer Distribution.--For purposes of paragraph (2)(E)(i)--

"(II) are deductible under this chapter (as when used in section 131(c), is amended by adding at the end the following new paragraph:

"(E) Institution of Higher Education.--The term 'institution of higher education' means an institution which--

"(i) is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

"(ii) is eligible to participate in programs under title IV of such Act.

"(E) Ordering Rule.--For purposes of this paragraph, the term 'eligible student' means an eligible student at an institution of higher education.
"(II) all contributions made before the first day of the 5-year period ending on the day before any distribution may be treated as 1 contribution.

(C) Employer makes RULE for Rollovers.—

(i) PENSION PLANS.—Subparagraph (A) shall not apply to distributions out of an individual retirement plan which are allocable to rollovers contributions to which section 402(c), 403(a)(4), or 403(b) applied.

(ii) CONTRIBUTION PERIOD.—For purposes of subparagraph (A), amounts shall be treated as having been held by a plan during any period such contributions were held (or are treated as held under this clause) by any individual retirement plan from which transferred.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions (and earnings allocable thereto) which are made after December 31, 1996.

CHAPTER 4—PERIODIC PENSION BENEFITS STATEMENTS

SEC. 151. PERIODIC PENSION BENEFITS STATEMENTS.

(a) IN GENERAL.—Subsection (a) of section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended by striking "shall furnish to any plan participant or beneficiary who so requests," and inserting "shall furnish at least the following statements to any plan participant or beneficiary who so requests in writing," and inserting "shall furnish to any plan participant or beneficiary who so requests," respectively, but only if all such contributions bear the same relationship to the compensation of each eligible employee and do not exceed 5 percent of compensation for any eligible employee.

(b) RULE FOR MULTIEmployER PLANS.—Subsection (d) of section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended to read as follows:

(d) Each administrator of a plan to which this subsection applies (and which is required to furnish the periodic pension benefits statements described in subsection (a), (A) by striking clause (ii) and inserting the following new clauses:

(II) the employer is required to make a matching contribution to the trust for any year in an amount equal to—

(aa) so much of the amount the employee elects under subclause (I) as does not exceed 3 percent of compensation for the year, and

(bb) a uniform percentage (which is at least 3 percent but does not exceed 100 percent of the amount the employee elects under subclause (I) to the extent that such amount exceeds 3 percent but does not exceed 5 percent of the employee's compensation,

(iii) the employer is required to make nonelective contributions of 1 percent of compensation for each employee eligible to participate in the arrangement who has at least $5,000 of compensation from the employer for the year. If an employer makes an election under this clause for any year, the employer shall notify employees of such election within a reasonable period of time before the 60th day before the beginning of such year.

(iv) no contributions may be made other than contributions described in clause (i), (iii), or (iv),

and

(B) by striking subparagraph (B) and inserting the following new paragraph:

"(B) the manner in which the assets in the account are invested,

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the earlier of—

(1) the date of issuance by the Secretary of Labor of regulations providing guidance for simplifying defined benefit plan calculations with respect to the information required under subsection (d) of section 401(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025), or

(2) December 31, 1997.

Subtitle B—Improved Fairness in Retirement Plan Benefits

SEC. 151L. AMENDMENTS TO SIMPLE RETIREMENT ACCOUNTS.

(a) MINIMUM CONTRIBUTION REQUIREMENT.—

(1) IN GENERAL.—Paragraph (2) of section 408(p) (defining qualified salary reduction arrangement) is amended—

(A) by striking clauses (ii) and (iv) of subparagraph (A) and inserting the following new clauses:

(iii) the employer is required to make a matching contribution to the simple retirement account for any year in an amount equal to—

(aa) so much of the amount the employee elects under subclause (I) as does not exceed 3 percent of compensation for the year, and

(bb) a uniform percentage (which is at least 3 percent but does not exceed 100 percent of the amount the employee elects under subclause (I) to the extent that such amount exceeds 3 percent but does not exceed 5 percent of the employee's compensation,

(III) the employer is required to make nonelective contributions of 1 percent of compensation for each employee eligible to participate in the arrangement who has at least $5,000 of compensation from the employer for the year. If an employer makes an election under this subclause for any year, the employer shall notify employees of such election within a reasonable period of time before the 60th day before the beginning of such year.

(IV) no other contributions may be made other than contributions described in subclauses (I), (ii), or (iii),

(2) by striking clause (i) and inserting the following new clause:

"(i) CONTRIBUTION RULES.—

(I) EMPLOYER MAY ELEcT 3-PERCENT NON-ELECTIVE CONTRIBUTION.—An employer shall be treated as meeting the requirements of subsection (B) of clause (i) for any year if, in lieu of the contributions described in such clauses, the employer elects to make nonelective contributions of 3 percent of compensation for each employee who is eligible to participate in the arrangement and who has compensation from the employer for the year. If an employer makes an election under this subclause for any year, the employer shall notify employees of such election within a reasonable period of time before the 60th day before the beginning of such year.

(II) DISCRETIONARY CONTRIBUTIONS.—A plan shall not be treated as failing to meet the requirements of clause (i)(IV) merely because, pursuant to the terms of the plan, an employer elects to make nonelective contributions under clause (i)(III) or subclause (I) of this clause in excess of 1 percent or 3 percent of compensation, respectively, but only if all such contributions bear the same relationship to the compensation of each eligible employee and do not exceed 5 percent of compensation for any eligible employee.

(b) EFFECTIVE DATE.—The amendment made by this section is effective on the date of the enactment of this Act.

(c) the following new subsection:

"(1) the employer is required to make a matching contribution to the trust for any year in an amount equal to—

(aa) so much of the amount the employee elects under subclause (I) as does not exceed 3 percent of compensation for the year, and

(bb) a uniform percentage (which is at least 3 percent but does not exceed 100 percent of the amount the employee elects under subclause (I) to the extent that such amount exceeds 3 percent but does not exceed 5 percent of the employee's compensation,

(iii) the employer is required to make nonelective contributions of 1 percent of compensation for each employee eligible to participate in the arrangement who has at least $5,000 of compensation from the employer for the year. If an employer makes an election under this subclause for any year, the employer shall notify employees of such election within a reasonable period of time before the 60th day before the beginning of such year.

(IV) no other contributions may be made other than contributions described in clause (i), (ii), or (iii),

and

(B) by striking subparagraph (B) and inserting the following new paragraph:

"(B) the manner in which the assets in the account are invested,

(c) EFFECTIVE DATE.—The amendment made by this section is effective on the date of the enactment of this Act.
shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subparagraph (I), and, for purposes of subsection (I), all determinations whether contributions provided under a plan satisfy subsection (a)(4) on the basis of equivalent benefits, employer contributions under subparagraph (B) or (C) section (m)(2)(B) shall be treated as failing to meet the requirements of this subsection.

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—Subparagraph (E) of section 401(k)(3) is amended to read as follows: (E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be:

(1) 13 percent, or
(2) the actual deferral percentage of nonhighly compensated employees determined for such first plan year.

(ii) an employer who elects to have this clause apply, or
(iii) except as the extent provided by the Secretary, a successor plan.

(e) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect as if included in the amendments made by section 1433 of the Small Business Job Protection Act of 1996.

SEC. 153. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES.—(a) In General.—Subparagraph (B) of section 414(q)(1) (defining highly compensated employee) is amended to read as follows: (B) Employees who normally work less than 17½ hours per week.

(b) Conformity Amendments.—(1) Section 414(r) is amended by adding the following new flush sentence: The term 'qualified plan or a qualified employer payroll deduction system' means—
(A) a plan described in section 401(a)(9), (10), and (11) (relating to alternative methods of satisfying tests) is amended—

(1) by striking "paragraph (B)" in subparagraph (A)(iii) and inserting "paragraphs (B) and (C)", and
(2) by adding at the end of subparagraph (B) the following new flush sentence: (b) ELIGIBLE EMPLOYER.—(1) Section 414(q)(1) (defining highly compensated employee) is amended to read as follows:

(c) EFFECTIVE DATE.—The amendments made by this section take effect as if included in the amendments made by section 1433 of the Small Business Job Protection Act of 1996.

Subtitle C—Improving Retirement Plan Coverage

SEC. 161. CREDIT FOR PENSION PLAN START-UP COSTS OF SMALL EMPLOYERS.—(a) ALLOWANCE OF CREDIT.—Section 38(b) (defining current year business credit) is amended by striking "plus" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting "and", and by adding at the end the following new paragraph:

(13) the small employer pension plan start-up cost credit.

(b) SMALL EMPLOYER PENSION PLAN START-UP COST CREDIT.—Subpart D of part IV of subchapter S of chapter 1 of title 26 (relating to business related credits) is amended by adding at the end the following new section:

SEC. 15. SMALL EMPLOYER PENSION PLAN START-UP COST CREDIT.—(a) AMOUNT OF CREDIT.—For purposes of section 38—

(i) in general.—The small employer pension plan start-up cost credit for any taxable year is equal to the sum of the qualified start-up costs of an eligible employer in establishing a qualified pension plan or qualified employer payroll deduction system

(ii) aggregate limitation.—The amount of the credit under paragraph (i) for any tax year shall not exceed the aggregate amount determined under this section for all preceding taxable years of the taxpayer.

(c) ELIGIBLE EMPLOYER.—For purposes of this section, the term 'eligible employer' means an employer which—

(1) had an average daily number of employees during the preceding taxable year not in excess of 50, and
(2) did not make any contributions on behalf of any employee to a qualified pension plan or a qualified employer payroll deduction system during any 2 taxable years immediately preceding the taxable year.

(d) OTHER DEFINITIONS.—For purposes of this section—

(1) QUALIFIED START-UP COSTS.—The term 'qualified start-up costs' means any ordinary and necessary expenses of an eligible employer which—

(A) are paid or incurred in connection with the establishment of a qualified pension plan or a qualified employer payroll deduction system, and

(B) are of a nonrecurring nature.

(2) QUALIFIED PENSION PLAN.—The term 'qualified pension plan' means—

(A) a plan described in section 401(a)(9) which includes a trust exempt from tax under section 501(a),

(B) a simplified employee pension (as defined in section 403(b)), or

(C) a simple retirement account (as defined in section 408(p)).

(3) QUALIFIED EMPLOYER PAYROLL DEDUCTION SYSTEM.—The term 'qualified employer payroll deduction system' means a system described in section 103 of the Retirement Security Act of 1997.

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

(1) AGGREGATION RULES.—All persons treated as a single employer under subsection (b) of section 52 or subsection (n) or (o) of section 414 shall be treated as one person.
"(2) DISALLOWANCE OF DEDUCTION.—No de-
duction shall be allowable under this chapter for any qualified start-up costs for which a credit is allowable under subsection (a).").

(n) COMPARISON AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

"(8) NO CARRYBACK OF PENSION CREDIT.—No portion of the unused business credit attributable to any taxable year ending before the date of the enactment of section 434(d) may be carried back to a taxable year ending before the date of the enactment of section 434.

(2) The table of sections for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45D. Small employer pension plan start-up cost credit.").

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to costs incurred after the date of the enactment of this Act in taxable years beginning after such date.

SEC. 162. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415.

(a) COMPENSATION LIMIT.—Paragraph (1) of section 415(b) (relating to limitation for defined benefit plans) is amended to read as follows:

"(I) SPECIAL LIMITATION RULE FOR GOVERN-
MENTAL PLANS. (1) In the case of a governmental plan (as defined in section 414(d) or a multiemployer plan (as defined in section 414(f)), subparagraph (B) of paragraph (1) shall not apply.

(b) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) APPLICATION OF SECTION 457.—Paragraph (14) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

"(14) TREATMENT OF EXCESS BENEFIT AR-
RANGEMENTS.—(A) IN GENERAL.—Subsections (b)(2) and (c)(1) shall not apply to any excess benefit arrangement and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan.

(B) EXCESS BENEFIT ARRANGEMENT DE-
FINED.—For purposes of this section, the term ‘excess benefit arrangement’ means an arrangement not eligible for treatment as a qualified plan.

(c) EXEMPTION FOR SURVIVOR AND DISABIL-
ITY BENEFITS.—Subparagraph (i) of section 415(b)(2) (relating to limitation for defined benefit plans) is amended—

(1) by inserting ‘‘(or a multiemployer plan (as defined in section 414(f))’’ after ‘‘(1)’’;

(2) by inserting ‘‘or multiemployer plan’’ after ‘‘plan (as defined in section 414(f))’’ in clause (i), and

(3) by inserting ‘‘AND MULTIEMPLOYER’’ after ‘‘GOVERNMENTAL’’ in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 1444 of the Small Business Job Protection Act of 1996.

SEC. 163. EXEMPTION OF MIRROR PLANS FROM SECTION 457 LIMITS.

(a) IN GENERAL.—Subsection (e) of section 457 (relating to defined benefit plans of State and local governments and tax-exempt organizations), as amended by section 162(b)(1), is amended by adding at the end the following new paragraph:

"(15) EXEMPTION FOR MIRROR PLANS.—

"(A) IN GENERAL.—Amounts of compensation deferred under a mirror plan shall not be taken into account in applying this section to amounts of compensation deferred under any other deferred compensation plan.

(B) MIRROR PLAN.—The term ‘mirror plan’ means any plan or arrangement maintained solely for the purpose of providing retirement benefits for employees in excess of the limitations imposed by section 403(a)(17) or section 415, as applicable.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 164. SPECIFICS FOR SELF-EMPLOYED INDIVIDUALS.

(a) CONTRIBUTIONS BY SELF-EMPLOYED INDIVIDUALS TREATED AS MATCHING CONTRIBUTIONS.—Section 401(m)(4)(A) (relating to contributions treated as matching contributions), as amended by section 401(m)(4)(A), is amended by adding at the end the following new subparagraph:

"(3) Sections 8440a(a)(2), 8440c(a)(2), and 8440d(a)(2) shall be allowable by virtue of paragraph (A) after subparagraph (A).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to costs incurred after December 31, 1996.

SEC. 165. IMMEDIATE PARTICIPATION IN THE THRIFT SAVINGS PLAN FOR FEDERAL EMPLOYEES.

(a) ELIMINATION OF CERTAIN WAITING PERIODS FOR PURPOSES OF EMPLOYEE CONTRIBUTIONS.—Paragraph (4) of section 8432(b) of title 5, United States Code, is amended to read as follows:

"(4) The Executive Director shall prescribe such regulations as may be necessary to carry out the following:

"(A) Notwithstanding subparagraph (A) of paragraph (2), an employee or Member described in such subparagraph shall be afforded a reasonable opportunity to first make an election under such paragraph beginning on the date of commencing service or, if that is not administratively feasible, beginning on the earliest date thereafter after that such an election becomes administratively feasible, as determined by the Executive Director.

(B) An employee or Member described in subparagraph (A) of paragraph (2) shall be afforded a reasonable opportunity to first make an election under this subsection (based on the appointment or election described in such subparagraph) beginning on the date of commencing service pursuant to such appointment or election or, if that is not administratively feasible, beginning on the earliest date thereafter that such an election becomes administratively feasible, as determined by the Executive Director.

(c) EFFECTIVE DATE.—This section shall take effect 6 months after the date of the enactment of this Act or such earlier date as the Executive Director may by regulation prescribe.

SEC. 166. MODIFICATION OF 10 PERCENT TAX LIMITATION ON REIMBURSEMENTS.

(a) IN GENERAL.—Paragraph (2) of section 4972(c)(6) (relating to nonexempt contributions) is amended to read as follows:

"(2) V ALUATION.ÐSection 412(c)(9) (relating to limitations of section 4972(c)(6)) is amended by adding at the end the following new paragraph:

"(7) Sections 8440a(a)(2) and 8440d(a)(2) of such title are amended by striking all after subject to and inserting ‘‘subject to this chapter’’."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle D—Simplifying Plan Requirements SEC. 171. FULL FUNDING LIMITATION FOR MULTIPLE EMPLOYER PLANS.

(a) AMENDMENTS TO CODE.—

(1) FULL FUNDING LIMITATION.—Section 422(c)(7)(C) (relating to full-funding limitations) is amended—

(A) by inserting ‘‘or in the case of a multi-
employer plan, after paragraph (6)(B);’’ and

(B) by inserting ‘‘AND MULTIPLE EMPLOYER PLANS’’ after ‘‘PARAGRAPH (6)(B)’’ in the heading.

(2) VALUATION.—Section 422(c)(9) (relating to annual valuation) is amended—
SEC. 174. ELIMINATION OF REQUIREMENT FOR PLAN DESCRIPTIONS AND THE FILING REQUIREMENT FOR SUMMARY PLAN DESCRIPTIONS AND DESCRIPTIONS OF MATERIAL MODIFICATIONS TO A PLAN; TECHNICAL CORRECTIONS.

(a) Filing requirements.—Section 101(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(b)) is amended by—

(1) by inserting “(3 years in the case of a multiemployer plan)” after “employer plan,” and

(2) by striking “ANNUAL VALUATION” in the heading thereof.

(b) Plan description.—Section 102(a)(1)(A) of such Act (29 U.S.C. 1022(a)(1)(A)) is amended—

(1) by striking paragraph (5) as paragraph (6) and by inserting “or in the case of a multiemployer plan” after “employer plan,” and

(2) by striking “ANNUAL VALUATION” in the heading thereof.

(c) Effective date.—The amendments made by this section shall apply to plan years beginning after December 31, 1996.

SEC. 175. MODIFICATIONS TO NONDISCRIMINATION AND MINIMUM PARTICIPATION RULES WITH RESPECT TO GOVERNMENTAL PLANS.

(a) General nondiscrimination and participation rules.—

(1) Nondiscrimination requirements.—

Paragraph (3) of section 403(a) (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by adding at the end the following new subparagraph:

“(3) and (4) shall not apply to a governmental plan (within the meaning of section 414(d)).

(2) Additional participation requirements.—

Subparagraph (H) of section 403(a)(26) is amended to read as follows:

“(H) EXCEPTION FOR GOVERNMENTAL PLANS.—Paragraph (3) shall not apply to a governmental plan (within the meaning of section 414(d)).

(3) Minimum participation standards.—

Paragraph (2) of section 410(c) is amended to read as follows:

“(2) A plan described in paragraph (1) shall be treated as meeting the requirements of this section for purposes of section 410(a), except that in the case of a plan described in subparagraph (B), (C), or (D) of paragraph (1), this paragraph shall only apply if such plan meets the requirements of section 410(a)(3) (as in effect on September 1, 1974).

(b) Participation standards for qualified cash or deferred arrangements.—

(1) In general.—Section 403(b)(9)(A) of such Act (29 U.S.C. 1024(b)(9)(A)) is amended by adding after such paragraph the following new subparagraph:

“(A) by inserting “or in the case of a multiemployer plan,” after “employer plan,” and

(2) by striking “ANNUAL VALUATION” in the heading thereof.

(c) Effective date.—The amendments made by this section shall apply to plan years beginning after December 31, 1996.

SEC. 176. NEW TECHNOLOGIES IN RETIREMENT PLANS.

The Secretary of the Treasury and the Secretary of Labor shall expand their efforts to examine existing guidance regarding notice, recordkeeping, and operational requirements for retirement plans, in order to permit the use of new technologies by plan sponsors and administrators in ways which maintain the protection of the rights of participants and beneficiaries.

TITLE II—SECURITY

SEC. 200. AMENDMENT OF ERISA.

Except as otherwise expressly provided, with respect to this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to the social security Act (42 U.S.C. 1301 et seq.).
treated as a separate plan. This subparagraph shall not apply to an individual account plan if the fair market value of the assets of all individual account plans maintained by the employer equals not more than 10 percent of the fair market value of the assets of all pension plans maintained by the employer.

(b) EFFECTIVE DATE.—
(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.
(2) TRANSITION RULE FOR PLANS HOLDING EXCESS SECURITIES OR PROPERTY.—
(A) IN GENERAL.—In the case of a plan which on the date of the enactment of this Act, holds excess securities or employer real property (as defined in section 407(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d))) in excess of the amount specified in such section 407, the amendment made by this section applies to any acquisition of such securities and property on or after such date, but does not apply to the specific holdings which constituted such excess during the period of such excess.
(B) SPECIAL RULE FOR CERTAIN ACQUISITIONS.—In the case of the acquisition of such securities and property on or after such date, the Secretary of Labor shall consider including in the information furnished to each participant and beneficiary the acquisition of such securities and property on or after such date, if the Secretary considers such holding to be an appropriate investment for such plan.

SEC. 202. REQUIREMENT OF ANNUAL, DETAILED INVESTMENT REPORTS APPLIED TO CERTAIN 401(k) PLANS.

(a) IN GENERAL.—Section 104(b)(3) (29 U.S.C. 1024(b)(3)) is amended—
(1) by striking paragraph (3) and inserting—
"(3) by striking paragraphs (3) and (4), respectively, and by redesignating paragraphs (3) and (4) as paragraphs (6) and (7), respectively, and by inserting after paragraph (6) the following new paragraph:"

(b) REGULATIONS.—
(1) IN GENERAL.—The Secretary of Labor, in prescribing regulations under section 202, shall require employers to furnish to their participants and beneficiaries of such plans, an annual investment report detailing in a prescribed manner such information as the Secretary may designate, as well as the information required by section 408(b)(5) of the Internal Revenue Code of 1986 (29 U.S.C. 1108(b)(5)), and by redesignating paragraphs (3) and (4) as paragraphs (6) and (7), respectively.
(2) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 203. STUDY ON INVESTMENTS IN COLLECTIVES.

(a) STUDY.—The Secretary of Labor, in consultation with the Secretary of the Treasury, shall study the extent to which pension plans invest in collectibles and whether such investments present a risk to the pension security of the participants and beneficiaries of such plans.
(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Labor shall submit a report to the Congress containing the findings of the study described in subsection (a) and any recommendations for legislative action.

SEC. 204. QUALIFIED EMPLOYER PLANS PROHIBITED FROM MAKING LOANS THROUGH CREDIT CARDS AND OTHER INTERMEDIARIES.

(a) IN GENERAL.—Subsection (a) of section 401 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(35) PROHIBITION OF LOANS THROUGH CREDIT CARDS AND OTHER INTERMEDIARIES.—A trust shall not constitute a qualified trust under this section if the plan makes any loan to any beneficiary under the plan through the use of any credit card or any other intermediary.
(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 205. MULTIEmployer PLAN Benefits Guaranteed.

(a) IN GENERAL.—Section 202(a)(29) (29 U.S.C. 1322(a)(2)) is amended—
(1) by striking "5 percent" each place it appears in paragraphs (1) and inserting "10 percent," and
(2) by inserting the following new paragraph:

"(c) REVERSION REPORT. As soon as practicable after the close of each fiscal year, the Secretary of Labor shall report to the Congress a report providing information on plans from which residual assets were distributed.

(b) MODIFICATION OF ALLOCATION OF ASSETS FROM MAKING LOANS THROUGH CREDIT CARDS AND OTHER INTERMEDIARIES.

(a) IN GENERAL.—Section 4044(b) (29 U.S.C. 1344(b)) is amended by striking "(1)" in paragraph (1) and inserting "(1)" and by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively.
(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 206. RETIREMENT SECURITY GUARANTEED.

(a) IN GENERAL.—Section 401(b) (29 U.S.C. 1301(b)) is amended—
(1) by striking "5 percent" each place it appears in paragraphs (1) and inserting "10 percent," and
(2) by inserting the following new paragraph:

"(b) REVERSION REPORT. As soon as practicable after the close of each fiscal year, the Secretary of Labor shall report to the Congress a report providing information on plans from which residual assets were distributed.

(b) MODIFICATION OF ALLOCATION OF ASSETS FROM MAKING LOANS THROUGH CREDIT CARDS AND OTHER INTERMEDIARIES.

(a) IN GENERAL.—Section 4044(b) (29 U.S.C. 1344(b)) is amended by striking "(1)" in paragraph (1) and inserting "(1)" and by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively.
(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 207. SUBSTANTIAL OWNER BENEFITS.

(a) IN GENERAL.—Section 401(d)(3) (29 U.S.C. 1307(d)(3)) is amended—
(1) by striking paragraph (3) and inserting—
"(3) by redesignating paragraphs (3) and (4) as paragraphs (6) and (7), respectively.
(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 208. REVERSION REPORT.

(a) IN GENERAL.—Section 4008 (29 U.S.C. 1308) is amended by adding at the end the following new subsection:

"SEC. 4008a. REVERSION REPORT.—As soon as practicable after the close of each fiscal year, the Secretary of Labor shall report to the Congress a report providing information on plans from which residual assets were distributed.

(b) MODIFICATION OF ALLOCATION OF ASSETS FROM MAKING LOANS THROUGH CREDIT CARDS AND OTHER INTERMEDIARIES.

(a) IN GENERAL.—Section 4044(b) (29 U.S.C. 1344(b)) is amended by striking "(1)" in paragraph (1) and inserting "(1)" and by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively.
(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 209. DEVELOPMENT OF ADDITIONAL REMEDIES.

(a) FINDINGS.—The Congress finds that—
(1) the benefits guaranteed under subsection (a) and (b) of section 4022(b)(5) (29 U.S.C. 1322(b)(5)) are designed to expand retirement savings;
(2) this goal can be achieved in part by simplifying the pension system and reducing administrative costs of maintaining pension plans for all employers;
(3) plan assistance can benefit not only the implementation and ongoing administration of pension plans but also the correction.
of problems that arise in the operation of such plans;
(4) the Secretary of the Treasury has commendably already acted to develop programs intended to correct such conditions; and
(5) efficient correction serves participants and beneficiaries not only by fulfilling the law's requirements regarding pension plans but also by directing funds into pensions rather than toward correction efforts and by encouraging employers to continue to sponsor support for such plans.

(2) CONFORMING AMENDMENTS.—
(b) CONFORMING AMENDMENTS.—
(1) Section 103(a)(3)(A) of such Act (29 U.S.C. 1023(a)(3)(A)) is amended by adding at the end the following new paragraph:

``(iii) A person meets the requirements of this clause with respect to an engagement to the extent consistent with generally accepted auditing standards, reliance on the work of any independent public accountant of any bank or similar institution or insurance carrier that holds assets or processes transactions of the employee pension benefit plan provides that such bank, institution, or insurance carrier is regulated, supervised, and subject to periodic examination by a State or Federal agency.''

(2) Section 103(a)(3)(C) of such Act (29 U.S.C. 1023(a)(3)(C)) is amended by striking ``(A)'' and inserting ``(A) if such person—''

(3) Section 103(a)(3)(D) of such Act (29 U.S.C. 1023(a)(3)(D)) is amended by adding after subclause (III) the following new subclause:

``(iv) the amount of the qualified joint and survivor annuity means the actuarial equivalent of a single annuity for the life of the participant and under which the survivor annuity is $50 percent of amount ordered or required to be paid to the plan, and''

SEC. 212. ADDITIONAL REQUIREMENTS FOR EMPLOYEE PUBLIC ACCOUNTANTS.

(a) IN GENERAL.—Section 103(a)(3)(D) (29 U.S.C. 1023(a)(3)(D)) is amended by inserting ``(1)'' after ``(D);''

(b) E FFECTIVE DATE.ÓThe amendments made by this section shall apply with respect to plan years beginning on or after the date which is 3 years after the date of the enactment of this Act.

SEC. 213. MODIFICATION OF FIDUCIARY PENALTIES.

(a) MODIFICATION OF PROHIBITION OF ASSIGNMENT OR ALIENATION.—
(1) IN GENERAL.—Section 1056(d) (29 U.S.C. 1001(d)) is amended by striking ``not greater than'' and inserting ``less than''

(b) APPLICABLE RECOVERY AMOUNT.—Section 502(a)(1) (29 U.S.C. 1132(a)(1)) is amended to read as follows:

``(2) Effective date and time at which the offset is to be made;''

(c) E FFECTIVE DATE.ÓThe amendments made by this section shall apply with respect to plan years beginning on or after the date of the enactment of this Act.
(1) to the same extent that such person is jointly and severally liable for the applicable recovery amount on which the penalty is based.

No penalty shall be assessed under this subsection unless the person against whom the penalty is assessed is given notice and opportunity for a hearing with respect to the violation occurring before the date of the enactment of this Act.

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to any breach of fiduciary responsibility or other violation of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 occurring on or after the date of the enactment of this Act.

(B) TRANSITION RULE.—In applying the amendment made by paragraph (2) (relating to applicable recovery amount), a breach or other violation occurring before the date of the enactment of this Act which continues after the 180th day after such date (and which may have been discontinued at any time during its existence) shall be treated as having occurred after such date of enactment.

SEC. 231. CONFORMING AMENDMENTS RELATING TO PLAN ENFORCEMENT.

(a) SPECIAL RULE FOR CERTAIN JUDGMENTS AND SETTLEMENTS.—Section 401(a)(13) of the Internal Revenue Code of 1986 (relating to assignments and alienation) is amended by adding at the end the following new subparagraph:

...
SEC. 303. TREATMENT OF TRANSFERS BETWEEN DEFINED CONTRIBUTION PLANS.

(a) IN GENERAL.—Section 411(d)(6) of the Internal Revenue Code of 1986 (relating to accrued benefit not to be decreased by amendment) is amended by adding at the end the following new subparagraph:

"(D) Plan Transfers.—A defined contribution plan (in this subparagraph referred to as the 'transferor plan') shall not be treated as failing to meet the requirements of this paragraph merely because the transferor plan does not provide some or all of the forms of distribution previously available under another defined contribution plan (in this subparagraph referred to as the 'transferee plan') to the extent that—

(i) the forms of distribution previously available under the transferor plan applied to the account of a participant or beneficiary under the transferor plan that was transferred from the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution from the transferor plan,

(ii) the terms of both the transferor plan and the transferee plan authorize the transfer described in clause (i),

(iii) the transfer described in clause (i) was made pursuant to a voluntary election by the participant or beneficiary whose account was transferred to the transferee plan,

(iv) the election described in clause (iii) was made after the participant or beneficiary received a notice describing the consequences of making the election,

(v) if the transferor plan provides for an annuity as the normal form of distribution under the plan in accordance with section 401(a)(11)(A), the plan transfers to the account of a participant or beneficiary whose account was transferred to the transferee plan, and

(vi) the transferee plan allows the participant or beneficiary described in clause (iii) and consent meets requirements similar to the requirements of this subsection merely because the transferee plan allows the participant or beneficiary described in clause (iii) to receive any distribution to which the participant or beneficiary described in clause (iii) is entitled under transferee plan in the form of a single sum distribution.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after December 31, 1996.

SEC. 304. MISSING PARTICIPANTS.

(a) IN GENERAL.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350) is amended by redesignating paragraphs (a) and (b) as subparagraphs (A) and (B), respectively, and by inserting after subparagraph (B) the following new subsections:

"(C) the transferee plan allows the participant or beneficiary described in clause (i),

"(iv) the election described in clause (iii) was made after the participant or beneficiary received a notice describing the consequences of making the election,

"(v) if the transferor plan provides for an annuity as the normal form of distribution under the plan in accordance with section 401(a)(11)(A), the plan transfers to the account of a participant or beneficiary whose account was transferred to the transferee plan, and

"(vi) the transferee plan allows the participant or beneficiary described in clause (iii) and consent meets requirements similar to the requirements of this subsection merely because the transferee plan allows the participant or beneficiary described in clause (iii) to receive any distribution to which the participant or beneficiary described in clause (iii) is entitled under transferee plan in the form of a single sum distribution.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after December 31, 1996.

SEC. 401. INDIVIDUAL'S PARTICIPATION IN PLAN NOT TREATED AS PARTICIPATION IN ANOTHER PLAN.

(a) IN GENERAL.—(1) AMOUNT OF ANNUITY.—

(A) IN GENERAL.—Paragraph (1) of section 205(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(a)) is amended by inserting "or, at the election of the participant, shall be provided in the form of a qualified joint and 2/3 survivor annuity" after "survivor annuity.

(B) Section 405 of such Act (29 U.S.C. 1055) is amended—

(i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and

(ii) by inserting "(1)" before the following new subparagraph:

"(2) For purposes of this section, the term "qualified joint and 2/3 survivor annuity" means an annuity—

"(A) for the participant while both the participant and the spouse are alive with a survivor annuity for the life of surviving individual (either the participant or the spouse) equal to 67 percent of the amount of the annuity which is payable to the participant while both the participant and the spouse are alive,

"(B) which is the actuarial equivalent of a single annuity for the life of the participant and

"(C) which, for all other purposes of this Act, is treated as a qualified joint and survivor annuity.

(2) ILLUSTRATION REQUIREMENT.—Clause (i) of section 205(c)(3)(A) of such Act (29 U.S.C. 1055(c)(3)(A)) is amended to read as follows:

"(i) the terms and conditions of each qualified joint and survivor annuity offered, accompanied by an illustration of the benefits under each such annuity for the particular participant and spouse and an acknowledge- ment form to be signed by the participant and the spouse that they have read and understood the illustration before any form of retirement benefit is chosen.

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—(1) AMOUNT OF ANNUITY.—

(A) IN GENERAL.—Clause (i) of section 401(a)(12)(A) of the Internal Revenue Code of 1986 (relating to required minimum distributions from retirement plans) is amended by inserting "or, at the election of the participant, shall be provided in the form of a qualified joint and 2/3 survivor annuity after "survivor annuity.

(B) DEFINITION.—Subsection (e) of section 401(a)(12)(A) of such Code (relating to definitions and special rules for purposes of minimum survivor annuity requirements) is amended by striking "title IV'' and inserting "title V'' as a substitute for such title as a substitute for such section as a substitute for such subsection as a substitute for such paragraph as a substitute for such subparagraph as a substitute for such paragraph as a substitute for such subparagraph as a substitute for such paragraph as a substitute for such subparagraph as 

CONGRESSIONAL RECORD — SENATE S321
January 21, 1997
SEC. 403. DIVISION OF PENSION BENEFITS UPON DIVORCE.

(a) Amendments to the Internal Revenue Code of 1986.—Subsection (p)(2) of section 414 of the Internal Revenue Code of 1986 is amended by adding the following new subpar

"(i) in general.—A divorce decree issued with respect to the participant and the former spouse pursuant to a State domestic relations law (including an annulment or other order of marital dissolution) shall, upon delivery to a plan along with the information required by subparagraph (C)(i), be deemed by the plan to be a domestic relations order (as defined in paragraph (2)(B) of section 206 of the Employee Retirement Income Security Act of 1974) for purposes of this Act.

"(II) may allow the former spouse to be paid not later than the earliest retirement age under the plan.

"(IV) may require the submitter of the divorce decree to assist in benefit calculations, including the present value of the future payments of the annuity that would be actuarially equivalent to the present value of the future payments under subparagraph (A) as of the date after the former employee's death; or

"(5) any payment under this subsection to a person bars recovery by any other person.

"(c) Effective Date.—The amendments made by this section shall apply with respect to surviving spouses and former spouses (whose marriage, in the case of the amendments made by subsection (a), terminated after May 6, 1965) of former employees who die after the date of the enactment of this Act."

SEC. 404. PAYMENT OF LUMP-SUM CREDIT FOR FORMER SPOUSES OF FEDERAL EMPLOYEES.

(a) In General.—Title 5, United States Code, is amended—

"(1) in section 8342(c), by striking "Lump-sum" and inserting "Except as provided in section 8342(e), lump-sum"; and

"(2) in section 8343(j)—

"(A) in paragraph (1), by inserting after "individual" the following: "; or", and deleting the period at the end of subparagraph (A); and

"(B) in the heading, by striking "Lump-sum credit of a former employee" and inserting "Lump-sum credit of a former employee or of a former spouse of a former employee, if entitled under section 8424(e) to an individual entitled under section 8424(c)"; and

"(b) by adding at the end the following:

"(1) Any payment under this subsection to a person bars recovery by any other person.

"(2) in section 842(d), by striking "Lump-sum" and inserting "Except as provided in section 841a(a), lump-sum"; and

"(3) in section 8467, in subsection (b), by inserting after "individual" the following: "; or", and deleting the period at the end of subparagraph (B); and

"(b) by adding at the end the following:

"(d) Any payment under this section to a person bars recovery by any other person.

SEC. 405. PAYMENT OF LUMP-SUM CREDIT FOR FORMER SPOUSES OF FEDERAL EMPLOYEES.

(a) In General.—Title 5, United States Code, is amended—

"(1) in subsection (a), by striking "lump-sum credit of a former employee", and deleting the period at the end of paragraph (1); and

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

"(d) Any payment under this subsection to a person bars recovery by any other person.

"(e) Effective Date.—The amendments made by this section shall apply to plans that were under operation on the date of the enactment of this Act."

SEC. 406. WOMEN'S PENSION TOLL-FREE PHONE NUMBER.

(a) In General.—The Secretary of Labor shall contract with an independent organization to create a women's pension toll-free telephone number and contact to serve as—

"(1) a resource for women on pension questions; and

"(2) a source for referrals to appropriate agencies; and

"(b) Effective Date.—The amendments made by this section shall apply to plans that were under operation on the date of the enactment of this Act.
We must continue the successes of the 1994 Biden crime law. And, at the same time, we must take up the new challenge of confronting crime and drug abuse among our youth with a commonsense strategy balancing tough sanctions, certain punishment and protecting literally millions of kids from the criminals and drug pushers who can target any kid from any family whose parents are at work when the school day ends.

We must continue the success of the 1994 crime law. While I give the credit first and foremost to the police officers on our Nation’s streets, the verdict from the FBI’s national crime statistics is that since the 1994 crime law, violent crime is down and down significantly:

1994 is projected to have the lowest murder toll since 1989—and a murder rate that is lowest since 1971; 1995 is projected to have the lowest violent crime total since 1990; and, for the 1st time, for wives, ex-wives and girlfriends at the hands of their “intimates” fell to an 18-year low in 1994—and is lower still in 1995.

This is a record of success which should convince the Senate to extend the 1994 crime law.

Adding 25,000 more police by extending the 100,000 cops program for two more years.

Extending the Violence Against Women Act funding to shelter 400,000 more battered women and their children and continuing to help States arrest and prosecute batterers. Providing an additional $5 billion to build up to 80,000 more prison cells for violent criminals—and also propose to give States greater flexibility with these dollars to speed the prosecution of violent criminals and increase the use of drug testing. Provide $1 billion to extend such proven law enforcement programs as the Byrne anti-drug grants to the States.

We propose aggressive steps to:

Target gang paraphernalia by boosting the penalties for criminals who arm themselves with bullet-proof body armor and deadly accurate laser-sighted shotguns.

Second, we must target one of the primary sources of youth violence—street gangs.

We propose aggressive steps to:

Target gang paraphernalia by boosting the penalties for criminals who arm themselves with bullet-proof body armor and deadly accurate laser-sighted shotguns.
Funding drug treatment for 600,000 drug-addicted children is also key—particularly as our Nation stands on the edge of a baby-boomerang wave that will mean more teenagers—and more teen addicts.

Sect 1. SHORT TITLE; TABLE OF CONTENTS.

Sect 2. Definitions.

T I T L E I — C R I M E C O N T R O L


Sect 2. Definitions.

Subtitle A—CRIME CONTROL

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Sec 392. Technical correction to ensure compliance of Federal sentencing guidelines with Federal law.

T I T L E IV—P R O T E C T I N G Y O U T H F R O M V I O L E N T CRIME

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Sec 411. Short title; definitions.

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Sec 421. Amendments to the Missing Children’s Assistance Act.

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Subtitle A—COMPREHENSIVE STUDY OF FEDERAL PREVENTION EFFORTS

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Sec. 522. Evaluation of crime prevention programs.

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Sec. 531. Sense of Senate regarding funding for programs determined to be ineffective.

TITLE VI—EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND

Sec. 601. Extension of violent crime reduction trust fund.

SEC. 2. DEFINITIONS.

In this Act—

(1) the term "Attorney General" means the Attorney General of the United States;

(2) the term "Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(3) the term "juvenile" has the meaning given that term under applicable State law;

(4) the term "local government" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands;

(5) the term "unit of local government" means any city, county, township, borough, parish, or other entity exercising governmental authority under State law;

(6) the term "Violent Crime Reduction Trust Fund" means the fund established under title XXXI of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211 et seq.); and

(7) the term "youth" means a person who is not younger than 5 and not older than 18 years of age.

TITLES I—CRIME CONTROL

Subtitle A—More Police Officers on the Beat

SEC. 101. MORE POLICE OFFICERS ON THE BEAT.


(1) in clause (v), by striking "and" at the end;

(2) in clause (vi), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

...(vii) $1,240,000,000 for fiscal year 2001; and...(viii) $1,240,000,000 for fiscal year 2002.

SEC. 102. GRANTS FOR EQUIPMENT, TECHNOLOGY, AND SUPPORT SYSTEMS.

Title 170 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796d) is amended to read as follows:

(4) may not exceed 20 percent of the funds available under grants pursuant to this subsection in any fiscal year.

SEC. 103. NATIONAL COMMUNITY POLICE TELECOMMUNICATIONS.

Part Q of title Q of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796d et seq.) is amended by adding at the end the following:

SECTION 1710. NATIONAL POLICE TELECOMMUNICATIONS.

(a) FINDINGS.—Congress finds that—

(1) police departments and sheriffs confirm that this system is overloaded and that a large percentage of those calls are nonemergency calls;

(2) many communities have seen increases in their 911 call volumes of between 40 percent and 50 percent annually;

(3) police officers are forced to spend too much time in executive capacity situations, which eliminates time for proactive community policing; and

(4) efforts to limit the use of 911 by using general telephone numbers, and educating the public to reference a general number in the telephone book have been ineffective.

(b) PURPOSE.—The purposes of this section are—

(1) to encourage the Federal Communications Commission to reserve the 311 nonemergency number on a national basis for use by the public in responding to nonemergency police telephone calls; and

(2) to establish a Federal assistance program to assist States and localities in establishing 311 nonemergency systems and to educate citizens in the use of 911 and 311.

(c) AUTHORITY TO MAKE 311 NON-EMERGENCY GRANTS.—(1) The Attorney General, acting through the Director of the Office of Community Oriented Policing Services, may make grants to States, units of local government, Indian tribes, and Indian organizations that are public safety agencies.

(2) The Attorney General may promulgate regulations and guidelines to carry out this section.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund to carry out this section—

(1) such sums as may be necessary for each of the fiscal years 1998 through 2000; and

(2) $30,000,000 in each of the fiscal years 2001 and 2002.

SEC. 104. TECHNICAL AMENDMENT.

Section 1001(a)(11)(B) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended by striking "150,000" each place it appears and inserting "100,000".

Subtitle B—Violent Offender Incarceration and Truth-In-Sentencing Grants

SEC. 121. FORMULA ALLOCATIONS.

Section 20106 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13706) is amended—

(1) in subsection (a)(1), by striking subparagraph (B) and inserting the following:

(B) FORMULA ALLOCATION.—The amount remaining after paragraph (1) shall be allocated as follows:

(i) 0.75 percent shall be allocated to each State that meets the requirements of section 20103(b), except that the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands shall be allocated to each State that meets the requirements of section 20103(b) to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made.

(ii) $174,000,000 for fiscal year 2001; and

(iii) $174,000,000 for fiscal year 2002.

(b) IN OTHER NONEMERGENCY CALLS.

(1) The Attorney General may promulgate regulations and guidelines to carry out this section.

(2) The Attorney General may promulgate regulations and guidelines to carry out this section.

(3) by adding at the end the following:

"(4) for hiring professional staff to supervise violent offenders following release from custody and officers of the court to speed the prosecution of violent offenders.".

Subtitle C—Domestic Violence

SEC. 131. EXTENSION OF VIOLENCE AGAINST WOMEN ACT.

(a) GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.—Section 1001(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(b)) is amended—

(1) in subparagraph (A), by striking "and" and inserting "and";

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

(1) in subparagraph (E), by striking "and" and inserting "and";

(2) in subparagraph (F), by striking "fiscal year 2002" and inserting "fiscal year 2001";

(3) by striking paragraph (3) and inserting the following:

(3) to establish a Federal assistance program to assist violent offenders following release from custody and provide law enforcement with training to speed the prosecution of violent offenders.

Subtitle C—Domestic Violence

SEC. 131. EXTENSION OF VIOLENCE AGAINST...
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SEC. 142. RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE.
Section 12300 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb) is amended by striking "and'' at the end; and
(2) in paragraph (5), by striking "and'' at the end; and
(3) by adding at the end the following:
"(G) $500,000 for fiscal year 2001; and
(H) $500,000 for fiscal year 2002;''.

SEC. 143. EXTENSION OF DNA IDENTIFICATION GRANTS FUNDING.
Section 12010 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14151) is amended—
(1) in paragraph (1), by striking "and'' at the end;
(2) in paragraph (4), by striking "and'' at the end; and
(3) by adding at the end the following:
"(6) $72,500,000 for fiscal year 2001; and
(7) $72,500,000 for fiscal year 2002;''.

(b) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—Section 1803(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14082(b)) is amended—
(1) in paragraph (4), by striking "and'' at the end; and
(2) in paragraph (5), by striking "and'' at the end and inserting a semicolon and
(3) by adding at the end the following:
"(6) $1,000,000 for fiscal year 2001; and
(7) $1,000,000 for fiscal year 2002;''.

SEC. 143. EXTENSION OF DNA IDENTIFICATION GRANTS FUNDING.
Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793a) is amended—
(1) by redesignating paragraphs (16) through (22) as paragraphs (12) through (17), respectively; and
(2) in paragraph (17), as redesignated—
(A) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;
(B) in subparagraph (D), as redesignated, by striking "and'' at the end;
(C) in subparagraph (E), as redesignated, by striking the period at the end and inserting a semicolon; and
(D) by adding at the end the following:
"(F) $17,500,000 for fiscal year 2001; and
(G) $17,500,000 for fiscal year 2002;''.

SEC. 144. EXTENSION OF BYRNE GRANT FUNDING.
Section 21010 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 3663) is amended—
(1) by striking "through 2000'' and inserting "through 2002;'';
(2) in paragraph (5), by striking "and'' at the end; and
(3) by adding at the end the following:
"(6) $10,000,000 for fiscal year 2001; and
(7) $10,000,000 for fiscal year 2002;''.

SEC. 145. EXTENSION OF TECHNICAL AUTOMATION GRANT FUNDING.
Section 21050(c) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14151(c)) is amended—
(1) in paragraph (1)—
(A) in subparagraph (D), by striking "and'' at the end;
(B) in subparagraph (E), by striking the period at the end and inserting a semicolon; and
(C) by adding at the end the following:
"(F) $7,500,000 for fiscal year 2001; and
(G) $7,500,000 for fiscal year 2002;''.

SEC. 146. EXTENSION OF GRANTS FOR STATE COURT PROSECUTORS.
Section 21602 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14063) is amended—
(1) in subsection (a)—
(A) by striking "other criminal justice participants'' and inserting "other criminal justice participants, in both the adult and juvenile systems,'';
(B) by striking "this Act'' and all that follows before the period at the end of the section and inserting "this Act, the Youth Violence, Crime, and Drug Abuse Control Act of 1997, and amendments thereto;'';
(2) by redesignating subsection (d) as subsection (e); and
(3) by inserting after subsection (c) the following:
"(d) Not less than 20 percent of the total amount appropriated to carry out this subtitle in each of the fiscal years 2001 and 2002 shall be made available for providing increased resources to State juvenile courts systems, and juvenile public defenders, and other juvenile court system participants;''.

SEC. 147. DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT OF 1996.—The Domestic Violence Prevention and Services Act (42 U.S.C. 3796bb) is amended by striking the period at the end and inserting a semicolon; and
(1) by redesignating paragraphs (16) through (22) as paragraphs (12) through (17), respectively; and
(2) by inserting immediately after paragraph (5) the following:
"(6) $250,000,000 for fiscal year 2001; and
(7) $250,000,000 for fiscal year 2002;''.

TITLE II—YOUTH VIOLENCE CONTROL
Subtitle A—Federal Juvenile Prosecutions
SEC. 201. INCREASED DETENTION, MANDATORY RESTITUTION, AND SENTENCING OPTIONS FOR YOUTH OFFENDERS.—Title 18, United States Code, is amended as follows:

$5037. Dispositional hearing
(a) In General.—
'(1) HEARING.—In a proceeding under section 5032(a), if the court finds a juvenile to be a juvenile delinquent, the court shall hold a hearing concerning the appropriate disposi- tion of the juvenile not later than 20 court days after the finding of juvenile delin- quency unless the court has ordered further study pursuant to subsection (e). The report to be a juvenile delinquency shall be prepared by the probation officer who would promptly provide a copy to the juve- nile, the attorney for the juvenile, and the attorney for the government. The report shall promptly provide a copy to the juve- nile impact information shall be included in the report, and victims, or in appropriate cases their official representatives, shall be pro- vided the opportunity to make a statement to the court in person or present any infor- mation in relation to the disposition.
'(2) ORDER OF RESTITUTION.—After the dispositional hearing, and after considering any pertinent policy statements promul- gated by the Sentencing Commission pursuant to title 28, the court shall enter an order of restitution pursuant to section 3556, and may suspend the findings of juvenile delinquency, place the juvenile on probation, commit the juvenile to official detention (including the possibility of a term of super- vised release), and impose any fine that would be authorized if the juvenile had been tried and convicted as an adult.
'(3) VICTIM IMPACT INFORMATION.—Victim impact information shall be included in the report, and victims, or in appropriate cases their official representatives, shall be pro- vided the opportunity to make a statement to the court in person or present any infor- mation in relation to the disposition.
'(4) APPLICABILITY OF OTHER PROVISIONS.—Sections 3563, 3564, and 3565 are applicable to an order placing a juvenile on probation.
'(5) RELEASE OR DETENTION.—With respect to release or detention pending an appeal or a motion for a writ of habeas dis- position, the court shall proceed pursuant to the provisions of chapter 207.
'(6) TERM OF PROBATION.—The term for which probation may be ordered for a juve- nile found to be a juvenile delinquent may not extend beyond the maximum term that would be authorized by section 3561(c) if the juvenile had been tried and convicted as an adult.
'(7) APPLICABILITY OF OTHER PROVISIONS.—Section 3624 shall apply to an order placing a juvenile in detention.
'(8) DURATION OF SUPERVISED RELEASE.—The term for which supervised release may be or- dered for a juvenile found to be a juvenile de- linquent may not extend beyond 5 years. Sections 3623, 3624, and 3583 shall apply to an order placing a juvenile on supervised release.
“(e) CUSTODY OF ATTORNEY GENERAL.—

“(1) IN GENERAL.—If the court desires more detailed information concerning a juvenile adjudicated to have committed an act of juvenile delinquency as an adjudication of delinquency, in the manner described in subparagraph (A) and such information relating to a juvenile described in this subsection, shall be restricted as prescribed by subsection (a).

SEC. 203. REINSTITUTING DISMISSED CASES.

Section 5036 of title 18, United States Code, is amended by adding at the end the following:

``(2) AUTHORITY.—

(A) IN GENERAL.—The Attorney General may make grants in accordance with this subsection to States, units of local government, or any combination thereof, to assist them in planning, establishing, and operating secure facilities, staff-secure facilities, detention centers, and other correctional programs for violent juvenile offenders;

(B) USE OF AMOUNTS.—Grants under this subsection may be used—

(i) for colocated facilities for adult prisoners and violent juvenile offenders;

(ii) for the construction of new secure facilities, staff-secure facilities, detention centers, and other correctional programs for violent juvenile offenders;

(iii) for the conversion of existing facilities to accommodate violent juvenile offenders;

(C) the term ‘violent juvenile offender’ means a person under the age of majority pursuant to State law who has been adjudicated delinquent or convicted in adult court of a violent felony as defined in section 924(e)(2)(B) of title 18, United States Code; and

(D) the term ‘qualifying State’ means a State of a State or unit of local government that seeks to receive a grant under this section.

(3) APPLICATIONS.—To be eligible to receive a grant under this subsection, an Indian tribe shall submit to the Attorney General an application in such form and containing such information as the Attorney General may by regulation require.

(4) GRANTS TO INDIAN TRIBES.—Of amounts reserved under paragraph (1), the Attorney General shall reserve for each of the fiscal years 1998 through 2002—

(A) in general.—An Indian tribe shall receive a grant under this subsection in an amount determined by the Attorney General to be necessary to carry out the purposes of this Act.

(B) use of amounts.—Grants under this subsection may be made available to carry out section 214 of the Violent Crime Control and Law Enforcement Act of 1994, the Attorney General shall reserve from each amount made available—

(i) the Attorney General may make grants to eligible States for the construction of or the renovation of such facilities as described in section 2002.

(C) RESERVATION OF FUNDS.—Of amounts made available to carry out section 204 of this Act under section 1008 of the Violent Crime Control and Law Enforcement Act of 1994, the Attorney General shall reserve, to carry out this section, 0.75 percent for each of the fiscal years 1998 through 2002.

(D) GRANTS TO INDIAN TRIBES.—Of amounts reserved under paragraph (1), the Attorney General may make grants to Indian tribes or to regional groups of Indian tribes for the construction of or the renovation of such facilities as described in section 2002.

(5) PERFORMANCE EVALUATION.—

(A) EVALUATION COMPONENTS.—

(i) in general.—Each facility or program funded under this subsection shall contain an evaluation component developed pursuant to the guidelines established by the Attorney General; and

(ii) outcome measures.—The evaluations required by this subsection shall include outcome measures that determine the effectiveness of the funded programs, including the effectiveness of such programs in comparison with other correctional programs or in reducing the incidence of recidivism, and other outcome measures.

(B) PERIODIC REVIEW AND REPORTS.—

(i) IN GENERAL.—The Attorney General shall review the performance of each grant recipient under this subsection.

(ii) REPORTS.—The Attorney General may require a grant recipient to submit to the Attorney General the results of the evaluations required under paragraph (a) and such other data and information as are reasonably necessary to carry out the responsibilities of the Attorney General under this subsection.

(6) TECHNICAL ASSISTANCE AND TRAINING.—

The Attorney General may provide technical assistance and training to grant recipients under this subsection to achieve the purposes of this subsection.

SEC. 204. JUVENILE FACILITIES ON TRIBAL LANDS.

(A) GRANTS TO INDIAN TRIBES.—Of amounts reserved under paragraph (1), the Attorney General may make grants to Indian tribes or to regional groups of Indian tribes for the construction of or the renovation of such facilities as described in section 2002.
SEC. 215. CERTAIN PUNISHMENT AND GRADUATED SANCTIONS FOR YOUTH OFFENDERS.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) juvenile violent behavior constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent youth violence;

(B) the behavior of youth who become violent offenders often follow a progression, beginning with aggressive behavior in school, truancy, truant behavior, leading to property crimes and then serious violent offenses;

(C) the juvenile justice systems in most States do not equip to provide meaningful sanctions to most nonviolent offenders because most of their resources are dedicated to dealing with more serious offenders;

(D) in most States, some youth commit multiple, nonviolent offenses without facing any significant criminal sanction;

(E) the failure to provide meaningful criminal sanctions for first time, nonviolent offenders sends the false message to youth that they can engage in antisocial behavior without suffering any negative consequences and that society is unwilling or unable to restrain that behavior;

(F) studies demonstrate that interventions during the early stages of a criminal career can halt the progression to more serious, violent behavior; and

(G) juvenile courts need access to a range of sentencing options so that at least some level of punishment as a result of their initial contact with the juvenile justice system; and

(B) increasing the sentencing options available to juvenile judges so that juvenile offenders receive increasingly severe sanctions—

(i) as the seriousness of their unlawful conduct increases;

(ii) for each additional offense.

(c) APPLICATIONS.—

(1) ELIGIBILITY.—In order to be eligible to receive a grant under this section, the chief executive of a State, unit of local government, or Indian tribe, or the chief judge of a local court, shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(2) REQUIREMENTS.—Each application submitted in accordance with paragraph (1) shall include—

(A) a request for a grant to be used for the purposes described in this section;

(B) a description of the communities to be served by the grant, including the extent of youth crime and violence in those communities;

(C) written assurances that Federal funds received under this subtitle will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection;

(D) a comprehensive plan described in paragraph (3) in this section referred to as the “comprehensive plan”;

(E) any additional information in such form and containing such information as the Attorney General may reasonably require.

(3) IMPLEMENTATION PLAN.—For purposes of paragraph (2), a comprehensive plan shall include—

(A) an action plan outlining the manner in which the State will achieve the purposes described in subsection (c)(1);

(B) a description of any resources available in the jurisdiction of the applicant to implement the action plan described in subparagraph (A);

(C) an estimate of the costs of full implementation of the plan; and

(D) a plan to evaluate the impact of the grant on the jurisdiction’s juvenile justice system.

(e) GRANT AWARDS.—

(1) IN GENERAL.—In awarding grants under this section, the Attorney General shall consider—

(A) the ability of the applicant to provide the stated purpose;

(B) the level of youth crime, violence, and drug use in the community; and

(c) to the extent practicable, achievement of an equitable geographic distribution of the grant awards.

(2) ALLOCATIONS.—

(A) IN GENERAL.—The Attorney General shall allot not less than 0.75 percent of the total amount made available to carry out this section in each fiscal year to applicants that have applied for grants under this section.

(B) INDIAN TRIBES.—The Attorney General shall allocate not less than 0.75 percent of the total amount made available to carry out this section in each fiscal year to Indian tribes.

(i) STATE OF GRANT AMOUNTS.—

(1) IN GENERAL.—Each grant made under this section shall be used to establish programs that—

(A) provide services and interventions for status offenders and nonviolent offenders to ensure that sanctions are enforced;

(B) provide aftercare and supervision for status and nonviolent offenders, such as drug testing and treatment, mandatory job training, curfews, house arrest, mandatory work programs, and family counseling;

(C) encourage private sector employees to provide training and work opportunities for status offenders and nonviolent offenders; and

(D) provide services and interventions for status and nonviolent offenders designed, in tandem with criminal sanctions, to reduce the likelihood of further criminal behavior.

(ii) PROHIBITION ON USE OF AMOUNTS.—

(A) DEFINITIONS.—In this paragraph—

(i) the term “alien” has the same meaning as in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)); and

(ii) the terms “secure detention facility” and “secure correctional facility” have the same meanings as in section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603).

(e) GRANT LIMITATIONS.—Not more than 3 percent of the amounts made available under this section may be used for administrative purposes.

(f) FEDERAL SHARE.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Federal share of a grant made under this subtitle may not exceed 90 percent of the total estimated costs of the program described in the comprehensive plan submitted under subsection (d) for the fiscal year for which the program receives assistance under this section.

(2) WAIVER.—The Attorney General may waive, in whole or in part, the requirements of paragraph (1).

(g) IN-KIND CONTRIBUTIONS.—For purposes of paragraph (1), in-kind contributions may constitute any portion of the non-Federal share of a grant under this section.

(i) REPORT AND EVALUATION.—

(1) TO THE ATTORNEY GENERAL.—Not later than October 1, 1998, and October 1 of each year thereafter, each grant recipient.
under this section shall submit to the Attorney General a report that describes, for the year to which the report relates, any progress achieved in carrying out the comprehensive plan of the grant recipient.

(2) EVALUATION AND REPORT TO CONGRESS.—Not later than March 1, 1999, and March 1 of each year thereafter, the Attorney General shall submit to Congress an evaluation and report that contains a detailed statement regarding grant activities, awards, grants to recipient governments, a compilation of statistical information provided by grant recipients under this section, and an evaluation of programs established by grant recipients under this section.

(3) CRITERIA.—In assessing the effectiveness of the programs established and operated by grant recipients pursuant to this section, the Attorney General shall consider—

(A) a comparison between the number of first time offenders who received a sanction for criminal behavior in the jurisdiction of the grant recipient before and after initiation of the program;

(B) changes in the recidivism rate for first time offenders in the jurisdiction of the grant recipient;

(C) comparison of the recidivism rates and the seriousness of future offenses of first time offenders in the jurisdiction of the grant recipient that receive a sanction and those that do not;

(D) changes in truancy rates of the public schools in the jurisdiction of the grant recipient;

(E) changes in the arrest rates for vandalism and other property crimes in the jurisdiction of the grant recipient;

(4) DOCUMENTS AND INFORMATION.—Each grant recipient under this section shall provide the Attorney General with all documents and information that the Attorney General determines to be necessary to conduct an evaluation of the effectiveness of programs funded under this section.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section from the Violent Crime Reduction Trust Fund—

(1) such sums as may be necessary for each of the fiscal years 1998 and 1999; and

(2) $175,000,000 for each of the fiscal years 2000 and 2001.

Subtitle C—Juvenile Gun Courts

SEC. 221. DEFINITIONS.

In this subtitle—

(1) the term `firearm' has the same meaning as in section 921 of title 18, United States Code;

(2) the term `firearm offender' means any individual charged with an offense involving the illegal possession, use, transfer, or threatened use of a firearm; and

(3) the term `local court' means any section or division of a State or municipal juvenile court system;

(4) the term `juvenile gun court' means a special division of a State or local juvenile court system, or a specialized docket within a State or local court that considers exclusively cases involving juvenile firearm offenses.

SEC. 222. GRANT PROGRAM.

The Attorney General may provide grants in accordance with this subtitle to States, States determined to be needed by grant recipients pursuant to this section; and, in lieu of, a term of incarceration, shall result in, to the maximum extent permitted under State law, a term of imprisonment, and

(9) to allow transfer of a case or an offender out of the gun court by agreement of the parties, subject to court approval.

SEC. 226. GRANT LIMITATIONS.

Not more than 5 percent of the amounts made available to the Attorney General or a grant recipient under this subtitle may be used for administrative purposes.

SEC. 227. FEDERAL SHARE.

In general.—Subject to subsections (b) and (c), the Federal share of a grant made under this subtitle may not exceed 90 percent of the total cost of the program or program activities funded under this subtitle.

(b) WAIVER.—The Attorney General may waive, in whole or in part, the requirements of subsection (a).

(c) IN-KIND CONTRIBUTIONS.—For purposes of subsection (a), in-kind contributions may constitute any portion of the non-Federal share of a grant under this subtitle.

(d) CONTINUED AVAILABILITY OF GRANT FUNDS.—Any amounts provided to a grant recipient under this subtitle shall remain available until expended.

SEC. 228. REPORT AND EVALUATION.

(a) REPORT TO THE ATTORNEY GENERAL.—Not later than March 1 of each year hereafter, each grant recipient under this subtitle shall submit to the Attorney General a report that describes, for the period during which the recipient continues any progress achieved in carrying out the comprehensive plan of the grant recipient.

(b) EVALUATION AND REPORT TO CONGRESS.—Not later than October 1, 1996, and October 1 of each year thereafter, the Attorney General shall submit to Congress an evaluation and report that contains a description of the extent to which the report relates, any progress achieved in carrying out the comprehensive plan of the grant recipient, and a description of the amount of funds made available to the Attorney General or a grant recipient under this subtitle.

(c) DOCUMENTS AND INFORMATION.—Each grant recipient under this subtitle shall provide the Attorney General with all documents and information that the Attorney General determines necessary to conduct an evaluation of the effectiveness of programs funded under this subtitle.
SEC. 229. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle from the Violent Crime Reduction Trust Fund:

(1) such sums as may be necessary for each of the fiscal years 1998, 1999, and 2000; and

(2) $50,000,000 for fiscal year 2001; and

(3) $50,000,000 for fiscal year 2002.

Subtitle D—Gang Violence Reduction

PART 1—INCREASED PENALTIES FOR GANG-RELATED ACTIVITIES

SEC. 241. GANG FRANCHISING.

(a) IN GENERAL.—Chapter 26 of title 18, United States Code, is amended by adding at the end the following:

``[45x451]§ 3281. Capital offenses and Class A felonies involving murder

``(a) IN GENERAL.—In an indictment for any offense punishable by death or an indictment or information for a Class A felony involving murder (as defined in section 1111 or as defined under applicable State law in the case of an offense under section 1968(a) involving racketeering activity described in section 1961(1)) may be found at any time without limitation.

``(b) APPLICABILITY.—The amendment made by subsection (a) applies to any offense for which the applicable statute of limitations had not run as of the date of enactment of this Act.

``§ 3295. Class A violent and drug trafficking offenses

``Except as provided in section 3281, no person shall be prosecuted, tried, or punished for a Class A felony that is a crime of violence or a drug trafficking crime (as defined in section 101(42)) unless the indictment is returned or the information is filed within 10 years after the commission of the offense.''

(b) CONFORMING AMENDMENTS.—The chapter analysis for chapter 26 of title 18, United States Code, is amended by adding at the end the following:

``§ 322. Interstate franchising of criminal street gangs.''

SEC. 242. GANG FRANCHISING AS A RICO PREDICATE.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking `"or" before `(E)'; and

(2) by inserting `, a trap and trace device, or a clone pager''; and

``trap and trace device, and clone pager''; and

``possesses''; and

``possesses ''.

SEC. 243. INCREASE IN OFFENSE LEVEL FOR PARTICIPATION IN CRIME AS GANG MEMBER.

(a) DEFINITION OF CRIMINAL STREET GANG.—In this section, the term "criminal street gang" means the term defined in section 521 of title 18, United States Code.

(b) SENTENCING ENHANCEMENT.—Pursuant to its authority under section 994(p)(1) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement for participation in the activities of a criminal street gang if the defendant is a member of the criminal street gang at the time of the offense.

(c) CONSISTENCY.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishment for substantially the same offense.

SEC. 244. INCREASED PENALTY FOR USE OF FIREARMS IN RELATION TO VIOLENT AND DRUG TRAFFICKING CRIMES.

(a) IN GENERAL.—Chapter 26 of title 18, United States Code, is amended—

``§ 929. Class A violent and drug trafficking offenses

``(b) APPLICABILITY.—The amendment made by subsection (a) applies to any offense for which the applicable statute of limitations had not run as of the date of enactment of this Act.

``(c) CONFORMING AMENDMENTS.—The chapter analysis for chapter 26 of title 18, United States Code, is amended—

(1) in the section heading, by striking `(A) influence, delay, or prevent the testimony of any person in an official proceeding; (B) cause or induce any person to withdraw testimony, or withhold a record, document, or other object, from an official proceeding; (C) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding; (D) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; and (E) be absent from an official proceeding to which such person has been summoned by legal process; or

``(3) IN GENERAL.ÐChapter 213 of title 18, United States Code, is amended by adding at the end the following:

``§ 3281. Capital offenses and Class A felonies involving murder

``(a) IN GENERAL.—In an indictment for any offense punishable by death or an indictment or information for a Class A felony involving murder (as defined in section 1111 or as defined under applicable State law in the case of an offense under section 1968(a) involving racketeering activity described in section 1961(1)) may be found at any time without limitation.''

(b) APPLICABILITY.—The amendment made by subsection (a) applies to any offense for which the applicable statute of limitations had not run as of the date of enactment of this Act.

``§ 3295. Class A violent and drug trafficking offenses

``Except as provided in section 3281, no person shall be prosecuted, tried, or punished for a Class A felony that is a crime of violence or a drug trafficking crime (as defined in section 101(42)) unless the indictment is returned or the information is filed within 10 years after the commission of the offense.''

``(c) CONFORMING AMENDMENTS.—The chapter analysis for chapter 26 of title 18, United States Code, is amended—

(1) by striking `(E)'; and

(2) by inserting `(E)'; and

``trap and trace device, and clone pager''; and

``possesses''; and

``possesses ''.''

``§ 3281. Capital offenses and Class A felonies involving murder

``(a) IN GENERAL.—In an indictment for any offense punishable by death or an indictment or information for a Class A felony involving murder (as defined in section 1111 or as defined under applicable State law in the case of an offense under section 1968(a) involving racketeering activity described in section 1961(1)) may be found at any time without limitation.''

(b) APPLICABILITY.—The amendment made by subsection (a) applies to any offense for which the applicable statute of limitations had not run as of the date of enactment of this Act.

``§ 3295. Class A violent and drug trafficking offenses

``Except as provided in section 3281, no person shall be prosecuted, tried, or punished for a Class A felony that is a crime of violence or a drug trafficking crime (as defined in section 101(42)) unless the indictment is returned or the information is filed within 10 years after the commission of the offense.''

``(c) CONFORMING AMENDMENTS.—The chapter analysis for chapter 26 of title 18, United States Code, is amended—

(1) in the section heading, by striking `(A) influence, delay, or prevent the testimony of any person in an official proceeding; (B) cause or induce any person to withdraw testimony, or withhold a record, document, or other object, from an official proceeding; (C) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding; (D) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; and (E) be absent from an official proceeding to which such person has been summoned by legal process; or

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(b) APPLICABILITY.—The amendment made by subsection (a) applies to any offense for which the applicable statute of limitations had not run as of the date of enactment of this Act.

``§ 3295. Class A violent and drug trafficking offenses

``Except as provided in section 3281, no person shall be prosecuted, tried, or punished for a Class A felony that is a crime of violence or a drug trafficking crime (as defined in section 101(42)) unless the indictment is returned or the information is filed within 10 years after the commission of the offense.''

``(c) CONFORMING AMENDMENTS.—The chapter analysis for chapter 26 of title 18, United States Code, is amended—

(1) by striking `(E)'; and

(2) by inserting `(E)'; and

``trap and trace device, and clone pager''; and

``possesses''; and

``possesses ''.'
(4) in section 3122—
(A) in the section heading, by striking "OR A TRAP AND TRACE DEVICE" and inserting "A TRAP AND TRACE DEVICE, OR A CLONE PAGER"; and
(B) by striking "or a trap and trace device" each place that term appears and inserting "a trap and trace device, or a clone pager";

(5) in section 3123—
(A) in the section heading, by striking "OR A TRAP AND TRACE DEVICE" and inserting "A TRAP AND TRACE DEVICE, OR A CLONE PAGER";
(B) by striking subsection (a) and inserting the following:

(i) in paragraph (1)—
(I) in subparagraph (A), by striking the color of the authority of such law enforcement officer for the Government or the State law enforcement or investigative officer, that the information is not obtained or used by installing and use is relevant to an ongoing criminal investigation.

(ii) in paragraph (2), by striking "or trap and trace device" and inserting "and clone pagers";

(C) in subsection (b)—
(i) in paragraph (1)—
(I) in subparagraph (A), by striking the word "or" and inserting "and clone pagers;"

(ii) in paragraph (2), by striking "or trap and trace device" and inserting "or clone pagers;" and

(D) in subsection (c), by striking "or trap and trace device" and inserting "and clone pagers;" and

(E) in subsection (d)—
(i) in the section heading, by striking "OR TRAP AND TRACE DEVICE" and inserting "TRAP AND TRACE DEVICE, OR CLONE PAGER;" and

(ii) in paragraph (2), by striking "or the paging device, communications to which will be intercepted by the clone pager;" and

(F) by redesigning subsections (c) through (f) as subsections (d) through (g), respectively;

(C) by inserting after subsection (b) the following:

(c) CLONE PAGER.—Upon the request of an attorney for the Government or an officer of a law enforcement agency authorized to acquire and use a clone pager under this chapter, a Federal court may order, in accordance with section 3123(b)(2), a provider of a paging service or other person to furnish to such investigative or law enforcement officer, all information, facilities, and technical assistance necessary to accomplish the operation and use of a clone pager unobtrusively and with a minimum of interference with the services provided by such provider, so ordered by the court accords the party with respect to whom the programming and use is to take place.

(3) in section 3125—
(A) in the section heading, by striking "AND TRAP AND TRACE DEVICE" and inserting "TRAP AND TRACE DEVICE, AND CLONE PAGER;" and
(B) in subsection (a)—
(i) by striking "or trap and trace device" and inserting "a trap and trace device, or a clone pager;"

(ii) by striking the quotation marks at the end;

and

(iii) by striking "or trap and trace device" each place that term appears and inserting "a trap and trace device, or clone pager;"

(8) in section 3126—
(A) in the section heading, by striking "AND TRAP AND TRACE DEVICES" and inserting "TRAP AND TRACE DEVICES, AND CLONE PAGERS;" and
(B) by inserting after paragraph (4) the following:

(5) the term ‘‘clone pager’’ means a numeric display device that receives transmissions intended for another numeric display paging device;”.

(c) CONFORMING AMENDMENTS.—
(1) Section 2511(2)(H) of title 18, United States Code, is amended by striking clause (i) and inserting the following:

(i) to use a pen register, a trap and trace device, or a clone pager, as those terms are defined for the purposes of chapter 260 (relating to pen registers, trap and trace devices, and clone pagers) of this title; or

(2) Section 2512(1) of title 18, United States Code, is amended—

(A) in subparagraph (A), by striking "or a trap and trace device, or a clone pager (as those terms are defined in section 3127(5) of this title)"; and

(B) by inserting after paragraph (C) the following:

(7) if any transmission takes place from a device involved in the conspiracy to violate the civil rights of a person, or to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement for any offense in which the defendant—

(1) possessed a firearm equipped with a laser-sighting device; or

(2) possessed a firearm and the defendant (or another person at the scene of the crime who was aiding in the commission of the crime) possessed a laser-sighting device (capable of being readily attached to the firearm).

(b) SENTENCING ENHANCEMENT.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement for any offense in which the defendant—

(1) possessed a firearm equipped with a laser-sighting device; or

(2) possessed a firearm and the defendant (or another person at the scene of the crime who was aiding in the commission of the crime) possessed a laser-sighting device (capable of being readily attached to the firearm).

A TRAP AND TRACE DEVICE and inserting "a trap and trace device, or clone pager", "a trap and trace device", or a clone pager", and "trap and trace device, or a clone pager".

January 21, 1997

CONGRESSIONAL RECORD Ð SENATE

SEC. 253. PROHIBITIONS RELATING TO LASER SIGHTING DEVICES.

(a) Definitions.—In this section—

(1) the term ‘‘firearm’’ has the same meaning as in section 921 of title 18, United States Code; and

(2) the term ‘‘laser-sighting device’’ includes any device designed to be attached to a firearm that uses technology, such as laser sighting, red-dot-sighting, night sighting, telescopic sighting, or other similarly effective technology, in order to enhance target acquisition.

(b) Sentencing Enhancement.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement for any offense in which the defendant—

(1) possessed a firearm equipped with a laser-sighting device; or

(2) possessed a firearm and the defendant (or another person at the scene of the crime who was aiding in the commission of the crime) possessed a laser-sighting device (capable of being readily attached to the firearm).

A TRAP AND TRACE DEVICE and inserting "a trap and trace device, or clone pager", "a trap and trace device", or a clone pager", and "trap and trace device, or a clone pager".

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(2) possessed a firearm and the defendant (or another person at the scene of the crime who was aiding in the commission of the crime) possessed a laser-sighting device (capable of being readily attached to the firearm).

A TRAP AND TRACE DEVICE and inserting "a trap and trace device, or clone pager", "a trap and trace device", or a clone pager", and "trap and trace device, or a clone pager".

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(b) Sentencing Enhancement.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement for any offense in which the defendant—

(1) possessed a firearm equipped with a laser-sighting device; or

(2) possessed a firearm and the defendant (or another person at the scene of the crime who was aiding in the commission of the crime) possessed a laser-sighting device (capable of being readily attached to the firearm).

A TRAP AND TRACE DEVICE and inserting "a trap and trace device, or clone pager", "a trap and trace device", or a clone pager", and "trap and trace device, or a clone pager".
(i) not more than 90 percent of the amount that the State would otherwise receive under subtitle C of this title; and
(ii) not more than 90 percent of the amount that the State would otherwise receive under section 362 of title III.

(B) REALLOCATION OF AMOUNTS.—In each fiscal year, any amounts that are not allocated to States as provided in subparagraph (A) shall be allocated to otherwise eligible States that are in compliance with this section on a pro rata basis.

TITLE II—PREVENTION AND TREATMENT OF YOUTH DRUG ABUSE AND ADDICTION

Subtitle A—Protecting Youth From Dangerous Drugs

SEC. 301. RESCHEDULING OF “CLUB” DRUGS. Notwithstanding section 201 or subsection (a) or (b) of section 526(a) of the Controlled Substances Act (21 U.S.C. 811, 812(a), 812(b)) respecting the scheduling of controlled substances, the Attorney General shall, by order and after a public hearing, schedule, classify, or reschedule as the Attorney General deems necessary for each of the fiscal years 1998 through 2002 of which the following amount is in the Controlled Substances Trust Fund:

(1) $100,000,000 for fiscal year 2001; and
(2) $100,000,000 for fiscal year 2002.

PART 1—PHARMACOTHERAPY RESEARCH

SEC. 312. REAUTHORIZATION FOR MEDICATION DEVELOPMENT PROGRAM. Section 464(e) of the Public Health Service Act (42 U.S.C. 285o-4(e)) is amended to read:

“(e) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2002 of which the following amount may be appropriated from the Violent Crime Reduction Trust Fund:

1. $100,000,000 for fiscal year 2001; and
2. $100,000,000 for fiscal year 2002.”

PART 2—PATENT PROTECTIONS FOR MEDICATIONS

SEC. 331. RECOMMENDATION FOR INVESTIGATION OF DRUGS. Section 525(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360aa(a)) is amended—

(1) by striking “States” each place it appears and inserting “States, or for treatment of an addiction to illegal drugs”; and
(2) by striking “such disease or condition” each place it appears and inserting “such disease, condition, or treatment of such addiction.”

SEC. 332. DESIGNATION OF DRUGS. Section 526(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb(a)) is amended—

(1) in paragraph (1)—
(A) by inserting before the period in the first sentence the following: “or for treatment of an addiction to illegal drugs”;
(B) in the third sentence, by striking “rare disease or condition” and inserting “rare disease, or condition, or for treatment of an addiction to illegal drugs”; and
(C) by striking “such disease or condition” each place it appears and inserting “such disease, condition, or treatment of such addiction.”

(2) in paragraph (2)—
(A) by striking “(2) For” and inserting “(2)(A) For”;
(B) by striking “(A) affects” and inserting “(i) affects”; and
(C) by striking “(B) affects” and inserting “(ii) affects”; and

(3) by adding at the end the following:

“(B) TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.—The term ‘treatment of an addiction to illegal drugs’ means any pharmacotherapy, and includes—

(i) the eradication of an addiction to illegal drugs through any pharmacological effect that—

(A) reduces the craving for an illegal drug for an individual who—

“(ii) habitually uses the illegal drug in a manner that endangers the public health, safety, or welfare; or

(iii) is so addicted to the illegal drug that he is unable to control the addiction through the exercise of self-control;

(iv) blocks the behavioral and physiological effects of an illegal drug on an individual described in clause (i);

(v) safely serves as a replacement therapy for the treatment of drug abuse for an individual described in clause (i); or

(vi) prevents, where possible, the initiation of drug abuse in individuals at high risk.

(C) ILLEGAL DRUG.—The term ‘illegal drug’ means a controlled substance identified under schedules I, II, III, IV, and V in section 202(c) of the Controlled Substance Act (21 U.S.C. 821(c)).’’.

SEC. 333. PROTECTION FOR DRUGS. Section 529 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cc) is amended—

(1) by striking “rare disease or condition” each place it appears and inserting “such disease, condition, or treatment of an addiction”; and

(2) in subsection (b)(1), by striking “the disease or condition” and inserting “the disease, condition, or treatment of the addiction”;

and

(3) in subsection (b)(2), by striking “such disease or condition” each place it appears and inserting “such disease, condition, or treatment of the addiction”;

and

(4) that the drug shall have a reasonable cost of production.

SEC. 334. OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS. Section 528 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360dd) is amended—

(1) by striking “rare disease or condition” and inserting “rare disease or condition or for treatment of an addiction to illegal drugs”; and

(2) by striking “the disease or condition” each place it appears and inserting “the disease, condition, or addiction”;

PART 3—ENCOURAGING PRIVATE SECTOR DEVELOPMENT OF PHARMACOTHERAPIES

SEC. 341. DEVELOPMENT, MANUFACTURE, AND DISTRIBUTION FOR THE TREATMENT OF ADDICTION TO ILLEGAL DRUGS. Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended by adding at the end the following:

“Subchapter D—Drugs for Cocaine and Heroin Addictions

SEC. 552. CRITERIA FOR AN ACCEPTABLE DRUG TREATMENT FOR COCAINE AND HEROIN ADDICTIONS.

(a) General.—The Secretary may require—

(1) that the application to use the drug as a treatment and a randomly selected test group that received the drug as a treatment and a randomly selected control group that received a placebo; and

(2) that the performance based test conducted under paragraph (2) demonstrates that the drug is effective through evidence that—

(A) a significant number of the participants in the test who have an addiction to cocaine or heroin are willing to take the drug for the addiction; and

(B) a significant number of the participants in the test who have an addiction to cocaine or heroin and who were provided the drug for the addiction during the test are willing to continue taking the drug as long as necessary for the treatment of the addiction; and

(3) that the criteria established under subsection (a) shall, prior to the publication and application of such criteria, be submitted for review to the Committee on the Judiciary and the Committee on Economic and Educational Opportunities of the House of Representatives, and the Committee on Labor and Human Resources of the Senate. Not later than 90 days after notifying each of the committees, the Secretary shall publish the criteria in the Federal Register.

(b) Application.—

(1) In General.—The patent owner of a drug to treat an addiction to cocaine or heroin, may submit an application to the Secretary—

(A) to enter into a contract with the Secretary to sell to the Secretary the patent owner relating to the drug; or

(B) in the case in which the Secretary is approved by the Secretary for more than 1 indication, to enter into an exclusive licensing agreement with the Secretary for the manufacture and distribution of the drug to treat an addiction to cocaine or heroin.

(2) Requirements.—An application described in paragraph (1) shall be submitted at such time and in such manner, and accompanied by such information, as the Secretary may require.

(3) Contract and Licensing Agreement.—

(a) General.—Subject to subsections (b), (c), and (d), the Secretary shall, through the Institute of Medicine of the National Academy of Sciences, establish criteria for an acceptable drug for the treatment of an addiction to cocaine or heroin and for an acceptable drug for the treatment of an addiction to heroin. The criteria shall be established by the Secretary in a contract, or entering to a licensing agreement, under section 552.

(b) Requirements.—The criteria established under subsection (a) for a drug shall include requirements—

(1) that the application to use the drug for the treatment of addiction to cocaine or heroin was filed and approved by the Secretary under this Act after the date of enactment of this Act shall be approved by the Secretary under such Act after the date of enactment of this Act; and

(2) that a performance based test on the drug—

“(A) has been conducted through the use of a randomly selected test group that received the drug as a treatment and a randomly selected control group that received a placebo; and

(3) that the long term differences in the addiction levels of control group participants and test group participants—

(3) that the performance based test conducted under paragraph (2) demonstrates that the drug is effective through evidence that—

(A) a significant number of the participants in the test who have an addiction to cocaine or heroin are willing to take the drug for the addiction; and

(B) a significant number of the participants in the test who have an addiction to cocaine or heroin and who were provided the drug for the addiction during the test are willing to continue taking the drug as long as necessary for the treatment of the addiction; and

(c) Review and Publication of Criteria.—The criteria established under subsection (a) shall, prior to the publication and application of such criteria, be submitted for review to the Committee on the Judiciary and the Committee on Economic and Educational Opportunities of the House of Representatives, and the Committee on Labor and Human Resources of the Senate. Not later than 90 days after notifying each of the committees, the Secretary shall publish the criteria in the Federal Register.

(c) Special Rule.—The Secretary may enter into—

(1) not more than 1 contract or exclusive licensing agreement relating to a drug for the treatment of an addiction to cocaine and

(2) not more than 1 contract or licensing agreement relating to a drug for the treatment of an addiction to heroin.

(d) Special Rule.—The Secretary may enter into—

(1) a fixed agreement relating to a drug for the treatment of an addiction to cocaine or heroin.

(2) an agreement relating to a drug for the treatment of an addiction to heroin.

(f) Coverage.—A contract or licensing agreement described in subparagraph (A) or
(B) of paragraph (2) shall cover not more than $1 drug.

(4) PURCHASE AMOUNT.—Subject to amounts provided in advance in appropriations laws and to the terms of any contract or licensing agreement under this subsection relating to a drug to treat an addiction to cocaine shall not exceed $100,000,000; and

(8) the amount to be paid to a patent owner who has entered into a contract or licensing agreement under this subsection relating to a drug to treat an addiction to cocaine shall not exceed $50,000,000.

(c) TRANSFER OF RIGHTS UNDER CONTRACT OR LICENSING AGREEMENT.—

(1) CONTRACTS.—A contract under subsection (b)(1) to purchase the patent rights relating to a drug to treat cocaine or heroin addiction shall transfer to the Secretary—

(A) the exclusive right to make, use, or sell the patented drug within the United States for the term of the patent;

(B) any foreign patent rights held by the patent owner; and

(C) any patent rights relating to the process of manufacturing the drug; and

(D) any trade secret or confidential business information relating to the development of the drug, process for manufacturing the drug, or therapeutic effects of the drug relating to use of the drug to treat an addiction to cocaine or heroin shall transfer to the Secretary—

(A) the exclusive right to make, use, or sell the patented drug for the purpose of treating an addiction to cocaine or heroin within the United States for the term of the patent;

(B) the right to use any patented processes relating to manufacturing the drug; and

(C) any trade secret or confidential business information relating to the development of the drug, process for manufacturing the drug, and therapeutic effects of the drug relating to use of the drug to treat an addiction to cocaine or heroin. 

SEC. 553. PLAN FOR MANUFACTURE AND DEVELOPMENT. 

(a) In General.—Not later than 90 days after the date on which the Secretary purchases the patent rights of a patent owner, or enters into a licensing agreement with a patent owner, pursuant to subsection (b)(1) of section 551, the Secretary shall develop a plan for the manufacture and distribution of the drug.

(b) PLAN REQUIREMENTS.—The plan shall set forth—

(1) procedures for the Secretary to enter into licensing agreements with private entities for the manufacture and the distribution of the drug; 

(2) procedures for making the drug available to nonprofit entities and private entities to use in the treatment of a cocaine or heroin addiction; 

(3) a system to establish the sale price for the drug; and 

(4) criteria and procedures with respect to the use of Federal funds by States and local governments or nonprofit entities to purchase the drug from the Secretary.

(c) APPLICATION OF PROCUREMENT AND LICENSING LAWS.—The procurement and licensing laws of the United States shall apply to agreements and licenses covered under the plan described in subsection (a).

(d) REVIEW OF PLAN.—

(1) IN GENERAL.—Upon completion of the plan under subsection (a), the Secretary shall notify the Committee on the Judiciary and the Committee on Economic and Educational Opportunities of the House of Representatives, and the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate, of the development of the plan and publish the plan in the Federal Register. The Secretary shall provide an opportunity for public comment on the plan for a period of not more than 30 days after the date of the publication of the plan in the Federal Register.

(2) FINAL PLAN.—Not later than 60 days after the expiration of the comment period described in paragraph (1), the Secretary shall publish in the Federal Register a final plan. The implementation of the plan shall begin on the date of the final publication of the plan.

(e) CONSTRUCTION.—The development, publication, or implementation of the plan, or any other agency action with respect to the plan, shall not be considered agency action subject to judicial review.

(f) REGULATIONS.—The Secretary may promulgate regulations to carry out this section.

SEC. 554. AUTHORIZATION OF APPROPRIATIONS. 

"(a) AUTHORIZATION. — There is authorized to be appropriated for the manufacture and distribution of a drug to treat cocaine or heroin addiction—

"(1) $300,000,000 for fiscal year 2001; and

"(2) $300,000,000 for fiscal year 2002.

PART 2—DRUG COURTS

SEC. 361. REAUTHORIZATION OF DRUG COURTS PROGRAM. 


(1) in subparagraph (E), by striking “and” and inserting “; and”;

(2) in subparagraph (F), by striking the period at the end and inserting “; and”;

(3) in paragraph (2), by striking “; and” and inserting “; and shall remain available until expended;”;

(4) by striking paragraph (3) and inserting the following:

(3) by inserting after paragraph (2) the following:

"(G) $400,000,000 for fiscal year 2001; and

"(H) $400,000,000 for fiscal year 2002.”

SEC. 362. APPROPRIATIONS. 

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part Y as part Z;

(2) by inserting after section 2501 as section 2601; and

(3) by inserting after part X the following:

"PART Y—JUVENILE DRUG COURTS

SEC. 2501. GRANT AUTHORITY. 

"(a) APPROPRIATE DRUG COURT PROGRAMS.—The Attorney General may make grants to States, State courts, local courts, units of local government, and Indian tribes to establish programs that—

"(1) involve continuous judicial supervision over juvenile offenders, other than violent juvenile offenders with substance abuse, or substance abuse-related problems; and

"(2) integrate administration of other sanctions and services, including—

(A) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

(B) substance abuse treatment for each participant;

(C) diversion, probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress; and

(D) programmatic, offender management, and aftercare services such as relapse prevention, health care, education, vocational training, job placement, housing placement, and child care or other family support services for each participant who requires such services;

(E) payment by the offender of treatment costs, to the extent practicable, as costs for urinalysis or counseling; or

(F) payment, by the offender, restitution to the extent practicable, to either a victim of the offense at issue or to a restitution or similar victim support fund.

"(b) ADDITIONAL AUTHORITY.—The Attorney General may make grants to States, State courts, local courts, units of local government, and Indian tribes to establish programs that—

"(1) provide community-based services and treatment other than court-ordered treatment to individuals charged with an offense during the course of which the offense was committed;

"(2) provide community-based services and treatment to individuals charged with an offense during the course of which the offense was committed and who are not subject to court-ordered treatment; and

"(3) enhance and improve the provision of community-based services and treatment for offenders and individuals with addiction or other substance-related problems;

"(4) provide services to individuals with addiction or other substance-related problems who are not charged with an offense; and

"(5) improve coordination of services and treatment among community-based and other programs.

SEC. 363. APPROPRIATIONS. 

There is authorized to be appropriated to carry out this part—

"(1) $400,000,000 for fiscal year 2001; and

"(2) $400,000,000 for fiscal year 2002.

PART 3—VIOLENT OFFENDERS

SEC. 364. ADMINISTRATION. 

(a) REGULATORY AUTHORITY.—The Attorney General shall issue regulations and guidelines necessary to carry out this part.

(b) GRANTS.—There is authorized to be appropriated to carry out this part—

"(1) $400,000,000 for fiscal year 2001; and

"(2) $400,000,000 for fiscal year 2002.

"(3) specify plans for obtaining necessary consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program; and

"(4) certify that participating offenders will be supervised by one or more designated judges with responsibility for the drug court program.

"(b) GRANTS.—There is authorized to be appropriated to carry out this part—

"(1) $400,000,000 for fiscal year 2001; and

"(2) $400,000,000 for fiscal year 2002.

"(3) provide to States, State courts, local courts, units of local government, and Indian tribes, grants to establish programs that—

"(4) provide community-based services and treatment other than court-ordered treatment to individuals charged with an offense during the course of which the offense was committed;

"(5) provide community-based services and treatment to individuals charged with an offense during the course of which the offense was committed and who are not subject to court-ordered treatment; and

"(6) enhance and improve the provision of community-based services and treatment for offenders and individuals with addiction or other substance-related problems; and

"(7) improve coordination of services and treatment among community-based and other programs.
SEC. 2505. APPLICATIONS.

"To request funds under this part, the chief executive or the chief justice of a State, or the chief executive or chief judge of a unit of general government, or an Indian tribe shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

SEC. 2506. FEDERAL SHARE.

"(a) In General.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the program described in the application submitted under section 2505 for the fiscal year for which the program receives assistance under this part. The Attorney General may waive, in whole or in part, the requirement of a matching contribution under subsection (a).

"(c) In-Kind Contributions.—In-kind contributions may constitute a portion of the non-Federal share of a grant under this part.

SEC. 2507. DISTRIBUTION OF FUNDS.

"(a) Geographical Distribution.—The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made.

"(b) The Attorney General shall allocate 0.75 percent of amounts made available under this subtitle for grants to Indian tribes.

SEC. 2508. REPORT.

"A State, Indian tribe, or unit of local government that receives funds under this part during a fiscal year shall submit to the Attorney General, in March of the year following receipt of a grant under this part, a report regarding the effectiveness of programs established pursuant to this part.

SEC. 2509. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

"(a) Technical Assistance and Training.—The Attorney General may provide technical assistance and training in furtherance of the purposes of this part.

"(b) Evaluations.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General may carry out or make arrangements for evaluations of programs that receive support under this part.

"(c) Administration.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, in collaboration with the Secretary of Health and Human Services, or through grants, contracts, or other cooperative arrangements with other entities.

SEC. 2510. NON-FEDERAL FUNDS.

"The Attorney General may reallocate any grant funds that are not awarded for juvenile drug courts under this part for use for other juvenile delinquency and crime prevention initiatives.

SEC. 2511. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part:

"(1) such sums as may be necessary for each of the fiscal years 1998, 1999, and 2000; and
"(2) the services will be available to each person admitted to the program.

"(c) Individualized Plan of Services.—A funding agreement for an award under subsection (a) for an applicant that—

"(i) in providing authorized services for an eligible person pursuant to such subsection, the applicant will, in consultation with the juvenile and, if appropriate the parent or guardian of the juvenile, prepare an individualized plan for the provision to the juvenile in a youth or adult correctional facility, or who has been discharged, including referrals to any public or nonprofit private entity, for the provision of services.

"(ii) the services will be made available to each person admitted to the program.

"(d) Eligible Supplementary Services.—Grants under subsection (a) may be used to provide an eligible juvenile, the following services:

"(1) Hospital Referrals.—Referrals for necessary hospital services.

"(2) HIV and AIDS Counseling.—Counseling on the human immunodeficiency virus and on acquired immune deficiency syndrome.

"(3) Domestic Violence and Sexual Abuse Counseling.—Counseling on domestic violence and sexual abuse.

"(4) Preparations for Reentry into Society.—Planning for and counseling to assist reentry into society, both before and after release, of juveniles who are subject to subsection (a), a subparagraph (A) regarding the provision of services, the requirements established in such subparagraph regarding a participation agreement shall be waived by the Director if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third party payor, including reimbursement under any insurance policy or any Federal or State health benefits plan.

"(ii) Voluntary Donations.—A determination by the Director of the applicability of subparagraph (A) or any subparagraph (B) referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the entity accepts voluntary donations intended for the provision of services to the public.

"(C) Mental Diseases.—

"(i) In General.—With respect to any authorized service that is available pursuant to the State plan described in subparagraph (A), the requirements established in such subparagraph shall not apply to the provision of an authorized service by an institution for mental diseases to an individual who has attained 21 years of age and who has not attained 65 years of age.

"(ii) Definition of Institution for Mental Diseases.—In this subparagraph, the term 'institution for mental diseases' has the same meaning as in section 1905(s) of the Social Security Act (42 U.S.C. 1396d(i)).

"(F) Requirements for Matching Funds.—

"(I) In General.—With respect to the costs of the program to be carried out by an applicant pursuant to subsection (a), a funding agreement for an award under such subsection is not less than $1 for each $9 of Federal funds provided in the award.

"(II) For any second such fiscal year, is not less than $1 for each $9 of Federal funds provided in the award; and

"(C) for any subsequent such fiscal year, is not less than $1 for each $3 of Federal funds provided in the award.

"(2) Determination of Amount Contributed.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(3) Outreach.—A funding agreement for an award under subsection (a) for an applicant is the applicant who will provide outreach services in the community involved to identify juveniles who are engaging in substance abuse and to encourage the juveniles to undergo treatment for such abuse.

"(4) Mental Diseases.—

"(D) Individualized Plan of Services.—A funding agreement for an award under subsection (a) for an applicant that—

"(I) in providing authorized services for an eligible person pursuant to such subsection, the applicant will, in consultation with the juvenile and, if appropriate the parent or guardian of the juvenile, prepare an individualized plan for the provision to the juvenile in a youth or adult correctional facility, or who has been discharged, including referrals to any public or nonprofit private entity, for the provision of services.

"(ii) the services will be made available to each person admitted to the program.

"(d) Eligible Supplementary Services.—Grants under subsection (a) may be used to provide an eligible juvenile, the following services:

"(1) Hospital Referrals.—Referrals for necessary hospital services.

"(2) HIV and AIDS Counseling.—Counseling on the human immunodeficiency virus and on acquired immune deficiency syndrome.

"(3) Domestic Violence and Sexual Abuse Counseling.—Counseling on domestic violence and sexual abuse.

"(4) Preparations for Reentry into Society.—Planning for and counseling to assist reentry into society, both before and after release, of juveniles who are subject to subsection (a), a subparagraph (A) regarding the provision of services, the requirements established in such subparagraph regarding a participation agreement shall be waived by the Director if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third party payor, including reimbursement under any insurance policy or any Federal or State health benefits plan.

"(ii) Voluntary Donations.—A determination by the Director of the applicability of subparagraph (A) or any subparagraph (B) referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the entity accepts voluntary donations intended for the provision of services to the public.

"(C) Mental Diseases.—

"(i) In General.—With respect to any authorized service that is available pursuant to the State plan described in subparagraph (A), the requirements established in such subparagraph shall not apply to the provision of an authorized service by an institution for mental diseases to an individual who has attained 21 years of age and who has not attained 65 years of age.

"(ii) Definition of Institution for Mental Diseases.—In this subparagraph, the term 'institution for mental diseases' has the same meaning as in section 1905(s) of the Social Security Act (42 U.S.C. 1396d(i)).

"(F) Requirements for Matching Funds.—

"(I) In General.—With respect to the costs of the program to be carried out by an applicant pursuant to subsection (a), a funding agreement for an award under such subsection is not less than $1 for each $9 of Federal funds provided in the award.

"(II) For any second such fiscal year, is not less than $1 for each $9 of Federal funds provided in the award; and

"(C) for any subsequent such fiscal year, is not less than $1 for each $3 of Federal funds provided in the award.

"(2) Determination of Amount Contributed.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(3) Outreach.—A funding agreement for an award under subsection (a) for an applicant is the applicant who will provide outreach services in the community involved to identify juveniles who are engaging in substance abuse and to encourage the juveniles to undergo treatment for such abuse.
``(h) ACCESSIBILITY OF PROGRAM.—A funding agreement for an award under subsection (a) for an applicant is that the program operated pursuant to such subsection will be operated in a location that is accessible to low income juveniles.

``(i) CONTINUING EDUCATION.—A funding agreement for an award under subsection (a) is that the applicant will make arrangements for continuing education in treatment services for the individuals who will provide treatment in the program to be operated by the applicant pursuant to such subsection.

``(j) IMPOSITION OF CHARGES.—A funding agreement for an award under subsection (a) is that, if a charge is imposed for the provision of authorized services to or on behalf of an eligible juvenile, such charge—

``(1) will be made according to a schedule of charges that is made available to the public;

``(2) will be adjusted to reflect the economic condition of the juvenile involved; and

``(3) will not be imposed on any such juvenile whose family has an income of less than 185 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 673(2)).

``(k) REPORTS TO DIRECTOR.—A funding agreement for an award under subsection (a) is that the applicant will submit to the Director a report—

``(1) describing the utilization and costs of services provided under the award;

``(2) specifying the number of juveniles served and the type and costs of services provided; and

``(3) providing such other information as the Director determines to be appropriate.

``(l) OF APPLICATION.—The Director may make an award under subsection (a) only if an application for an award is submitted to the Director containing such agreements, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Director determines to be necessary to carry out this section.

``(m) EQUITABLE ALLOCATION OF AWARDS.—In making awards under subsection (a), the Director shall ensure that the awards are equitably allocated among the principal geographic regions of the United States, as well as among Indian tribes, subject to the availability of qualified applicants for the awards.

``(n) DURATION OF AWARD.—

``(1) IN GENERAL.—The period during which payments are made to an entity from an award under this section may not exceed 5 years.

``(2) APPROVAL OF DIRECTOR.—The provision of payments described in paragraph (1) shall be subject to—

``(A) annual approval by the Director of the amounts to be authorized; and

``(B) the availability of appropriations for the fiscal year at issue to make the payments.

``(3) NO LIMITATION.—This subsection may not be construed to establish a limitation on the number of awards that may be made to an entity under this section.

``(o) EVALUATIONS; DISSEMINATION OF FINDINGS.—The Director shall, directly or through contract, provide for the conduct of evaluations of programs carried out pursuant to subsection (a). The Director shall disseminate to the States the findings made as a result of the evaluations.

``(p) REPORTS TO CONGRESS.—Not later than October 1, 1998, the Director shall submit to the Committee on the Judiciary of the House of Representatives, and to the Committee on the Judiciary of the Senate, a report describing programs carried out pursuant to this section.

``(q) PERIODIC REPORTS.—

``(A) IN GENERAL.—Not less than biennially after the date described in paragraph (l), the Director shall prepare a report describing the obligations of the Director during the preceding 2-year period, and shall submit the report to the Administrator for inclusion in the biennial report under section 175.

``(B) SUMMARY.—Each report under this subsection shall include a summary of any evaluations conducted under subsection (m) during the period with respect to which the report is prepared.

``(r) DEFINITIONS.—In this section:

``(1) AUTHORIZED SERVICES.—The term ‘authorized services’ means treatment services and supplementary services.

``(2) JUVENILE.—The term ‘juvenile’ means anyone 18 years of age or younger at the time that admission to a program operated pursuant to subsection (a) is submitted to the Director.

``(3) ELIGIBLE JUVENILE.—The term ‘eligible juvenile’ means a juvenile who has been admitted to a program operated pursuant to subsection (a).

``(4) FUNDING AGREEMENT UNDER SUBSECTION (A).—The term ‘funding agreement under subsection (a),’ with respect to an award under subsection (a), means that the Director may make the award only if the applicant makes the agreement involved.

``(5) TREATMENT SERVICES.—The term ‘treatment services’ means treatment for substance abuse, including the counseling and services described in subsection (c)(2).

``(6) SUPPLEMENTAL SERVICES.—The term ‘supplemental services’ means the services described in subsection (d).

``(f) AUTHORIZATION OF APPROPRIATIONS.—

``(1) IN GENERAL.—For the purpose of carrying out this section and section 576 there is authorized to be appropriated such sums as may be necessary for fiscal years 1998, 1999, and 2000. There is authorized to be appropriated from the Violent Crime Reduction Trust Fund $100,000,000 in each of the fiscal years 2001 and 2002.

``(2) TRANSFER.—For the purpose described in paragraph (1), in addition to the amounts authorized to be appropriated for a fiscal year, there is authorized to be appropriated for the fiscal year from the special forfeiture fund of the Director of the Office of National Drug Control Policy such sums as may be necessary.

``(3) RULE OF CONSTRUCTION.—The amounts authorized in this subsection to be appropriated are in addition to any other amounts that are authorized to be appropriated and are available for the purpose described in paragraph (1).

``(g) MARIJUANA USAGE IN ARIZONA AND CALIFORNIA.—

``(1) SEC. 381. STUDY ON EFFECTS OF CALIFORNIA AND ARIZONA MARIJUANA INITIATIVES.

``(a) DEFINITION.—In this section, the term ‘controlled substance’ has the same meaning as in section 101 of the Controlled Substances Act (21 U.S.C. 801).

``(b) STUDY.—The Director of National Drug Control Policy, in consultation with the Attorney General and the Secretary of Health and Human Services, shall conduct a study on the effect of the 1996 voter referenda in California and Arizona concerning the medicinal use of marijuana and other controlled substances, respectively, on—

``(1) marijuana usage in Arizona and California;

``(2) usage of other controlled substances in Arizona and California;

``(3) perceptions of youth of the dangerousness of marijuana and other controlled substances in Arizona and California;

``(4) emergency room admissions for drug abuse in Arizona and California;

``(5) seizures of controlled substances in Arizona and California;

``(6) arrest rates for use of controlled substances in Arizona and California;

``(7) arrest rates for trafficking of controlled substances in Arizona and California;

``(8) conviction rates in cases concerning use of controlled substances in Arizona and California; and

``(9) conviction rates in jury trials concerning use of controlled substances in Arizona and California.

``(c) REPORT.—Not later than January 1, 1998, the Director of National Drug Control Policy, in consultation with the Attorney General and the Secretary of Health and Human Services, shall—

``(1) issue a report on the results of the study under subsection (b); and

``(2) submit a copy of the report to the Committees on the Judiciary of the House of Representatives and the Senate.

``(d) AUTHORIZATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1998 and 1999.

``(e) AUTHORIZATION OF APPROPRIATIONS.—

``(1) IN GENERAL.—For the purpose of carrying out this section and section 576 there is authorized to be appropriated such sums as may be necessary for fiscal years 1998, 1999, and 2000. There is authorized to be appropriated from the Violent Crime Reduction Trust Fund $100,000,000 in each of the fiscal years 2001 and 2002.

``(2) TRANSFER.—For the purpose described in paragraph (1), in addition to the amounts authorized to be appropriated for a fiscal year, there is authorized to be appropriated for the fiscal year from the special forfeiture fund of the Director of the Office of National Drug Control Policy such sums as may be necessary.

``(3) RULE OF CONSTRUCTION.—The amounts authorized in this subsection to be appropriated are in addition to any other amounts that are authorized to be appropriated and are available for the purpose described in paragraph (1).

``(g) MARIJUANA USAGE IN ARIZONA AND CALIFORNIA.—

``(1) SEC. 381. STUDY ON EFFECTS OF CALIFORNIA AND ARIZONA MARIJUANA INITIATIVES.

``(a) DEFINITION.—In this section, the term ‘controlled substance’ has the same meaning as in section 101 of the Controlled Substances Act (21 U.S.C. 801).

``(b) STUDY.—The Director of National Drug Control Policy, in consultation with the Attorney General and the Secretary of Health and Human Services, shall conduct a study on the effect of the 1996 voter referenda in California and Arizona concerning the medicinal use of marijuana and other controlled substances, respectively, on—

``(1) marijuana usage in Arizona and California;

``(2) usage of other controlled substances in Arizona and California;

``(3) perceptions of youth of the dangerousness of marijuana and other controlled substances in Arizona and California;

``(4) emergency room admissions for drug abuse in Arizona and California;

``(5) seizures of controlled substances in Arizona and California;

``(6) arrest rates for use of controlled substances in Arizona and California;

``(7) arrest rates for trafficking of controlled substances in Arizona and California;

``(8) conviction rates in cases concerning use of controlled substances in Arizona and California; and

``(9) conviction rates in jury trials concerning use of controlled substances in Arizona and California.

``(c) REPORT.—Not later than January 1, 1998, the Director of National Drug Control Policy, in consultation with the Attorney General and the Secretaries of Health and Human Services, shall—

``(1) issue a report on the results of the study under subsection (b); and

``(2) submit a copy of the report to the Committees on the Judiciary of the House of Representatives and the Senate.

``(d) AUTHORIZATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1998 and 1999.
(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and
(2) avoid duplicative punishment for substantially the same offense.

SEC. 392. TECHNICAL CORRECTION TO ENSURE COMPLIANCE OF FEDERAL SENTENCING GUIDELINES WITH FEDERAL LAW.

Section 994(a) of title 28, United States Code, is amended by striking "consistent with all pertinent provisions of this title and title 18, United States Code," and inserting "consistent with all pertinent provisions of Federal law.

TITLE IV—PROTECTING YOUTH FROM VIOLENT CRIME

Subtitle A—Grants for Youth Organizations

SEC. 401. GRANT PROGRAM.

The Attorney General may make grants to States, Indian tribes, and national nonprofit organizations in crime prone areas, such as Boys and Girls Clubs, Police Athletic Leagues, 4-H Clubs, D.A.R.E. America, and Kids ‘N Kops programs, for the purpose of—

(1) providing constructive activities to youth during after school hours, weekends, and school vacations to prevent the criminal victimization of participating youth;
(2) providing supervised activities in safe environments to youth in crime prone areas;
(3) providing antidrug education to prevent drug abuse;
(4) supporting police officer training and salaries and educational materials to expand D.A.R.E. America’s middle school campaign; or
(5) providing constructive activities to youth in a safe environment through parks and other public recreation areas.

SEC. 402. NATIONAL ORGANIZATIONS.

(a) APPLICATIONS.—

(1) ELIGIBILITY.—In order to be eligible to receive a grant under this section, the chief operating officer of a national community-based organization shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(2) APPLICATION REQUIREMENTS.—Each application submitted in accordance with paragraph (1) shall include—

(A) a request for a grant to be used for the purposes described in this subtitle;
(B) a description of the communities to be served by the grant, including the nature of juvenile crime, violence, and drug use in the community;
(C) written assurances that Federal funds received under this subtitle will be used to supplement and not supplant, non-Federal funds that would otherwise be available for activities funded under this subtitle;
(D) written assurances that all activities will be supervised by an appropriate number of responsible adults; and
(E) a plan for assuring that program activities will take place in a secure environment that is free of crime and drugs.

(b) GRANT AWARDS.—In awarding grants under this section, the Attorney General shall consider—

(1) the ability of the applicant to provide the stated services;
(2) the history and establishment of the applicant in the community to be served;
(3) the level of juvenile crime, violence, and drug use in the community;
(4) the extent to which structured extracurricular activities for youth are otherwise unavailable in the community;
(5) the need in the community for secure environments for youth to avoid criminal victimization and exposure to crime and illegal drugs;
(6) the extent to which youth in the program compared to youth in the community at large;
(7) the percentage of youth participating in the program that are victimized by acts of crime or delinquency compared to youth in the community at large; and
(8) the percentage of youth participating in the program that uses drugs compared to youth in the community at large.

(c) DOCUMENTS AND INFORMATION.—Each grant award recipient under this subtitle shall submit to the Attorney General with all documents and information that the Attorney General determines to be necessary to conduct an evaluation of the effectiveness of programs funded under this subtitle.

SEC. 403. GRANTS TO STATES.

(a) IN GENERAL.—The Attorney General may make grants under this section to States for distribution to units of local government and community-based organizations for the purposes set forth in section 401.

(b) GRANTS.—To request a grant under this section, the Attorney General shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(c) APPLICATION REQUIREMENTS.—Each application submitted in accordance with paragraph (2) shall include—

(1) a request for a grant to be used for the purposes described in this subtitle;
(2) a description of the communities to be served by the grant, including the nature of juvenile crime, violence, and drug use in the community;
(3) written assurances that Federal funds received under this subtitle will be used to supplement and not supplant, non-Federal funds that would otherwise be available for activities funded under this subtitle;
(4) written assurances that all activities will be supervised by an appropriate number of responsible adults; and
(5) whether the applicant has an established record of providing extracurricular activities that are generally not otherwise available to youth in the community.

(d) ALLOCATION.—

(1) STATE ALLOCATIONS.—The Attorney General shall allocate not less than 0.75 percent of the total amount made available each fiscal year to each State that has applied for a grant under this section.

(2) INDIAN TRIBES.—The Attorney General shall allocate not less than 0.25 percent of the total amount made available each fiscal year to Indian tribes, in accordance with the criteria set forth in subsections (a) and (b).

(3) REMAINING AMOUNTS.—Of the amount remaining after the allocations under paragraphs (1) and (2), the Attorney General shall allocate funds to each State an amount that bears the same ratio to the total amount of remaining funds as the population of the State bears to the total population of all States.

SEC. 404. LOAN PROGRAM.

(a) ALLOCATION.—Of funds made available to carry out this section, the Attorney General shall consider—

(1) the ability of the applicant to provide the stated services;
(2) the number of youth participating in the program; and
(3) the extent to which the grant enabled the provision of activities to youth that would not otherwise be available; and

(b) GRANT LIMITATION.—Not more than 3 percent of the funds made available to the Attorney General or a grant recipient under this subtitle may be used for administrative purposes.

SEC. 405. REPORT AND EVALUATION.

(a) REPORT TO THE ATTORNEY GENERAL.—Not later than October 1, 1998, and October 1 of each year thereafter, each grant recipient under this subtitle shall submit to the Attorney General a report that describes, for the year to which the report relates—

(1) the activities provided;
(2) the number of youth participating; and
(3) the extent to which the grant enabled the provision of activities to youth that would not otherwise be available; and

(b) EVALUATION AND REPORT TO CONGRESS.—Not later than March 1 of each year thereafter, the Attorney General shall submit to the Congress an evaluation and report that contains a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by grant recipients under this subtitle, and an evaluation of programs established by grant recipients under this subtitle.

(c) CRITERIA.—In assessing the effectiveness of the programs established and operated by grant recipients pursuant to this subtitle, the Attorney General shall consider—

(1) the number of youth served by the grant recipient;
(2) the percentage of youth participating in the program charged with acts of delinquency or crime compared to youth in the community at large; and
(3) the percentage of youth participating in the program that uses drugs compared to youth in the community at large.

(d) DOCUMENTS AND INFORMATION.—Each grant recipient under this subtitle shall provide the Attorney General with all documents and information that the Attorney General determines to be necessary to conduct an evaluation of the effectiveness of programs funded under this subtitle.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle from the Violent Crime Reduction Trust Fund—

(1) such sums as may be necessary for each of the fiscal years 1998 through 2000; and
(2) for fiscal year 2001, $125,000,000; and
(3) for fiscal year 2002, $125,000,000.

(b) CONTINUED AVAILABILITY.—Amounts made available under this subtitle shall remain available until expended.

Subtitle B—“Say No to Drugs” Community Centers Act of 1997

SEC. 421. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This subtitle may be cited as the “‘Say No to Drugs Community Centers Act of 1997’.

(b) DEFINITIONS.—For purposes of this subtitle—

(1) the term ‘community-based organization’ means a private, locally initiated organization that—

(A) is a nonprofit organization, as that term is defined in section 103(c)(2) of the [Juvenile] Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(23)); and

(B) involves the participation, as appropriate, of members of the community and community institutions, including—

(i) business and civic leaders actively involved in providing employment and business development opportunities in the community;

(ii) educators;
(iii) religious organizations (which shall not provide any sectarian instruction or sectarian worship in connection with program activities funded under this subtitle); (iv) religious organizations; and (v) other interested parties;

(2) the term "eligible community" means a community:

(A) identified by an eligible recipient for assistance under this subtitle; and

(B) an area that meets such criteria as the Attorney General may, by regulation, establish, including criteria relating to poverty, juvenile delinquency, and crime;

(3) the term "eligible recipient" means a community-based organization or public school that has

(A) been approved for eligibility by the Attorney General, upon application submitted to the Attorney General in accordance with section 412(b); and

(B) demonstrated that the projects and activities it seeks to support in an eligible community involve the participation, when feasible and appropriate, of—

(i) parents, family members, and other members of the eligible community;

(ii) civic and religious organizations serving the eligible community;

(iii) school officials and teachers employed at schools located in the eligible community;

(iv) public housing residents organization in the eligible community; and

(v) public and private nonprofit organizations and organizations serving youth that provide education, child protective services, or other human services to low income, at-risk youth and their families;

(4) the term "poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 672(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved; and

(5) the term "public school" means a public elementary school, as defined in section 120(i)(j) of the Higher Education Act of 1965 (20 U.S.C. 1141(i)); and

SEC. 422. GRANT REQUIREMENTS.

(a) In General.—The Attorney General may make grants to eligible recipients, which grants may be provided to youth living in eligible communities during after school hours or summer vacations, the youth living in eligible communities during after school hours or summer vacations, the youth in the eligible community expected to be served under the program for which the grant is sought; and the Federal share of the costs of developing and carrying out programs described in this section.

(b) Federal Share.—The Federal share of the cost of a grant made under this subtitle shall not be more than—

(A) 75 percent of the total cost of the program for each of the first 2 years of the duration of a grant;

(B) 70 percent of the total cost of the program for the third year of the duration of a grant; and

(C) 60 percent of the total cost of the program for each year thereafter.

(c) Non-Federal Share.—(A) In general.—The non-Federal share of the cost of a program under this subtitle may be in cash or in kind, fairly evaluated, including plant, equipment, and services.

(B) Special Rule.—Not less than 15 percent of the non-Federal share of the costs of a program under this subtitle shall be provided from private or nonprofit sources.

(d) Program Authority.—

(I) IN GENERAL.—(A) ALLOCATIONS FOR STATES AND INDIAN TRIBES.— (i) In general.—In any fiscal year in which the amount made available to carry out this subtitle is equal to or less than $20,000,000, from the amount made available to carry out this subtitle, the Attorney General shall allocate not less than 0.75 percent of grants under subparagraph (B) to eligible recipients in each State.

(ii) INDIAN TRIBES.—The Attorney General shall allocate not less than 5 percent of amounts made available under this subtitle for grants to Indian tribes.

(B) GRANTS TO COMMUNITY-BASED ORGANIZATIONS AND PUBLIC SCHOOLS FROM ALLOCATIONS.—For each fiscal year described in subparagraph (A), the Attorney General may award grants from the appropriate State or Indian tribe allocation determined under subparagraph (A) on a competitive basis to eligible recipients to pay for the Federal share of the costs of assisting eligible communities to develop and carry out programs in accordance with this subtitle.

(C) REALLOCATION.—If, at the end of a fiscal year described in subparagraph (A), the Attorney General determines that amounts allocated for a particular State or Indian tribe under subparagraph (B) remain unobligated, the Attorney General shall use such amounts to award grants to eligible recipients in another State or Indian tribe to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this subtitle.

(D) AVAILABILITY OF AMOUNTS.—Amounts made available under this paragraph shall remain available until expended.

(e) Other Fiscal Years.—In any fiscal year in which the amount made available to carry out this subtitle is equal to or less than $20,000,000, the Attorney General may award grants on a competitive basis to eligible recipients to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this subtitle.

(f) Administrative Costs.—The Attorney General may use not more than 3 percent of the amounts made available to carry out the activities described in any applicable administrative costs, including training and technical assistance.
SEC. 621. EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—Section 31003(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting "for fiscal year 2002, $6,500,000,000.";

(3) by adding at the end the following:

``(8) for fiscal year 2002, $6,500,000,000.''.

(b) BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1995.—Section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1995 (2 U.S.C. 902(b)) is amended—

(1) by striking all after "$4,904,000,000."; and

(2) by adding at the end the following:

``(E) For fiscal year 1999, $5,639,000,000.";

``(F) For fiscal year 2000, $6,225,000,000.";

``(G) For fiscal year 2001, $6,400,000,000.";

``(H) For fiscal year 2002, $6,225,000,000.";

(c) REDUCTION IN DISCRETIONARY SPENDING LIMITS.—Beginning on the date of enactment of this Act, the discretionary spending limits set forth in section 601(a)(1) of the Congressional Budget Act of 1974 (2 U.S.C. 665(a)(2) (as adjusted in conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, and in the Senate, with section 301 of House Concurrent Resolution 178 (104th Congress)) for fiscal years 2001 through 2002 are reduced as follows:

(1) for fiscal year 2001, for the discretionary category: $6,500,000,000 in new budget authority and $6,225,000,000 in outlays;

(2) for fiscal year 2002, for the discretionary category: $6,500,000,000 in new budget authority and $6,225,000,000 in outlays.

Mr. LEAHY. Mr. President, I am pleased to join with Senator Daschle and other Democrats in introducing S. 15, the Youth Violence, Crime and Drug Abuse Control Act.

Unfortunately, we need to look no further than today's headlines to see how badly we need this legislation. Over the past week, the chilling story has unfolded about Darryl Hall, a 12-year-old boy violently abduced on his way home from school in our Nation's Capital and then found dead and frozen.
with a gunshot to the back of his head. Three youths have been arrested, and the police suspect this heinous crime was the work of a gang. We must put a stop to the brutality of children killing children.

We also want to protect the children of this country from becoming victims of crime, from joining gangs, and from becoming drug addicts. This is not a partisan issue. Gang members do not ask their new recruits whether they are Republican or Democrat. Criminals do not ask before they strike whether their victim is Republican or Democrat. We in Congress need to make every effort to work together to get a handle on this problem.

The Democratic crime initiative we are introducing today builds on and continues the proven elements of the 1994 crime bill and takes the next steps to confront the problems of youth crime, drug abuse and gang violence. Our bill targets youthful offenders for certain crimes when they commit violent acts and offers helpful treatment when they need it. Although the number of juveniles arrested for violent crimes dipped in 1995, these numbers remain at unacceptable levels: sixty-five percent more juveniles were arrested for violent crimes in 1995 than in 1987.

Concern about the spread of gangs—the violence, the drug dealing and other criminal activity that gangs leave in their wake—has spread from our large cities to rural American towns. Indeed, one of the major factors responsible for the increases in juvenile crime over the past decade is the growth of criminal street gangs across this country. Although places such as Los Angeles or New York City first spring to mind when the word “gang” is mentioned, gangs are spreading across State boundaries and are problems today in many rural areas, as well as in our urban communities.

In my days as a prosecutor, gangs were unheard of in Vermont. Unfortunately, this is no longer the case. Just last month, the Vermont Corrections Commissioner reported significant increases in gang activity occurring in Vermont’s prisons. There are also reports that franchises of the “Los solidos” gang have set up shop in Rutland, and the “la familia” gang has moved into St. Johnsbury.

Gangs, which corrupt our youth, and disturb the tranquility of our streets. They are a problem we all now face, and they are a driving force in the crime wave which this Congress and the Federal Government must address, in partnership with our States and communities and with law enforcement authorities at all levels.

What do we propose to do about it? First, we hope to work constructively with our colleagues from the other side of the aisle to deal with the problems.

The Democratic leadership bill builds on the successes of the 1994 crime law, which is putting 100,000 cops on our Nation’s streets and increased prevention and intervention efforts to keep children safe from crime and drugs. Specifically, it will:

1. Expand the community oriented policing [cops] program to put 25,000 more cops on the beat;
2. Continue the Violence Against Women Act by providing $600 million to prosecute batterers, shelter 400,000 battered women and their children and continue the national domestic violence hotline; and
3. Provide $5 billion to build prisons so that States can rear up serious violent offenders to serve at least 85 percent of their sentences will be better able to house criminals.

The Democratic crime bill also looks to the future with new laws and programs to crack down on violent youth crime.

Specifically, our bill would increase the penalties for illegally using “gang paraphernalia” such as body armor and laser sighting devices. Police officers use kevlar vests to protect their lives and hence our public safety. When criminals use kevlar vests, they do so to ensure their escape and enjoy the fruits of their crime. Under this bill, they would get more time when they are caught using such body armor in the commission of a crime.

The bill also makes it easier for law enforcement to use clone beepers to investigate gang activity. Bepers are how gang members and drug dealers keep in touch with each other. One tool law enforcement uses to investigate these criminals is a “clone beeper,” which displays the same numbers displayed on the beepers of targeted criminals. This bill will permit law enforcement to get a clone beeper with the court order they already use to get information on the numbers dialed to or from a telephone. This is not to be confused with wiretap order to eavesdrop on what people say; clone beepers only give information on the numbers displayed on the beeper. The bill will speed up the process for law enforcement to get “clone beepers.”

Our bill would double the penalty for using physical violence or threatening physical violence on a witness, victim or informant. Nothing undermines our system of justice more than scaring people away from providing information that helps the police, prosecutors, judges and juries from finding the truth.

The bill would create a new federal crime for expanding gangs across State borders and increase penalties for using firearms to commit drug trafficking crimes and violent crimes.

We also propose several needed changes in the juvenile justice system to respond to the need to crack down on violent youth with the full force of the law. This means increasing the incarceration periods for juvenile offenders so that they may be incarcerated until the age of 26 instead of mandatory release at the age of 21, streamlining procedures for prosecuting violent juveniles as adults, and building more prisons to incarcerate juvenile offenders. In addition, our bill creates new juvenile gun and drug courts to speed prosecution and sentencing for drug abuse and weapons violations.

The bill also improves the rights of victims of violent juvenile crime. Whether the perpetrator of a violent crime is an adult or a juvenile, the victim should have the opportunity to speak to the sentencing judge and be entitled to restitution.

Drugs have had a devastating affect on our society. This bill includes measures to prevent and treat youth drug addiction. These measures include:

1. Providing $200 million investment in research and development of medicines to treat heroin and cocaine addiction;
2. Extending the drug courts program to force more than 500,000 adult and juvenile drug offenders to engage in a rigorous drug testing and drug treatment—or face certain imprisonment. This bill also protect children from becoming the victims of crime, with programs that would keep children like Darryl Hall in safer environments. This bill includes:
   - Extending the Safe and Drug Free Schools Program; and
   - Creating after-school “safe havens” where children are protected from drugs, gangs and crime in supervised and productive environments.

In Vermont, we have a very successful program called “Kids ‘N Kops” that brings school-age children and our law enforcement officers together in a fun and constructive way. Last spring, the attorney general attended an annual event in Vermont celebrating this program and urged that the program be replicated elsewhere in the country. This bill would help make that a reality.

Youth crime has many causes, and no one bill can solve them all. But that should not paralyze us from taking sensible steps, in partnership with States and communities of all sizes and in all regions of the Nation, to begin turning the tables on youth crime and...
drug abuse. This bill proposes a balanced approach combining strong, targeted law enforcement measures with the prevention efforts that law enforcement officers on the front lines tell us are necessary to make a dent in the problem.

In the final stages, the 1994 crime bill was passed over vigorous partisan obstacles and objections, and crime bills often spark some of our most partisan debates. But this time, we truly have the opportunity to pass a bipartisan bill with the active support of a president who is making youth crime prevention a priority in his second term and who supports the thrust of what we are proposing in this package. We have come forward with balanced, commonsense solutions to youth crime. We should debate and refine this bill as we go along, but these are not suggestions that should divide us along party lines.

We look forward to working with the administration, our Republican colleagues, and the Department of Justice—which has demonstrated its ability to move effectively in implementing anti-crime initiatives—in bringing these proposals to Congress’ front burner for debate and prompt action.

Mr. President, I am pleased to be an original cosponsor of this Democratic leadership bill—the youth violence, crime, and drug abuse bill.

Crime ranks among the highest concerns of all Americans, no matter what their race or social background. Louisiana is no exception. In a recent poll, 86 percent of Louisiana said crime is a serious problem, ranking it as the No. 1 problem in our State. The city of New Orleans is experiencing a murder rate that is eight times higher than the national average. People want us and their local governments and State governments to do something about this problem.

The Federal Bureau of Investigation recently released statistics showing that serious and violent crime dropped nationwide in the first half of last year. It is good news, certainly, that violent crime in this country has gone down; but the bad news is that juvenile crime is on the increase. Youth crimes, particularly homicides perpetrated with guns, have skyrocketed. The average cost of incarcerating a juvenile for just 1 year is somewhere between $23,000 and $64,000. I strongly support this Democratic legislation because it focuses directly on juveniles, punishes violent youthful offenders, and provides more access to treatment and prevention programs.

We must continue the success of the COPS Program and put 25,000 more cops on the beat. We must create a new Federal crime targeting the interstate franchising spread of criminal street gangs and other crimes aimed at gang violence, such as increasing the penalties for witness intimidation. We must extend the drug court program to force some 500,000 drug offenders to engage in rigorous drug testing and treatment, or face imprisonment and, finally, we must continue to provide funds to arrest and prosecute batterers and shelter 400,000 battered women. Mr. President, this bill includes all of these provisions, and I would urge my colleagues to support it.

For the sake of generations to come, it is time that we attack crime with a renewed vigor. Today’s juvenile criminal becomes tomorrow’s adult criminal. We must pass this legislation.

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. JOHNSON, Mr. DORGAN, Mr. CONRAD, Mr. KERRY, Mr. BAUCUS, Mr. BINGAMAN, Mr. KOHL, Mr. FEINGOLD, Mr. LEAHY, and Mr. WELSTOEN):

S. 16. A bill to ensure the continued viability of livestock producers and the livestock industry in the United States, to assure foreign countries do not deny market access to United States meat and meat products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

The CATTLE INDUSTRY IMPROVEMENT ACT OF 1997.

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

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

S. 16 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Cattle Industry Improvement Act of 1997.”

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

Title I—CATTLE INDUSTRY IMPROVEMENT

Sec. 1. Short title; table of contents.

Sec. 201. Short title.

Sec. 101. Prohibition on noncompetitive practices.

Sec. 102. Domestic market reporting.

Sec. 103. Import reporting.

Sec. 104. Protection of livestock producers against retaliation by packers.

Sec. 105. Review of Federal agriculture credit policies.

Sec. 106. Streamlining and consolidating the United States food inspection system.

Sec. 107. Labeling system for meat and meat food products produced in the United States.

Sec. 108. Streamlining and improving interstate shipment of State-inspected meat, poultry, and eggs.

Sec. 109. Exchange of cattle production data with Canada.

Title II—MARKET ACCESS FOR UNITED STATES MEAT PRODUCTS

Sec. 201. Short title.

Subtitle A—Identification of Countries

Sec. 211. Findings; purposes.

Sec. 212. Identification of countries that deny market access.

Sec. 213. Investigations.

Sec. 214. Authorized actions by United States Trade Representative.


Sec. 221. Findings.

Sec. 222. Definitions.

Sec. 223. Requirement for determination by United States Trade Representative.

Sec. 224. Request for dispute settlement.

Sec. 225. Review of certain meat facilities.

TITLe I—CATTLE INDUSTRY IMPROVEMENT

Sec. 101. PROHIBITION ON NONCOMPETITIVE PRACTICES.

Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended—

(1) in subsection (g), by striking the period at the end and inserting “; and”;

(2) by adding at the end the following:

“(h) Engage in any practice or device that the Secretary by regulation, after consultation with producers of cattle, lamb, and hogs, and other persons in the cattle, lamb, and hog industries, determines is a detrimen-

tal noncompetitive practice or device relating to the price or a term of sale for the procurement of livestock or the sale of meat or other byproduct of slaughter.”.

Sec. 102. DOMESTIC MARKET REPORTING.

(a) PERSONS IN SLAUGHTER BUSINESS.—Section 203(g) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(g)) is amended—

(1) by striking “(g)” and inserting the following:

“(g) COLLECTION AND DISSEMINATION OF MARKETING INFORMATION.—

“(1) IN GENERAL.—To”; and

(2) by adding at the end the following:

“(2) DOMESTIC MARKET REPORTING.—

“(A) MANDATORY REPORTING.—Each person engaged in the business of slaughtering a quantity of livestock determined by the Secretary shall report to the Secretary in such manner as the Secretary shall require, as soon as practicable but not later than 24 hours after a transaction takes place, such information relating to prices and the terms of sale for the procurement of livestock and the sale of meat food products and livestock products as the Secretary determines is necessary to carry out this subsection.

“(B) NONCOMPLIANCE.—Whoever knowingly fails or refuses to provide to the Secretary information required to be reported by subparagraph (A) shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

(c) VOLUNTARY REPORTING.—The Secretary shall encourage voluntary reporting by any person engaged in the business of slaughtering livestock who is not subject to subparagraph (A).

“(D) AVAILABILITY OF INFORMATION.—The Secretary shall make information received under this subsection available to the public only in the aggregate and shall ensure the confidentiality of persons providing the information.

(e) TERMINATION OF AUTHORITY.—The authority provided by this paragraph shall terminate on the date that is 1 year after the date of enactment of this paragraph, except that the Secretary may extend the authority beyond that date if the Secretary determines the extension is necessary or appropriate.”.

(b) ELIMINATION OF OUTMOdED REPORTS.—The Secretary of Agriculture, after consultation with producers and other affected parties, shall periodically—

(1) eliminate obsolete reports; and

(2) streamline the collection and reporting of data related to livestock and meat and livestock products, using modern data communications technology, to provide information to the public as close to a real-time basis as practicable.

(c) DEFINITION OF “CAPTIVE SUPPLY.”—For the purpose of regulations issued by the Secretary of Agriculture relating to reporting under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) and the Packers and
Stockyards Act, 1921 (7 U.S.C. 181 et seq.), the term “captive supply” means livestock obligated to a packer in any form of transaction in which more than 7 days elapses from the date of purchase to the date of delivery of the livestock.

SEC. 103. IMPORT REPORTING.
(a) IN GENERAL.—The Secretary of Agriculture and the Secretary of Commerce shall provide data communications technology to provide the information to the public on as close to a real-time basis as practicable, jointly make available to the public on a timely and quantity information on imported meat food products, live-stock products, and livestock (as the terms are defined in section 202(b) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182)).
(b) FIRST REPORT.—The Secretary shall release to the public the first report under subsection (a) not later than 90 days after the date of enactment of this Act.

SEC. 104. PROTECTION OF LIVESTOCK PRODUCERS AGAINST RETALIATION BY PACKERS.
(a) RETALIATION PROHIBITED.—Section 202(b) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(b)), is amended—
(1) by striking “or subject” and inserting “subject”;
(2) by inserting before the semicolon at the end the following: “or retaliate against any livestock producer on account of any statement made by the producer (whether made to the Secretary or a law enforcement agency or in a public forum) regarding an action of any packer or packers.”
(b) SPECIAL REQUIREMENTS REGARDING LEGATIONS OF RETALIATION.—Section 203 of the Packers and Stockyards Act, 1921 (7 U.S.C. 183), is amended by adding at the end the following:
“(e) SPECIAL PROCEDURES REGARDING LEGATIONS OF RETALIATION.—
(1) BY SPECIAL PANEL.—The President shall appoint a special panel consisting of 3 members to receive and initially consider a complaint submitted by any person that alleges prohibited packer retaliation under section 202(b) directed against a livestock producer.
(2) COMPLAINT; HEARING.—If the panel has reason to believe from the complaint or reasonable cause to believe from the complaint or after a hearing conducted, as the case may be, by the Secretary, the panel shall cause a complaint to be issued against the packer, and a hearing conducted, subsection (a).
(3) EVIDENTIARY STANDARD.—In the case of a complaint regarding retaliation prohibited under section 202(b), the Secretary shall find that the packer involved has violated or is violating section 202(b) if the finding is supported by a preponderance of the evidence.
(c) DAMAGES FOR PRODUCERS SUFFERING RETALIATION.—Section 203 of the Packers and Stockyards Act, 1921 (7 U.S.C. 183) is amended by adding at the end the following:
“(f) DAMAGES FOR PRODUCERS SUFFERING RETALIATION.—
(1) IN GENERAL.—If a packer violates the retaliation prohibition under section 202(b), the packer shall be liable to the livestock producer injured by the retaliation for not more than 3 times the amount of damages sustained as a result of the violation.
(2) ENFORCEMENT.—The liability may be enforced either by complaint to the Secretary of Agriculture or by governmental committee under section (e), or by suit in any court of competent jurisdiction.
(3) OTHER REMEDIES.—This subsection shall not abridge or alter a remedy existing at common law or by statute.

SEC. 105. REVIEW OF FEDERAL AGRICULTURE CREDIT POLICIES.
The Secretary of Agriculture, in consultation with the Secretary of the Treasury, the Chairman of the Federal Reserve System, and the Chairman of the Board of the Farm Credit Administration, shall establish an interagency working group to study—
(1) the extent to which Federal lending practices and policies have contributed, or are contributing, to market concentration in the livestock and meat food sectors of the national economy; and
(2) whether Federal policies regarding the financial system of the United States adequately take into account weather and price volatility risks inherent in livestock and dairy enterprises.

SEC. 106. STREAMLINING AND CONSOLIDATING THE UNITED STATES FOOD INSPECTION SYSTEM.
(a) PREPARATION.—In consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and all other interested parties, the President shall prepare a plan to consolidate the United States food inspection system that uses the best use of available resources to improve the consistency, coordination, and effectiveness of the United States food inspection system, taking into account food safety risks.
(b) SUBMISSION.—Not later than 1 year after the date of enactment of this Act, the President shall submit to Congress the plan prepared under subsection (a).

SEC. 107. LABELING SYSTEM FOR MEAT AND MEAT FOOD PRODUCTS PRODUCED IN THE UNITED STATES.
(a) LABELING.—Subsection 7(b) of the Federal Meat Inspection Act (21 U.S.C. 607) is amended by adding at the end the following:
“(g) LABELING OF MEAT OF UNITED STATES ORIGIN.—
(1) IN GENERAL.—The Secretary shall develop a system for the labeling of carcasses, parts of carcasses, and meat produced in the United States from livestock raised in the United States, and meat food products produced in the United States from the carcasses, parts of carcasses, and meat, to indicate the United States origin of the carcasses, parts of carcasses, meat, and meat food products.
(2) ASSISTANCE.—The Secretary shall provide technical and financial assistance to establish and maintain a labeling system under this title to implement the labeling system.
(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

SEC. 108. SENSE OF SENATE ON INTERSTATE SHIPMENT OF STATE-INSPECTED MEAT, POULTRY, AND EGGS.
It is the sense of the Senate that—

(1) not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall hold a public meeting of State inspection officials and all other interested parties to determine whether the interstate shipment of State-inspected meat, poultry, and egg products should be permitted; and
(2) the meeting should be structured to ensure that all parties are given an opportunity to present their views on the subject described in paragraph (1).

SEC. 109. EXCHANGE OF CATTLE PRODUCTION DATA WITH CANADA.
The Secretary of Agriculture shall seek immediate consultation with the Minister of Agriculture of Canada to provide for a regular monthly exchange of cattle production data, including cattle on feed, cattle slaughtered, and cattle and beef shipped to the United States.

SEC. 110. REVIEW OF FEDERAL AGRICULTURE CREDIT POLICIES.
The Secretary of Agriculture, in consultation with the Secretary of the Treasury, the Chairman of the Federal Reserve System, and the Chairman of the Board of the Farm Credit Administration, shall establish an interagency working group to study—
(1) the extent to which Federal lending practices and policies have contributed, or are contributing, to market concentration in the livestock and meat food sectors of the national economy; and
(2) whether Federal policies regarding the financial system of the United States adequately take into account weather and price volatility risks inherent in livestock and dairy enterprises.

SEC. 111. FINDINGS; PURPOSES.
(a) FINDINGS.—Congress makes the following findings:
(1) The export of meat and meat products is of vital importance to the economy of the United States.
(2) In 1995, agriculture was the largest positive contributor to the United States merchandise trade balance with a trade surplus of $25,800,000,000.
(3) The growth of exports of United States meat and meat products should continue to be an important factor in improving the United States merchandise trade balance.
(4) Increasing exports of meat and meat products will increase farm income in the United States, thereby protecting family farms and contributing to the economic well-being of rural communities in the United States.
(5) Although the United States efficiently produces high-quality meat and meat products, United States producers cannot realize significant export growth for foreign countries deny fair and equitable market access to United States agricultural products.
(6) The Foreign Agricultural Service estimates that United States agricultural exports are reduced by $4,700,000,000 annually due to unjustifiable imposition of sanitary and phytosanitary measures that deny or limit market access to United States products.
(7) The denial of fair and equitable market access for United States meat and meat products impedes the ability of United States farmers to export their products, thereby harming the economic interests of the United States.
(b) PURPOSES.—The purposes of this subtitle are—
(1) to reduce or eliminate foreign unfair trade practices and to remove constraints on fair and open trade in meat and meat products;
(2) to ensure fair and equitable market access for exports of United States meat and meat products; and
(3) to promote fair and free trade in meat and meat products.

SEC. 112. IDENTIFICATION OF COUNTRIES THAT DENY MARKET ACCESS.
(a) IDENTIFICATION REQUIRED.—Chapter 8 of title II of the Trade Act of 1974 is amended by adding the following:
“SEC. 113. IDENTIFICATION OF COUNTRIES THAT DENY MARKET ACCESS.
(a) IDENTIFICATION REQUIRED.—Chapter 8 of title II of the Trade Act of 1974 is amended by adding the following:
(1) those foreign countries that—
(A) deny fair and equitable market access to United States meat and meat products, or
(B) apply standards for the importation of meat and meat products from the United States that are not related to public health concerns or cannot be substantiated by reliable analytical methods; and
(2) those foreign countries identified under paragraph (1) that are determined by the Trade Representative to be priority foreign countries.
(1) CRITERIA.—In identifying priority foreign countries under subsection (a)(2), the

TITLE II—MARKET ACCESS FOR UNITED STATES MEAT PRODUCTS
SEC. 201. SHORT TITLE.
This title may be cited as the “Meat Products Market Access Act of 1997.”

SUBTITLE A—IDENTIFICATION OF COUNTRIES
SEC. 211. FINDINGS; PURPOSES.
(a) FINDINGS.—Congress makes the following findings:
(1) The export of meat and meat products is of vital importance to the economy of the United States.
(2) In 1995, agriculture was the largest positive contributor to the United States merchandise trade balance with a trade surplus of $25,800,000,000.
(3) The growth of exports of United States meat and meat products should continue to be an important factor in improving the United States merchandise trade balance.
(4) Increasing exports of meat and meat products will increase farm income in the United States, thereby protecting family farms and contributing to the economic well-being of rural communities in the United States.
(5) Although the United States efficiently produces high-quality meat and meat products, United States producers cannot realize significant export growth for foreign countries deny fair and equitable market access to United States agricultural products.
(6) The Foreign Agricultural Service estimates that United States agricultural exports are reduced by $4,700,000,000 annually due to unjustifiable imposition of sanitary and phytosanitary measures that deny or limit market access to United States products.
(7) The denial of fair and equitable market access for United States meat and meat products impedes the ability of United States farmers to export their products, thereby harming the economic interests of the United States.
(b) PURPOSES.—The purposes of this subtitle are—
(1) to reduce or eliminate foreign unfair trade practices and to remove constraints on fair and open trade in meat and meat products;
(2) to ensure fair and equitable market access for exports of United States meat and meat products; and
(3) to promote fair and free trade in meat and meat products.
SEC. 213. INVESTIGATIONS.

(a) INVESTIGATION REQUIRED.—Subparagraph (A) of section 302(b)(2) of the Trade Act of 1974 (19 U.S.C. 2417(b)(2)) is amended by striking the period at the end of subparagraph (A) and inserting the following: 

``(A) An investigation to determine whether the United States is under serious injury or threat of serious injury with respect to an investigation of a country under section 301(a) of the Trade Act of 1974 (19 U.S.C. 2411(c)(1)) is amended—''

SEC. 214. AUTHORIZED ACTIONS BY UNITED STATES TRADE REPRESENTATIVE.

(a) AUTHORITY TO MAKE RECOMMENDATIONS.—In determining whether to make recommendations under section 301(a) of the Trade Act of 1974 (19 U.S.C. 2411(c)(1)), the United States Trade Representative shall—

(1) take into account information from such sources as may be available to the Trade Representative and such information as may be submitted to the Trade Representative by interested persons, including information contained in reports submitted under section 181(b) and petitions submitted under section 202.

(2) FACTUAL BASIS REQUIREMENT.—The Trade Representative may make recommendations under section 301(a) only if the Trade Representative finds that there is a factual basis for the denial of fair and equitable market access as a result of the violation of international law or agreement, or the existence of barriers, referred to in subsection (d)(1).

(3) CONSIDERATION OF HISTORICAL FACTORS.—In making recommendations under section 301(a), the Trade Representative shall take into account—

(A) the history of meat and meat products trade relations with the foreign country, including any previous investigations under subsection (a)(2), and

(B) the history of efforts of the United States, and the response of the foreign country, to achieve fair and equitable market access for United States meat and meat products.

(c) REVOCATIONS AND ADDITIONAL IDENTIFICATIONS.—

(1) AUTHORITY TO REVOCATE IDENTIFICATIONS.—If the Trade Representative finds that the identification of a country under section 301(a)(1), to request that the Secretary of Agriculture (who, upon receipt of such a request, shall forward it to the Director of the Animal and Plant Health Inspection Service of the Department of Agriculture) conduct an inspection of the facilities of such country that export meat and meat agricultural products to the United States, has resulted in the finding, resulted in an Exchange of Letters, the United States Trade Representative is required to take the actions specified by the Exchange of Letters.

(2) REVOCATION REPORTS.—The Trade Representative shall include in the semiannual report submitted to the Committee on Finance and the Committee on Appropriations a detailed explanation of the reasons for the revocation under paragraph (1) of the identification of any foreign country as a priority foreign country under this section,

(d) FAIR AND EQUITABLE MARKET ACCESS.—For purposes of this section, a foreign country denies fair and equitable market access if the foreign country effectively denies access to a market for a product through the use of laws, procedures, practices, or regulations which—

(1) violate provisions of international law or international agreements to which both the United States and the foreign country are parties of or signatory to;

(2) constitute discriminatory nontariff trade barriers.
SEC. 224. REQUIREMENT FOR DETERMINATION BY UNITED STATES TRADE REPRESENTATIVE.

Not later than 30 days after the date of enactment of this Act, the United States Trade Representative shall determine, for purposes of section 306(b)(1) of the Trade Act of 1974, whether the European Union has failed to implement satisfactorily its obligations under the Exchange of Letters, the Agreement on the Application of Sanitary and Phytosanitary Measures, or any other Agreement.

SEC. 225. REQUEST FOR DISPUTE SETTLEMENT.

If the United States Trade Representative determines pursuant to section 224 that the European Union has failed to implement satisfactorily its obligations under the Exchange of Letters, the Agreement on the Application of Sanitary and Phytosanitary Measures, or any other Agreement, the United States Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures applicable to the Agreement.

SEC. 226. REVIEW OF CERTAIN MEAT FACILITIES.

(a) REVIEW BY FOOD SAFETY AND INSPECTION SERVICE OF THE DEPARTMENT OF AGRICULTURE TO DETERMINE WHETHER CERTAIN MEAT FACILITIES SHALL REQUEST THE SECRETARY OF AGRICULTURE TO DETERMINE WHETHER CERTAIN MEAT FACILITIES HAVE FAILED TO COMPLY WITH THE AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES. If the United States Trade Representative determines pursuant to section 224 that the European Union has failed to implement satisfactorily its obligations under the Exchange of Letters, the Agreement on the Application of Sanitary and Phytosanitary Measures, or any other Agreement, the United States Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures applicable to the Agreement.

(b) T A B L E OF CONTENTS.—The table of contents for this Act is as follows:

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(9) only a small fraction of individuals eligible for current Federal job training are now served, and by removing obstacles and layers of administrative costs, more funds will be available to individuals to enable such individuals to receive the job training of their choice; and (10) while the Federal Government processes to create a new marketplace for job training, the Federal Government must also maintain a commitment to providing intensive services to assist individuals who are economically disadvantaged.

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

(1) to enhance the choices available to dislocated workers, and economically disadvantaged adults, who want to upgrade their work skills and learn new skills to compete in a changing economy;

(2) to enable individuals to make choices that are best for the careers of such individuals;

(3) to consolidate job training programs and provide a simple voucher system that relies on individual choice and provides high quality job market information;

(4) to allow an individual to tailor job training and education to the personal needs of such individual so that such individual may remain in long-term employment yet have the means to be flexible as necessary; and

(5) to create a system that provides timely and reliable information to individuals to use to assist such individuals in making the best choices with respect to the use of vouchers for job training.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" means a private nonprofit organization that—

(A) is representative of a community or a significant segment of a community; and

(B) provides job training and employment-related services.

(2) DISLOCATED WORKER.—

(A) IN GENERAL.—The term "dislocated worker" means an individual—

(i) who has been terminated or laid off, or has received a notice of termination or layoff, from employment, is eligible for or has exhausted entitlement to unemployment compensation, and is unlikely to return to a previous industry or occupation;

(ii) who has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of a reorganization or permanent closure of, or any substantial layoff at, a plant, facility, or enterprise; and

(iii) who has been unemployed long-term and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which such individual resides, including an older individual who may have substantial barriers to employment by reason of age;

(2) DISLOCATED WORKER.—

(A) IN GENERAL.—The term "dislocated worker" means an individual—

(i) who has been terminated or laid off, or has received a notice of termination or layoff, from employment, is eligible for or has exhausted entitlement to unemployment compensation, and is unlikely to return to a previous industry or occupation;

(ii) who has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of a reorganization or permanent closure of, or any substantial layoff at, a plant, facility, or enterprise; and

(iii) who has been unemployed long-term and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which such individual resides, including an older individual who may have substantial barriers to employment by reason of age;

(iv) who is self-employed (including a farmer, a rancher, and a fisher) and is unemployed as a result of general economic conditions and natural disasters to which subparagraph (A)(iv) applies.

(v) who is an employee of the Department of Defense or of a private defense contractor who has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of the closure or realignment of a military installation, or a reduction in defense spending as determined by the Secretary of Defense.

(B) SPECIAL RULE FOR SELF-EMPLOYED INDIVIDUALS.—The Secretary of Labor shall establish categories of self-employed individuals and economic conditions and natural disasters to which subparagraph (A)(iv) applies.

The working americans opportunity act

By Mr. DASCHLE (for himself, Mr. BREAUX, Mr. KENNEDY, Mr. DODD, Ms. MOSLEY-BRAUN, Mr. REID, and Mr. LAUTENBERG):

S. 17. A bill to consolidate certain Federal job training programs by developing a system of vouchers to provide to dislocated workers and economically disadvantaged adults the opportunity to choose the type of job training that most closely meets the needs of such workers and adults, by establishing a one-stop career center system to provide high quality job training and employment-related services, and for other purposes; to the Committee on Labor and Human Resources.

THE WORKING AMERICANS OPPORTUNITY ACT

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

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

S. 17

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 "Working Americans Opportunity Act."
CIRCULARS OF DISPLACED HOMEWORKERS.—The term “displaced worker” shall, for the purpose of applying provisions related to job training and employment-related term, “economically disadvantaged adult” means an individual who is age 18 or older and who has received an income, or is a member of a family that had received a total income of $7,500 or less, for the 6-month period prior to application for the activity involved (exclusive of unemployment compensation, child support payments, and welfare payments) that, in relation to family size, does not exceed the higher of—

(A) the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 672(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), for an equivalent period; or

(B) 70 percent of the lower living standard income for an equivalent period.

(4) JOB TRAINING PROVIDER.—The term “job training provider” means a public agency, private nonprofit organization, or private for-profit entity that delivers job training services.

(5) SERVICE DELIVERY AREA.—The term “service delivery area” means an area established under section 102 of the Job Training Partnership Act (29 U.S.C. 1021).

(6) STATE.—The term “State”, used to refer to a jurisdiction, means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(7) WORKFORCE DEVELOPMENT ENTITY.—The term “workforce development entity” means a private industry council as described in section 4(a) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(8) WORKFORCE DEVELOPMENT BOARD.—The term “workforce development board” means an entity established by Federal, State, local, or tribal law to administer the Job Training Partnership Act.

SEC. 101. ESTABLISHMENT.

The Secretary of Labor shall, pursuant to the requirements of this title, establish a job training system that provides vouchers to individuals for the purpose of enabling the individuals to participate in job training.

SEC. 102. INDIVIDUAL CHOICE.

(a) IN GENERAL.—Upon notification of approval of an application submitted under section 104, an individual may receive a voucher for a 2-year period, beginning on the date on which the application is approved.

(b) USE OF VOUCHERS FOR JOB TRAINING.—(1) An individual who is a recipient of a voucher under subsection (a) may use such voucher to pay for job training obtained from a job training provider that meets the requirements of section 106.

(2) AUTHORIZED JOB TRAINING.—The job training described in paragraph (1) may include—

(A) an associate degree and nondegree programs at—

(i) two- and four-year colleges;

(ii) vocational and technical education schools; or

(iii) private for-profit and not-for-profit training organizations;

(iv) public agencies and schools; and

(v) community-based organizations;

(B) employer work-based training programs; and

(C) in the case of individuals who are economically disadvantaged adults, preemployment training programs.

SEC. 103. ELIGIBILITY.

An individual shall be eligible to receive a voucher under this title if such individual is—

(1) a displaced worker; or

(2) an economically disadvantaged adult.

SEC. 104. OBTAINING A VOUCHER.

(a) APPLICATION.—An individual who desires to receive a voucher under this title shall submit an application to the Secretary of Labor at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(1) APPLICATION TO APPLICANTS.—(I) One-stop career centers.—Each one-stop career center established under section 103 shall—

(A) provide applications for vouchers under this title to interested individuals, assist such individuals in completing such applications, and collect completed applications for determination of eligibility;

(B) provide performance-based information to the applicant and job training providers eligible to receive payment by vouchers in accordance with section 106;

(C) provide information to the applicants on—

(i) the local economy and availability of employment;

(ii) profiles of local industries; and

(iii) details of local labor market demand; and

(D) carry out other such duties relating to the voucher system as may be specified in regulations issued by the Secretary of Labor.

(II) Employment service delivery area.—The employment service delivery area established under section 102 of the Job Training Partnership Act shall, for the purpose of applying provisions under title IV of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), include—

(A) training organizations; and

(B) the arrangements necessary to phase in the voucher system as may be specified in regulations issued by the Secretary of Labor.

(2) SUPPORT AND ASSISTANCE.—The Secretary of Labor shall include training through—

(A) community-based organizations;

(B) the arrangements necessary to phase in the voucher system as may be specified in regulations issued by the Secretary of Labor;

(C) the arrangements necessary to phase in the voucher system in each State in a timely manner;

(D) the local economy and availability of employment; and

(E) the warranties or guarantees provided by such job training provider relating to the skill levels or employment to be attained by graduates of the programs conducted by such job training provider.

(b) ALTERNATIVE ELIGIBILITY PROCEDURE.—(1) IN GENERAL.—The Secretary of Labor shall establish an alternative eligibility procedure for job training providers desiring to receive payment by vouchers under this title, but that are not eligible to participate in programs under title IV of the Higher Education Act of 1965.

(2) PROCEDURE REQUIREMENTS.—In establishing the procedure described in paragraph (1), the State shall establish minimum acceptable levels of performance for job training providers based on factors and guidelines developed by the Secretary of Labor in consultation with the Secretary of Education.

(3) LIMITATION.—Notwithstanding paragraph (2), if the participation of an institution of higher education in any of the programs under title IV of the Higher Education Act of 1965 is terminated, such institution shall not be eligible to receive funds under this title for a period of 2 years beginning on the date of such termination.

(c) PERFORMANCE-BASED INFORMATION.—(1) CONTENTS.—The Secretary of Labor shall identify performance-based information that is to be submitted by job training providers desiring to receive payment by vouchers under this title.

(2) PURPOSE.—Such performance-based information may include information relating to—

(A) the percentage of students completing the programs conducted by a job training provider; or

(B) the percentage of graduates of the programs conducted by such job training provider.

(d) ADMINISTRATION.—(1) STATE AGENCY.—The Governor shall designate a State agency to collect, verify, and
disseminate the performance-based information submitted pursuant to subsection (c).

(2) APPLICATION.—A job training provider desiring to be eligible to receive funds under this title shall submit the information required under subsection (c) to the State agency designated under paragraph (1) at such time and in such form as such State agency may require.

(3) LIST OF ELIGIBLE PROVIDERS.—The State agency designated under paragraph (1) shall compile a list of eligible job training providers, and disseminate such list and information to the one-stop career centers established under section 301, and other appropriate entities within the State.

(4) ACCURACY OF INFORMATION.—

(A) IN GENERAL.—If the State agency determines that a job training provider submitted inaccurate performance-based information under this subsection, such provider shall be disqualified from receiving funds under this title for a period of 2 years beginning on the date of such determination, unless such provider can demonstrate, to the satisfaction of the State agency designated pursuant to paragraph (1), that the information was provided in good faith.

(B) APPEAL.—The State shall establish a procedure for a job training provider to appeal a determination by a State agency that results from a determination under paragraph (A). Such procedure shall provide an opportunity for a hearing and include appropriate time limits to ensure prompt resolution of the appeal.

(5) ASSISTANCE IN DEVELOPING INFORMATION.—The State agency designated under paragraph (1) may provide technical assistance to a job training provider in developing the performance-based information required under subsection (c). Such assistance may include facilitating the utilization of State administered systems, such as unemployment compensation wage records, and conducting other appropriate coordination activities.

(6) CONSULTATION.—The Secretary of Labor shall consult with the Secretary of Education regarding the eligibility of institutions of higher education to participate in programs under this title.

SEC. 107. EVALUATION OF VOUCHER SYSTEM.

The Secretary of Labor shall annually—

(1) monitor the effectiveness of the voucher system;

(2) evaluate the benefit of such system to voucher recipients under this title and the taxpayer; and

(3) submit information obtained from such evaluation to the appropriate committees of Congress.

SEC. 108. APPORTIONMENT OF FUNDS.

(a) IN GENERAL.—The Secretary of Labor shall, without in any way reducing the commitment of, or the level of effort provided by, the Federal Government or any other appropriate entity for a service delivery area, as appropriate.

(b) LOCATION BY CATEGORY.—

(1) FUNDING FOR DISLOCATED WORKERS.—From the sums appropriated pursuant to section 501 for each fiscal year, the Secretary of Labor shall apportion such portion of the sums to be made available for providing job training and employment-related services for dislocated workers under this title and title III, as compared to the total number of such individuals in all such service delivery areas.

(2) ECONOMICALLY DISADVANTAGED ADULTS.—From the amount apportioned to each State from the portion described in subsection (b)(1), the State may reserve to carry out State activities, including State assistance, as described in section 31A(b) of the Job Training Partnership Act, as in existence on the date of enactment of this Act, to improve the job training, employment, and earnings of all workers and jobseekers, with the State a method for establishing the levels of effort provided by, the Federal Government or any other appropriate entity for providing job training and employment-related services for economically disadvantaged adults.

(c) CONSIDERATION OF FACTORS FOR APPORTIONMENT TO STATES.—The apportionment of the funds reserved for State activities under title III of the Job Training Partnership Act, as in existence on the date of enactment of this Act, shall be based on the following factors:

(1) The relative number of unemployed individuals who reside in each State as compared to the total number of unemployed individuals in all the States.

(2) The relative excess number of unemployed individuals who reside in each State as compared to the total number of employed individuals in all the States.

(d) CONSIDERATION OF FACTORS FOR APPORTIONMENT OF FUNDS TO SERVICE DELIVERY AREAS.—The apportionment of funds received by each State under subsection (c), and not reserved under subsection (d), to service delivery areas within such State shall be based on the following factors:

(1) The relative number of unemployed individuals who reside in each service delivery area within the State as compared to the total number of unemployed individuals in all such service delivery areas.

(2) The relative excess number of unemployed individuals who reside in each service delivery area within the State as compared to the total number of employed individuals in all such service delivery areas.

(3) The relative number of individuals who have been unemployed for more than 15 weeks or more who reside in each service delivery area within the State as compared to the total number of such individuals in all such service delivery areas.

(4) The relative number of economically disadvantaged adults who reside in each service delivery area within the State as compared to the total number of such adults in all such service delivery areas.

(f) FUNDS FOR VOUCHERS.—Not less than 75 percent of the funds apportioned to a service delivery area under subsection (e) and used for job training under this Act by the service delivery area shall be made available to the allowable use of vouchers in such area who are eligible under section 103.

(g) DEFINITION.—For purposes of this section, the term ‘excess number of unemployed individuals’ means the number that represents unemployed individuals in excess of 4.5 percent of the civilian labor force in a State or service delivery area, as appropriate.

TITLe II—CONSOLIDATION OF FEDERAL JOB TRAINING PROGRAMS

SEC. 201. CONSOLIDATION OF PROGRAMS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the consolidation and streamlining of Federal job training programs should be accomplished without in any way reducing the commitment of, or the level of effort provided by, the Federal Government or any other appropriate entity for hard-to-serve communities.

(b) REPEALS OF FEDERAL JOB TRAINING PROGRAMS.—The following provisions are repealed:

(1) Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2022b(d)(4)).

(2) Section 106(b)(7) of the Job Training Partnership Act (29 U.S.C. 1516(b)(7)).

(3) Section 123 of such Act (29 U.S.C. 1533).

(4) Section 204(d) of such Act (29 U.S.C. 1604(d)).

(5) Part A of title II of such Act (29 U.S.C. 1611 et seq.).

(6) Section 302(c) of such Act (29 U.S.C. 1652(c)).

(7) Part A of title III of such Act (29 U.S.C. 1651 et seq.).

(8) Section 325 of such Act (29 U.S.C. 1662d).

(9) Section 325A of such Act (29 U.S.C. 1663-1).

(10) Sections 326 of such Act (29 U.S.C. 1663a).

(11) Sections 301 through 303 of such Act (29 U.S.C. 1651 et seq.).

(12) The Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 1341 et seq.).

(13) Subtitle C of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 1441 et seq.).

(14) Section 102(b)(2) of chapter 42 of title 49, United States Code.

(15) Title II of Public Law 95-250 (92 Stat. 172).

TITLe III—EMPLOYMENT-RELATED INFORMATION AND SERVICES THROUGH ONE-STOP CAREER CENTERS

SEC. 301. ONE-STOP CAREER CENTERS.

(a) ESTABLISHMENT.—Each service delivery area receiving funds under this Act shall develop and implement a network of one-stop career centers for the area to provide access for jobseekers, workers, and businesses to a comprehensive array of high quality job training described in section 102(b)(2) and employment-related services (including provision of information) described in subsections (f) and (g).

(b) PROCEDURE FOR PROVIDING VOUCHERS TO INDIVIDUALS.—Each workforce development entity for a service delivery area, in conjunction with the appropriate local chief elected official for the area, shall negotiate with the State a method for establishing the levels of effort provided by, the Federal Government or any other appropriate entity for providing job training and employment-related services for one-stop career centers (including designating one-stop career center operators) for the area, consistent with criteria established by the Secretary of Labor.

(c) ELIGIBLE ENTITIES.—Each entity within the service delivery area that provides the
services specified in subsection (f) or (g) shall be eligible to be designated as a one-stop career center operator.

(d) PERFORMANCE STANDARDS.—The Secretary of Labor shall establish a performance standard system for assessing the performance of each one-stop career center operator.

(e) PERIOD OF SELECTION.—Each one-stop career center operator shall be designated for a 2-year period. The workforce development entity for a service delivery area shall reevaluate the designation of one-stop career center operators for the area at the end of the 2-year period. The performance standards established under subsection (d).

(f) EMPLOYMENT-RELATED SERVICES TO INDIVIDUALS.—Each one-stop career center for a service delivery area may make available—

1. outreach to make individuals aware of, and encourage the use of, services available from workforce development programs operating in the service delivery area;

2. intake and orientation to the information and services available through the one-stop career center;

3. assistance in filing initial claims for unemployment compensation;

4. initial assessments (including appropriate testing) of the skill levels and service needs of individuals including performance-based occupational skills, work experience, employability, interest, aptitude, and supportive service needs;

5. supportive services, including resume and interview preparation and workshops;

6. information relating to the supply, demand, price, and quality of job training available in each service delivery area in the State, including performance-based information provided pursuant to section 106(c);

7. job market information, including—

A. data on the local economy and availability of employment;

B. profiles of local industries;

C. details of local labor market demand; and

D. local demographic and socioeconomic characteristics;

8. referral to appropriate job training and employment services, and to other services described in this subsection, in the service delivery area;

9. supportive services, including child care,

10. job development; and

11. counseling.

(g) EMPLOYMENT-RELATED SERVICES TO EMPLOYERS.—Each one-stop career center for a service delivery area may employ employers, at the request of the employers—

1. information relating to supply, demand, price, and quality of job training available in each service delivery area in the State;

2. customized screening and referral of individuals for employment;

3. customized assessment of skills of the workers of the employer;

4. an analysis of the skill needs of the employer; and

5. other specialized employment and training services.

SEC. 302. ACCESS TO INFORMATION.

(a) FINDINGS.—Congress finds that accurate, timely, and relevant data regarding employment, job training, job skills, and job training opportunities are useful for individuals making choices about the careers of such individuals.

(b) AUTHORITY.—The Secretary of Labor is authorized to make arrangements to develop and provide through one-stop career centers and other appropriate mechanisms relevant job market information to interested individuals, including voucher recipients under title I, jobseekers, employers, and workers.

SEC. 303. DIRECT LOANS TO UNITED STATES WORKERS.

(a) FINDINGS.—Congress finds that the William D. Ford Federal Direct Loan Program authorized by part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1078 et seq.), is a valuable financing tool for United States workers who desire to take advantage of training programs, consistent with the goals of such workers, to learn new skills for careers that may bring higher salaries and improved quality of life.

(b) AUTHORITY.—The Department of Education shall endeavor to make known the value and availability of direct loans authorized by part D of the Higher Education Act of 1965 through cooperative arrangements with one-stop career centers, training and educational programs, State agencies, and other Federal agencies.

TITLE IV—REPORTS AND PLANS

SEC. 401. CONSOLIDATION AND STREAMLINING.

(a) REPORT ON CONSOLIDATING NONCOVERED FEDERAL JOB TRAINING PROGRAMS.—Not later than January 1, 1998, and each year thereafter, the Secretary of Labor shall prepare and submit to Congress a report that describes how Federal job training programs not covered by this Act can be consolidated into a more integrated and accountable workforce development system that better meets the needs of jobseekers, workers, and business.

(b) PLAN ON USE OF COMMON DEFINITIONS, MEASURES, STANDARDS, AND CYCLES.—Not later than 180 days after the date of enactment of this Act, the Secretary of Labor shall develop a plan that, wherever practicable, requires the Federal job training programs to use common definitions, common outcome measures, common eligibility standards, and common funding cycles in order to make such training programs more accessible.
1 million increase on the local tax base, and more than 170 new jobs. In Elizabeth, NJ, a former municipal landfill will be turned by the fall of 1998 into a major mall with 5,000 employees.

Madam President, the potential for job creation across the country is enormous, and every revitalized brownfields may represent for someone a field of dreams, especially to an unemployed urban worker.

While fostering jobs, brownfield cleanup also means that dangerous contaminants are removed from our environment, and the scars of decades of neglected industrial waste which disfigure our cities and suburbs and even rural areas may be finally allowed to heal. The Superfund Program provides Federal authority to assist in cleaning up abandoned waste sites that pose the most serious threats. However, there are in the country’s oldest planning organization, the Regional Planning Association, the country’s oldest planning organization, and the Superfund Program provides Federal authority to assist in cleaning up abandoned waste sites that pose the most serious threats. However, there are in the country's oldest planning organization, the Regional Planning Association, the country’s oldest planning organization, and the Superfund Program provides Federal authority to assist in cleaning up abandoned waste sites that pose the most serious threats. However, there are in the country’s oldest planning organization, the Regional Planning Association, the country’s oldest planning organization, and the Superfund Program provides Federal authority to assist in cleaning up abandoned waste sites that pose the most serious threats. However, there are in the country’s oldest planning organization, the Regional Planning Association, the country’s oldest planning organization, and the Superfund Program provides Federal authority to assist in cleaning up abandoned waste sites that pose the most serious threats. However, there are in the country’s oldest planning organization, the Regional Planning Association, the country’s oldest planning organization, and the Superfund Program provides Federal authority to assist in cleaning up abandoned waste sites that pose the most serious threats. However, there are in the country’s oldest planning organization, the Regional Planning Association, the country’s oldest planning organization, and the Superfund Program provides Federal authority to assist in cleaning up abandoned waste sites that pose the most serious threats. However, there are in the country’s oldest planning organization, the Regional Planning Association, the country’s oldest planning organization, and the Superfund Program provides Federal authority to assist in cleaning up abandoned waste sites that pose the most serious threats. However, there are in the country’s oldest planning organization, the Regional Planning Association, the country’s oldest planning organization, and the Superfund Program provides Federal authority to assist in cleaning up abandoned waste sites that pose the most serious threats. However, there are in the country’s oldest planning organization, the Regional Planning Association, the country’s oldest planning organization, and the Superfund Program provides Federal authority to assist in cleaning up abandoned waste sites that pose the most serious threats. However, there are in the country’s oldest planning organization, the Regional Planning Association, the country’s oldest planning organization, and the Superfund Program provides Federal authority to assist in cleaning up abandoned waste sites that pose the most serious threats. However, there are in the country’s oldest planning organization, the Regional Planning Association, the country’s oldest planning organization, and the Superfund Program provides Federal authority to assist in cleaning up abandoned waste sites that pose the most serious threats. However, there are in the country’s oldest planning organization, the Regional Planning Association, the country’s oldest planning organization, and the Superfund Program provides Federal authority to assist in cleaning up abandoned waste sites that pose the most serious threats. However, there are in the country’s oldest planning organization, the Regional Planning Association, the country’s oldest planning organization, and the Superfund Program provides Federal authority to assist in cleaning up abandoned waste sites that pose the most serious threats. However, there are in the country’s oldest planning organization, the Regional Planning Association, the The challenge is to turn these abandoned properties into thriving businesses that can generate needed jobs and act as a catalyst for economic development.

My legislation would provide financial assistance in the form of grants to local and State governments to inventory and evaluate brownfields sites. This would enable interested parties to know what would be required to clean the site and what reuse would best suit the property.

My bill would also provide grants to State and local governments to establish and capitalize low-interest loan programs. These funds would be loaned to current owners, prospective purchasers, and developers who wish to facilitate voluntary cleanup actions where traditional lending mechanisms are just not available. The minimum seed money involved in the program would leverage substantial economic payoffs, as well as encourage the private market demand for sites affected by environmental contamination.

The bill would also limit the potential liability of innocent buyers of these properties, and it would set a standard to gauge when parties couldn’t have reasonably known that the property was contaminated. So there is no hidden liability in there. There is no sudden surprise for someone who conscientiously and innovatively the property, and suddenly they find they are liable for far more than their initial investment.

Madam President, cleaning up brownfields will mean a safer environment and more jobs for places that badly need it. It will also send a message to those who want to invest in our urban areas that they don’t have to leave the inner city in search of open space. They can build right there in our downtowns, the places that already have the services, the infrastructure and the people to do the job.

There has been bipartisan interest in addressing brownfields, both in the Senate and in the other body on the other side of the Capitol, and I hope we can move this legislation forward in a cooperative way with support of Members on both sides of the aisle.

I ask unanimous consent that a copy of the bill, a section-by-section analysis and a letter of endorsement from the Regional Planning Association, the country’s oldest planning organization, be printed in the RECORD.

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

S. 18

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Brownfields and Environmental Cleanup Act of 1997.”

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—BROWNFIELD REMEDIATION AND ENVIRONMENTAL CLEANUP
Sec. 101. Definitions.
Sec. 102. Inventory and assessment grant program.
Sec. 103. Grants for revolving loan programs.
Sec. 104. Economic redevelopment grants.
Sec. 105. Reports.
Sec. 106. Limitations on use of funds.
Sec. 107. Effect on other laws.
Sec. 108. Authorization of appropriations.

TITLE II—PROSPECTIVE PURCHASERS
Sec. 201. Limitations on liability for response costs for prospective purchasers.

TITLE III—INNOCENT LANDOWNERS
Sec. 301. Innocent landowners.

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that—

(1) past uses of land in the United States for industrial and commercial purposes have created many sites throughout the United States that have environmental contamination;

(2) Congress and the governments of States and political subdivisions of States have enacted laws that facilitate expedited response actions that are consistent with business needs at brownfield sites;

(3) many sites are minimally contaminated or do not pose serious threats to human health or the environment, and can be satisfactorily remediated expeditiously with little government oversight;

(4) the abandoning or underutilization of contaminated sites could lead to significant environmental and economic benefits, particularly in any case in which a cleanup can be completed quickly and during a period of time that meets short-term business needs;

(5) the private market demand for sites affected by environmental contamination frequently is reduced, often because of uncertainties regarding liability or potential cleanup costs of innocent landowners and prospective purchasers under Federal law;

(6) the abandonment or underutilization of brownfield sites impacts the ability of the Federal Government and the governments of States and political subdivisions of States to provide economic opportunities for the people of the United States, particularly the unemployed and economically disadvantaged;

(7) the abandonment or underutilization of brownfield sites results in the inefficient use of public facilities and services, as well as land and other natural resources, and in the conditions of blight in local communities;

(8) cooperation among Federal agencies, departments and agencies of States and political subdivisions of States, local community development organizations, and current owners and prospective purchasers of brownfield sites is required to accomplish timely response actions and the redevelopment or reuse of brownfield sites;

(9) there is a need to provide financial incentives and assistance to inventory and assess brownfield sites, and to develop opportunities through the economic redevelopment of brownfield sites that generally do not pose a serious threat to human health or the environment and that will attract investment; and

(10) there is a need for a program to—

(A) encourage cleanups of brownfield sites; and

(B) facilitate the establishment and enhancement of programs by States and local governments to foster cleanups of brownfield sites through capitalization of loan programs.

(b) PURPOSES.—The purposes of this Act are to create new business and employment opportunities through the economic redevelopment of brownfield sites that generally do not pose a serious threat to human health or the environment and to facilitate expedited response actions that are consistent with business needs at brownfield sites;
(4) reducing transaction costs and paperwork, and preventing needless duplication of effort and delay at all levels of government.

TITLE I—BROWNFIELD REMEDIATION AND ENVIRONMENTAL CLEANUP

SEC. 101. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) BROWNFIELD SITE.—The term "brownfield site" means a facility that has or is suspected of having environmental contamination that:

(A) could prevent the timely use, development, reuse, or redevelopment of the facility; and

(B) is relatively limited in scope or severity and can be comprehensively assessed and readily analyzed.

(3) CONTAMINANT.—The term "contaminant" includes any hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)).

(4) DISPOSAL.—The term "disposal" has the meaning given the term in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6943).

(5) ENVIRONMENT.—The term "environment" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(6) ENVIRONMENTAL CONTAMINATION.—The term "environmental contamination" means the existence at a facility of 1 or more contaminants that may pose a threat to human health or the environment.

(7) FACILITY.—The term "facility" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(8) GRANT.—The term "grant" includes a cooperative agreement, and includes any assistance to a State or local government.

(9) GROUND WATER.—The term "ground water" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(10) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(11) LOCAL GOVERNMENT.—The term "local government" means the term "unit of general local government" in the first sentence of section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 9621), except that the term includes an Indian tribe.

(12) NATURAL RESOURCES.—The term "natural resources" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(13) OWNER.—The term "owner" has the meaning given in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(14) RESPONSE ACTION.—The term "response action" has the meaning given the term "response action" in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(15) PROSPECTIVE PURCHASER.—The term "prospective purchaser" means a prospective purchaser of a brownfield site.

(16) RESPONSE.—The term "response" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(17) RESPONSE ACTION.—The term "response action" has the meaning given the term "response action" in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(18) SITE ASSESSMENT.—The term "site assessment" means an investigation that determines the nature and extent of a release or potential release of a hazardous substance at a brownfield site and meets the requirements of subparagraph (B).

(19) INVESTIGATION.—For the purposes of this paragraph, an investigation that meets the requirements of this subparagraph—

(i) shall include—

(I) an onsite evaluation; and

(ii) sufficient testing, sampling, and other field testing procedures to accurately determine whether the brownfield site is contaminated and the threats to human health and the environment posed by the release of contaminants at the brownfield site; and

(ii) may include—

(I) review of such information regarding the brownfield site and previous uses as is available at the time of the review; and

(ii) an offsite evaluation, if appropriate.

(20) STATE.—The term "State" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(21) STABILIZATION.—The term "stabilization" means the holding or immobilization of contaminants at a facility.

(22) USE OF GRANT.—The term "use of grant" means the use of the grant for the purposes specified in the grant application.

(23) VACANT LAND.—The term "vacant land" means any parcel of land that is not in active use for any purpose.

SEC. 102. INVENTORY AND ASSESSMENT GRANT PROGRAM.

(a) IN GENERAL.—The Administrator shall establish a program to award grants to States or local governments to inventory brownfield sites and to conduct site assessments of brownfield sites.

(b) SCOPE OF PROGRAM.—

(1) GRANT APPLICATION.—To carry out subsection (a), the Administrator may, on approval of an application, provide financial assistance to a State or local government.

(2) GRANT APPLICATION.—An application for a grant under this section shall include, to the extent practicable, each of the following:

(A) An identification of the brownfield sites for which assistance is sought and a description of the effect of the brownfield sites on the community, including a description of the nature and extent of any known or suspected environmental contamination within the areas.

(B) A description of the need of the applicant for financial assistance to inventory brownfield sites and conduct site assessments.

(C) A demonstration of the potential of the grant assistance to stimulate economic development, including the extent to which the grant assistance will stimulate the availability of other funds for site assessment, site identification, or environmental remediation and subsequent redevelopment of the areas in which eligible brownfield sites are situated.

(D) A description of the local commitment as of the date of the application, which shall include a statement by the local government that demonstrates meaningful community involvement.

(E) A plan that shows how the site assessment, site identification, or environmental remediation and subsequent development will be implemented, including—

(i) an environmental plan that ensures the use of sound environmental procedures;

(ii) an explanation of the appropriate government authority and support for the project as in existence on the date of the application;

(iii) proposed funding mechanisms for any additional work; and

(iv) a proposed land ownership plan.

(F) A statement on the long-term benefits and the sustainability of the proposed project that includes—

(i) the ability of the project to be replicated nationally and measures of success of the project; and

(ii) to the extent known, the potential of the plan for each eligible brownfield site is stimulated to approximate economic development of the area on completion of the environmental remediation.

Such other factors as the Administrator considers relevant to carry out this title.

(3) APPROVAL OF APPLICATION.—In making a decision whether to approve an application under paragraph (1), the Administrator shall—

(i) consider the need of the State or local government for financial assistance to carry out this section;

(ii) consider the ability of the applicant to carry out an inventory and site assessment under this section;

(iii) ensure a fair distribution of grant funds between urban and nonurban areas; and

(iv) consider such other factors as the Administrator considers relevant to carry out this section.

(4) GRANT AMOUNT.—The amount of a grant awarded to any State or local government under subsection (a) for inventory and site assessment of 1 or more brownfield sites shall not exceed $200,000.

(5) TERMINATION OF GRANTS.—If the Administrator determines that a State or local government that receives a grant under this subsection is in violation of a condition of a grant referred to in paragraph (3)(B), the Administrator may terminate the grant made to the State or local government and require full or partial repayment of the grant.

SEC. 103. GRANTS FOR REVOLVING LOAN PROGRAMS.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Administrator shall establish a program to award grants to be used by State or local governments to capitalize revolving loan funds for the cleanup of brownfield sites.

(2) LOANS.—The loans may be provided by the State or local government to finance cleanups of brownfield sites by the State or local government, or by an owner or a prospective purchaser of the site (including a local government) at which a cleanup is being conducted or is proposed to be conducted.

(b) SCOPE OF PROGRAM.—

(1) GRANTS.—In carrying out subsection (a), the Administrator may award a grant to a State or local government that submits an application to the Administrator that is approved by the Administrator.

(2) USE OF GRANT.—The grant shall be used by the State or local government to capitalize a revolving loan fund to be used for clean-up of 1 or more brownfield sites.

(3) GRANT APPLICATION.—An application for a grant under this section shall be in such form as the Administrator determines appropriate. At a minimum, the application shall include the following:

(i) Evidence that the grant applicant has the financial controls and resources to administer a revolving loan fund in accordance with this title.

(ii) Provisions that—

(A) ensure that the grant applicant has the ability to monitor the use of funds provided to loan recipients under this title;
(II) ensure that any cleanup conducted by the applicant is protective of human health and the environment; and

(III) ensure that any cleanup funded under this Act with all applicable Federal and State laws that apply to the cleanup.

(iii) Identification of the criteria to be used by the State or local government in providing for loans under the program. The criteria shall include the financial standing of the applicant, the extent to which the loans, the costs of which will be paid, the provisions to be used to ensure repayment of the loan funds, and the following:

(A) a financial description of the financial standing of the applicant that includes a description of the assets, cash flow, and liabilities of the applicant.

(B) a written statement that attests that the cleanup of the site would not occur without access to the revolving loan fund.

(C) The proposed method, and anticipated period of time required, to clean up the environmental contamination at the brownfield site.

(iv) An estimate of the proposed total cost of the cleanup to be conducted at the brownfield site.

(v) An analysis that demonstrates the potential of the brownfield site for stimulating economic development on completion of the cleanup of the brownfield site.

(2) GRANT APPROVAL.—In determining whether to award a grant under this section, the Administrator shall consider—

(A) the need of the State or local government for financial assistance to clean up brownfield sites that are the subject of the application, taking into consideration the financial resources available to the State or local government;

(B) the extent to which the State or local government will require that the applicants repay the loans in a timely manner;

(C) the extent to which the cleanup of the brownfield site or sites would reduce health and environmental risks caused by the release of contaminants at, on, or from, the brownfield site or sites;

(D) the demonstrable potential of the brownfield site or sites for stimulating economic development on completion of the cleanup of the brownfield site;

(E) the demonstrated ability of the State or local government to administer such a loan program;

(F) the demonstrated experience of the State or local government in administering loan programs or in the cleanup of brownfield sites; and

(G) the extent to which the financial standing of the applicant meets the criteria established under this section.

(3) USE OF FUNDS.—The State or local government shall use the funds—

(A) to conduct the cleanup of the brownfield site or sites; and

(B) to the extent that the amount of the grant under this section is insufficient, to provide seed funding for the development of brownfield sites and the reuse of contaminated land.

(4) REIMBURSEMENT.—Notwithstanding any other provision of law, any amount of a grant under this section shall be paid to an applicant in advance of, in compliance with, the State voluntary cleanup program or State Superfund program or Federal authority necessary to carry out the provisions of this section.

(5) LIENS.—Any lien in favor of the United States arising out of any deposit or any other financial interest in any land disposal unit with respect to which a grant is made or to any land disposal unit in which the United States has an ownership interest shall be a security interest created under the Uniform Commercial Code of the State of the United States, and is perfected under the Uniform Commercial Code whenever the lien is filed in accordance with applicable law.

(6) NONTRANSFERABILITY.—The funds will not be transferable, unless the Administrator agrees to the transfer in writing.

(7) OTHER CONDITIONS.—The State or local government shall—

(A) include a written statement by the State or local government that—

(i) the cleanup will be conducted under the auspices of, and in compliance with, the State voluntary cleanup program or State Superfund program or Federal authority;

(ii) the estimated total cost of the cleanup is reasonable; and

(iii) the estimated total cost of the cleanup is reasonable;

(B) GRANT AGREEMENTS.—Each grant under this section for a revolving loan fund shall be made pursuant to a grant agreement. At a minimum, the grant agreement shall include provisions that ensure the following:

(C) COMPLIANCE WITH LAW.—The grant recipient shall in all loan agreements a requirement that the loan recipient shall comply with all applicable Federal and State laws applicable to the cleanup and shall ensure that the cleanup is protective of human health and the environment.

(D) REPAYMENT.—The State or local government will require repayment of the loan consistent with this title.

(E) USE OF FUNDS.—The State or local government will use the funds solely for the purposes of establishing and capitalizing a loan program. Each loan agreement shall include provisions that ensure the following:

(F) the experience of administering any loan programs by the entity, including the loan repayment rates; and

(G) the efficiency of having the loan administration be carried out by an arm's length entity.

(2) the number of applications approved by the Administrator during each calendar year;

(3) the allocation of assistance under sections 102 and 103 among the States and local governments;

(4) the amount of applications received by the Administrator during the preceding calendar year;

(5) any land disposal unit with respect to which an audit shall be taken into account in awarding any future grants to the State or local government.

SEC. 104. ECONOMIC REDEVELOPMENT GRANTS. (a) EXPENDITURES FROM THE SUPERFUND.—Amounts in the Hazardous Substance Superfund established by section 9507 of the Internal Revenue Code of 1986 shall be made available consistent with, and for the purposes of, any carrying out the grant programs established under sections 102 and 103.

(b) AUTHORITY TO AWARD GRANTS.—There is hereby appropriated an amount equal to the Hazardous Substance Superfund to grants to States and local governments under sections 102 and 103, $25,000,000 for each of fiscal years 1998 through 2002.

SEC. 105. REPORTS. (a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and not later than January 31 of each of the 3 calendar years thereafter, the Administrator shall prepare and submit a report describing the results of each program established under this title to—

(A) the Committee on Environment and Public Works of the Senate; and

(B) the Committee on Commerce of the House of Representatives.

(b) CONTENTS OF REPORT.—Each report shall, with respect to each of the programs established under this title, include a description of—

(1) the number of applications received by the Administrator during the preceding calendar year;

(2) the number of applications approved by the Administrator during the preceding calendar year; and

(3) the allocation of assistance under sections 102 and 103 among the States and local governments.

SEC. 106. LIMITATIONS ON USE OF FUNDS. (a) EXCLUDED FACILITIES.—A grant for site assessment and management under section 102 or to capitalize a revolving loan fund under section 103 may not be used for any activity involving—

(B) a facility that is subject to a planned or an ongoing response action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), except for a facility for which a preliminary assessment, site investigation, or risk assessment has been completed and with respect to which the Administrator has decided not to take further response action, including cost recovery action.

(c) FACILITIES INCLUDED OR PROPOSED FOR INCLUSION.—(1) A facility included, or proposed for inclusion, on the National Priorities List maintained by the Administrator under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9603 et seq.), except for a facility for which a preliminary assessment, site investigation, or risk assessment has been completed and with respect to which the Administrator has decided not to take further response action, including cost recovery action.

(2) a facility included, or proposed for inclusion, on the National Priorities List maintained by the Administrator under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9603 et seq.), except for a facility for which a preliminary assessment, site investigation, or risk assessment has been completed and with respect to which the Administrator has decided not to take further response action, including cost recovery action.

(3) a facility that is subject to corrective action under section 3004 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(f)) to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures.

(4) any land disposal unit with respect to which a closure notice or closure plan is required to be submitted and closure requirements have been specified in a closure plan or permit;
(6) a facility at which there has been a release of a polychlorinated biphenyl that is subject to the Toxic Substances Control Act (15 U.S.C. 1260 et seq.).

(7) the person generally with respect to which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this title.

(a) AVAILABILITY OF FUNDS.—The amounts appropriated under this section shall remain available until expended.

(b) CONSTRUCTION.—The provisions of this section for the use of grants authorized to be appropriated under this title shall be applied to any agreement entered into under this title in accordance with the provisions of this subpart.

(c) AVAILABILITY OF FUNDS.—The amounts appropriated under this section shall remain available until expended.

(d) AUTHORITY.—The amounts appropriated under this section shall remain available until expended.

(e) TITLE.—The amounts appropriated under this section shall remain available until expended.

(f) TITLE.—The amounts appropriated under this section shall remain available until expended.

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(*****title*)
``(ee) the ability to detect the contamination by appropriate investigation.

``(iii) CONDUCT OF ENVIRONMENTAL ASSESS-
MENT.—A person who has acquired real pro-
erty shall have made all appropriate inquiries
within the meaning of clause (ii)(i) if—

``(I) the person establishes that, within 180
days prior to the date of acquisition, an envi-
ronmental site assessment of the real prop-
erty was conducted that meets the require-
ments of clause (iv); and

``(II) the assessment complies with clause (vii).

``(iv) ENVIRONMENTAL SITE ASSESS-
MENT.—

``(I) IN GENERAL.—An environmental site
assessment of the real property shall be con-
ducted in accordance with the standards set forth in the
American Society for Testing and Materials (ASTM) Standard E1525-94, titled "Standard Practice for Environmental Site Assess-
ments: Phase I Environmental Site Assessment Process" or with any alternative stand-
ards issued by regulation by the President or
issued or developed by other entities and des-
ignated by regulation by the President.

``(II) STUDY OF PRACTICES.—Before issuing or developing alternative standards under subclause (I), the President shall conduct a
study of commercial and industrial practices concerning environmental site assessments in
the transfer of real property in the United States.

``(v) CONSIDERATIONS IN ISSUING STAN-
DARDS.—When designating any standards under clause (iv), the President shall consider requirements governing each of the follow-
ing:

``(I) Conduct of an inquiry by an environ-
mental professional.

``(II) Interviews of each owner, operator, and occupant of the property to determine information regarding the potential for con-
tamination.

``(III) Review of historical sources as nec-
-e-ary to determine each previous use and occupancy of the property since the property
was first developed. In this subclause, the
-term 'historical sources' means any of the follow-
ing, if reasonably ascertainable: each recorded chain of title document regarding the
real property, including each deed, easement,
lease, restriction, and covenant, any aerial photograph, flood insurance map, property
rolls, and any other source that identifies a past use or occu-
pancy of the property.

``(IV) Determination of the existence of any prior hazardous material cleanup or the ability to detect the con-
tamination at the real property, including, as appro-
-priate—

``(aa) any investigation report for the fac-
itility;

``(bb) any record of activities likely to
cause or contribute to contamination at the real property, including any landfill or other disposal location record, underground stor-
age tank record, hazardous waste handler and generator record, and spill reporting record;

``(cc) any other reasonably ascertainable
Federal, State, or local government record of any facility that is likely to cause or con-
tribute to contamination at the real proper-
ty, including, as appropriate—

``(I) any investigation report for the fac-
itility;

``(II) any record of activities likely to
cause or contribute to contamination at the real property, including any landfill or other disposal location record, underground stor-
age tank record, hazardous waste handler and generator record, and spill reporting record and

``(III) the person complies with clause (vii).

``(II) the person establishes that, within 180
days prior to the date of acquisition, an envi-
nronmental site assessment of the real prop-
erty was conducted that meets the require-
ments of clause (iv); and

``(III) the person exercised appropriate care
with respect to hazardous substances found
at the facility by taking reasonable steps to

``(I) conduct an inquiry by an environ-
mental professional.

``(II) interviews of each owner, operator,
and occupant of the property to determine
information regarding the potential for con-
tamination.

``(III) Review of historical sources as nec-
-e-ary to determine each previous use and occupancy of the property since the property
was first developed. In this subclause, the
-term 'historical sources' means any of the follow-
ing, if reasonably ascertainable: each recorded chain of title document regarding the
real property, including each deed, easement,
lease, restriction, and covenant, any aerial photograph, flood insurance map, property
rolls, and any other source that identifies a past use or occu-
pancy of the property.

``(IV) Determination of the existence of any prior
hazardous material cleanup or the ability to
detect the contamination at the real property, including, as appro-
priate—

``(a) any investigation report for the fac-
itility;

``(b) any record of activities likely to
cause or contribute to contamination at the real property, including any landfill or other disposal location record, underground stor-
age tank record, hazardous waste handler and generator record, and spill reporting record;

``(c) any other reasonably ascertainable
Federal, State, or local government record of any facility that is likely to cause or con-
tribute to contamination at the real property.

``(V) A visual site inspection of the real pro-
PERTY and each facility and improvement
on the real property and a visual site inspec-
tion of each immediately adjacent property,

including an investigation of any hazardous
substance use, storage, treatment, or dis-
posal practice on the property.

``(VI) The relationship of the purchase
price to the value of the property if
contamination is identified.

``(VII) Any specialized knowledge or expe-
rience of the person that ac-
quired the property.

``(VIII) The obviousness of the presence or likely
presence of contamination at the real
property, and the ability to detect the con-
tamination by appropriate investigation.

``(IX) COMMONLY KNOWN OR REASONABLY
ASCERTAINABLE INFORMATION ABOUT THE
PROPERTY. The obviousness of the presence or likely presence of contamination at the real
property, and the ability to detect the con-
tamination by appropriate investigation.

``(X) The obviousness of the presence or likely
presence of contamination at the real
property, and the ability to detect the con-
tamination by appropriate investigation.

``(XI) Site Inspection and Title Search. The
person may exercise site inspection and title
search that reveal no basis for further
investigation shall satisfy the require-
ments of clause (ii).''.

``(b) REGULATORY AUTHORITY.—

``(I) IN GENERAL.—The Administrator of the Environmental Protection Agency may—

``(a) issue such regulations as the Adminis-
trator considers necessary to carry out the
provisions of the Sites Remediation Re-
form Act, the Federal Water Pollution Con-
trol Act, or the Solid Waste Dis-
posal Act (as such terms are defined in the
Comprehensive Environmental Response,
Compensation, and Liability Act (CERLA,
the Superfund Act), the Solid Waste Dis-
posal Act, the Federal Water Pollution Con-
truly factors to be considered by EPA in determining whether to award a grant are laid out. A loan program grant to a State or State applicant shall not exceed $500,000.

Section 104 authorizes $25 million to be ap-
propriated from the Superfund for each of fiscal years 1997 through 1999 for programs provided for in sections 101 and 102.

Section 105 requires EPA to submit an an-
ual report to the congressional authorizing committees describing the achievements of each program, including the number of appli-
cations received and approved, and detailing the allocation of assistance among the states and local governments.

Section 106 limits how funds may be used. No grant may be used to pay fines or pen-
alties to a state or the federal government, or for federal cost-sharing requirements. Nor may it be used to relieve a state or local gov-
ernment of its cleanup responsibility under state law at affected sites.

Section 107. Statutory Construction. The
section states that nothing in this title is in-
tended to affect the liability of response au-
thorities under any other provision of law including
the Comprehensive Environmental Response,
Compensation, and Liability Act (CERLA, the
Superfund Act), the Solid Waste Dis-
promulgations and title search that reveal no basis for further investigation shall satisfy the
requirements of clause (ii).''.

``(b) REGULATORY AUTHORITY.—

``(I) IN GENERAL.—The Administrator of the Environmental Protection Agency may—

``(a) issue such regulations as the Adminis-
trator considers necessary to carry out the
amendment made by this section; and

``(II) delegate and assign any duties or pow-
ers imposed on or assigned to the Admin-
istrator by the amendment made by this sec-
tion, including

``(A) authority to clarify and imple-
mate, the State or local government, and the
ability to detect the contamination by appro-
"...
more than the increase in fair market value of the property attributable to the response action.

Section 203(c) amends section 103 of CERCLA to define "bona fide prospective purchaser." The definition requires that: all disposal of hazardous substances occurred before the person acquired the facility; the person did not have (a) appropriate inquiry into its previous ownership and use; the person provided proper notice regarding the discovery of hazardous substances at the facility; he exercised due care; he performed full cooperation, assistance, and facility access to those conducting the response action; and there is no family or business relationship with the potentially responsible party at the facility.

**TITL III—INNOCENT LANDOWNERS**

Section 303(a) amends section 101(39) of CERCLA clarifying the exception from liability of innocent landowners. The requirements that such a person make "all appropriate inquiry" is satisfied if he has an environmental site assessment conducted within the 180 days preceding the acquisition of the property. "Environmental site assessment" means one conducted in accordance with the American Society of Testing and Materials (ASTM) standard for a Phase I environmental site assessment (Standard E1527-94), or an alternative standard issued by the President as having satisfied all appropriate inquiry," a person must: (1) maintain a compilation of the information gathered in the course of the site assessment; (2) exercise appropriate care by stopping on-going releases, preventing threatened future releases, and limiting human and natural resource exposure to hazardous substances; and (3) provide full cooperation, assistance, and facility access to persons conducting response actions at the facility. For the purposes of this subsection and section 101(39) (the definition of "contractual relationship"), the term "contamination" means an existing release, a past release, or the threat of a release.

The court shall take into account any specialized knowledge of the defendant, the relationship of the purchase price to the value of the property if uncontaminated, commonly known information about the property, the obviousness of the presence of contamination at the property, and the ability to detect the contamination. EPA shall issue or approve standards and practices that satisfy these requirements. The bill identifies 10 factors for EPA to consider in issuing the standards:

1. Conduct an inquiry by an environmental professional.
2. Interviews with past and present owners, operators, and occupants of the facility.
3. A review of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records.
4. A search for recorded environmental liens, filed under Federal, state, or local law.
5. A review of State, local, and Federal government records (such as waste disposal records), underground storage tank records, and hazardous waste handling, generation, treatment, disposal, and spill records.
6. A visual inspection of the facility and adjoining properties.
7. Any specialized knowledge or experience on the part of the defendant.
8. The relationship of the purchase price to the value of the property if uncontaminated.
9. Other or reasonable uncertain information about the property.
10. The obviousness of the presence of contamination, and the ability to detect it by appropriate investigation.

In the case of a property for residential or similar use purchased by a nongovernmental or noncommercial entity, a site inspection and title search are sufficient to satisfy the requirements.

Section 303(b) authorizes EPA to issue regulations to carry out section 303, and gives it the authority to clarify or interpret all terms.

**REGIONAL PLAN ASSOCIATION, Newark, N.J. January 20, 1997.**

**Dear Senator Lautenberg:**

As Director of the New Jersey Office of Regional Plan Association, I am happy to support your proposed Brownfields and Environmental Cleanup Act of 1997.

RPA is the country's oldest private, non-profit regional planning organization charged with improving transportation, environmental conservation and economic development in the 32-county New York, New Jersey and Connecticut metropolitan area. RPA has been a leading voice in brownfields redevelopment in New Jersey, having successfully coordinated the award-winning OENJ brownfields Model Redevelopment Project in Elizabeth, and overseeing the legislation of the EPA Brownfields Pilot Project in New Jersey.

The proposed Brownfields and Environmental Cleanup Act of 1997 will go a long way towards stimulating redevelopment of the region's abandoned, contaminated land. For example, in particular, for local site characterization grants and site cleanup loans will provide an important incentive for local governments to prioritize and implement redevelopment of critical sites within their municipalities. The liability limitations under Section 201 are also important incentives at the federal level to encourage more aggressive and investigative approach to brownfields redevelopment. Some of these provisions are being discussed at the State level in New Jersey. The passage of federal legislation will greatly assist our efforts to promote brownfields cleanup nationwide.

I am grateful for this opportunity to support your far-reaching legislation, and wish you the best of luck in its speedy passage.

Sincerely,

**Linda P. Morgan, Director.**

**By Mr. DODD (for himself, Mr. DASCHLE, Mr. KENNEDY, Ms. MUKULSKI, Mr. ROCKEFELLER, Mrs. MURRAY, Mr. TORRICELLI, and Mr. BOXER):**

S. 19. A bill to provide funds for child care for low-income working families, and for other purposes; to the Committee on Labor and Human Resources.

**WORKING FAMILIES CHILD CARE ACT OF 1997**

**Mr. DODD.**

**Mr. President, I rise today to introduce The Working Families Child Care Act of 1997.**

Mr. President, balancing the daunting responsibilities of work with the responsibilities of raising children is always a difficult task. It is especially challenging when so many parents today are working outside the home and are forced to depend on child care.

Not surprisingly, these challenges are especially acute for low-income working families. In fact, according to national studies, when compared to all other income groups, the working poor are the least likely to receive assistance with child care costs—

even though it consumes a disproportionate share of their income—24 percent, compared to 6 percent for middle income families.

What’s more, it’s a constant struggle for low income families to remain self-sufficient without child care assistance. A survey of a waiting list in one community, it was found that of those paying for child care, 71 percent faced serious debt or bankruptcy.

Currently, in 38 States and the District of Columbia the working poor are on waiting lists to receive child care assistance. Georgia has 41,000 on its waiting list; Texas 36,000; Illinois 20,000; Alabama 20,000. Most of the States which don’t have a waiting list either don’t keep one, are expecting to create one in the future, or currently are experiencing a brief respite.

In my own State of Connecticut, new openings for child care assistance were frozen in November 1993. When new slots became available, for only two days this past summer, 5,500 applications were received.

During the last Congress, we intensely debated the issue of child care—in the larger context of welfare reform legislation. The original welfare legislation in January 1995 cut funds for child care and eliminated critically important health and safety standards. In the 104th Congress I continued to fight for child care, offering amendments to increase funding and ensure quality. While I disagreed with the final welfare reform legislation. The original welfare reform act of 1996 included child care funding of $14.2 billion over 6 years and restored rigorously important health and safety standards.

However, while the bill we passed was a significant step forward in providing child care for welfare recipients—there is still work to be done.

The bill I am proposing today will address the issue of child care for low income working families and make it easier for them to access adequate child care assistance.

First, this legislation restores $1.4 billion in child care funding.

According to a recent CBO report, even if states meet the work requirements of the welfare bill they will still lose $1.4 billion for mandated states to continue serving certain low income working families. These aren’t new recipients we’re talking about, but instead families who were receiving child care assistance prior to passage of welfare reform legislation.

The legislation I am introducing today will prevent working parents from losing child care assistance simply as a result of the welfare reform bill.

Second, it begins to address the shortage of assistance for working families, by raising the authorization for child care subsidies for low income working families from $1 billion per year to $2 billion per year.
And finally, it authorizes $500 million per year through 2002 to help communities meet supply shortages in areas such as infant care and school age care. Even when subsidies are available, child care can be difficult to obtain. According to the National Academy of Sciences, there is “Consistent evidence of a relatively low supply of care for infants, for school age children, for children with disabilities and special health care needs and for parents with unconventional or shifting work hours.”

What’s more, a 1995 GAO study based in Michigan found a shortage of infant and special needs child care in inner cities and a shortage of all types of child care in rural areas. So, we’re not simply talking about financial assistance for child care, but whether child care actually exists.

This shortage of child care is a problem for both working families and welfare recipients who want to become self-sufficient. We expect someone to make the difficult transition from welfare to work when they cannot find an adequate provider for an infant or are forced to have a 6, 7 or 8 year old spend hours alone at home when school day ends. This lack of supervision can have a devastating long-term impact. One study found that children who start to take care of themselves in elementary school are significantly more likely to report alcohol abuse by the eighth grade. Eighth graders left home alone for 11 or more hours a week report significantly greater use of cigarettes, alcohol, and marijuana then children not left home alone. We know all this, and yet only one third of the schools in low income neighborhoods offer school age child care, compared with 52 percent in more affluent areas.

For those struggling to make the difficult journey to self-sufficiency, the lack of child care is both a pull and a push. We expect parents to work nonstandard hours, and yet 1/3 of working parents who struggle to remain self-sufficient. How can we expect working mothers with annual incomes below the poverty level and 1/4 of mothers with annual incomes above the poverty level but below $25,000 work on weekends. Yet 1/3 of working mothers with annual incomes below the poverty level and 1/4 of mothers with annual incomes above the poverty level but below $25,000 work on weekends. And 6 percent of family day care providers and 2 percent of centers and day care centers are forced to have a 6, 7 or 8 year old spend hours alone at home when school day ends.

The reality is that nearly 1 in 5 full time workers—14.3 million—work non-standard hours. More than 1 in 3 are women. However, only 10 percent of child care centers and 6 percent of family day care provide care on weekends. Yet one third of working mothers with income below the poverty line and one fifth of mothers with income below poverty, but below $25,000, work on weekends.

An additional supply problem is that head start and other prekindergarten programs are part day and part year. As a result, they often do not meet the needs of parents who work full time. Less than 30 percent of Head Start programs operate on a full-time, full-year basis.

Simply put, child care funds need to be available to make these programs accessible for working parents. In my view, as a nation we have a solemn commitment to guarantee that children will not be left to fend for themselves while their parents are working to put food on the table.

Child care is one of the most important ingredients for helping poor working families achieve and maintain economic security. Like parents in any community, those from nontraditional back-grounds, low income families need to know that when they go to work, their children will receive the care and assistance they need. The bill I am introducing today will make it easier for low income, working families to meet their responsibilities of work and caring for their children. I urge all my colleagues to join together in supporting this legislation—for the good of America’s children.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Working Families Child Care Act of 1997.”

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Assistance for low-income working families.
Sec. 4. Grants for child care supply shortages.
Sec. 5. Report on access to child care by low-income working families.
Sec. 6. Effective date.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Availability and affordability of quality child care is a major obstacle for working parents who struggle to remain self-sufficient.

(A) Compared to all other income groups, the working poor are the least likely to receive assistance with their child care costs.

(B) Low-income families spend 24 percent of their household income on child care, whereas middle-income families spend 6 percent of their household income on child care.

(C) 38 States have waiting lists for child care for the working poor. Among those States, Georgia has 41,000 individuals on its waiting list; Illinois has over 30,000 individuals on its waiting list; and Louisiana and Alabama each have 20,000 individuals on their waiting lists.

(D) One survey of low-income families on a waiting list for subsidized child care found that of those families paying for child care out of their own funds, 71 percent faced serious debt or bankruptcy.

We urge all my colleagues to stand together in supporting this legislation, for the good of America’s children.

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“(V) Extending the hours of pre-kindergarten programs to provide full-day services.

“(VI) Any other child care programs that the Secretary determines are appropriate.”

(2) Authorization of Appropriations.—Section 658B(a) of the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9058a(a)), as amended by section 2, is amended

(1) by striking “Except as provided in” and inserting the following:

“(1) In this Act, except as provided in paragraphs (2) and”;

(2) by adding at the end the following:

“(2) CHILD CARE SUPPLY SHORTAGES.—There is authorized to be appropriated to be carried out section 658B(c)(3)(E), $500,000,000 for each of fiscal years 1997 through 2002.”

(3) Repeal.—Section 658B(c)(3)(A) is hereby repealed.

(II) SEC. 5.—REPORT ON ACCESS TO CHILD CARE BY LOW-INCOME WORKING FAMILIES.

(a) State Report Requirement.—Section 658B(a)(2) of the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9058a(a)(2)) is amended—

(1) in subparagraph (D), by striking “and” and inserting “and”;

(2) by inserting after subparagraph (E), the following:

“(F) the total number of families described in section 658B(b) that were eligible for but did not receive assistance under this subchapter or under section 418 of the Social Security Act and a description of the obstacles to providing such assistance; and

“(G) the total number of families described in section 658B(b) that received assistance provided under this subchapter or under section 418 of the Social Security Act and a description of the manner in which that assistance was provided.”

(b) Secretarial Reporting Requirement.—Section 658B of the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9058a) is amended by inserting “, with particular emphasis on access of low-income working families,” after “public”.

SEC. 6.—EFFECTIVE DATE.

This Act and the amendments made by this Act take effect as if included in the enactment which amends this Act, and shall apply to periods after the date of enactment.

Mr. DASCHLE. I ask unanimous consent that the bill be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 20. A bill to amend the Internal Revenue Code of 1986 to increase the rate and spread the benefits of economic growth, and for other purposes; to the Committee on Finance.

TARDED INVESTMENT INCENTIVE AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.

Mr. DASCHLE. I ask unanimous consent that the bill be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

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S. 20. A bill to amend the Internal Revenue Code of 1986 to increase the rate and spread the benefits of economic growth, and for other purposes; to the Committee on Finance.
avoidance of the purposes of this section through splits, shell corporations, partnerships, or otherwise and regulations to modify the application of section 1202 to the extent necessary to prevent someone from entering or remaining a partner to a corporation rather than a corporation."

(6) CONFORMING AMENDMENT.—Paragraph (3) of section 1016(a) is amended—

(i) by inserting "or 1044" in paragraph (1), and inserting "

(ii) by striking "and 1044", and inserting "

(b) by striking "1044(d)" and inserting "1044(e)"; and

(c) by striking "or 1045", and inserting "or 1045(b)".

(7) CLERICAL AMENDMENT.—The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end the following new item:

``Sec. 1045. Rollover of gain on small business investments."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1996.

SEC. 102. LOSSES ON ELIGIBLE SMALL BUSINESS INVESTMENTS.

(a) INCREASE IN MAXIMUM AMOUNT.—Section 1244(b) (relating to maximum amount for any taxable year) is amended—

(i) by striking "$50,000" in paragraph (1) and inserting "$150,000", and

(ii) by striking "$100,000" in paragraph (2) and inserting "$300,000".

(b) EXTENSION OF APPLICATION OF SECTION 1244 TO PARTNERSHIP INTEREST AND INCREASE IN VALUE OF CORPORATIONS ELIGIBLE FOR APPLICATION.—

(i) EXTENSION TO PARTNERSHIPS.—So much of section 1244(c) as precedes paragraph (2) is amended by striking "corporation" and inserting "partnership or partnership interest".

(ii) EXTENSION TO VALUE OF CORPORATIONS.—Section 1244(c) is amended by striking paragraph (7).

(c) SECTION 1244 INTEREST DEFINED.—

``(1) SECTION 1244 INTEREST.—For purposes of this section—"

``(A) SECTION 1244 INTEREST.—The term 'section 1244 interest' means an eligible small business investment (as defined in section 1045(b)(1)) in a qualified small business entity (as defined in section 10803(b)(1)) if that entity, during the period of its most recent taxable years ending before the date the loss on such investment was sustained, derived more than 50 percent of its aggregate gross receipts from sources other than royalties, rents, dividends, interests, annuities, and sales or exchanges of stocks or securities."

``(B) TRANSITION RULE.—Any stock in a domestic corporation issued before January 1, 1997, which was section 1244 stock under this section or section 1201 or 1202, shall be treated as a section 1244 interest for purposes of this section."

(2) CONFORMING AMENDMENTS.—

(A) Stock Held Among Members of Controlled Group Not Eligible.—Section 1244(d) is amended by striking "section 1244 stock" and inserting "a section 1244 interest".

(B) Section 1244(c)(2) is amended—

(i) by striking paragraph (3)(i) "in the heading and inserting "paragraph (2)"; and

(ii) by striking "paragraph (1)(C)" each place it appears and inserting "paragraph (1)(B)".

(C) Section 1244(c) is amended by striking paragraph (3).

(D) Section 1244(d) is amended—

(i) by striking "section 1244 stock" each place it appears and inserting "a section 1244 interest";

(ii) by striking "stock" each place it appears and inserting "interest";

(iii) by striking "paragraphs (1)(C) and (3)(A) of subsection (c) in paragraph (2) and inserting "subsection (c)(1) and;

(iv) by striking "or paragraph (2)(C) thereof" and inserting "other than the gross receipts test thereof".

(E) The heading for section 1244 is amended by striking "stock" and inserting "interest".

(ii) The item relating to section 1244 in the table of sections for part IV of subchapter P of chapter 1 is amended by striking "stocks" and inserting "interests".

(F) Section 169(m)(5) is amended by striking "stock" and inserting "interests".

(G) Section 127(c)(3)(A)(i) is amended—

(i) by inserting ", as in effect on the day before the date of enactment of subsection (c)" after section 1244(c)(3) in subclauses (ii) and (iii),

(ii) by striking "or" at the end of subclause (ii),

(iii) by striking the period at the end of subclause (iii) and inserting ", or", and

(iv) by adding at the end the following new subclause:

``(IV) by a section 1244 interest as defined in section 1244(c)(1)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1996.

SEC. 103. MODIFICATIONS TO EXCLUSION OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) EXCLUSION AVAILABLE TO CORPORATIONS.—

``(1) IN GENERAL.—Subsection (a) of section 1202 is amended by striking "other than a corporation" and inserting "corporation".

(2) TECHNICAL AMENDMENT.—Subsection (c) of section 1202 is amended by adding at the end the following new paragraph:

``(A) STOCK HELD AMONG MEMBERS OF CONTROLLED GROUP NOT ELIGIBLE.—Stock shall not be treated as qualified small business stock if such stock was at any time held by any member of a controlled group (as defined in subsection (d)(3)) which includes the qualified small business."

(b) REPEAL OF PREMIUM TAX PREFERENCE.—

``(1) IN GENERAL.—Section 57(i) is amended by striking paragraph (7).

(2) TECHNICAL AMENDMENT.—Section 530(d)(1)(B)(ii)(I) is amended by striking ", (5), and (7)" and inserting and (5)."

(c) STOCK OF LARGER BUSINESSES ELIGIBLE FOR EXCLUSION.—

``(1) STOCK OF ELIGIBLE BUSINESS.—Section 1202(d)(1) is amended by striking "$50,000,000" each place it appears and inserting "$100,000,000".

(2) Section 1202(d)(3) is amended by adding at the end the following new paragraph:

``(A) IN GENERAL.—In the case of a sale or exchange of stock held among members of a controlled group which includes a qualified small business, the aggregate gain shall be

``(B) COST-OF-LIVING ADJUSTMENT.—In the case of stock sold by a member of a controlled group which includes a qualified small business, the gain shall be

``(C) LIMITATIONS.—Section 1202(d)(3) is amended by striking ", or", and inserting ", or to any sale or exchange be-

``(D) GENERAL LIMITATION.—Section 1202(d)(3) is amended by striking paragraph (4) and inserting the following:

``(4) GENERAL LIMITATION.—In the case of stock sold by a member of a controlled group which includes a qualified small business, the aggregate gain shall be

``(E) EXCEPTION TO ONE-TIME EXCLUSION.—Subsection (a) shall not apply to a sale or exchange by the taxpayer if, during the 2-year period ending on the date of such sale or exchange, there was an election by such member to claim a deduction or credit or a tax benefit under section 2703, and if, but for this subsection, such election would not result in a tax benefit."

(2) TECHNICAL AMENDMENT.—Section 1203(d) is amended by adding at the end the following new paragraph:

``(A) IN GENERAL.—In the case of a sale or exchange to which this subsection applies, the ownership and use requirements of subsection (a) shall not apply, and subsection (b) shall not apply; but the amount of gain excluded from gross income under subsection (a) with respect to such sale or exchange by such individual's spouse, but

``(B) PREMARITAL SALES BY SPOUSE NOT TAKEN INTO ACCOUNT.—If, but for this subsection, the ownership and use requirements of subsection (a) would not apply to a sale or exchange by a married individual by reason of a sale or exchange by such individual's spouse before their marriage—

``(C) EXCLUSION FOR TAXPayers FAILING TO MEET CERTAIN REQUIREMENTS.—

``(1) IN GENERAL.—In the case of a sale or exchange to which this subsection applies, the ownership and use requirements of subsection (a) shall not apply and subsection (b) shall not apply; but the amount of gain excluded from gross income under subsection (a) with respect to such sale or exchange shall not exceed $250,000.

``(2) INFLATION ADJUSTMENT OF ASSET LIMITATION.—Section 1202(d)(2)(E) is amended by striking "$250,000,000" and inserting "$275,000,000.""
"(A) subsection (a) would not (but for this subsection) apply to such sale or exchange by reason of—
(i) a failure to meet the ownership and use requirements of subsection (a), or
(ii) subsection (b)(2), and
(B) such sale or exchange is by reason of a change in place of employment, health, or other unforeseen circumstances.

(d) SPECIAL RULES.—

(1) JOINT RETURNS.—For purposes of this section, if a husband and wife make a joint return, the ownership or use of the sale or exchange of property, subsection (a) shall subject to the provisions of subsection (b), apply if either spouse meets the ownership and use requirements of subsection (a) with respect to such property.

(2) PROPERTY OF DECEASED SPOUSE.—For purposes of this section, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, the period such unmarried individual owned such property shall include the period such deceased spouse held such property before death.

(3) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—For purposes of this section, any property held by a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), then—

(A) the holding requirements of subsection (a) shall be applied to the holding of such stock, and
(B) the holding requirements of subsection (a) shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.

(4) VOLUNTARY CONVERSIONS.—

(A) IN GENERAL.—For purposes of this section, the destruction, theft, seizure, requisition, or application to so much of the gain from the sale of such stockholder.

(B) DETERMINATION OF MARITAL STATUS.—In the case of any sale or exchange, for purposes of this section—

(A) the determination of whether an individual is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), then—

(A) if either spouse meets the ownership and use requirements of subsection (a) with respect to such property.

(b) the use requirements of subsection (a) shall be applied to the holding of such stock, and

(8) binding contracts, etc.—At the election of the taxpayer, the amendments made by this section shall not apply to any sale or exchange by an individual if the taxpayer elects not to have this section apply.

(c) RESIDENCES ACQUIRED IN ROLLOVERS UNDER SECTION 1034.—For purposes of this section, in the case of property the acquisition of which by the taxpayer resulted under section 1034 (as in effect on the day before the date of the enactment of this sentence) in the nonrecognition of any part of the gain realized on the sale or exchange of another residence, in determining the period for which such property is treated as the taxpayer's principal residence, there shall be included the aggregate periods for which such other residence (and any property such a taxpayer acquired under section 1223(7) in determining the holding period of such property) had been so owned and used.

(d) REPEAL OF NONRECOGNITION OF GAIN ON ROLLOVER OF PRINCIPAL RESIDENCE.—Section 1034 (relating to rollover of gain on sale of principal residence) is hereby repealed.

(2) BOUNDARY CONTRACTS, ETC.—At the election of the taxpayer, the amendments made by this section shall not apply to any sale or exchange by an individual who has attained age 55 and inserting "(relating to sale of principal residence)."

(3) Section 6012 is amended by striking "(relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55)" and inserting "(relating to gain from sale of principal residence)."

(4) Subsection (a) of section 6121 is amended by striking "such dwelling unit is used as his principal residence; and"

(c) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of the depreciation adjustments (as defined in section 199) attributable to periods after December 31, 1996, in respect of such property.

(d) DETERMINATION OF USE DURING PERIODS OF OUT-OF-RESIDENCE CARE.—In the case of a taxpayer who—

(A) becomes physically or mentally incapable of self-care, and

(B) owns property and uses such property as the taxpayer's principal residence during the 5-year period described in subsection (a) for periods aggregating at least 1 year, then the taxpayer shall be treated as using such property as his principal residence during any time during such 5-year period in which the taxpayer owns the property and resides in any facility (including a nursing home, a State or political subdivision to care for an individual in the taxpayer's condition.

(5) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of the depreciation adjustments (as defined in section 199) attributable to periods after December 31, 1996, in respect of such property.

(e) PRINCIPAL RESIDENCES.—If—

(1) subsection (a) applies to a reacquisition of real property with respect to the sale of which gain was not recognized under section 121 (relating to gain on sale of principal residence); and

(2) within 1 year after the date of the reacquisition of such property by the seller, such property is resold by him, then, under regulations prescribed by the Secretary, subsections (b), (c), and (d) of this section shall not apply to the reacquisition of such property and, for purposes of applying section 121, the sale of such property shall be treated as a part of the transaction constituting the original sale of such property.

(f) APPLICATION OF SECTION 1033.—This section shall not apply to any sale or exchange with respect to which the taxpayer elects to have section 1033 apply.

(7) RESIDENCES ACQUIRED IN ROLLOVERS UNDER SECTION 1034.—For purposes of this section, in the case of property the acquisition of which by the taxpayer resulting under section 1034 (as in effect on the day before the date of the enactment of this sentence) in the nonrecognition of any part of the gain realized on the sale or exchange of another residence, in determining the period for which such property is treated as the taxpayer's principal residence, there shall be included the aggregate periods for which such other residence (and any property such a taxpayer acquired under section 1223(7) in determining the holding period of such property) had been so owned and used.

(8) Binding contracts, etc.—At the election of the taxpayer, the amendments made by this section shall not apply to any sale or exchange by an individual who has attained age 55 and inserting "(relating to sale of principal residence)."

(9) Subsection (c) of section 6121 is amended by striking "(relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55)" and inserting "(relating to gain from sale of principal residence)."

(10) Subsection (a) of section 6121 is amended by striking subparagraph (C) and by redesignating the succeeding subparagraphs accordingly.

(11) Subsection (c) is amended by striking "such property and, for purposes of applying section 121, the sale of such property shall be treated as a part of the transaction constituting the original sale of such property."

(12) Subsection (c) is amended by striking "such property and, for purposes of applying section 121, the sale of such property shall be treated as a part of the transaction constituting the original sale of such property."

(13) Subsection (c) is amended by striking "such property and, for purposes of applying section 121, the sale of such property shall be treated as a part of the transaction constituting the original sale of such property."

(14) The item relating to section 121 in the tables of sections for part III of subchapter B of chapter 1 is amended to read as follows:

Sec. 121. Exclusion of gain from sale of principal residence.

(15) The table of sections for part III of subchapter C of chapter 1 of such Code is amended by striking the item relating to section 1034.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales and exchanges after December 31, 1996.

(2) BINDING CONTRACTS, ETC.—At the election of the taxpayer, the amendments made by this section shall not apply to any sale or exchange after December 31, 1996, if—

(A) such sale or exchange is pursuant to a contract which was binding on the date of the enactment of this Act, or

(B) without regard to such amendments, gain would not have been recognized under section 1239 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) on such sale or exchange by reason of a new residence acquired on or before such date.

(2) paragraph shall not apply to any sale or exchange by an individual if the treatment provided by section 871(a)(1) of the Internal Revenue Code of 1986 applies to such individual.

TITILE II—RETIREMENT SAVINGS

SEC. 201. INCREASE IN DEDUCTION FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Section 219(b)(1)(A) is amended by striking "$2,000" and inserting "$2,500".

(b) CONFORMING AMENDMENTS.—Subsections (a)(1), (b), and (j) of section 219 are each amended by striking "$2,000" each place it appears and inserting "$2,500".
(c) **Effective Date.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

**SEC. 202. ROLLER ROVER OF GAIN FROM SALE OF FARMS AND INDIVIDUAL RETIREMENT PLANS.**

(a) **In General.**—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

> **SEC. 1034A. ROLLER ROVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLER ACCOUNT.**

> "(a) Nonrecognition of Gain.—Subject to the limits of section (c), if a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs.

> (b) **Asset Rollover Account.**—

> "(1) **General Rule.**—As provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

> "(2) **Asset Rollover Account.**—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

> (c) **Contribution Rules.**—

> "(1) **No Deduction Allowed.**—No deduction shall be allowed by section 219 for a contribution to an asset rollover account.

> "(2) **Aggregate Contribution Limitation.**—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual shall not exceed—

> "(A) $100,000 ($200,000 in the case of a separate return by a married individual), reduced by—

> "(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

> The determination under subparagraph (B) shall be made as of the close of the taxable year for which the determination is being made.

> "(3) **Annual Contribution Limitations.**—

> "(A) **General Rule.**—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed the lesser of—

> "(i) the qualified net farm gain for the taxable year, or

> "(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $20,000 for $10,000 for each year the taxpayer's spouse is a qualified farmer.

> "(B) Spouse.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied with respect to the spouse of the taxpayer.

> "(C) **Time When Contribution Deemed Made.**—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution accounts in such manner as to reduce the amount which may be contributed to an asset rollover account for the taxable year to which such contribution is added.

> (d) **Qualified Net Farm Gain; Etc.**—For purposes of this section—

> "(1) **Qualified Net Farm Gain.**—The term 'qualified net farm gain' means the lesser of—

> "(A) the net capital gain of the taxpayer for the taxable year, or

> "(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset before the close of the taxable year.

> "(2) **Qualified Farm Asset.**—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

> "(3) **Qualified Farmer.**—

> "(A) In general.—The term 'qualified farmer' means a taxpayer who—

> "(i) during the 5 year period ending on the date of the disposition of a qualified farm asset, materially participated in the trade or business of farming, and

> "(ii) owned (or who with the taxpayer's spouse owned) 50 percent or more of such trade or business during such 5-year period.

> "(B) Material Participation.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 2032A(e)(6).

> "(4) **Rollover Contributions.**—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

> (e) **Distribution Rules.**—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

> "(f) **Individual Required to Report Qualified Contributions.**—

> "(1) **In General.**—Any individual who—

> "(A) makes a contribution to any asset rollover account for any taxable year, or

> "(B) receives any amount from any asset rollover account for any taxable year, shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form (as the Secretary may prescribe) information described in paragraph (2).

> "(2) **Information Required to be Supplied.**—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

> (g) **Penalties.**—For penalties relating to reports under this paragraph, see section 6639(b)."
or assuming a stock option in a transaction representing at least 20 percent of the total cap-
its parent or subsidiary corporation, This section shall apply to an option granted
the option is granted.
>(E) OPTION PRICE.—Except as provided in paragraph (b) of subsection (c), the option price is not less than the fair market value of the stock at the time the option is grant-
>(F) TRANSFERABILITY.—The option by its terms is not transferable by the person holding
(i) in the case of an individual, by will or the laws of descent and distribution, or pur-
(ii) in the case of any other person, by any such gift, devise, or loss is not recognized in whole or in part.
>(3) ELECTION NOT TO TREAT OPTION AS PERFORMANCE STOCK OPTION.—An option shall not be treated as a performance stock option if—
(A) as of the time the option is granted the terms of such option provide that it will not be treated as a performance stock option, or
(B) as of the time such option is exercised the grantor and holder agree that such op-
(2) PERMISSIBLE PROVISIONS.—An option that is treated as a performance stock option
shall not be allowed.''
(5) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subsection, the term 'highly compensated employee' has the meaning given such term by section 414(q).
(3) FAIR MARKET VALUE.—For purposes of this section, the fair market value of stock shall be determined in accordance with the provisions of the plan or the terms of such option, or
(4) PERFORMANCE CRITERIA.—In the case of a performance stock option that provides that its exercise is subject to any conditions or criteria described in subparagraph (C) of paragraph (2), the date or time the original performance share option is granted and subject to the provisions of section 425(b), no option shall be treated as granted at any other time.
>(B) CONVERSION OF OPTIONS.—If—
(A) there is a transfer of an incentive stock option in exchange for a performance stock option, and
(2) INCOME. —Gross income shall not include any portion of the gain from the disposition of any stock acquired pursuant to the exercise of a performance stock option if such disposition occurs more than 2 years after the option was exercised with respect to such stock.
"SEC. 424. PERFORMANCE SHARE OPTIONS.
(a) GENERAL RULE.—Gross income shall not include any portion of the gain from the disposition of any stock acquired pursuant to the exercise of a performance stock option if such disposition occurs more than 2 years after the option was exercised with respect to such stock.
"SEC. 1103. 50-PERCENT EXCLUSION FOR GAIN FROM STOCK ACQUIRED THROUGH PERFORMANCE STOCK OPTIONS.
(a) EXCLUSION.—
(1) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end the following new section:
"SEC. 1203. 50-PERCENT EXCLUSION FOR GAIN FROM STOCK ACQUIRED THROUGH PERFORMANCE STOCK OPTIONS.
(a) GENERAL RULE.—Gross income shall not include any portion of the gain from the disposition of any stock acquired pursuant to the exercise of a performance stock option if such disposition occurs more than 2 years after the option was exercised with respect to such stock.
"SEC. 425. Definitions and special rules.
SEC. 302. TAX TREATMENT OF GAIN ON PERFORMANCE SHARE OPTIONS.
(a) EXCLUSION.—
(1) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end the following new section:
"SEC. 1203. 50-PERCENT EXCLUSION FOR GAIN FROM STOCK ACQUIRED THROUGH PERFORMANCE STOCK OPTIONS.
(a) GENERAL RULE.—Gross income shall not include any portion of the gain from the disposition of any stock acquired pursuant to the exercise of a performance stock option if such disposition occurs more than 2 years after the option was exercised with respect to such stock.
"SEC. 425. Definitions and special rules.
SEC. 302. TAX TREATMENT OF GAIN ON PERFORMANCE SHARE OPTIONS.
(a) EXCLUSION.—
(1) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end the following new section:
under section 1202 or 1203 shall not be taken into account.

(b) Paragraph (4) of section 691(c) is amended by striking "1202, and 1211" and inserting "1211, and 1231."

(c) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to sections 1202 and 1203" after "except that."

(d) The table of sections for part I of chapter 1 is amended by adding after the item relating to section 1202 the following new item:

"Sec. 1203. 50-percent exclusion for gain from stock acquired through performance stock options.

(b) TREATMENT FOR WAGE WITHHOLDING AND EMPLOYMENT TAXES.

(1) FICA TAXES.—Section 3121(a) (defining wages) is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ", or", and by adding after paragraph (21) the following new paragraph:

"(22) any gain from the exercise of a performance stock option (as defined in section 422(b)) or from the disposition of stock acquired pursuant to the exercise of such a performance stock option."

(2) FUTA TAXES.—Section 3306(b) (defining wages) is amended by striking "or" at the end of paragraph (17) and inserting ", or," and by adding after paragraph (17) the following new paragraph:

"(23) any gain described in section 3121(a)(22)."

(3) WAGE WITHHOLDING.—

(A) Section 3401(a) (defining wages) is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ", or," and by adding at the end the following new sentence:

"(22) any gain from the exercise of a performance stock option (as defined in section 422(b)) or from the disposition of stock acquired pursuant to such a performance stock option."

(B) Section 422(b) (relating to effect of disqualifying disposition) is amended by adding at the end of section 422(b) the following new sentence:

"No deduction shall be disallowed by reason of a failure to withhold tax under chapter 24 with respect to gain on stock acquired in a transaction pursuant to an offer described in section 422(b)."

SEC. 501. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

"Sec. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

(2) $900,000, reduced by the amount of any exclusion allowed under this section with respect to the estate of a previously deceased spouse of the decedent.

(b) ESTATES TO WHICH SECTION APPLIES.—

(1) In general.—This section shall apply to an estate if—

(A) the decedent was (at the date of the decedent’s death) a citizen or resident of the United States;

(B) the sum of—

(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

(ii) the amount of the gifts of such interests determined under paragraph (3), exceeds 50 percent of the adjusted gross estate, and

(C) during the 8-year period ending on the date of the decedent’s death there have been periods aggregating 5 or more during which—

(i) such interests were owned by the decedent or a member of the decedent’s family, and

(ii) there was material participation (within the meaning of section 2032(a)(6)) by the decedent or a member of the decedent’s family in the operation of the business to which such interests relate.

(2) INCLUDIBLE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—The qualified family-owned business interests described in this paragraph are—

(A) an interest as a proprietor in a trade or business described in subparagraph (A) of section 1223(1) (as defined in section 1223(b)(2)) and

(B) an interest in an entity carrying on a trade or business described in subparagraph (A) of section 1223(1) (as defined in section 1223(b)(2)) for which—

(i) at least—

(A) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent’s family, and

(B) 30 percent of such entity is owned by members of families of the decedent’s family, and

(ii) for purposes of subclause (I) or (II) of clause (i), at least 30 percent of such entity is owned by the decedent and members of the decedent’s family.

(3) EXCLUSIONS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the excess of—

(A) the value of such gifts from the decedent to members of the decedent’s family taken into account under subsection 20001(b)(1), and

(B) the value of such gifts from the decedent to members of the decedent’s family taken into account under section 20001(b)(1), to the extent such interests are continuously held by members of such family (other than the decedent’s spouse) between the date of the gift and the date of the decedent’s death, over—

(B) the amount of such gifts from the decedent to members of the decedent’s family otherwise included in the gross estate.

(c) ADJUSTED GROSS ESTATE.—For purposes of this section, the term ‘adjusted gross estate’ means the value of the gross estate (determined without regard to this section).

(B) increased by the excess of—

(i) the amount of gifts described in subsection (b)(3), plus

(ii) the amount of the exclusions described in clauses (i), (ii), and (iii) of subparagraph (A) of section 2033A(b) and

(iii) any amount deductible under paragraph (3) or (4) of section 2053(a), over

(B) the sum of the amounts described in subsection (b)(3), plus

(C) any indebtedness not described in clause (i) or (ii), to the extent such indebtedness does not exceed $10,000.

(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means—

(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

(B) an interest in an entity carrying on a trade or business if—

(i) at least—

(A) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent’s family, and

(B) 30 percent of such entity is owned by members of families of the decedent’s family, and

(ii) for purposes of subclause (I) or (II) of clause (i), at least 30 percent of such entity is owned by the decedent and members of the decedent’s family.

(2) LIMITATION.—Such term shall not include—
(A) any interest in a trade or business the principal place of business of which is not located in the United States,

(B) any interest in an entity, if the stock or other interest in such entity (as defined in section 267(f)(11)) of which such entity was a member was readily tradable on an established securities market or secondary market established by the Secretary at any time within 3 years of the date of the decedent's death,

(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year that includes the date of the decedent's death was derived from transactions with unrelated parties,

(D) the principal place of business of a trade or business of the qualified family-owned business ceases to be located in the United States,

(2) ADDITIONAL ESTATE TAX.—

(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined by substituting "trade or business" for "controlled foreign corporation") (ii) any other assets of the trade or business of the qualified family-owned business interest located in the United States.

(b) C LERICAL AMENDMENT.ÐThe table of contents for title I of subtitle D of chapter 11 is amended by adding at the end the following new section:

SEC. 1101. FUNDING.

There is authorized to be appropriated to the Secretary of Transportation $1,600,000,000 for each of the fiscal years 2032 through 2051 to carry out the provisions of this title.
(5) at the same time, recent Federal initiatives have equipped States with new infrastructure financing tools that help attract private investment, stimulate the Nation's economic growth; and (6) enabling States to use a portion of their unobligated balances of apportioned Highway Trust Fund revenues via these new financing tools will maximize the benefits of vitally needed infrastructure investments.

SEC. 602. PROGRAM STRUCTURE.
(a) In General.—The Secretary of Transportation, in this title as the "Secretary") shall make available to a State a portion of the State's unobligated balance in accordance with section 603.

(b) Project Receiving Assistance.—Federal funds made available under this title shall be used only to provide assistance with respect to a project eligible for assistance under section 139(b) of title 23, United States Code.

(c) Project Administration.—A project receiving assistance under this title shall be carried out in accordance with title 23, United States Code.

SEC. 603. FUNDING.
(a) Unobligated Balances.—
(b) In General.—For each fiscal year, upon the request of the Secretary, the Secretary shall make available to the State for carrying out projects eligible for assistance under this title an aggregate amount not to exceed 10 percent of the unobligated balance of that State for the preceding fiscal year, of the funds that were apportioned to the State under sections 104(b)(1), 104(b)(3), 104(b)(5), 144, and 160 of title 23, United States Code.

(b) Urbanized Areas Over 200,000.—Funds that were apportioned to a State under section 104(b)(3) or 160 of title 23, United States Code, and attributed to an urbanized area of the State with an urbanized area population of over 200,000 under section 139(d)(3) of that title may be made available by the Secretary under subsection (a)(1) if the metropolitan planning organization designated for the area concurs, in writing, with that use.

(c) Use of Funds.—
(1) State Infrastructure Banks.—
(A) In General.—A State shall contribute the amounts made available to the State under subsection (a)(1) to the State infrastructure bank established by the State in accordance with section 350 of the National Highway System Designation Act of 1995 (23 U.S.C. 101 note; 109 Stat. 618). Federal funds contributed to an urbanized area of the State with an urbanized area population of over 200,000 under section 139(d)(3) of that title may be made available by the Secretary under subsection (a)(1) if the metropolitan planning organization designated for the area concurs, in writing, with that use.

(B) Disbursements.—The Secretary shall ensure that the requirements of the Federal-aid highway program are met.

(C) Grants.—In lieu of contributing the funds to an infrastructure bank, and upon approval by the Secretary, a State shall obligate the amount made available to the State under subsection (a)(1) for a project eligible for assistance under section 602(b).

(d) No Obligation Limitation.—No limitation shall apply to obligations of amounts made available under subsection (a)(1).

By Mr. MOYNIHAN.
S. 21. A bill to establish a medical education trust fund, and for other purposes; to the Committee on Finance.

THE MEDICAL EDUCATION TRUST FUND ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise to reintroduce legislation that would establish a medical education trust fund to support America's 142 accredited medical schools and 1,250 teaching hospitals. These institutions are national treasures; they are the very best in the world. Yet today they find themselves in a precarious financial situation as market forces reshape the health care delivery system in the United States. The Secretary of Health and Human Services has created a dedicated Health Care Financing Administration trust fund for these institutions, which will make available to the United States Government funds, in the amount of $600 million, to help pay the costs of medical education. This legislation requires that the public sector, through the Medicare and Medicaid programs, and the private sector, through an assessment on health insurance premiums, contribute broad-based and fair financial support.

My particular interest in this subject began in 1994, when the Finance Committee took up the President's Health Security Act. I was chairman of the committee at the time. In January of that year, I asked Dr. Paul Marks, President of the Memorial Sloan-Kettering Cancer Center in New York City, if he would arrange a seminar for me on health care issues. He agreed, and gathered a number of medical school deans together one morning in New York.

Early on in the meeting, one of the seminarians remarked that the University of Minnesota might have to close its medical school. In an instant I realized that I had heard something new. Minnesota is a place where they open medical schools, not close them. How, then, could this be? The answer was that Minnesota, being Minnesota, was a leading State in the growth of competitive health care markets, in which competing managed care organizations try to deliver services at lower costs. In this environment, HMO's and the like do not send patients to teaching hospitals, absent which you cannot have a medical school.

We are in the middle of a great era of discovery in medical science. It is certainly not a time to close medical schools. This great era of medical discovery is occurring right here in the United States, not in Europe like past ages of scientific discovery. And it is centered in New York City. This heroic age of medical science started in the late 1930's. Before then, the average patient was probably as well off, perhaps better, out of a hospital as in one. Now that sixty years ago has been remarkable. The last few decades have brought us images of the inside of the human body based on the magnetic resonance of bodily tissues; laser surgery; micro surgery for reattaching limbs; and organ transplantation, among other wonders. Physicians are now working on a gene therapy that might eventually replace bypass surgery. I can hardly imagine what might be next.

After much study and debate on the President's Health Security Act, I became convinced that special provisions would have to be made for medical schools, teaching hospitals, and medical research if we were not to see this great moment in medical science suddenly constrained. To that end, when the Committee on Finance voted 12 to 8 on July 2, 1994 to report the Health Security Act, it included a proposal to create a Graduate Medical Education Trust Fund. The trust fund provided an 80-percent increase in Federal funding for academic medicine; as importantly, it represented stable, long-term funding. While nothing came of the effort to extend universal health care coverage, the medical education trust fund enjoyed widespread support. An amendment by Senator Malcolm Wallop to kill the trust fund by striking the source of its revenue—a 1.75-percent assessment on health insurance premiums—failed on a 7 to 13 vote in the Finance Committee.

I continued to press the issue in the first session of the 104th Congress. On September 29, 1995, during Finance Committee consideration of budget reconciliation legislation, I offered an amendment to establish a medical education trust fund. With a new majority in control and the committee in the midst of considering a highly partisan budget reconciliation bill, my amendment failed on a tie vote, 10 to 10. Notably, however, the House Ways and Means Committee, Representative Bill Archer and I were largely responsible for the inclusion of trust fund provisions in the Balanced Budget Act of 1995 and the budget resolution for fiscal year 1997 as passed by Congress also appeared to assume that a similar trust fund was to be included in the Medicare reconciliation bill—a bill which never materialized.

The chairman of the House Ways and Means Committee, Representative Bill Archer, was largely responsible for the inclusion of trust fund provisions in the Balanced Budget Act of 1995 and the budget resolution for fiscal year 1997. He and I share a strong commitment to ensuring the continued success of our system of medical education. Indeed, Chairman Archer and I were both honored last year to receive the American Association of Medical Colleges' Public Service Excellence Award. That is the history of this effort, briefly stated.

NEED FOR LEGISLATION

Medical education is one of America's most precious public resources. Within our increasingly competitive health care system, it is rapidly becoming a public good—that is, a good from which everyone benefits, but for which no one is willing to pay. Therefore, it would be explicitly financed with contributions from all sectors of the health care system, not just the Medicare Program as is the case today. The fiscal pressures of a competitive health market are increasingly closing off traditional implicit revenue sources.
(such as additional payments from private payers) that have supported medical schools, graduate medical education, and research until now. In its June, 1996 Report to Congress, the Prospective Payment Assessment Commission (ProPAC) recommended the establishment of a Medical Education Trust Fund, which explicitly reimburses medical schools from other payers that traditionally have contributed to financing the costs associated with graduate medical education.

ProPAC's June, 1996 Report to Congress confirmed that "major teaching hospitals have the dual problems of higher overall losses from uncompensated care and less above-cost revenue from private insurers."

The State of New York provides a good example of what is happening as health care becomes more competitive. Effective at the end of the 1996 calendar year, New York repealed a State law that set hospital rates. Hospitals must now negotiate their fees with each and every health plan in the State. Where teaching hospitals were once guaranteed a payment that recognized, to some degree, its higher costs of providing services, the private sector is free to squeeze down payments to hospitals with no such recognition.

While the State of New York operates funding pools that provide partial support for graduate medical education and uncompensated care, it is largely up to the teaching hospitals to try to win higher rates than other hospitals when negotiating contracts with health plans. Teaching hospitals may succeed in doing so, but most will probably not.

New York's State law was unique, but the same process of negotiation between hospitals and private health plans takes place across the country. Who, in this context, will pay for the higher costs of operating teaching hospitals?

It is obvious that teaching hospitals can no longer rely on higher payments from private payers to do so. Nor should the establishment of this trust fund, which explicitly reimburses teaching hospitals for the costs of graduate medical education, ensure that teaching hospitals can pursue their vitaly important patient care, training, and research missions in the face of growing competitiveness.

Medical schools also face an uncertain future. There are many policy issues that need to be examined regarding the role, scale, function, and number of these institutions. Although many of these institutions increasingly will be challenged by price competition in the private sector is reducing the ability of teaching hospitals to obtain the higher patient care rates from other payers that traditionally have contributed to financing the costs associated with graduate medical education.

This legislation is only a first step. It establishes the principle that, as a public good, medical education should be supported by more than the traditional, long-term federal funding. To ensure that the United States continues to lead the world in the quality of its medical education and its health system as a whole, the legislation would also create a Medical Education Advisory Commission to conduct a thorough study and make recommendations, including the potential use of demonstration projects, regarding the following: alternative and additional sources of medical education financing, alternative methodologies for financing medical education; policies designed to maintain superior research and educational capacities in an increasingly competitive health system; the appropriate role of medical schools in graduate medical education; and policies designed to expand eligibility for graduate medical education payments to institutions other than teaching hospitals.

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

S. 21.1

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE. ÐThis Act may be cited as the "Medical Education Trust Fund Act of 1997".

(b) TABLE OF CONTENTS. ÐThe table of contents of this title is as follows:

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


3. Amendments to medicaid program. Sec. 3. Amendments to medicaid program.

4. Amendments to medicare program. Sec. 4. Amendments to medicare program.

5. Assessments on insured and self-insured health plans. Sec. 5. Assessments on insured and self-insured health plans.


7. Demonstration projects. Sec. 7. Demonstration projects.

SEC. 2. MEDICAL EDUCATION TRUST FUND.

The Social Security Act (42 U.S.C. 500 et seq.) is amended by adding after title XX the following new title:

"TITLE XXI—MEDICAL EDUCATION TRUST FUND"

"TABLE OF CONTENTS OF TITLE"

Sec. 2101. Establishment of Trust Fund.

Sec. 2102. Payments to medical schools.

Sec. 2103. Payments to teaching hospitals.

"SEC. 2101. ESTABLISHMENT OF TRUST FUND.

(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Medical Education Trust Fund (in this title referred to as the 'Trust Fund'), consisting of the following accounts:
"(1) The Medical School Account.
"(2) The Medicare Teaching Hospital Indirect Account.
"(3) The Medicare Teaching Hospital Direct Account.
"(4) The Non-Medicare Teaching Hospital Indirect Account.
"(5) The Non-Medicare Teaching Hospital Direct Account.

Each such account shall consist of such amounts as are allocated and transferred to such account under this section, sections 1876(a)(7), 1886, and 1931, and section 4503 of the Internal Revenue Code of 1986. Amounts in the accounts of the Trust Fund shall remain available until expended.

(b) FROM TRUST FUND—Amounts in the accounts of the Trust Fund are available to the Secretary for making payments under sections 2102 and 2103.

(c) INVESTMENT—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest amounts in the accounts of the Trust Fund which the Secretary determines are not required to meet current withdrawals from the Trust Fund. Such investments may be made only in interest-bearing obligations of the United States. Such investments may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) IN GENERAL.—The Secretary of the Treasury may sell at market price any obligation acquired under paragraph (1).

(3) AVAILABILITY OF INCOME.—Any interest derived from obligations held in each such account, and proceeds from any sale or redemption of such obligations, are hereby appropriated to such account.

(4) APPROPRIATIONS TO TRUST FUND.—There are appropriated to the Trust Fund such amounts as may be unconditionally donated to the Federal Government as gifts to the Trust Fund.

(5) MEDICAL SCHOOL DEFINED.—For purposes of this section, the term 'medical school' means a school of medicine (as defined in section 799 of the Public Health Service Act) or a school of osteopathic medicine (as defined in such section).

(d) GENERAL HEALTH CARE INFLATION FACTOR.—The term 'general health care inflation factor' means the consumer price index for medical services as determined by the Bureau of Labor Statistics.

SEC. 2102. PAYMENTS TO MEDICAL SCHOOLS.

(a) FEDERAL PAYMENTS TO MEDICAL SCHOOLS.—Certain Costs.

"(1) IN GENERAL.—In the case of a medical school that in accordance with paragraph (2) submits to the Secretary an application for fiscal year 1998 and for each subsequent fiscal year, the Secretary shall make payments for such year to the medical school for the purpose specified in paragraph (3). The Secretary shall make such payments from the Medical School Account in an amount determined in accordance with subsection (b), and may administer the payments as a contract, grant, or cooperative agreement.

"(2) APPLICATION FOR PAYMENTS.—For purposes of paragraph (1), an application for payments under such paragraph for a fiscal year is in accordance with this paragraph if—

"(A) the medical school involved submits the application not later than the date specified by the Secretary; and

"(B) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(3) PURPOSE OF PAYMENTS.—The purpose of payments under paragraph (1) is to assist medical schools in obtaining and developing quality educational programs in an increasingly competitive health care system.

"(b) AVAILABILITY OF TRUST FUND FOR PAYMENTS.—

"(1) AVAILABILITY OF TRUST FUND FOR PAYMENTS.—The following amounts shall be available for a fiscal year for making payments under subsection (a) from the amount allocated and transferred to the Medical School Account under sections 1876(a)(7), 1886, and 1931, and section 4503 of the Internal Revenue Code of 1986:

"(A) In the case of fiscal year 1998, $200,000,000.

"(B) In the case of fiscal year 1999, $300,000,000.

"(C) In the case of fiscal year 2000, $400,000,000.

"(D) In the case of fiscal year 2001, $500,000,000.

"(F) In the case of each subsequent fiscal year, the amount specified in this paragraph in the previous fiscal year updated through the midpoint of the year by the estimated percentage change in the general health care inflation factor (as defined in subsection (d)) during the 12-month period ending on that midpoint.

"(3) P URPOSE OF PAYMENTS .ÐThe purpose of payments under such paragraph for a fiscal year, as determined by the Secretary in accordance with such paragraph, shall be to meet the estimated percentage change in the general health care inflation factor.

(b) DETERMINATION OF AMOUNT FROM MEDICARE TEACHING HOSPITAL INDIRECT ACCOUNT.—

"(1) IN GENERAL.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Medicare Teaching Hospital Indirect Account under sections 1876(a)(7) and 1886(j)(2), and subsections (c)(3) and (d) of section 2101 for such fiscal year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for any fiscal year is equal to the percentage of the total payments which would have been made to the eligible entity for such fiscal year under section 1886(d)(3)(B) if—

"(A) such payments had not been terminated for discharges occurring after September 30, 1997; and

"(B) such payments included payments for individuals enrolled in a plan under section 1876, except that for fiscal years 1998, 1999, and 2000, only the applicable percentage (as defined in section 1876(a)(7)(B)) of such payments shall be taken into account.

"(c) DETERMINATION OF AMOUNT FROM MEDICARE TEACHING HOSPITAL DIRECT ACCOUNT.—

"(1) IN GENERAL.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Medicare Teaching Hospital Direct Account under sections 1876(a)(7) and 1886(j), and subsections (c)(3) and (d) of section 2101 for such fiscal year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for any fiscal year is equal to the percentage of the total payments which would have been made to the eligible entity in such fiscal year under section 1886(d)(3)(B) if—

"(A) such payments had not been terminated for discharges occurring after September 30, 1997; and

"(B) such payments included payments for individuals enrolled in a plan under section 1876, except that for fiscal years 1998, 1999, and 2000, only the applicable percentage (as defined in section 1876(a)(7)(B)) of such payments shall be taken into account.

"(d) DETERMINATION OF AMOUNT FROM NON-MEDICARE TEACHING HOSPITAL INDIRECT ACCOUNT.—

"(1) IN GENERAL.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Non-Medicare Teaching Hospital Indirect Account for such fiscal year under section 1931, subsections...
Teaching Hospital Direct Account for such eligible entity for a fiscal year under section 1886(h) if—

(1) the remainder shall be allocated and transferred to the Medicare Teaching Hospital Indirect Account.

(2) DETERMINATION OF AMOUNTS.—The Secretary shall determine the amount to be transferred for each fiscal year involved of the nationwide total of the amounts that would have been paid under subsection (d)(5)(B) to hospitals during the fiscal year involved if reimbursement under subparagraph (A) had not been terminated for discharges occurring after September 30, 1997.

(2) DIRECT COSTS OF MEDICAL EDUCATION.—

(a) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 1998 and each subsequent fiscal year, transfer to the Medical Education Trust Fund an amount equal to the amount estimated by the Secretary under paragraph (1).

(b) ALLOCATION.—Of the amount transferred under clause (i), the Secretary shall allocate and transfer to the Medical School Account an amount which bears the same ratio to the total amount available under section 1905(d)(5)(B) (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred under subparagraph (A) had not been terminated for discharges occurring after September 30, 1997.

(3) TRANSFER OF FUNDS TO ACCOUNTS

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1395mm(a)) is amended—

(1) by redesigning section 1931 as section 1932; and

(2) by inserting after section 1930, the following new section:

"SEC. 1931. (a) TRANSFER OF FUNDS. 

"(1) IN GENERAL.—For fiscal year 1998 and each subsequent fiscal year, the Secretary shall transfer to the Medical Education Trust Fund an amount equal to the amount determined under subsection (a)(2).

"(2) ALLOCATION.—Of the amount transferred under paragraph (1)—

"(A) there shall be allocated and transferred to the Medicare Teaching Hospital Indirect Account and the Non-Medicare Teaching Hospital Direct Account under such section in the same proportion as the amounts attributable to the costs under sections 3886d(5)(B) and 3886(h) were of the amounts transferred under clause (i).

"(iii) The Secretary shall make payments under clause (i) from the amounts transferred to the Medical Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, in the same manner as the Secretary determines under section 1931.

SEC. 4. AMENDMENTS TO MEDICARE PROGRAM

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1395 et seq.) is amended—

(1) by redesigning section 1931 as section 1932; and

(2) by inserting after section 1930, the following new section:

"SEC. 1931. (a) TRANSFER OF FUNDS. 

"(1) IN GENERAL.—For fiscal year 1998 and each subsequent fiscal year, the Secretary shall transfer to the Medical Education Trust Fund an amount equal to the amount determined under subsection (a)(2).

"(2) ALLOCATION.—Of the amount transferred under paragraph (1)—

"(A) there shall be allocated and transferred to the Medicare Teaching Hospital Indirect Account and the Non-Medicare Teaching Hospital Direct Account under such section in the same proportion as the amounts attributable to the costs under sections 3886d(5)(B) and 3886(h) were of the amounts transferred under clause (i).

"(iii) The Secretary shall make payments under clause (i) from the amounts transferred to the Medical Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, in the same manner as the Secretary determines under section 1931.

(b) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 1998 and each subsequent fiscal year, transfer to the Medical Education Trust Fund an amount equal to the amount estimated by the Secretary under paragraph (1).

"(i) INDIRECT COSTS OF MEDICAL EDUCATION.—

"(A) IN GENERAL.—From the Federal Hospital Insurance Trust Fund, the Secretary shall, for fiscal year 1998 and each subsequent fiscal year, transfer to the Medical Education Trust Fund an amount equal to the amount estimated by the Secretary under subsection (b).

"(B) ALLOCATION.—Of the amount transferred under clause (i)—

"(I) for the purposes of paragraph (4) for fiscal years after 1997, the Secretary shall not take into account the applicable percentage of costs under sections 1886d(5)(B) (indirect costs of medical education) and 1886(h) (direct graduate medical education costs).

"(ii) for purposes of paragraph (4) for fiscal years after 1997, the Secretary shall adjust the amount transferred under paragraph (2), for the preceding fiscal year.

"(C) A UTE ME DICAL SERVICES DEFINED.—The term 'acute medical services' means inpatient and outpatient services as defined in section 1905(a) other than the following:

"(A) Nursing facility services (as defined in section 1919(m)(1)); and

"(B) Intermediate care facility for the mentally retarded services (as defined in section 1915(d)).
"(C) Personal care services (as described in section 1905(a)(24)).

"(D) Private duty nursing services (as referred to in section 1905(a)(8)).

"(E) The employer (as defined in section 4502(c)) establishes or maintains by itself an employee organization or any employee organization, or jointly with 1 or more employers and 1 or more employee organizations,

"(i) a voluntary employees' beneficiary association under section 501(c)(9), or

"(ii) any other association plan, the association, committee, joint board of trustees, or other similar group of representatives of the employees who establish or maintain the plan.

"(F) Health insurance with respect to individuals residing outside the United States.

For purposes of this section—

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax for each month equal to the amount which bears the same ratio to the total amounts transferred under section 1905(a)(8) as the amount transferred to the Medical Education Trust Fund amounts equivalent to taxes received in the Treasury under sections 4501 and 4502 of which the receipt is subject to the allowance under paragraph (1).

"(b) LIABILITY FOR TAX.—

(1) the processing of claims or performance of other administrative services in connection with accident or health coverage under a taxable health insurance policy.

(2) the payment of amounts transferred to such Trust Fund (excluding amounts transferred under subsection (d) of section 2102(b) for the fiscal year (reduced by the amount determined in accordance with subsection (a) of section 2102(b) for the fiscal year) as the amount which bears the same ratio to the total amounts transferred to such Trust Fund as the amount which bears the same ratio to the total amounts transferred to such Trust Fund amounts equivalent to taxes received in the Treasury under sections 4501 and 4502 of which the receipt is subject to the allowance under paragraph (1)

"(C) in the case of—

(1) a plan established or maintained by 2 or more employers or jointly by 1 or more employers and 1 or more employee organizations,

(2) any other association plan, the association, committee, joint board of trustees, or other similar group of representatives of the employees who establish or maintain the plan.

"(G) Community supported living arrangements services under section 1915.

"(H) Home and community care furnished in an institution for mental diseases as defined in section 1905(i).

"(I) Home health care services (as referred to in section 1905(a)(7)), clinic services, and rehabilitation services that are furnished to an individual who has a condition or disability that qualifies the individual to receive any of the services described in a previous subparagraph.

(1) In general.—For purposes of this section—

(a) IMPOSITION OF TAX.—There is hereby imposed a tax for each month equal to the amount which bears the same ratio to the total amounts transferred to such Trust Fund as the amount which bears the same ratio to the total amounts transferred to such Trust Fund amounts equivalent to taxes received in the Treasury under sections 4501 and 4502 of which the receipt is subject to the allowance under paragraph (1).

(b) LIABILITY FOR TAX.—

(1) the processing of claims or performance of other administrative services in connection with accident or health coverage under a taxable health insurance policy.

(2) the payment of amounts transferred to such Trust Fund (excluding amounts transferred under subsection (d) of section 2102(b) for the fiscal year (reduced by the amount determined in accordance with subsection (a) of section 2102(b) for the fiscal year) as the amount which bears the same ratio to the total amounts transferred to such Trust Fund as the amount which bears the same ratio to the total amounts transferred to such Trust Fund amounts equivalent to taxes received in the Treasury under sections 4501 and 4502 of which the receipt is subject to the allowance under paragraph (1)

"(b) Effective date.—The amendment made by subsection (a) shall be effective on and after October 1, 1997.
SEC. 4504. DEFINITIONS AND SPECIAL RULES.

(a) Definitions.—For purposes of this subchapter—

(1) ACCIDENT OR HEALTH COVERAGE.—The term ‘accident or health coverage’ means any coverage which, if provided by an insurance policy, would cause such policy to be a taxable health insurance policy (as defined in section 4501(c)).

(2) INSURANCE POLICY.—The term ‘insurance policy’ means any policy or other instrument whereby a contract of insurance is issued, renewed, or extended.

(3) PREMIUM.—The term ‘premium’ means the gross amount of premiums and other consideration (including advance premium deposits, fees, and assessments) arising from policies issued by a person acting as the primary insurer, adjusted for any return or additional premium paid as a result of endorsements, cancellations, audits, or retrospective rating. Amounts returned where the amount is not fixed in the contract but depends on the experience of the insurer or the discretion of management shall not be included in return premiums.

(4) UNITED STATES.—The term ‘United States’ includes any possession of the United States.

(b) TREATMENT OF GOVERNMENTAL ENTITIES.—

(1) In General.—For purposes of this subchapter—

(A) the term ‘governmental entity’ includes any governmental unit, and

(B) notwithstanding any other law or rule of law, governmental entities shall not be exempt from the taxes imposed by this subchapter except as provided in paragraph (2).

(2) EXEMPT GOVERNMENTAL PROGRAMS.—In the case of an exempt governmental program—

(A) no tax shall be imposed under section 4501 on any premium received pursuant to such program or on any amount received for the performance of administrative services pursuant to such program, and

(B) no tax shall be imposed under section 4502 on any expenditures pursuant to such program.

(c) EXEMPT GOVERNMENTAL PROGRAM.—For purposes of this subchapter, the term ‘exempt governmental program’ means—

(A) programs established by parts A and B of title XVIII of the Social Security Act,

(B) the medical assistance program established by title XIX of the Social Security Act,

(C) any program established by Federal law for providing medical care (other than through individual or group insurance policies) to members of Indian tribes (as defined in section 4(d) of the Indian Health Care Improvement Act).

(d) FEES TO POOLS OR POSSESSIONS.—Notwithstanding any other provision of law, no amount collected under this subchapter shall be covered over to any possession of the United States.

(e) CLERICAL AMENDMENT.—The table of chapters for subtitle D of the Internal Revenue Code is amended by striking after the item relating to chapter 36 the following new item:

“CHAPTER 37. Health related assessments.”

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to premiums collected or assessments imposed after the date of the enactment of this Act, and with respect to coverage for periods after September 30, 1997.

SEC. 6. MEDICAL EDUCATION ADVISORY COMMISSION.

(a) Establishment.—There is hereby established an advisory commission to be known as the Medical Education Advisory Commission (in this section referred to as the “Advisory Commission”).

(b) Duties.—

(1) In General.—The Advisory Commission shall—

(A) conduct a thorough study of all matters relating to—

(i) the operation of the Medical Education Trust Fund established under section 2;

(ii) alternative and additional sources of graduate medical education funding;

(iii) alternative methodologies for compensating teaching hospitals for graduate medical education;

(iv) policies designed to maintain or improve research and educational capacities in an increasing competitive health system;

(v) the role of medical schools in graduate medical education; and

(vi) policies designed to expand eligibility for graduate medical education payments to institutions other than teaching hospitals;

(B) develop recommendations, including the use of demonstration projects, on the matters studied under subparagraph (A) in consultation with the Secretary of Health and Human Services and the entities described in paragraph (2);

(C) not later than January 1999, submit an interim report to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Secretary of Health and Human Services; and

(D) not later than January 2001, submit a final report to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Secretary of Health and Human Services.

(2) ENTITIES DESCRIBED.—The entities described in this paragraph are—

(A) other advisory groups, including the Council on Graduate Medical Education, the Prospective Payment Assessment Commission, and the Physician Payment Review Commission;

(B) interested parties, including the Association of American Medical Colleges, the Association of Academic Health Centers, and the American Medical Association;

(C) health care insurers, including managed care entities; and

(D) other entities as determined by the Secretary of Health and Human Services.

(c) Number and Appointment.—The membership of the Advisory Commission shall include—

(1) members of the Armed Forces of the United States,

(ii) veterans, and

(iii) any other individuals as determined by the Secretary of Health and Human Services, including any individual from each of the following categories:

(A) Physicians who are faculty members of medical schools.

(B) Officers of teaching hospitals.

(C) Deans of medical schools.

(d) Vacancies.—A member appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(e) Chair.—The Advisory Commission shall meet not less than once during each 4-month period and shall otherwise meet at the call of the Secretary of Health and Human Services.

(f) Compensation and Reimbursement of Expenses.—The Advisory Commission shall receive compensation for each member attending meetings and carrying out the duties of the Advisory Commission. Such compensation may not be in an amount in excess of the maximum rate of basic pay for a personal services fee paid under section 6 of the Executive Schedule under section 5308 of title 5, United States Code.

(g) Staff.—

(1) Staff Director.—The Advisory Commission shall, without regard to the provisions of title 5, United States Code, relating to competitive service, appoint a Staff Director who shall be paid at a rate equivalent to a rate established for the Senior Executive Service under section 5302 of title 5, United States Code.

(2) Additional Staff.—The Secretary of Health and Human Services shall provide to the Advisory Commission such additional staff, information, and other assistance as is necessary to carry out the duties of the Advisory Commission.

(h) Termination of the Advisory Commission.—The Advisory Commission shall terminate 90 days after the date on which the Advisory Commission submits its final report under subsection (b)(1)(D).

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

SEC. 7. DEMONSTRATION PROJECTS.

(a) Establishment.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall establish, by regulation, guidelines for the establishment and operation of demonstration projects which the Medical Education Advisory Commission recommends under subsection (b)(1)(B) of section 6.

(b) Funding.—

(1) In General.—For any fiscal year after 1997, amounts in the Medical Education Trust Fund under title XXI of the Social Security Act shall be designated as available for the purposes of clause (1) of section 2101(a) of the Social Security Act, in the same proportion as the amounts transferred to all 4 such accounts bears to the total of such accounts.

(2) Funds Available.—

(A) Limitation.—Not more than 0.5% of the funds in such trust fund shall be available for the purposes of paragraph (1).

(B) Allocation.—Amounts under paragraph (1) shall be paid from the accounts established under paragraphs (2) through (5) of section 2111(b)(1) of the Social Security Act, in the same proportion as the amounts transferred to such accounts bears to the total of amounts transferred to all 4 such accounts for such fiscal year.

(c) Limitation.—Nothing in this section shall be construed to authorize any change in the payment methodology for teaching hospitals and medical schools established by this Act.

SUMMARY OF THE MEDICAL EDUCATION TRUST FUND ACT OF 1997

OVERVIEW

The legislation establishes a Medical Education Trust Fund to support America’s 142
medical schools and 1,250 teaching hospitals. These institutions are in a precarious financial situation as market forces reshape the health care delivery system. Explicit and dedicated funds from these institutions will guarantee that the United States continues to lead the world in the quality of its health care system.

The Medical Education Trust Fund Act of 1997 recognizes the need to begin moving away from existing medical education payment policies. Funding would be provided for demonstrated projects and alternative payment methods, but permanent policy changes would await a report from a new Medical Education Advisory Commission established by the legislation. The primary purpose of the legislation is to establish a Federal policy that medical education is a public good which should be supported by all sectors of the health care system.

To ensure that the burden of financing medical education is shared equitably by all sectors, the Medical Education Trust Fund will receive funding from three sources: a 1.5 percent assessment on health insurance premiums (the private sector’s contribution), Medicare, and Medicaid (the public sector’s contribution) to partially offset this loss of revenue. As clinical practice revenue generated by their institutions, and the patient care, training, and research they provide, is placed at risk, institutions, and the patient care, training, and research they provide, is placed at risk.

The legislation also includes a “carve out” of graduate medical education payments from Medicare’s payment to HMOs. Under current law, this payment is based on Medicare’s average fee-for-service costs—including graduate medical education costs. Therefore, every time a Medicare beneficiary enrolls in an HMO, money that was being paid to teaching hospitals for medical education in the form of additional payments for direct and indirect costs, is paid instead to an HMO as part of a monthly premium. There is no requirement that HMOs use any of this payment to support medical education. Over a four-year period, the legislation would redeploy graduate medical education payments from HMO payment calculation. These funds are deposited into the Medical Education Trust Fund and paid directly to teaching hospitals.

The legislation also establishes a Medical Education Advisory Commission to conduct a study and make recommendations, including developing implementation projects, regarding the following: Operations of the Medical Education Trust Fund; alternative and additional sources of medical education funding, including federal, state, and local funds; policies designed to maintain superior research and educational capacities in an increasingly competitive health system; the role of medical schools in graduate medical education; and policies designed to expand eligibility for graduate medical education payments to institutions other than teaching hospitals.

The Commission, comprised of nine individuals appointed by the Secretary of Health and Human Services, will be required to issue an interim report no later than January 1, 1999, and a final report no later than January 1, 2001.

FOOTNOTES

1 Medical residents’ salaries are the primary direct cost.
2 These indirect costs include the cost of treating more seriously ill patients, the costs of additional tests that may be ordered by medical residents.
3 The legislation will use Medicare’s measure of teaching load as an interim measure.

By Mr. MOYNIHAN:
S. 22. A bill to establish a bipartisan national commission to address the year 2000 computer problem; to provide additional funding for medical education payments; and to amend title II of the Social Security Act to provide an interim solution to the problem of medical education funding. The bill would receive funding from three sources: a 1.5 percent assessment on health insurance premiums (the private sector’s contribution), Medicare, and Medicaid (the public sector’s contribution) to partially offset this loss of revenue. As clinical practice revenue generated by their institutions, and the patient care, training, and research they provide, is placed at risk, institutions, and the patient care, training, and research they provide, is placed at risk.

The legislation also includes a “carve out” of graduate medical education payments from Medicare’s payment to HMOs. Under current law, this payment is based on Medicare’s average fee-for-service costs—including graduate medical education costs. Therefore, every time a Medicare beneficiary enrolls in an HMO, money that was being paid to teaching hospitals for medical education in the form of additional payments for direct and indirect costs, is paid instead to an HMO as part of a monthly premium. There is no requirement that HMOs use any of this payment to support medical education. Over a four-year period, the legislation would redeploy graduate medical education payments from HMO payment calculation. These funds are deposited into the Medical Education Trust Fund and paid directly to teaching hospitals.

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2 These indirect costs include the cost of treating more seriously ill patients, the costs of additional tests that may be ordered by medical residents.
3 The legislation will use Medicare’s measure of teaching load as an interim measure.
Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation that will deal with the plight of our nation's cities and Washington's increasing neglect of them. There is an urgent need to improve our urban services and the quality of life for the millions of American who live in our cities. My proposal, the "New Agenda For Aiding America's Cities Act of 1997" is based on legislation which I introduced in the 103rd and 104th Congress along with my distinguished colleague, Senator CAROL Moseley-Braun, and I am pleased she is again joining in this effort. The bill constitutes an effort to give our cities some much-needed attention, but reflects the federal budget constraints which are among all that we in Congress do these days.

This bill, based in significant part on suggestions by Philadelphia Mayor EDWARD G. Rendell and the League of Cities, offers aid to the cities without increasing federal expenditures and by re-instituting important cost-effective tax breaks which have been discontinued.

If we are to really address many of the very serious social issues that we face—unemployment, teenage pregnancy, welfare dependency, and other pressing issues—we cannot give up on our cities. There must be new strategies for dealing with the problems of urban America. The days of creating "Great Society" federal aid programs are clearly past, but that is no excuse for the national government to turn a blind eye to the problems of the cities.

The goals of this initiative have strong bipartisan support as indicated during the vice-presidential debate in 1992. The Republican and Democratic candidates spoke of the need to focus our economic resources in our nation's urban areas. The recent November elections reaffirm the basic principle of limited government. Limited government, however, does not mean an uncaring or do-nothing government.

The impact of last year's welfare reform legislation also requires close scrutiny on what will be happening to America's big cities.

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

I commend the Mayor of Philadelphia, Edward Rendell, for his efforts to revitalize America's cities. Collaborating with the Conference of Mayors and the National League of Cities, he proposed in 1994 a "New Urban Agenda." Much of that proposal is the basis of this legislation.

As a Philadelphia resident, I have first-hand knowledge of the growing problems that plague our cities. As of 1990, Philadelphia had over 300,000 individuals in poverty. Reflecting on my experience as a Philadelphian, I have long supported a variety of programs to assist our cities, such as increased funding for Community Development Block Grants and legislation to establish enterprise and empowerment zones. To encourage similar efforts, in April, 1994, I hosted my Republican colleagues on a visit to explore urban problems in my hometown. We talked with people who wanted to obtain work, but had found few opportunities. We saw a crumbling infrastructure and its impact on residents and businesses. We were reminded of the devastating effect that the loss of inner city businesses and jobs has had on our neighborhoods in America's cities. What my Republican colleagues saw then in Philadelphia is the urban rule across our country and not the exception.

There are many who do not know of city life, who are far removed from the cities and would not be expected to have any key interest in what goes on in the big cities of America. I cite my own boyhood experience illustratively: Born in Wichita, Kansas, raised in Russell, a small town of 5,000 people on the plains of Kansas, I had no much detailed knowledge of what goes on in Philadelphia, Pennsylvania, or other big cities like Los Angeles, San Francisco, New York, Miami, Pittsburgh, Dallas, Detroit or Chicago.

What goes on in Philadelphia is much of America. But there is a growing understanding that the problems of big cities contribute significantly to the general problems affecting our nation and have an economic impact, at least, on our small towns. For rural America to prosper, we need to make sure that urban America pros-

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cities had more economic growth, taxes could be reduced on all Americans at the federal and state level because revenue would increase and social welfare spending would be reduced.

What are the problems? Crime for one. More and more, a perception of Philadelphia and similar gangs that are all over America. They are in Lancaster, Pennsylvania; Des Moines, Iowa; Portland, Oregon; Jackson, Mississippi; Racine, Wisconsin; and Martinsburg, West Virginia. They are literally everywhere, big city and small city alike.

According to the National League of Cities 1992 report, "State of America's Cities," 397 randomly selected municipal leaders said that after overall economic conditions, crime and drugs were the second and third items that had caused their cities to deteriorate the most in the prior five years. In Atlanta, the number of crimes per 100,000 people was 17,067, making it number one in 1995. The number of such unenviable moniker for our nation's capital—the "murder capital."

Not just municipal leaders voice concern about crime's impact. Mr. Scott Zelov, President of VIZ Manufacturing in the northwestern section of Philadelphia, told my staff that his workers can't even walk to work in safety anymore, making it difficult for him to retain his employees and to continue to stay in business, causing him to consider moving the business to a safer location or even closing his business altogether.

Dan DeRitis, owner of Sisko, Inc., a property management and development company in the University City section of West Philadelphia, told me to tell him while he has been a resident and business owner in West Philadelphia for more than twenty years, and while the city had been good to him and his family in the past, recently, he has no reason to fear for the safety of his children, his employees, and ultimately, his business. He looks desperately for reasons to stay, but everyday it gets harder and harder.

Joblessness and a less skilled workforce is another problem. To facilitate economic development and job creation in the United States, I supported the Balanced Budget Act of 1995, which contained such provisions as the Job Training Partnership Act and the Targeted Job Tax Credit. As Congress put the final touches on that legislation, I circulated a joint letter from several Senators to then-Majority Leader Dole and Speaker Gingrich recommending spurring job creation and economic growth in our cities through several urban initiatives such as: a targeted capital gains exclusion, commercial revitalization tax credit, historic rehabilitation tax credit, and child care credit.

As part of that effort, on December 19, 1995, I arranged a meeting between Majority Leader Dole and Mayors Edward Rendell of Philadelphia, Thomas Menino of Boston, Richard Daley of Chicago, and Victor Ashe, of Knoxville, Tennessee, to discuss their top tax priorities, which were reflected in the joint letter to the Majority Leader Dole and Speaker Gingrich. In that meeting the Mayors stressed the necessity of strengthening economic growth in our urban centers to impact directly on social ills identified with weak economic infrastructures. These problems include poverty, crime, and joblessness.

Census data from 1990 shows that many of our urban centers suffered from crime at historic highs as of 1989. As of 1990, New York City led the way, with 1.3 million individuals in poverty. My home of Philadelphia had 313,374 individuals in poverty at that time. These facts emphasize the need for more efforts to be focused on strengthening our inner city businesses which, in turn, will boost local economies and serve to provide more jobs, reduce poverty and, hopefully, reduce crime.

For several years, I have previously introduced legislation to provide targeted tax incentives for investing in small minority- or women-owned businesses. Small businesses provide the bulk of the jobs in this country. Many minority entrepreneurs, in fact, told me that they are dedicated to staying in the cities to employ people there, but continue to confront capital access issues. My "Minority and Women Capital Formation Act of 1993" would have helped small businesses to break down barriers, thereby enabling these entrepreneurs to grow their businesses and payrolls.

Municipal leaders are stressing many of the same concerns that business people are voicing. In July, 1994 National League of Cities report dealing with poverty and economic development, municipal leaders ranked inadequate skills and education of workers as one of the top three reasons, in addition to high taxes and income loss, that city leaders are losing critical businesses. The survey also showed that Chicago lost 47 percent of its manufacturing jobs between 1972 and 1982. Los Angeles lost 327,000 jobs, half of which were in the manufacturing sector. More recently, according to Census data, New York City had only 11.4 percent of its population employed in manufacturing. According to Stephen Moore and Dean Stansel in a March, 1994 USA Today Magazine article, since the 1970s more than 50 Fortune 500 company headquarters have fled New York City, representing a loss of over 500,000 jobs.

It is clear that the social fabric of our cities is also deteriorating. The issues of infant mortality and single-parent families are tragic problems that plague American urban areas. According to 1990 Census data, Washington, DC ranked first out of 77 cities for infant death rates per 1,000 live births in 1990. In 1993, one in seven children lived in poverty in cities in the percentage of one-parent households in 1993. In 1995.

When I traveled to Pittsburgh in 1984, I saw one-pound babies for the first time. I was shocked that Pittsburgh had the highest infant mortality rate of African-American babies of any city in the United States. It is a human tragedy for a child to be born weighing 16
ounces with attendant problems that last a lifetime. I wondered, how could that be true of Pittsburgh, which has such enormous medical resources. It was an amazing thing for me to see a one-pound baby, about as big as my hand, succeed. Cities are desperate, and the issues are heavy.

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

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

The federal government has attempted to revitalize our ailing urban infrastructure by providing federal funding for transit and sewer systems, roads and bridges. I have supported this. For example, as a member of the Transportation Appropriations Subcommittee and as co-chair of an informal Senate Transit Coalition, I have been a strong supporter of public transit which provides critically needed transportation services in urban areas. Transit helps cities meet clean air standards, reduce traffic congestion, and allows disadvantaged persons access to jobs. Federal assistance for urban areas, however, has become increasingly restricted as we grapple with the nation's deficit and debt. Therefore, we must find alternatives to reinvigorate our nation's cities so they can once again be economically productive areas providing promising opportunities for residents and neighboring areas.

I believe there are ways Congress can assist the cities. In 1994, Mayor Rendell came up with a legislative package which contains many good ideas. I have since added and revised provisions to which contains many good ideas. I have been an advocate for my legislation as the Business Capital of the America.

The first provision introduces the Community Empowerment Zones and Entrepreneurship Zones. I presented this idea to then-Treasury Secretary Bentzen at a March 22, 1994, hearing of the Appropriations Subcommittee on Foreign Operations. The Secretary responded favorably.

I have also written to several mayors across the country regarding this concept. By letter dated July 28, 1994, Miami Mayor Stephen P. Clark responded: "Miami's selection as a procurement center for foreign aid would be a natural complement to our status as the Business Capital of the Americas." Miami has a wide range of businesses, such as high-technology firms and medical equipment manufacturers that would benefit from this provision. And by letter dated April 6, 1994, Harrisburg, Pennsylvania Mayor Stephen R. Reed wrote: "Many of our existing businesses would no doubt seize upon the opportunity to broaden their market by engaging in export activity triggered by foreign aid vouchers... Therefore, I believe that voucher programs have considerable merit and that this city would benefit from the same." I ask unanimous consent that a copy of my letter and the letters from Mayor Clark and Mayor Reed be included in the Record at the end of my remarks.

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

The third critical component of this bill would revive and expand federal tax incentives that were eliminated or restricted in the Tax Reform Act of 1986. Until there is passage of legislation on the flat tax, which would provide benefits superior to all targeted tax breaks. I believe America's cities should have the advantages of such tax benefits. These provisions offer meaningful incentives to business to invest in our cities. I am calling for the restoration of the Historic Rehabilitation Tax Credit for commercial industrial facilities in revitalization projects. According to information provided by Mayor Rendell, there were 8,640 construction jobs involved in 356 projects in Philadelphia from 1978 to 1985 stimulated by the Historic Rehabilitation Tax Credit. In Chicago, 300 projects prior to 1986 generated $524 million in investment and created 20,665 jobs. In St. Louis, 849 projects generated $653 million in investment and created 27,735 jobs. In Miami, 152 projects generated $158 million in investment and created 1,117 jobs. Overall, these projects have created 73,840 jobs. By expanding the Tax Credit to commercial facilities, it would encourage private investment in our cities.

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

A minor change in the federal tax code related to arbitrage rebates on municipal bond interest earnings could also free additional capital for infrastructure and economic development by cities. Currently, municipalities are required to rebate to the federal government any arbitrage—a financial term meaning interest earned in excess of interest paid on the debt—earned from the issuance of tax-free municipal bonds. I am informed that compliance, by the private sector; air and water pollution facilities owned and operated by the private sector; and, industrial parks.

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zones, enterprise communities, or enterprise zones. I also want to note that the exclusion would extend to any venture funds that invest in those small businesses, which is critical because venture funds are often the lifeblood of a small business. This is one of the incentives I recommended to Senator Dole in December, 1995 for inclusion in the Balanced Budget Act of 1995 which was later vetoed by President Clinton. A targeted capital gains exclusion will serve as a catalyst for job creation and economic growth in our cities by encouraging additional private investment in our urban areas.

A fourth provision of this legislation provides needed reforms to regulations concerning affordable housing. This legislation provides language to study streamlining federal housing program assistance to urban areas into "block grant" form so that municipal agencies can better serve local residents. Affordable housing is currently only available to the lowest income families, and the program assistance is currently only available to the lowest income families. According to the National Housing Law Project, in 1996, only one in four families were eligible to receive HUD assistance. The bill would improve the circumstances of public housing tenants and the location of newly built units on the lots of demolished housing by allowing the original residents to move into the new units. This provision will contribute to community stability and promote urban renewal.

Last, this bill helps urban areas by taking several important steps toward reforming the current Superfund law. First, the legislation authorizes a federal brownfields program to help clean up old or underused industrial and commercial facilities and waives federal liability for persons who fully comply with a state cleanup plan to clean sites in urban areas pursuant to state law, provided that the site is not listed or proposed to be listed on the National Priorities List. The Environmental Protection Agency currently operates this pilot program under general authority provided by the Superfund law. My legislation would make this a permanent program and substantially increase the funding levels from $36.7 million to a $50 million authorized level for FY '98. The EPA could expend funds to identify and examine potential sites, and the Brownfields program is not currently widely used.

The Brownfields program allows sites with less risk of toxic waste to be cleaned up by State and local governments. In the case of small businesses, this is one of the incentives I recommended to Senator Dole in December, 1995 for inclusion in the Balanced Budget Act of 1995. Through expanded Brownfields grants, cleanup at such sites will be expedited and will encourage reuse of otherwise unusable urban property.

My bill would also waive federal liability for persons who fully comply with a state cleanup plan to clean sites in urban areas pursuant to state law, provided that the site is not listed or proposed to be listed on the National Priorities List. Many states, including Pennsylvania, have developed their own toxic waste cleanup programs and have done good work to clean up many of these sites. Pennsylvania Governor Tom Ridge has developed an extensive plan, where contaminated sites are made safe based on sound science by returning the site to productive use through the development of uniform cleanup standards, by creating a set of cleanup procedures by releasing owners and developers from liability who fully comply with the state cleanup standards and procedures, and by providing financial assistance. However, the efforts of states like Pennsylvania to create a state cleanup program are like the federal government has not been willing to work with the States to release owners and developers from liability, even when they fully comply with the state plans.

The section of my bill only applies to sites that are not on the National Priorities List. These are sites that the state has identified for which the state has created a comprehensive cleanup plan. If the federal government has concerns with the cleanup procedure or the safety of the site, then the government has full authority to place that site on the National Priority List. The plans, like that developed by Governor Ridge, deal with sites not controlled by the federal government. By not allowing the individual states to take the initiative to clean up these sites, and by not providing a waiver for federal liability to those who fully comply with the procedures and standards of the state cleanup, the federal government chills the efforts of the states to work to clean up their own sites. This provision takes a significant step toward encouraging states to take responsibility for their toxic waste sites and to encourage the effective cleanup of these sites in our nation's urban areas.

In the 103rd Congress, my "New Urban Agenda Act" (S. 2535) contained a section that would eliminate unfunded federal mandates based on legislation I cosponsored in the 103rd Congress (S. 993) which was introduced by my distinguished colleague from Idaho, Senator Dirk Kempthorne. There is no longer a need to include that provision in my urban agenda bill because Congress enacted the unfunded federal mandates bill in February, 1995.

Mr. President, it may well be that America has given up on its cities. That is a stark statement, but it is one which I believe may be true—that America has given up on its cities. But this Senator has not done so. And I believe there are others in this body on both sides of the aisle who have not done so. As one of a handful of United States Senators who live in a big city, I understand both the problems and the promise of urban America. This legislation for our cities is good public policy. The plight of our cities must be of extreme concern to all Americans. We can ill afford for them to wither and die. I am committed to a new urban agenda that relies on market forces, and not welfare-statism, for urban revitalization. I invite the input and assistance of my colleagues in order to fashion a strong approach assisting the cities with their pressing problems.

I ask unanimous consent that my bill be printed in the Record as if read, along with an Executive Summary. I thank the Chair for the floor.

EXECUTIVE SUMMARY
NEW AGENDA FOR AIDING AMERICA'S CITIES ACT OF 1997

A. Promote Urban Economic Development through Empowerment Zones. Requires a portion of federal and foreign aid purchases (not less than 15 percent) to be from businesses operating in urban zones, and commits the government to purchase property with any level of toxic waste because of a fear of being saddled with cleanup liability under the Superfund law. Through expanded Brownfields grants, cleanup at such sites will be expedited and will encourage reuse of otherwise unusable urban property.

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urban areas pursuant to state law, provided that the site is not listed or proposed to be listed on the National Priorities List.

S. 23

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "New Urban Agenda Act of 1997".

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

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SEC. 101. FEDERAL COMMITMENT TO URBAN ECONOMIC DEVELOPMENT

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

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

"Sec. 38. Purchases from Businesses in Empowerment Zones, Enterprise Communities, and Enterprise Zones."

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

"Sec. 38. (a) Minimum Purchase Requirement. Not less than 15 percent of the total amount expended by executive agencies for the purchase of goods in a fiscal year shall be expended for the purchase of goods from businesses located in empowerment zones, enterprise communities, or enterprise zones.

(b) Recycled Products. To the maximum extent practicable consistent with applicable law, the head of an executive agency shall purchase recycled products that meet the needs of the executive agency from businesses located in empowerment zones, enterprise communities, or enterprise zones.

(c) Regulations. The Federal Acquisition Regulations shall include provisions that ensure the attainment of the minimum purchase requirement set out in subsection (a)."

SEC. 102. MINIMUM ALLOCATION OF FOREIGN ASSISTANCE.

SEC. 102. Minimum Allocation of Foreign Assistance

(a) Allocation of Assistance. Notwithstanding any other provision of law, effective beginning with fiscal year 1997, not less than 15 percent of United States assistance provided in a fiscal year shall be provided in the form of credits which may only be used for the purchase of United States goods produced or assembled in empowerment zones, enterprise communities, or enterprise zones within the United States.

(b) United States Assistance. As used in this section, the term "United States assistance" means:

(1) any assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.);
(2) sales, or financing of sales under the Arms Export Control Act (22 U.S.C. 2751 et seq.); and
(3) assistance and other activities under the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401 et seq.).

SEC. 103. PREFERENCE FOR LOCATION OF MANUFACTURING OUTREACH CENTERS IN URBAN AREAS.

(a) Designation. In designating an organization as a manufacturing outreach center, or extending the coverage of a manufacturing outreach center under subsection (1) of section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 370d), the Secretary of Commerce shall, to the maximum extent practicable, designate organizations that are located in empowerment zones, enterprise communities, or enterprise zones.

(b) Financial Assistance. In utilizing a competitive, merit-based review process to determine the manufacturing outreach center, or extending the coverage of a manufacturing outreach center, the Secretary of Commerce shall, to the maximum extent practicable, designate organizations that are located in empowerment zones, enterprise communities, or enterprise zones.

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

(a) Preference. Notwithstanding any other provision of law, in determining the location for the construction of a Federal facility, or in determining the location to which to relocate functions of a department or agency of the Federal Government, in determining to improve an existing facility (including an improvement in the use of such construction or in the function of such construction or in the utilization of the facility so located), the head of the department or agency making the determination shall give the head of the department or agency making the determination to construct or improve the facility, or to relocate the functions, in a distressed urban area__
Federal and non-Federal employment positions terminated in such area as a result of such closure or consolidation;

(3) in the case of a facility to be improved that is located in a distressed urban area, and

(A) describes the costs and benefits arising from the improvement and continuing utilization of the facility in the area, including the effects of improving and continuing utilization on the rate of unemployment in the area; and

(B) describes the effect on the economy of the area of the closure or consolidation, if any, of Federal facilities located in the area during the 10-year period ending on the date of the report, including the total number of Federal and non-Federal employment positions terminated in the area as a result of such closure or consolidation; or

(4) in the case of a relocation of functions (A) identifies at least one distressed urban area that would serve as an appropriate location for the carrying out of the functions; (B) describes the costs and benefits arising from carrying out the functions in the area, including the effect of carrying out the functions on the rate of unemployment in the area; and

(C) describes the effect on the economy of the area of the closure or consolidation, if any, of Federal facilities located in the area during the 10-year period ending on the date of the report, including the total number of Federal and non-Federal employment positions terminated in the area as a result of such closure or consolidation.

(2) APPLICABILITY TO DEPARTMENT OF DEFENSE FACILITIES.—The requirements set forth in subsections (a) and (b) shall apply to a determination to construct or improve any facility of the Department of Defense, or to relocate any functions of the Department, unless the President determines that the waiving of the application of such requirements to the facility, or to such relocation, is in the national interest.

(d) DEFINITION.—In this section, the term "distressed urban area" means a zone designated as an empowerment zone pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

(2) The term "enterprise community" means a community designated as an enterprise community pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

(3) The term "enterprise zone" has the meaning given such term in section 701(a)(1) of the Housing and Community Development Act of 1987 (42 U.S.C. 13501(a)).

TITLES II—TAX INCENTIVES TO STIMULATE URBAN ECONOMIC DEVELOPMENT

SEC. 201. TREATMENT OF REHABILITATION CREDIT AS PASSIVE ACTIVITY LIMITATIONS.

(a) General Rule.—Paragraphs (2) and (3) of section 469(i) of the Internal Revenue Code of 1986 and section 469(k)(1)(A) of the Internal Revenue Code of 1986 are amended by inserting at the end the following new paragraph:

''(4) Special Rule for Rehabilitation Credit.—Notwithstanding paragraphs (1) and (2), the rehabilitation investment credit is treated as used last.''

(b) Amendment.—Section 142 of the Internal Revenue Code of 1986 (relating to exempt facility bond) is amended by adding at the end the following new paragraph:

''(17) industrial parks.''

SEC. 202. COMMERCIAL INDUSTRIAL DEVELOPMENT BONDS.

(a) Facility Bonds.—(1) In general.—Subsection (a) of section 142 of the Internal Revenue Code of 1986 (relating to exempt facility bond) is amended by striking "or" at the end of paragraph (11), by striking the period at the end of paragraph (11), and by inserting after paragraph (11), the following new paragraph:

''(12) inserting a comma, and by striking ``or'' at the end of paragraph (11), and by inserting after paragraph (11), the following new paragraph:

''(12) industrial parks.''

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

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

''(i) is—

''(I) land, and

''(II) other interests in water, sewage, drainage, or similar facilities, or transportation, power, or communication facilities incidental to the use of such land as an industrial park, and

''(ii) is not structures (other than with respect to facilities described in paragraph (1)(B)).''

SEC. 203. LIMITATIONS.

(3) REHABILITATION INVESTMENT CREDIT MAY OFFSET PORTION OF MINIMUM TAX.—''(A) IN GENERAL.—In the case of the rehabilitation investment tax credit—

''(i) this section and section 39 shall be applied separately with respect to such credit, and

''(ii) for purposes of applying paragraph (1) to the taxable year—

''(I) the tentative minimum tax under subparagraph (A) thereof shall be reduced by the minimum tax offset amount determined under subparagraph (B) of this paragraph,

''(ii) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowable under section (a) for the taxable year (other than the rehabilitation investment tax credit).

''(B) MINIMUM TAX OFFSET AMOUNT.—For purposes of subparagraph (A) the tentative minimum tax for the taxable year, or

''(II) $50,000, or

''(iii) in the case of a C corporation other than a closely held C corporation (as defined in section 469(j)(1)), 5 percent of the tentative minimum tax for the taxable year.

''(A) Special Rule for Rehabilitation Credit.—Notwithstanding paragraphs (1) and (2), the rehabilitation investment tax credit (as defined in subsection (c)(2)(C)) shall be treated as used last.''

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.
(3) **CONFORMING AMENDMENTS.**—
(A) Section 147(c) of the Internal Revenue Code of 1986 (relating to limitation on use for land acquisition) is amended by adding at the end the following new paragraph:

`````
4 Special rule for industrial parks.—In the case of a bond described in section 142(a)(17), paragraph (1)(A) shall be applied by substituting `25 percent' for `10 percent'.
`````

(B) Section 147(e) of such Code (relating to no portion of bonds may be issued for skyboxes, airplanes, gambling establishments, etc.) is amended by striking `A private activity bond' and inserting `Except in the case of a bond described in section 142(a)(17), a private activity bond'.

(C) Section 144(a)(12) of the Internal Revenue Code of 1986 (relating to determination of amount) is amended by adding at the end the following new paragraph:

`````
(1) by striking `any bond' in subparagraph (A)(i) and inserting `any bond described in subparagraph (B)',
`````

(D) by striking `a bond in subparagraph (A)(ii) and inserting `a bond described in subparagraph (B)', and

(E) by striking subparagraph (B) and inserting the following:

`````
(1) Bonds for farming purposes.—A bond described in this subparagraph is, if and to the extent that--
(A) the funds provided under the bond are collected in the 3-year period beginning on the date with respect to obligations issued on or after the date of the enactment of this Act, and
(B) any qualified zone asset.
`````

(F) Section 142(a)(17), paragraph (1)(A) shall be applied by substituting `50 percent' for `25 percent'.

(G) Section 144(a)(12), paragraph (3), subparagraph (B), clause (iv) is amended by striking `in the case of a bond described in section 142(a)(17), a private activity bond' and inserting `a private activity bond'.

(H) Section 147(e) of such Code (relating to available construction exception for reasonable retainage) is repealed.

(I) Paragraph (4) of section 144(a) of the Internal Revenue Code of 1986 (relating to $10,000,000 limit in certain cases) is amended by adding at the end the following new paragraph:

`````
(5) Amending if any exempt facility bond issued as part of an issue described in section 142(a)(7) (relating to qualified residential rental projects).
`````

(J) Effective Date.—The amendments made by this subparagraph shall apply to bonds issued after December 31, 1996.

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

(A) In General.—Clause (i) of section 148(f)(4)(A) of the Internal Revenue Code of 1986 (relating to limitation on use for certain proceeds to be used to finance construction expenditures) is amended to read as follows:

`````
(1) the bonds are issued.
`````

(B) Conforming Amendments.—
(1) Clause (i) of section 148(f)(4)(C) of the Internal Revenue Code of 1986 (relating to nonprofit organization election to terminate any percentage penalty) is amended by striking `to any 16 month period' in the matter preceding clause (i).

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

SEC. 205. **SIMPLIFICATION OF ARBITRAGE INTEREST ABATEMENT.**

(A) In General.—Clause (ii) of section 148(f)(4)(C) of the Internal Revenue Code of 1986 (relating to election from rebate for certain proceeds to be used to finance construction expenditures) is amended to read as follows:

`````
`````

(B) Conforming Amendments.—
(1) Clause (i) of section 148(f)(4)(C) of the Internal Revenue Code of 1986 (relating to election to pay penalty in lieu of rebate) is amended by striking `with respect to each 6-month period after the date the bonds were issued,' and `as of the close of such 6-month period', and inserting `with respect to each 6-month period after the date the bonds were issued,' and `as of the close of such 6-month period'.

(2) (A) In General.—The term `qualified zone asset' means any entity or proprietorship the aggregate gross assets (within the meaning of section 1222(d)(2)) of which do not exceed $50,000,000.

(B) Application of Rules.—In determining whether an entity or proprietorship is a qualified small business, rules similar to the rules of subsections (a) and (b) of section 52 shall apply.

(C) Qualified Zone Stock.—
`````
`````

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

SEC. 206. **QUALIFIED RESIDENTIAL RENTAL PROJECT BONDS PARTIALLY EXEMPT FROM STATE VOLUME CAP.**

(A) In General.—Section 146(g) of the Internal Revenue Code of 1986 (relating to exemption for certain bonds) is amended by striking `and' at the end of paragraph (3), by striking `at the end of the period of 2 years' and inserting `and inserting `3 years'.

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

SEC. 207. **EXPANSION OF QUALIFIED WAGES SUBJECT TO WORK OPPORTUNITY CREDIT.**

(A) Increase in Percentage.—Section 51(a) of the Internal Revenue Code of 1986 (relating to determination of amount) is amended by striking `50 percent' and inserting `55 percent'.

(B) First 3 Years of Wages Subject to Credit.—Section 51 of the Internal Revenue Code of 1986 (relating to amount of credit) is amended—

`````
(1) in subsections (a) and (b)(3), by striking `first-year' and inserting `second-year';
`````

(C) Effective Date.—The amendments made by this section shall apply to wages paid after the date of the enactment of this Act.

SEC. 208. **EXCLUSION FOR CAPITAL GAINS ON CERTAIN INVESTMENTS WITHIN EMPowerMENT ZONES AND ENTERPRISE COMMUNITIES.**

(A) In General.—Part II of subchapter U of chapter 1 of the Internal Revenue Code of 1986 is amended by adding after section 1397 a new section 1397A as follows:

`````
`````

(B) Treatment of Subsequent Purchasers.—The term `qualified zone asset' includes any property which would be a qualified zone asset but for paragraph (3)(A)(i), section 1397A(a)(1)(B), or paragraph 5(A) in the hands of the taxpayer if such property were a qualified zone asset in the hands of an entity or individual which—
`````

(C) Other Definitions and Special Rules.—For purposes of this section—

`````
`````

`````
`````

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This subsection, the term ‘pass-thru entity’ shall not include any gain which would be treated as ordinary income under section 1250 if section 1250 applied to all depreciation rather than the additional depreciation.

(1) SALES AND EXCHANGES.—Gain on the sale or exchange of an interest in a pass-thru entity which is a qualified small business held by the taxpayer (other than an interest in an entity which was an enterprise zone business during substantially all of the period the taxpayer held such interest) for more than 3 years shall be treated as described in subsection (a) to the extent such gain is attributable to amounts which would be qualified capital gain on qualified assets as determined (as defined in section 1307(b)(2)), and shall be treated as gain described in subsection (a) to the extent such gain is attributable to amounts which would be qualified capital gain on qualified assets as determined (as defined in section 1307(b)(2)), and held by such entity for more than 3 years and throughout the period the taxpayer held such interest. A rule similar to the rule of paragraph (a)(1) shall apply for purposes of the preceding sentence.

(2) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Subparagraph (A) shall not apply to any amount to which subparagraph (B) of section 1202 is amended by inserting “or 1395B(a)” after “section 1202” and “section 1202 and 1395B”.

(1) IN GENERAL.—In the case of a transfer of a qualified asset to which this subsection applies, the transferee shall be treated as—

(A) having acquired such asset in the same manner as the transferor, and

(B) having held such asset during substantially all of the period the transferor held such asset immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferee.

(2) TRANSFERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any transfer—

(A) by gift,

(B) at death, or

(C) from a partnership to a partner thereof of a qualified asset with respect to which the requirements of subsection (d)(2) are met at the time of the transfer (without regard to the 3-year holding requirement).

(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

(b) CONFORMING AMENDMENTS.—

(1) Section 172(d)(2)(B) of the Internal Revenue Code of 1986 (relating to net operating loss deduction) is amended by striking “section 1202” and inserting “sections 1202 and 1395B”.

(2) Section 642(c)(4) of such Code (relating to adjustments) is amended by inserting “or 1395B(a)” after “section 1202(a)” and by inserting “or 1395B” after “section 1202”.

(3) Section 643(a)(3) of such Code (defining distributable net income) is amended by striking “section 1202” and inserting “sections 1202 and 1395B”.

(4) Section 691(c)(4) of such Code (relating to coordination with capital gain provisions) is amended by striking “section 1202” and “1202, 1395B, and 1211” and by inserting “1202, 1395B, and 1211”.

(5) The second sentence of section 871(a)(2) of such Code (relating to capital gains recognized on the sale of United States property) is amended by inserting “or 1395B(a)” after “section 1202”.

(6) Part II of chapter 1 of such Code is amended to read as follows:

PART II—INCENTIVES FOR EMPowerMENT ZONES AND ENTERPRISE COMMUNITIES

(7) The table of parts of chapter 1 of such Code is amended to read as follows:

(8) The table of sections of part II of such chapter of such Code is amended by adding at the end the following new item:

Sec. 1305. Exclusion for gain from zone or community investments.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

TITLe III—COMMUNITY-BASED HOUSING DEVELOPMENT

SEC. 301. BLOCK GRANT STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a study regarding—

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

(i) provides assistance on an annual basis;

(ii) maximizes funding certainty and flexibility; and

(iii) minimizes paperwork and delay; and

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

(2) PUBLIC HOUSING.—Section 8 moving to work demonstration.—In conducting the study described in paragraph (1), the Secretary of Housing and Urban Development shall consider data from and assessments of the demonstration program conducted under section 204 of the Omnibus Consolidated Revisions and Appropriations Act of 1996 (Public Law 104-134, 110 Stat. 1321).

(b) REPORT TO COMMERTOLER GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Comptroller General of the United States a report that includes—

(1) the results of the study conducted under subsection (a); and

(2) any recommendations for legislation.

SEC. 302. DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

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

(1) in paragraph (1), by striking “and at the end the following:

(2) in paragraph (2), by striking the period and inserting “; and”;

(3) by striking “the public housing agency develops a plan that includes—

(a) the eventual reconstruction of units on the same premises;

(b) the eventual demolition or disposition of units to be demolished or disposed of are located and the local public housing agency, for—

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

TITLe IV—RESPONSE TO URBAN ENVIRONMENTAL CHALLENGES

SEC. 401. RELEASE FROM LIABILITY OF PERSONS THAT FULFILL REQUIREMENTS OF STATE AND LOCAL LAW.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 2) is amended by adding at the end the following:

“(o) RELEASE FROM LIABILITY OF PERSONS THAT FULFILL REQUIREMENTS OF STATE AND LOCAL LAW.—

(1) IN GENERAL.—Neither the President nor any other person may bring an administrative or judicial enforcement action under this Act with respect to a facility located in an urban area that is not listed or proposed for listing on the National Priorities List against a person that has fulfilled all requirements applicable to the person under State and local law to that property.”;
local officials, to the extent that the administrative or judicial action would seek to require response action that is within the scope of the response action conducted in accordance with State and local law.

(2) Urban area defined.—For purposes of paragraph (1), the term ‘urban area’ has the meaning given that term under section 139a(3) of the Internal Revenue Code of 1986.

SEC. 402. BROWNFIELD PROGRAM.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq) is amended by adding at the end the following:

SEC. 127. BROWNFIELD PROGRAM.

(a) Definition of brownfield facility.—In this section, the term ‘brownfield facility’ means—

(1) a parcel of land that contains an abandoned, idled, or underused commercial or industrial facility, the expansion or redevelopment of which is complicated by the presence or potential presence of a hazardous substance; but

(2) does not include—

(A) a facility that is the subject of a removal or planned removal under this title;

(B) a facility that is listed or has been proposed for listing on the National Priorities List or that has been removed from the National Priorities List;

(C) a facility that is subject to corrective action under section 106(a)(1) of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(D) a land disposal unit with respect to which—

(i) closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) has been submitted; and

(ii) closure requirements have been specified in the closure plan or permit;

(E) a facility with respect to which an administrative order on consent or judicial consent decree requiring cleanup has been entered into by the United States under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(F) a facility that is owned or operated by a department, agency, or instrumentality of the United States; or

(G) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

(b) Maintenance of brownfield program.—The Administrator shall maintain the brownfield program established by the Administrator before the date of enactment of this section.

(c) Elements of Program.—In conducting the brownfield program, the Administrator shall—

(1) expend funds to identify and examine idle or underused industrial and commercial facilities for inclusion in the brownfield program;

(2) provide grants to State and local governments to clean up brownfields and return brownfields to productive use;

(d) Limitation on assessment amount.—A grant under subsection (c) shall not exceed $200,000 with respect to any brownfield facility.

(e) Authorization of Appropriations.—There is authorized to be appropriated out of the Hazardous Substance Superfund to carry out this section—

(1) $50,000,000 for fiscal year 1998;

(2) $55,000,000 for fiscal year 1999; and

(3) $60,000,000 for fiscal year 2000.

By Mr. SPECTER.

S. 24. A bill to provide improved access to health care, enhance informed choice of health care services, lower health care costs through the use of appropriate providers, improve the quality of health care, improve access to long-term care, and for other purposes; to the Committee on Finance.

HEALTH CARE ASSURANCE ACT OF 1997

In the 104th Congress, I was pleased to co-sponsor the Health Insurance Portability and Accountability Act of 1996, better known as the Kassebaum-Kennedy bill (S. 1028). There is no question that Kassebaum-Kennedy made significant steps forward in addressing troubling issues in health care. The bill is indeed one of health care reform is what allowed it to generate consensus support in the Senate; we knew that it did not address every single problem in the health care delivery system, but it would make life better for millions of American men, women, and children.

There is much more that needs to be done. Accordingly, today I am introducing the Health Care Assurance Act of 1997, which, if enacted, will take us further down the path of incremental reforms started by Kassebaum-Kennedy. It is my belief that the best approach to addressing our Nation’s health care problems is to enact reforms that improve upon our current market-based health care system without completely overhauling our current system. I am convinced that we need to initiate and stimulate discussion in order to move the health care reform debate forward. I welcome any suggestions my colleagues may have concerning how the bill can be improved, as long as such suggestions are consistent with the incremental approach to reform that has proven to be the only way to obtain successful health care reform.

I want to note at the outset that through a State-run voucher system, my legislation would address health care coverage for the first time for the vast majority of the 10 million American children who lack health care insurance today. My proposal is compassionate and efficient and will preserve patient choice as its hallmark.

Given the importance of succeeding in enacting this type of legislation, it is worth reviewing recent history. In particular, the debate over President Clinton’s Health Security Act during the 103rd Congress left lessons concerning the pitfalls and obstacles that inevitably lead to legislative failure. Several times during the 103rd Congress, I spoke on the Senate floor to address what seemed obvious to me. Far too frequently, incremental health care reforms with which we could all agree. Unfortunately, what seemed obvious to me, based on comments and suggestions by a majority of Senators who favored a moderate approach, was not obvious at the time to the Senate’s Democratic leadership.

This failure to understand the merits of an incremental approach was demonstrated during my attempts in April 1993 to offer a health care reform amendment based on the text of S. 631, an incremental reform bill that was introduced earlier in the session incorporating moderate, consensus principles. First, I attempted to offer the bill as an amendment to debt ceiling legislation. Subsequently, I was informed that the consideration of the bill would be structured in a way that my offering an amendment would be impossible. Therefore, I prepared to offer my health care bill as an amendment to the fiscal year 1993 emergency supplemental appropriations bill. I was unable to obtain unanimous consent to end the quorum call, and thus could not proceed with my amendment.

Three years later, well after the re-election of Clinton health care reform bill failed, the Senate once again endured a lengthy political battle concerning the Kassebaum-Kennedy bill. We achieved a breakthrough in August 1996, when enough Senators sensed the growing frustration of the American people and finally passed health care insurance market reforms such as increased portability. I would note that the final version of the Health Insurance Portability and Accountability Act of 1996 contained many elements which were in S. 18, the incremental health care reform bill I had introduced when the 104th session of Congress began on January 4, 1995.

In retrospect, I urge my colleagues to note a most important fact—the Kassebaum-Kennedy bill was enacted only after the most fervent Democrats had abandoned their hopes for passing a nationalized, big government health care scheme, and the most conservative Republicans abandoned their position that access to health care is really not a major policy of the United States demanding Federal action.

Although we succeeded in enacting incremental insurance market reforms,
there is still much we need to do to improve our health care system. Additional reforms must be enacted if we are serious about our commitment to meet the needs of the American people. The bill I am introducing today is an update of the proposal I introduced in the 102d, 103d, and 104th Congresses. I am hopeful that my colleagues understand how important it is to our constituents that we continue to reform the health care system. Looking back at our success with the Kassebaum-Kennedy bill, I am equally hopeful that my colleagues have come to realize that if we are to continue to be successful in meeting our constituents' needs, the solutions to our Nation's health care problems must come from the political center, not from the extremes.

Mr. President, there is no time to waste. Many of our Nation's health care problems are getting worse, not better, and much needed now as ever before to correct the problems in our health care system for the 40.3 million or 17.4 percent of Americans for whom the system is not working. This is a group which, according to the Census Bureau, comprised 900,000 uninsured individuals in 1995 than the previous year. As I have said many times, we can fix the problem for these 40.3 million Americans without resorting to big government and turning the best health care system in the world, serving 82.6 percent of all Americans, on its head. The recent November elections reaffirmed the basic principle of limited government. Limited government, however, does not mean an uncaring or do-nothing government. Consistent with this principle, my legislation will fix the problem for many of the uninsured and underinsured while leaving intact what already works for those Americans with health insurance coverage.

To be sure, health care reform remains a very complex issue for Congress to address. But it is not so complex that we cannot act now and in a bipartisan way. As many of my colleagues will recall, in 1990 Congress passed Clean Air Act amendments that many said could not be achieved. That issue was brought to the Senate floor, and task forces were formed which took up the complex question of sulfuric acid in the air. We targeted the removal of 10 million tons in a year. We made significant changes in industrial pollution and in tailpipe emissions. We produced a balanced bill which protected the environment and retained jobs. Last year's enactment of the Clean Air Act amendments demonstrated that legislation can and must be passed.

PREVIOUS EFFORTS ON REFORMING THE HEALTH CARE SYSTEM

I have advocated health care reform in one form or another throughout my 16 years in the Senate. My sincere interest in health care dates back to my first term, when I sponsored the Health Care Cost Containment Act of 1983, S. 2051, which would have granted a limited antitrust exemption to health insurers, permitting them to engage in certain joint activities such as acquiring or processing information, and collecting and distributing insurance claims for health care services aimed at controlling health care costs. In 1985, I introduced the Community Based Disease Prevention and Health Promotion Projects Act of 1985, S. 1873, directed at reducing the human tragedy of low birth weight babies and infant mortality. Since 1985, I have introduced and cosponsored numerous other bills concerning health care in our country. A complete list of the health care bills that I have sponsored since 1983 is included for the Record.

During the 102d Congress, I pressed the Senate to take action on this issue. On July 29, 1992, I offered a health care amendment to legislation then pending on the Senate floor. This amendment provided for the self employed, and deductibility for health insurance purposes purchased by self-employed persons and small business insurance market reform to make health coverage more affordable for small businesses. When then-Majority Leader George Mitchell argued that the health care amendment proposed by self-employed persons and small business insurance market reform to make health coverage more affordable for small businesses. When then-Majority Leader George Mitchell argued that the health care amendment proposed by self-employed persons and small business insurance market reform to make health coverage more affordable for small businesses.

The substance of that amendment, however, was adopted later by the Senate. On September 23, 1992, when it was included in an amendment to broader tax legislation (H.R. 11), offered by Senators Bentsen and Durenberger. The amendment included a change from 25 percent to 100 percent product liability legislation had been placed on the calendar for September 8. 1992. The Majority Leader rejected that suggestion and the Senate did not consider comprehensive health care legislation during the balance of the 102d Congress. My July 29, 1992, amendment was defeated on a procedural motion by a vote of 46 to 54.

Finally, on April 28, 1993, I offered the text of S. 631 as an amendment to the pending Department of Environment Act (S. 171) in an attempt to move the Senate to act on health care reform. My amendment was defeated 65 to 33 on a procedural motion, but the Senate had finally been forced to contemplate action on health care reform.

On the first day of the 104th Congress, January 4, 1995, I introduced a slightly modified version of S. 18, the Health Care Assurance Act of 1995 (also S. 18), which contained provisions similar to those ultimately enacted in the Kassebaum-Kennedy, including insurance market reforms, an extension of the tax deductibility of health insurance for the self-employed, and deductibility of long term care insurance for employers.

In total, I have taken to this floor on 16 occasions over the last 4 years to urge the Senate to address health care reform and on two occasions, I offered health care reform amendments which were voted on by the Senate. As my colleagues are aware, I can personally report on the miracles of modern medicine. Three years ago, an MRI detected a benign tumor (meningioma) at the outer edge of my brain. It was removed by conventional surgery, with five days of hospitalization and five more weeks of recuperation. When a small regrowth was detected by a follow-up MRI in June 1996, it was treated with high powered radiation from the "Gamma Knife." I entered the...
hospital in the morning of October 11 and left the same afternoon, ready to resume my regular schedule. Like the MRI, the Gamma Knife is a recent invention, coming into widespread use in the past decade. I ask unanimous consent to preface my remarks with a quote from the Pittsburgh Post-Gazette about my experience with the Gamma Knife as well as an essay I wrote for several Pennsylvania newspapers on this subject.

My own experience as a patient has given me deeper insights into the American health care system beyond the U.S. Senate hearings where I presided as chairman of the Appropriations Subcommittee with jurisdiction over the Department of Health and Human Services. I have learned: First, our health care system, the best in the world, is worth every cent we pay for it; second, patients sometimes have to press their own cases beyond the doctors' standard advice; third, greater flexibility must be provided on testing and treatment; fourth, our system has the resources to treat the 39 million Americans not now covered, but we must find the way to pay for it; and fifth, we deserve the access to health care from which I and others with coverage have benefited.

I share the American people's frustration with government and their desire to have the problems addressed. Over the past four years, I believe we have learned a great deal about our health care system and what the American people are willing to accept from the Federal Government. The message we heard loudest was that Americans did not want a massive overhaul of the health care system. Instead, our constituents want Congress to proceed more slowly and to target what isn't working in the health care system while leaving in place what is working.

**The Clinton Health Plan**

As I have both publicly and privately, I am willing to cooperate with President Clinton in solving the problems facing our country. However, in the past I have found many important areas where I differed with the President's approach and I did so because I believed that they were proposals that would have been deleterious to my fellow Pennsylvanians, to the American people, and to our health care system. Most importantly, I did not support creating a new bureaucracy. I believe that the expansion of government bureaucracy because I believe that savings should go to health care services and not bureaucracies.

On this latter issue, I first became concerned about the potential growth in bureaucracy in September 1993 after reading the President's 239-page preliminary health care reform proposal. I was surprised by the number of new boards, agencies, and commissions, so I asked my legislative assistant to make me a list of all of them. Instead, an article was decided to make a chart. The initial chart depicted 77 new entities and 54 existing entities with new or additional responsibilities.

When the President's 1,342-page Health Security Act was transmitted to Congress on October 27, 1993, my staff reviewed it and found an increase to 105 new agencies, boards, and commissions and 47 existing departments, which I call the big government proposal. The response to the chart was tremendous, with more than 12,000 people from across the country contacting my office for a copy. Numerous groups and associations, such as United We Stand America, the American Small Business Association, the National Federation of Republican Women, and the Christian Coalition, reprinted the chart in their publications—amounting to hundreds of thousands more in distribution.

Bob Woodward of the Washington Post later stated that the thought that the chart was the biggest factor contributing to the demise of the Clinton health care plan. And, as recently as the November 1996 election, my chart was used by Senator Dole in his Presidential campaign to illustrate the need for incremental reform as opposed to a big government solution.

**Components of the Health Care Assurance Act of 1997**

As I begin to describe my new proposal, the Health Care Assurance Act of 1997, I want to reiterate that in creating solutions, it is imperative that we do not adversely affect the many positive aspects of our health care system which works for 82.6 percent of all Americans. It is more prudent to implement targeted reforms and then act later to improve upon what we have done. I call this triad and modification. We must be careful not to damage the positive aspects of our health care system upon which more than 224 million Americans justifiably rely.

The legislation I am introducing today has three objectives: First, to provide affordable health insurance for the 40.3 million Americans now not covered; second, to reduce health care costs for all Americans; and (3) to improve coverage for underinsured individuals and families. This legislation is comprised of initiatives that our health care system can readily adopt in order to be effective, and it does not create an enormous new bureaucracy to meet them.

This bill builds and improves upon the Children's Health Insurance Program of Pennsylvania (CHIP) which provided insurance coverage for three basic types of services: First, preventive care; second, primary care; and third, acute care services. Full federal subsidies would be provided to uninsured children living in families with incomes up to 185 percent of the poverty line. On average, a family of four living at 185 percent of the poverty level lives on $38,860 a year. Partial subsidies would be provided to uninsured children living in families with incomes between 185 and 235 percent of the poverty line. On average, a family of four living at 235 percent of the poverty level lives on $36,660 a year. Under this plan, more than 7.5 million children or 77 percent of all uninsured children would receive health care coverage.

The subsidy levels in my plan are modeled after our excellent programs in Pennsylvania. The Children's Health Insurance Program and the Caring Program for Children sponsored by Highmark Blue Cross/Blue Shield and Independence Blue Cross. These subsidies have traditionally been the great laboratories for experimentation. Accordingly, I leave it to the States to work out the detail on how this program should be run. My hope is that...
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the subsidy program will be so successful it will be used as a model for reform of the Medicaid program. Savings through other health care reforms detailed later in this statement will provide the funds needed to implement the essential take care of the health of our Nation’s children.

I have also added a new title VIII to establish a national fund for health research within the Department of Treasury. This fund will supplement the moneys appropriated for the National Institutes of Health by the National Health Research Act of 1996, which was passed by the Senate, but not by the House.

Responding to decreases in discretionary funding, in the 104th Congress, Senator Hatfield and Senator Harkin introduced S. 1251, the National Fund for Health Research. They wisely anticipated that we cannot continue to look solely to the appropriations process for the necessary resources to sustain sufficient growth in biomedical research. The great advancements made by the United States in biomedical research are part of what makes this country among the best in the world when it comes to medical care. Their idea is a sound one and ought to be adopted. I look forward to working together with Senator Harkin to enact a biomedical research fund this Congress.

Taken together, I believe the reforms proposed in this bill will both improve the quality of health care delivery and will bring down the escalating costs of health care in this country. These proposals, a blueprint which can be modified, improved and expanded. In total, I believe this bill can significantly reduce the number of uninsured Americans, improve the affordability of care, ensure the portability and security of coverage between jobs, and yield cost savings of billions of dollars to the Federal Government, which can be used to cover the remaining uninsured and underinsured Americans.

INCREASING COVERAGE

According to the U.S. Bureau of the Census, in 1995, 224 million Americans derived their health insurance coverage from employers, 14 percent from Medicare and Medicaid; 4 percent from other public sources; and about 7 percent from other private insurance. However, 40.3 million people were not covered by any type of health insurance.

Statistics from the Employment Benefits Research Institute November 1996 show that small businesses generally provide less health insurance coverage than larger businesses or the public sector. About 73 percent of employees in the public sector are provided with health insurance; while 55.5 percent of employees in the private sector are so provided. Businesses with fewer than 10 employees (25.8%); with 10 to 24 employees (38.8%); or with 25 to 99 employees (54.4%).

As I mentioned previously, title I of the bill contains provisions to provide health care coverage for our Nation’s children. Early estimates are that the total cost of these vouchers will be approximately $24 billion over 5 years. This $24 billion is a worthwhile investment because it will mean healthier children and substantially reduced anxiety for millions of parents who cannot afford to pay for needed medical care for their children.

Title II contains provisions to make it easier for small businesses to buy health insurance for their workers by establishing voluntary purchasing groups. It also obligates employers to offer, but not pay for, at least two health insurance plans that protect individual freedom of choice and that provide the benefits and coverage package. It extends COBRA benefits and coverage options to provide portability and security of affordable coverage between jobs. While it is not possible to predict with certainty how the health care marketplace will be covered as a result of the reforms in title II, a reasonable expectation would be that these reforms will cover approximately 10 million Americans.

This estimate encompasses the provisions included in title I which I will discuss in further detail. Specifically, title II extends the COBRA benefit option from 18 months to 24 months. COBRA refers to a measure which was enacted in 1985 as part of the Tax Reform Act. It also obligates employers who leave their job, either through a layoff or by choice, to continue receiving their health care benefits by paying the full cost of such coverage. By extending this option, such unemployed persons will have enhanced coverage options.

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

With respect to uninsured and underinsured, my bill would permit individuals and families to purchase guaranteed, comprehensive health coverage through purchasing groups.

Health insurance plans offered through the purchasing groups would be required to meet basic, comprehensive standards with respect to benefits. Such benefits must include a variation of benefits permitted among actuarians. Title II contains provisions to be developed by the National Association of Insurance Commissioners. The standard plan would consist of the following services when medically necessary or appropriate: First, Medical and surgical devices; second, medical equipment; third, transportation services in emergency situations, and the purchasing groups need to be certified by the National Association of Insurance Commissioners. These purchasing groups, when paired with experiences by various small businesses, will provide an extra cushion of coverage options for people in transition. According to Senator Harkin, with these options, the typical monthly premium paid by a family of four would drop by as much as 20 percent when switching to a $1,000 deductible and as much as 52 percent when switching to a $3,000 deductible.

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been given to the root causes. Although the Department of Health and Human Services has also estimated that between $1.1 billion and $2.5 billion per year could be saved if the number of low birth weight children were reduced by 82,000 births. We know that in most instances, prenatal care is effective in preventing low birth weight, but how much can be done? Numerous studies have demonstrated that low birth weight that does not have a genetic link is most often associated with inadequate prenatal care or the lack of prenatal care. To improve pregnancy outcomes for women at risk of delivering babies of low birth weight, Title III of my bill authorizes the Secretary of Health and Human Services to award grants to States for Healthy Start projects to reduce infant mortality and the incidence of low birth weight births, as well as to improve the health and well-being of mothers and their families, pregnant women and infants. The funds would be awarded to community-based consortia, made up of State and local governments, the private sector, religious groups, community health centers, and hospitals and medical schools, whose goal would be to develop and coordinate effective health care and social support services for women and their families.

I initiated action that led to the creation of the Healthy Start Program in 1991, working with the Bush administration and Sen. Harkin. As chairman of the Appropriations Subcommittee on Health, Education, Labor, and Pensions, and later as the Chair of the Department of Health and Human Services, I have worked with my colleagues to ensure the continued growth of this important program. In 1991, we allocated $25 million for the development of 15 demonstration projects. This number grew to 22 in 1994, and the Health Resources and Services Administration expects the number of projects to increase again in 1997. For fiscal year 1997, we secured $96 million for the program, which is currently undergoing a formal evaluation by Mathematica Policy Research, Inc. However, preliminary results from the projects themselves suggest these programs have been enormously successful. In Pennsylvania, our Pittsburgh Healthy Start project estimates that infant mortality has decreased 20 percent in the overall project area as a result of this program. For those women in Pittsburgh who have taken advantage of the case management offered by the Healthy Start program, the infant mortality rate has been reduced by as much as 61 percent. Similarly, our Philadelphia project reports that infant mortality has been reduced by 25 percent.

The second initiative under Title III involves the provision of comprehensive health education and prevention initiatives for our Nation’s children. The Carnegie Foundation for the Advancement of Teaching recently conducted a survey of teachers. More than half of the respondents said that poor nutrition among students is a serious problem at their schools; 60 percent cited poor health as a serious problem. Another study issued in 1992 by the
Children's Defense Fund reported that children deprived of basic health care and nutrition are ill-prepared to learn. Both studies indicated that poor health and social habits are carried into adulthood and often passed on to the next generation.

To interrupt this tragic cycle, our Nation must invest in proven preventive health education programs. My legislation provides increased support to local educational agencies to develop and implement comprehensive health education programs, and to Head Start resource centers to support health education training programs for teachers and other day care workers.

Title III further expands the authorization of a variety of public health programs, such as breast and cervical cancer prevention, childhood immunizations, family planning, and community health centers. These existing programs are designed to improve the public health and prevent disease through primary and secondary prevention initiatives. It is essential that we invest more resources in these programs now if we are to make any substantial progress in reducing the costs of acute care in the future.

As chairman of the Appropriations Subcommittee with jurisdiction over the Department of Health and Human Services, I have greatly encouraged the development of prevention programs which help to keep people healthy and lowering the cost of health care in this country. In my view, no aspect of health care policy is more important. Accordingly, my prevention efforts have been widespread. Specifically, I joined my colleagues in efforts to ensure that funding for the Centers for Disease Control and Prevention (CDC) increased $1.3 billion or 132 percent since 1989. Fiscal year 1997 funding for the CDC totals $2.3 billion. We have also worked to elevate funding for CDC's cervical cancer screening and detection program to $140 million in fiscal year 1997, a 40 percent increase in 2 years. In addition, I have supported funding to CDC to improve the detection and treatment of re-emerging infectious diseases.

I have also supported programs at CDC which help children. CDC's childhood immunization program seeks to eliminate preventable diseases through immunization and to ensure that at least 90 percent of children are vaccinated. The CDC also continues to educate parents and care givers on the importance of immunization for children under 2 years. Along with my colleagues on the Appropriations Committee, I have helped to ensure that funding for this important program increased by $172 million, or 56 percent. The CDC's lead poisoning prevention program annually identifies about 30,000 children with elevated blood levels and places those children under medical care. The program prevents children's blood levels from reaching dangerous levels and is currently funded at over $38 million.

In recent years, we have also strengthened funding for community and migrant health centers, which provide immunizations, health advice, and health professions training. For fiscal year 1997, over $800 million was provided, an increase of about $44 million over fiscal year 1996.

As chair of the Select Committee on Intelligence and Chairman of the Appropriations Subcommittee with jurisdiction over the Department of Health and Human Services, I have worked to transfer CIA imaging technology to the fight against breast cancer. Through the Office of Women's Health within the Department of Health and Human Services, I secured a $2 million contract in fiscal year 1996 for the University of Pennsylvania and a consortium to perform the first clinical trials testing the use of intelligence community technology for breast cancer detection. For fiscal year 1997, an additional $2 million was appropriated to continue clinical trials.

Finally, I have been a strong supporter of funding for AIDS research, education, and prevention programs. In fiscal year 1997, AIDS funding increased by $140 million over the fiscal year 1996 level, for a total of $3.1 billion. Within this amount, $617 million was allocated for prevention, testing, and counseling at the CDC.

The proposed expansions in preventive care initiatives of title III of my bill are conservatively projected to save approximately $2.5 billion per year or $12.5 billion over 5 years. However, I believe the savings will be higher. Again, it is impossible to be certain of such savings—only experience will tell. For example, how do you quantify today the savings that will surely be achieved tomorrow from future generations of children that are truly educated in a range of health-related subjects including hygiene, nutrition, exercise, the dangers of smoking, and alcohol and drug abuse, and accident prevention and safety? I have suggested these projections, subject to future modification, to give a generalized perspective on the potential impact of this bill.

Title IV of my bill would establish a Federal standard and create uniform national forms concerning a patient's right to decline medical treatment. Encouraging the use of advance directives will ensure that patients are not needlessly and unlawfully treated against their will. No health care provider would be permitted to treat an adult contrary to that person's expressed wishes or the wishes of an advance directive. However, in no way would the use of advance directives condone assisted suicide or any affirmative act to end human life.

Incentives to improve the supply of geriatricians, primary care providers, and the utilization of nonphysician providers, such as nurse practitioners, clinical nurse specialists and physician assistants, through direct reimbursement under the Medicare and Medicaid Programs are contained in title V of my bill. I believe these provisions will also yield substantial savings. A study of the Canadian health system utilizing nurse practitioners projected savings of 10 to 15 percent of all medical costs. While our system is dramatically different from that of the Canadian system, it may not be unreasonable to project annual savings of 5 percent, or $55 billion, from an increased number of primary care providers in our system. Again, experience will raise or lower this projection. Assuming these savings, based on an average expenditure for health care of $3,821 per person in 1995, it seems reasonable that we could cover over 10 million uninsured persons with these savings.

Medical research, included in title VI of my bill, is another area where we can achieve considerable long term health care savings while also improving the quality of care. According to most outcomes management experts, it is estimated that about 25 to 30 percent of medical care is inappropriate or unnecessary. Dr. Marcia Angell, former editor-in-chief of the New England Journal of Medicine, also stated that 20 to 30 percent of health care procedures are either inappropriate, ineffective or unnecessary. In 1995, for example, Medicare expenditures totaled $1.1 trillion annually. A cost of illness model published in the October 1995 issue of Archives of
Internal Medicine estimated that $76.6 billion annually is for drug-related morbidity and mortality in the ambulatory setting. It is not unreasonable to anticipate that with the implementation of medical practice guidelines and data-driven information, $10 to 20 percent of costs could be eliminated, resulting in savings between $8 and $15 billion in drug-related morbidity and mortality alone. Ideally, if all inappropriate care could be removed, between $20 billion and $220 billion in savings could be realized annually for all health care expenditures. A reasonable estimate is that with the implementation of medical practice guidelines, we may achieve savings of 20 to 30 percent of the lower range end—$110 billion—which amounts to $22 to $33 billion in savings annually.

A well-funded program for outcomes research is therefore essential, and is supported by Dr. C. Everett Koop, former Surgeon General of the United States. Title V of my bill would establish such a program by imposing a one-tenth of one cent surcharge on all health insurance premiums. Based on the Health Care Financing Administration’s 1995 health spending review, current health insurance premiums totaled $325.4 billion. As provided in my bill, a surcharge would generate $325.4 million for an outcomes research fund, in addition to the $144 million appropriated for fiscal year 1997.

It is also vital to reduce the administrative costs incurred by our health care system. According to the Health Care Financing Administration, in 1994, about 6.2 percent of our total national health care expenditures were for administrative costs—over $58 billion annually. We can reasonably expect to reduce administrative costs by 5 percent, or $2.9 billion annually. While the development of a national electronic claims system to handle the billion-dollar claims is complex and will take time to implement fully, I believe it is an essential component in the operation of a more efficient health care system, and for achieving the necessary savings to provide insurance for the remaining uninsured Americans. Title VI of my bill is intended to improve access to health care information. True cost containment and competition cannot occur if purchasers of health care services do not have the information available to them to compare cost and quality.

Title VI also authorizes the Secretary of Health and Human Services to award grants to States to establish or improve a health care data information system. Currently, 38 States have a mandate to establish such a system, and 23 States are in various stages of implementation. In my own State, the Pennsylvania Health Care Cost Containment Council [PHC4] has been utilized by the Hershey Foods Corp., which provides health insurance coverage for its employees, their dependents, and retirees, totaling roughly 17,000 persons. Hershey has offered a flexible benefits plan since 1988, but as health care expenditures increase in the late 1980’s and early 1990’s, the company used the PHC4 data as part of its health care plan reengineering efforts and created its own Health Maintenance Organization [HMO] called HealthStyles as another alternative to the four traditional HMO’s already offered to employees and retirees. The PHC4 data were used to help Hershey define its specialized hospital network within this new HMO. Hershey states that the company has seen costs decline for some of the services provided by the other HMO plans offered to its employees. This is just one example of how health data information can be used wisely to inform the public and to compare cost and control costs. There are many other examples of savings being achieved, and I believe that if these systems were implemented in every State, the savings could be substantial.

Home nursing care is another significant issue which must be addressed. Title VII of my bill therefore would provide a tax credit for premiums paid to purchase private long-term care insurance. It also embraces home and community-based care benefits as less costly alternatives to institutional care. The Joint Tax Committee estimates that the cost of this long term care tax credit would be approximately $14 billion over 5 years. Other tax incentives and reforms provided in my bill to make long term care insurance more affordable include: first, allowing employers to select long-term care insurance as part of a flexible benefits plan; second, allowing employers to deduct this expense; and, third, setting standards for long term care insurance that reduce the bias that currently favors institutional care over community and home-based alternatives.

While precision is again impossible, it is reasonable to project that my proposal could achieve savings of between $94 and $105 billion. I arrive at this sum by totaling the projected savings of $101 to $112 billion annually—$9 billion in small employer health reforms coupled with employer purchasing groups; $2.5 billion for preventive health services; $22 to $33 billion for reducing inappropriate care through outcomes research; $10 billion from advanced directives; $5 billion from increasing primary care providers; and $2.9 billion by reducing administrative costs and netting this against the $2.8 billion for long term care; and $4.8 billion for increasing childrens’ coverage. I ask unanimous consent that a cost of anticipated savings, and costs associated with the bill be included in the RECORD.

Although there are no precise savings estimates for each of these areas, I propose this bill as a starting point to address the remaining problems with our health care system. Experience will require modification of these projections, and I am prepared to work with my colleagues to develop implementing legislation and to press for further action in the important area of health care reform.

CONCLUSION

The provisions which I have outlined today contain the framework for providing affordable long-term care for all Americans. I am opposed to rationing health care. I do not want rationing for myself, for my family, or for America. The question is whether we have the essential resources—doctors and other health personnel, pharmaceutical products— to provide medical care for all Americans, I am confident that we do. The issue is how to pay for and deliver such health care. In my judgment, we should not scrap, but rather we should build on our current health delivery system. We do not need the overwhelming bureaucracy that President Clinton and other Democratic leaders proposed in 1993 to accomplish this. I believe we can provide care for the 40 million Americans who are now not covered and reduce health care costs for those who are covered within the currently growing $1.1 trillion in health care spending.

In light of the savings projected in this bill, I believe it is possible to provide access to comprehensive affordable health care for 17.6 million Americans. This bill is a significant next step in obtaining that objective. It is obvious that the reforming of our system will not be achieved immediately or easily, but the time has come for concerted action in this arena.

I understand that there are several controversial issues presented in this bill and I am open to suggestions on possible modifications. I urge the congressional leadership, including the appropriate committee chairmen, to
move this legislation and other health care bills forward promptly. I ask unanimous consent that a summary and other material be printed in the RECORD.

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

HEALTH CARE ASSURANCE ACT OF 1997

SUMMARY OF THE BILL

Title I: Health Care Coverage for Children: Title I ensures health care coverage for all eligible children. The United States will begin offering health care coverage to all children under the age of 18. States complying with rules approved by the Secretary shall waive federal funds to provide for preventive services, primary care, and acute care services. Payments to states will be calculated based upon the average annual cost of enrollment in a health care plan providing those types of services to children in the state. Children in families with a combined income of 150% of poverty level ($29,880 for a family of four) and not eligible for Medicaid will receive a full subsidy for enrollment in health plans, and children who are in families with incomes up to 250% of poverty level ($36,660 for a family of four) will receive a partial subsidy reduced on a sliding scale based on poverty level. States will have the flexibility to design and implement their programs as they see fit.

Title II: Health Care Insurance Coverage: Title II provides for the following:

(1) extends to preventive care and emergency services; (2) medical equipment; (3) coexist of the following services when medically necessary or appropriate: (1) medical and surgical services; (2) medical equipment; (3) preventive care and (4) emergency transportation in frontier areas.

Cobra Portability Reform: For those persons who are uninsured between jobs and for insured persons fearing losing coverage should they lose their jobs, Title II reforms the existing COBRA law by: (1) extending to 23 months the minimum time period in which individuals may maintain their former employers’ plans; and (2) expanding coverage options to include plans with a lower premium and a $1,000 deductible—a family of four. Title II also extends the existing COBRA law by: (1) extending to preventive care and emergency services; (2) medical equipment; (3) coexist of the following services when medically necessary or appropriate: (1) medical and surgical services; (2) medical equipment; (3) preventive care and (4) emergency transportation in frontier areas.

SPECTER ATTACKS NEW SPECTER BRAIN TUMOR

[By Steve Twedt]

U.S. Sen. Arlen Specter greeted well-wishers in spirited fashion yesterday, hours after undergoing a specialized radiation treatment at the University of Pittsburgh Medical Center to stop the regrowth of a benign brain tumor.

Specter, 66, revealed yesterday that, during a routine magnetic resonance imaging scan in June, doctors discovered that a tumor surgically removed three years earlier had reappeared at the left front part of his brain. He said he never felt any symptoms.

The tumor was one-tenth the size of the one found in 1993 and, because it grew slowly, Specter waited until the end of the congressional session to seek treatment. He said he came to UPMC because of the experience and reputation of Dr. L. Dade Lunsford’s gamma knife program, the first of its kind in North America when it began in 1987. The program has treated more than 2,000 patients during the past nine years.

The gamma knife is used to treat tumors and malformed blood vessels in sensitive areas of the brain. Without making a surgical cut, the machine precisely shoots 201 beams of cobalt-60 photon radiation at the tumor, which lies on a bed with a special helmet covering his head. Only a local anesthetic is used.

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[From the Pittsburgh Post Gazette, Oct. 12, 1996]
Specter’s procedure took less than four hours. When the Philadelphia Republican met with reporters a few hours later, the only evidence of his treatment was a faint red mark on the side of his forehead from the pins used to hold his head still.

Lunsford, who is chief of neurosurgery at UPMC, said he saw no evidence that the tumor, called a meningioma, was malignant, nor any indication of other tumors.

On the basis of his experience with other patients, Lunsford said there’s a 98 percent chance the gamma knife will accomplish its goal—halting the tumor’s growth. Nearly half the time, the tumors will even shrink, he said.

Patients undergoing $12,000 gamma knife treatment usually do not experience nausea or headaches, and typically leave the hospital within 24 hours.

[From the East Penn Press, Nov. 4-10, 1996] Sometimes Patients Should Be Impatient

I can personally report on the miracles of modern medicine.

Three years ago, an MRI detected a benign tumor (meningioma) at the outer edge of my brain. It was removed by conventional surgery and hospitalization and five more weeks of recuperation.

When a small regrowth was detected by a follow-up MRI this June, it was treated with high precision from the ‘‘Gamma Knife.’’ I entered the hospital in the morning and left the same afternoon, ready to resume my regular schedule. Like the MRI, the Gamma Knife is a recent invention, coming into widespread use in the past decade.

My own experience as a patient has given me deeper insights into the American health care system and the U.S. Senate hearings where I preside as chairman of the Appropriations Subcommittee with jurisdiction over health and human services. I have learned: (1) our health care system, the best in the world, is worth every cent we pay for it; (2) patients sometimes have to press their own cases beyond the doctors’ standard advice; (3) greater flexibility must be provided on testing and treatment; and (4) our system has the resources to treat the 40 million Americans not now covered, but we must find the way to pay for it.

Health care in America costs $1 trillion out of our $7 trillion economy. The Senate and House Committees on Health have been given the lead to raise funding for medical research for the National Institutes of Health.

Notwithstanding budget cuts generally, we added this year to bring the total research budget to $27.2 billion.

For that investment, we have seen dramatic breakthroughs in gene therapy and advances in treatment for heart disease, cancer, AIDS, diabetes, Alzheimers, etc. Scanning devices such as satellite imaging used by the CIA are now applied to detect breast cancers. Advances in treatment for heart disease, cancer, AIDS, diabetes, Alzheimers, etc. to provide for all our people. My pending legislation provides a plan to do that with the current $1 trillion expenditure.

Informed, aggressive patients can do much to help themselves.

By Mr. Mccain (for himself, Mr. Feingold, Mr. Thompson, Mr. Wellstone, Mr. Graham, Mr. Kerrey, Mr. Dodd, Mr. Kerry, Mr. Bingaman, Mr. Glenn, Mrs. Murray, Mr. Kohl, Mr. Wyden, Ms. Moseley-Braun, Mr. Reid, Mr. Fords, Mr. Cleland, Mr. Johnson, and Mr. Durbin):

S. 25. A bill to reform the financing of Federal elections; to the Committee on Rules and Administration. The Bipartisan Campaign Finance Reform bill of 1997

Mr. McCain. Mr. President, I am pleased to be joined by Senators Feingold, Thompson, and Wellstone in introducing the Bipartisan Campaign Finance Reform Act of 1997. This measure is similar to last year’s bill that we introduced on the same subject. I will not lay out all the details of the bill at this time, but will submit for the record a summary of our bill at a later date.

Passage of campaign finance reform is necessary if we are to curb the public’s growing cynicism for politics and Congress in particular. We can no longer wait to address this issue.

I am under no illusions that this will be an easy fight. No other issue is felt more personally by Members of this body. No other issue stirs the emotions of Members of the Senate more. But we were sent here to make tough decisions and we must address this subject.

The public demands that we achieve three goals: limit the role of money in politics, make the playing field more level between challengers and incumbents, and to pass a legislative initiative that will become law.

A later date.

To pass a bill will require principled compromise and a great deal of work. I want the members of my party to know that I am willing to work with you to address your concerns regarding this legislation. I want to let my friends know on the other side of the aisle that the offer also stands for them. The co-sponsors for this bill are willing to negotiate technical aspects of the bill. The three principals I just outlined, however, are not negotiable.

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with all my colleagues as we move forward. It is only in a bipartisan manner, putting parochial interests aside, that we will be able to do the people's business—that we will pass meaningful campaign finance reform.

Mr. President, I am right today to join with my colleague from Arizona [Mr. McCAIN] in introducing the Bipartisan Campaign Reform Act.

I want to acknowledge the Democratic and Republican Senators who have agreed to join myself and the Senator from Arizona [Mr. McCAIN] as original co-sponsors in introducing this historic legislation. Those co-sponsors include the Senator from Tennessee [Mr. Isoth EDE], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Florida [Mr. GRAHAM], the Senator from Connecticut [Mr. DODD], the Senator from Nebraska [Mr. KERREY], the Senator from Massachusetts [Mr. KERRY], the Senator from Colorado [Mr. BINGAMAN], the Senator from Washington [Mrs. MURRAY], the Senator from Wisconsin [Mr. KOLK], the Senator from Oregon [Mr. WYDEN], the Senator from Illinois [Ms. MOSLEY-BRAUN], the Senator from Kentucky [Mr. FORD], the Senator from Vermont [Mr. LEAHY], the Senator from Nevada [Mr. REID], the Senator from Georgia [Mr. CLELAND], the Senator from South Dakota [Mr. JOHNSON] and the Senator from Wisconsin [Mr. DURBIN].

I think it is clear Mr. President, that the few remaining pillars holding up our crumbling election system finally collapsed. According to the latest figures from the Federal Election Commission, congressional candidates spent a total of $742 million in the 1996 elections, a noticeable increase over the 1994 levels despite the absence of a single Senate contest in any of the largest states—California, New York, Florida, Pennsylvania, or Ohio. And that $742 million figure does not even include the record amounts of so-called “soft money” contributions raised and spent by the national political parties on last election.

Every campaign year we are hit with these astonishing spending figures and every year we acknowledge that a new record has been set. And just when the spending and abuses seem like they cannot get any worse, they do. Last November, our campaign finance system lurched out of control, filling the headlines and airwaves with charges and countercharges about which candidates and parties were among the worst. Another cadre of millionaires spent vast sums of personal wealth on their campaigns, 94 percent of House and Senate challengers lost their election bids, and the small number of Americans went to the ballot box in 72 years.

Coupled with the continued need to reduce the Federal budget deficit, there may be no more fundamentally important issue than the need to pass meaningful reform of our campaign finance system.

The bill we are introducing today has several components, but is centered primarily on what I believe are the two cornerstones of reform. The first cornerstone is the creation of a voluntary system that offers qualified candidates an opportunity to participate in the electoral process without being compelled to raise and spend outrageous sums of money.

This voluntary system merely says to candidates that if you agree to follow a set of ground rules, we will provide you with the tools that will not only reduce the high costs associated with campaigning, but at the same time enhance your ability to sufficiently convey your message to the voters of your State.

What are those ground rules and benefits, Mr. President?

First, candidates who elect to voluntarily participate in the system must agree to limit the overall amount of money they spend on their campaigns. This spending cap is based on the voting-age population in each State. For example, in Wisconsin, the primary spending limit would be about $1 million while the general election cap would be about $1.5 million. In a larger State such as New York, the primary limit would be about $2.7 million while the general election limit would be about $4 million.

The second rule candidates must follow is to limit how much of their personal wealth they contribute to their campaigns. Again, this would be based on the voting-age population of the State. If I were to put the State of Wisconsin, it would be about $150,000 and in no State would it be higher than $250,000.

Finally, candidates must agree to raise 60 percent of their contributions from individuals within their home States. This rule is grounded in our belief that anyone wishing to receive the benefits of the bill should be able to demonstrate a strong base of support from the people they intend to represent. Moreover, candidates and officeholders must be focused on their campaign and fundraising activities on the people who matter most—the voters back home.

If candidates elect to participate in the system and follow these simple ground rules, they are entitled to certain benefits.

The first benefit is a postage discount. Eligible candidates would be given a special postage rate, currently only available to non-profit organizations and political parties, for a number of mailings equal to two times the voting-age population of the candidate’s State.

Second, the bill provides each eligible candidate with up to 30 minutes of free television advertising time from the broadcast stations in the candidate’s State and any adjoining States.

Third, and most importantly, the bill offers eligible candidates a 50 percent discount off the competitive rate for their television advertising 60 days before the general election and 30 days before the primary. Current law merely provides Federal candidates with the lowest unit rate—our bill would cut the costs of television advertising for eligible candidates almost in half.

That, Mr. President, is the first foundation of meaningful reform, creating a voluntary system—pure, voluntary system—that provides candidates who agree to limit their campaign spending with the means to convey their ideas and message to the voters and also significantly reduce their campaign costs, thereby reducing the need to raise millions and millions of dollars.

The second foundation of reform is to ban so-called “soft money,” those contributions to the national parties from corporations, labor unions and wealthy individuals that are unlimited and unregulated by federal election law and yet are funneled into federal campaigns around the country.

It was soft money, Mr. President, that garnered so much outrage in the last election. To illustrate how expansive of a loophole soft money has become, consider how much of this unregulated money the national parties have raised over the last two election cycles which were presidential election. In 1992, the Republican National Committee raised $50 million in soft money while the Democratic National Committee raised $36 million. In 1996, the RNC raised $141 million while the DNC raised $222 million. Overall, soft money contributions to the two parties went from $86 million in 1992 to $263 million in 1996. That is a staggering increase.

In the wake of the countless media reports documenting this abuse, Americans were left wondering why an individual who is limited to contributing $1,000 to a federal candidate by federal election law is somehow able to contribute $100,000 or $1 million to the Democratic or Republican National Committees. They want to understand why labor unions and corporations, which are prohibited by law from using their treasury funds to make contributions or expenditures to advocate for or against a federal candidate, are able to funnel millions and millions of their treasury dollars directly into the two national parties and indirectly into various House and Senate elections. Clearly, a ban on soft money contributions to the political parties must be a part of a serious reform proposal.

The Supreme Court has spoken clearly on the constitutionality of limiting campaign contributions from individuals. It has said that they have upheld the statutes barring corporate and labor union direct contributions. They have upheld the statute limiting individuals to contributing $1,000 to federal candidates per election and per year.

And yet the soft money loophole has allowed interested parties to blow these limits away, leaving the average citizen who wishes to contribute $25 to their local congressman wondering just how much of a voice they have in the electoral process.

The McCain-Feingold proposal simply bans all soft money contributions.
to the national parties. Individuals can still contribute to the national parties, but they will have to abide by the current law $20,000 “hard money” limit. Corporations and labor unions will also be able to contribute to the national parties, but that too will have to follow the “hard money” limits. That means they will have to contribute through their separate segregate funds, also known as PAC’s, rather than using their general treasury funds, and their contributions to the national parties will be limited to $15,000 per party committee per year.

We heard considerable debate in the last election about foreign money—both coming from foreign nationals oversees, which is clearly illegal, and from noncitizens residing in the United States, which is not. This is a problem and we have a new provision in our legislation to address this abuse. But I have always said that the problem is whether anyone should be permitted to contribute more than 20% of the election system, whether it is from jakarta or J anesville, WI. And the soft money ban in our legislation will prohibit any future such contributions, regardless of their source.

The legislation includes a new proposal that bars anyone who is not eligible to vote in a federal election from contributing to a federal candidate. This will affect noncitizens, minors under 18 years of age and certain convicted felons. Simply put, if our laws make it illegal for an individual to participate in the political process with their ballot, there is no reason the same individual should be permitted to participate with their checkbook.

The McCain-Feingold bill includes a number of other important provisions as well. For example, we propose a new definition of what constitutes “express advocacy” in a federal election. “Express advocacy” is the standard used to determine to what extent election activities may be limited and regulated. If a particular activity, such as an independent expenditure, is deemed to expressly advocate the election or defeat of a particular federal candidate, then that activity must be paid for with fully disclosed and limited “hard money” dollars. Labor unions, corporations and other political organizations would have to fund such activities through a PAC, comprised of voluntary, limited and disclosed contributions.

If on the other hand, an expenditure is used for an activity that does not expressly advocate the election or defeat of a particular candidate, such as a television ad that attempts to raise important issues without advocating a candidate, then that expenditure may be funded with “soft money” dollars—undisclosed and unlimited monies, such as corporation’s profits or a labor union’s member dues.

Unquestionably, the largest abuse in recent elections is the use of non-party soft money to fund huge electioneering activities under the guise that there is an absence of express advocacy. Current FEC regulations defining express advocacy are so weak that these organizations are able to channel unlimited resources into activities that are thinly veiled as “voter education” or “issue advocacy.” We have sought to require that independent expenditures be directly linked to the election or defeat of a candidate. These activities, outside the scope of federal election law, have come to dominate many Senate campaigns. And while political parties and outside organizations have poured unlimited resources into these “issue ads,” candidates have found their role in their own elections shockingly diminished.

If we are to have any control of our election process, we must have a clear standard in the law that defines what sort of activities are an attempt to influence the outcome of a federal election.

The McCain-Feingold proposal includes a new definition of what constitutes “express advocacy.” Under this proposal, the definition of “express advocacy” will include any general public communication that advocates the election or defeat of a clearly identified candidate for federal office by using such expressions as “vote for,” “support” or “defeat.” Further, any disbursement aggregating $10,000 or more for a communication that is expressly advocated for or against an identified candidate for federal office within 30 days of a primary election or 60 days of a general election shall be considered express advocacy if the communication refers to a clearly identified candidate and a reasonable person would understand it as advocating the election or defeat of that candidate.

If such a communication is made outside of the 30 day period before the primary election or the 60 day period before the general election, it shall be the responsibility of the person making the communication to determine if the communication was made with the purpose of advocating the election or defeat of a candidate as shown by one or more factors including a statement or action by the person making the communication, the targeting or placement of the communication, or the use by the person making the communication of polling or other similar data relating to the candidate’s campaign or election.

This will ensure that a much larger proportion of the expenditures made by political parties and independent organizations with the intent to influence the outcome of a federal election will be covered by federal law and subject to the appropriate restrictions and disclosure requirements.

The McCain-Feingold proposal will also protect candidates who are targeted by independent expenditures. First, the legislation requires groups who fund independent expenditures to immediately disclose those expenditures. The FEC would then be required to transmit a copy of that report to any candidate who has agreed to limit their spending and has been targeted by such an expenditure. This will give candidates advance notice that they have been targeted. The legislation also allows candidates to respond to such expenditures without these “response expenditures” counting against the general spending limit. Candidates will ensure that targeted candidates are not bound by the spending caps and unable to respond. And finally, the bill tightens statutory language to ensure that independent expenditures made by political action committees (PAC’s) are truly independent and not coordinated with campaigns in any way.

The legislation also includes a ban on Political Action Committee (PAC) contributions to federal candidates. In case such a ban is held to be unconstitutional by the Supreme Court, the legislation includes a “back-up” provision that lowers the PAC contribution limit from $5,000 to $1,000 and limits Senate candidates to accepting no more than 20% of the applicable overall spending limit in aggregate PAC contributions.

The bipartisan bill is further helpful to challengers in that it prohibits Senators from sending out taxpayer-funded, unsolicited franked mass mailings in the calendar year of an election. Often, these mass mailings are thinly disguised “newsletters” that help to bolster an incumbent’s name recognition and inform constituents of their accomplishments. To make solicited activity by officeholders can be unfair in an election year.

The final major piece of this reform effort is our enhanced enforcement provisions. There is legitimate criticism that our federal election laws are not adequately enforced, and much of this problem can be directly attributed to Congress’ unwillingness to provide adequate funding to what is supposed to be the government’s watchdog agency, the Federal Election Commission. Regardless, there are reforms we can pass that will allow the FEC to better enforce the current laws we have on the books as well as the new laws enacted as part of this legislation.

First and foremost is a provision that will require all federal campaigns to file their disclosure reports with the FEC electronically. Currently, this is optional and the result is a disclosure system that is marginally reliable. We need a disclosure system that is readily accessible to the public and will allow the American people to know where from and to whom the money is flowing. The bill also requires candidates to disclose the name and address of every contributor who gives more than $50 to their campaign. Currently, this threshold is only for contributions over $200 and the result is millions of dollars of undisclosed contributor information.

Second, we allow the FEC to conduct random audits of campaigns. This will provide a more accurate view of where sure candidates are complying with all of the limitations and restrictions in federal election law.
The factors which led us to introduce this legislation in the last Congress have become even more prominent. Too much money is needed, too much time must be spent raising it, too much is asked of a limited number of special interests, and too much is going on outside of the system we have established—some within the bounds of the law, some allegedly not.

Most importantly, in my view, the public is increasingly concerned by what they see happening here. If they have no faith in the system which put us here, if they are turned off by what we do to get elected, how are they going to trust us to carry out our work in their best interests?

Next, money raising consumes an inordinate amount of office-holders' and candidates' time and effort. Candidates should be reaching out to as broad a spectrum of people and interests as possible, and not feel they must concentrate on those who can afford to make a donation.

Last, it is difficult for a challenger to raise sufficient funds to get his or her message out. Congress needs to move away from professionalism and more toward a citizen legislature. The process should be more open, instead of more closed. Because of the role money plays, unless a candidate has access to large sums of money, he or she is pretty much cut out of the process.

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Furthermore, in this revised bill we concentrate on those who can afford to spend too much money on political campaigns. This is consistent with numerous other polls that have found similar results. Coupled with the troubling fact that the smallest percentage of Americans went to the polls last year, it is clear that the American people want meaningful reform of our electoral process.

It is also clear that they want less polarization in the Congress, and for Democrats and Republicans to work together to find effective solutions to our common problems.

For years, campaign finance reform has stalled because of the inability of the two parties to join together and craft a reform proposal that was fair to both sides. Recently, the Wall Street Journal conducted a poll on this issue. They found that 92 percent of the American people think we spend too much money on political campaigns. This is consistent with numerous other polls that have found similar results. Coupled with the troubling fact that the smallest percentage of Americans went to the polls last year, it is clear that the American people want meaningful reform of our electoral process.

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We believe we have bridged those differences, and produced a proposal that was fair to both sides. We believed we have bridged those differences, and produced a proposal that was fair to both sides. We believed we have bridged those differences, and produced a proposal that was fair to both sides.

This legislation reduces the appearance and reality of special interests buying and selling political favors by prohibiting federal PACs, restricting contributions of ‘‘bundling’’, allowing independent expenditures, it would place more restrictions on independent expenditures. It would restrict PAC contributions and ‘‘bundling,’’ and it would place more restrictions on foreign contributions. It is a good faith effort and, in my view, a good place to start.

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For years, campaign finance reform has stalled because of the inability of the two parties to join together and craft a reform proposal that was fair to both the public and the candidates. It was strongly supported by President Clinton, who first endorsed the McCain-Feingold proposal in his State of the Union Address almost one year ago and has recently reaffirmed his strong commitment to the legislation that was strongly supported by the President. Mr. President, I support the McCain-Feingold proposal in its State of the Union Address almost one year ago and has recently reaffirmed his strong commitment to the legislation that was strongly supported by the President. Mr. President, I support the McCain-Feingold proposal in its State of the Union Address almost one year ago and has recently reaffirmed his strong commitment to the legislation that was strongly supported by the President.

The legislation is also bicameral. Republican Representative Chris Shays, Democratic Representative Marty Meehan and a number of others will soon be introducing a House version of the McCain-Feingold proposal in the 105th Congress.

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In some ways this bill does not go as far as I believe will be necessary in order to repair our damaged campaign finance system. But it would ban ‘‘soft money’’ contributions to parties. It would impose voluntary spending limits and require greater disclosure of independent expenditures. It would restrict PAC contributions and ‘‘bundling,’’ and it would place more restrictions on foreign contributions. It is a good faith effort and, in my view, a good place to start.

We must enact comprehensive reform. But I am especially committed this year to addressing the striking abuses in the areas of ‘‘soft money’’ and issue-advocacy ads. A system which invites circumvention mocks itself.

Mr. President, I intend to speak at greater length on the coming days on the subject of campaign finance reform. Today, I enthusiastically endorse this bipartisan effort to move real reform and to begin to restore Americans’ belief in our democratic institutions.

By Mr. Daschle (for himself, Mr. Johnson, Mr. Dorgan, Mr. Wellstone).
``(h) PRIORITY FOR FARMER-OWNED VALUE-ADDED PROCESSING FACILITIES.

Section 3109 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding at the end the following: 
``(h) PRIORITY FOR FARMER-OWNED VALUE-ADDED PROCESSING FACILITIES.--In approving applications for loans and grants authorized under this section, section 306(a)(1), and other applicable provisions of this title (as determined by the Secretary), shall give a high priority to applications for projects that encourage farmer-owned value-added processing facilities.''

By Mr. THURMOND:
S. 27. A bill to amend title I of the United States Code to clarify the effect and application of legislation; to the Committee on the Judiciary.

AN ACT TO CLARIFY THE APPLICATION AND EFFECT OF LEGISLATION

Mr. THURMOND. Mr. President, I rise today to introduce an act to clarify the application and effect of legislation which the Congress enacts. My act provides that unless future legislation expressly states otherwise, new enactments would be applied prospectively, would not create private rights of action, and would be presumed not to preempt existing State law. This will significantly reduce unnecessary litigation and court costs, and will benefit both the public and our judicial system.

The purpose of this legislation is quite simple. Many congressional enactments do not indicate whether the legislation is to be applied retroactively, whether it creates private rights of action, or whether it preempts existing State law. The failure or inability of the Congress to address these issues in each piece of legislation results in unnecessary confusion and litigation. Additionally, this act contributes to the high cost of litigation and the congestion of our courts.

In the absence of action by the Congress on these threshold questions of retroactivity, private rights of action and preemption, the outcome is left up to the courts. The courts are frequently required to resolve these matters without any guidance from the legislation itself. Although these issues are generally raised early in a lawsuit, a decision that the lawsuit can proceed generally cannot be appealed until the end of the case. If the appellate court eventually rules that one of these issues should end the trial, the litigants have been put to substantial burden and unnecessary expense which could have been avoided.

Trial courts around the country often reach conflicting and inconsistent results on these issues, as do appellate courts when the issues are appealed. As a result, many of these cases eventually make their way to the Supreme Court. This problem was dramatically illustrated after the passage of the Civil Rights Act of 1991. District courts and courts of appeals across this Nation were required to resolve whether the 1991 act should be applied retroactively, and the issue ultimately was considered by the U.S. Supreme Court. However, by the time the Supreme Court resolved the issue in 1994, well over 100 lower courts had ruled on this question, and their decisions were split. Countless litigants across the country expended substantial resources debating this threshold procedural issue.

In the same way, the issues of whether new legislation creates a private right of action or preempts State law and whether the Congress wishes legislation to be applied retroactively, or not, should be resolved by the Congress itself. If the Congress desires legislation to be applied retroactively, do not create a private right of action, and are presumed not to preempt State law. Of course, costs of litigation, we should restrict the Congress on these important issues. The Congress may override this simple rule by simply stating when it wishes legislation to be retroactive, create new private rights of action or preempt existing State law.

This act will eliminate uncertainty and provide rules which are applicable when the Congress fails to specify its position on these important issues in legislation it passes. One U.S. District Judge in my State informs me that he spends 10 to 15 percent of his time on these issues. It is clear that this legislation would save litigants and our judicial system millions and millions of dollars by avoiding much uncertainty and litigation which currently exists over these issues.

Mr. President, if we are truly concerned about relieving the backlog of cases in our courts and reducing the costs of litigation, we should restrict the Congress on these important issues. The Congress may override this simple rule by simply stating when it wishes legislation to be applied retroactively, or not, should be resolved by the Congress itself. If the Congress desires legislation to be applied retroactively, do not create a private right of action, and are presumed not to preempt State law. Of course, costs of litigation, we should restrict the Congress on these important issues. The Congress may override this simple rule by simply stating when it wishes legislation to be retroactive, create new private rights of action or preempt existing State law.

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By Mr. LUGAR:
S. 29. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

S. 30. A bill to increase the unified estate and gift tax credit to exempt small businesses and farmers from inheritance taxes; to the Committee on Finance.

ESTATE TAX LEGISLATION

Mr. LUGAR. Mr. President, I am pleased to introduce three bills aimed at eliminating the burden that estate and gift taxes place on our economy. My first bill would repeal the estate and gift taxes outright. My second bill would phase out the estate tax over 5 years by gradually raising the unified credit each year until it is repealed after the fifth year. My third bill would immediately raise the effective unified credit from $600,000 to $5
In 1989 to 1991, a period of unusually slow economic growth, virtually all new net jobs were created by firms with fewer than twenty employees.

Recent economic studies and surveys of small business owners support the thesis that the estate tax discourages entrepreneurship, as well. The Tax Foundation concluded that the estate tax may have roughly the same effect on entrepreneurial initiatives as would a doubling of income tax rates. A 1996 report prepared by Price Waterhouse found that one-third of family-owned businesses were concerned about estate taxes than about capital gains taxes. A Gallup poll found that one-third of family-owned businesses expect to sell their family's firm to pay estate tax liability. Sixty-eight percent of one's inheritance. The tax intended to a business owner deciding whether to invest in new capital goods or hire a new employee. We must consider its affect on a farmer deciding whether to buy new land or additional livestock or a tractor. If you know that when you die your children will probably have to sell the business you build up over your lifetime, does that make you more likely to take the risk of starting a new business or enlarging your present business? It is apparent that the estate tax does discourage business and farm investments.

One might expect that for all the economic disincentives caused by the estate tax, it must at least provide a sizable contribution to the U.S. Treasury. But in reality, the estate tax only accounts for about 1 percent of federal taxes. It cannot be justified as an indispensable revenue raiser. Given the blow to our economic growth, the estate tax may even cost the Treasury money. Our nation's ability to create new jobs, new opportunities and wealth is damaged as a result of our insistence on collecting a tax that earns less than 1 percent of our revenue.

But this tax affects more than just the national economy. It affects how we as a nation think about community, family and work. Small businesses and family farms are more than assets. They represent years of toil and entrepreneurial risk taking. They also represent the hopes that families have for their children. Part of the American Dream has always been to build up a business, farm or ranch so that economic opportunities and a way of life can be passed on to one's children and grandchildren.

I have some personal experience in this area. My father died when I was in my early thirties, leaving his 604-acre farm in Marion County, Indiana, to his family. I managed the farm, which built up considerable debts during my father's illness at the end of his life.

Fortunately, after a number of years, we were successful in working out the financial problems and repaying the money. We were lucky. That farm is profitable and still in the family. But many of today's farmers and small business owners are not so fortunate. Only about 30 percent of businesses are transferred from parent to child, and only about 12 percent of businesses make it to a grandchild.

The strongest negative effects of the estate tax are felt by the American family farmer. Currently, proprietorships and partnerships make up about 95 percent of farms and ranches. In the vast majority of cases, family farms do not produce luxurious lifestyles for their owners. Farmers have large assets but relatively little income. The income of a family-run farm depends on modest returns from sizable amounts of invested capital. Much of what the farmer makes after taxes in returned into the farm and not to the estate tax may have roughly the same effect on entrepreneurial incentives as would a doubling of income tax rates. A 1996 report prepared by Price Waterhouse found that one-third of family-owned businesses were concerned about estate taxes than about capital gains taxes. A Gallup poll found that one-third of family-owned businesses expect to sell their family's firm to pay estate tax liability. Sixty-eight percent of one's inheritance. The tax intended to a business owner deciding whether to invest in new capital goods or hire a new employee. We must consider its affect on a farmer deciding whether to buy new land or additional livestock or a tractor. If you know that when you die your children will probably have to sell the business you build up over your lifetime, does that make you more likely to take the risk of starting a new business or enlarging your present business? It is apparent that the estate tax does discourage business and farm investments.

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have authority under the Constitution to inject themselves into the legislative area of taxation. The second constitutional issue arises in light of the Judicial Taxation Prohibition Act which I am now introducing to restrict the jurisdiction of the lower Federal courts. This narrowly drafted legislation would prohibit Federal judges from ordering new taxes or ordering increases in existing tax rates. I believe it is clear under Article III that the Congress has the authority to restrict the jurisdiction of the Federal courts in this fashion.

First, I want to speak on the issue of judicial taxation. Not since Great Britain’s ministry of George Grenville in 1765 have the American people faced the assault of taxation without representation as now authorized in the Jenkins decision.

As part of his imperial reforms to tighten British control in the colonies, Grenville pushed the Stamp Act through Parliament in 1765. This Act required excise duties to be paid by the colonists in the forms of revenue stamps affixed to a variety of legal documents. This action came at a time when the colonies were in an uproar over the Stamp Act of 1764 which imposed duties on certain imports such as sugar, indigo, coffee, linens and other items.

The ensuing firestorm of debate in America centered on the power of Britain to tax the colonies. James Otis, a young Boston attorney, echoed the opinion of most colonists stating that the Parliament did not have power to tax the colonies because Americans had no representation in that body. Mr. Otis had been attributed in 1761 with the statement that “taxation without representation is tyranny.”

In October, 1765, delegates from nine states were sent to New York as part of the Stamp Act Congress to protest the new revenue stamps. During this time that John Adams wrote in opposition to the Stamp Act, “We have always understood to be a grand and fundamental principle... that no freeman shall be stood it to be a grand and fundamental principle of the American Revolution that no taxes be imposed on them, but with their own consent, given personally or by their representatives.” The resolutions concluded that the Stamp Act had a “manifest tendency to subvert the rights and liberties of the colonists.”

Opposition to the Stamp Act was vehemently continued through the colonies in pamphlet form. These pamphlets asserted that the basic premise of a free government included taxation of the people by themselves or through their representatives. Other Americans reacted to the Stamp Act by rioting, intimidating tax collectors, and boycotts directed against England. While Grenville’s successor was determined to repeal the law, the social, economic and political climate in the colonies brought on the American Revolution. The principles expressed during the earlier crisis against taxation without representation became firmly embedded in our Federal Constitution of 1787.

Yet, the Supreme Court has overlooked this fundamental lesson in American history. The Jenkins decision extends the power of the judiciary into an area which has traditionally been reserved as a legislative function within the Federal, State, and local governments. In the Federalist No. 48, James Madison explained that in our democratic system, “the legislative branch alone has access to the pockets of the people.”

This idea has remained steadfast in America for over 200 years. Elected officials with authority to tax are directly accountable to the people who give their consent to taxation through the ballot box. The shield of accountability against unwarranted taxes has been removed when the Supreme Court has sanctioned judicially imposed taxes. The American citizenry lacks adequate protection when they are subject to taxation by unelected, life tenured Federal judges.

There are many programs and projects competing for a finite number of tax dollars. The public debate surrounding taxation is always intense. Sensitive discussions are held by elected officials and their constituents concerning increases and expenditures of scarce tax dollars. To allow Federal judges to impose taxes is to discount valuable public debate concerning priorities for expenditures of a limited public resource.

Mr. President, the dispositive issue presented by the Jenkins decision is whether the American people want, as a matter of national policy, to be exposed to taxation without their consent by an independent and insulated judiciary, I most assuredly believe they do not.

This brings us to the second Constitutional issue which we must address in light of this Jenkins decision. That issue is Congressional authority under the Constitution to limit the remedial jurisdiction of lower Federal courts established by the Congress. Article III, Section 1, of the Constitution provides jurisdiction to the lower Federal courts as may from time to time ordain and establish. There is no mandate in the Constitution to confer equity jurisdiction to the inferior Federal courts. Congress has the flexibility under Article III to “ordain and establish” the lower Federal courts as it deems appropriate.

This basic premise has been upheld by the Supreme Court in a number of cases including Lockerty versus Phillips, Lauf versus E.G. Skinner and Co., Kline versus Construction Co., and Sheldon versus Sill. This legislation would preclude the lower Federal courts from issuing any order or decree requiring imposition of “any new tax or to increase any existing tax or tax rate.” I firmly believe that this language is wholly consistent with Congressional authority under Article III, Section 1 of the Constitution.

There is nothing in this legislation which would restrict the power of the Federal courts from hearing constitutional claims. It accords due respect to all provisions of the Constitution and merely limits the availability of a particular judicial remedy which has traditionally been a legislative function. The objective of this legislation is straightforward, to prohibit Federal courts from increasing taxes. The language in this bill applies to the lower Federal courts and does not deny claimants judicial access to seek redress of any Federal constitutional right.

Mr. President, how long will it be before a Federal judge orders tax increases to build new highways or prisons? I do not believe the Founding Fathers had this type of activism in mind when they established the judicial branch of government. The role of the judiciary is to interpret the Constitution. The power to tax is an exclusive legislative right belonging to the Congress and governments at the state level. We are accountable to the citizens and must justify any new taxes. The American people deserve a timely response to the Jenkins decision and we must provide protection against the imposition of taxes by an independent judiciary.

By Mr. THURMOND:

S. 33. A bill to provide that a Federal justice or judge convicted of a felony shall be suspended from office without pay, to amend the retirement age and service requirements for Federal justices and judges convicted of a felony, and for other purposes; to the Committee on the Judiciary.

FEDERAL JUDGE LEGISLATION

Mr. THURMOND. Mr. President, today I am introducing legislation which provides that a justice or judge convicted of a felony shall be suspended from office without pay pending the disposition of impeachment proceedings.

I believe that the citizens of the United States will agree that those who have been convicted of felonies should not be allowed to continue to occupy positions of trust and responsibility in our Government. Nevertheless, under current constitutional law it is possible for judges to continue to receive a salary and to still sit on the bench and hear cases even after being convicted of a felony. If they are unwilling to resign, the only method may be used to remove them from the Federal payroll is impeachment.

Currently, the Congress has the power to impeach officers of the Government who have committed treason,
bribery, or other high crimes and misdemeanors. Even when a court has already found an official guilty of a serious crime, Congress must then essentially retry the official before he or she can be removed from the Federal payroll.

This process is typically very time consuming and can occupy a great deal of the resources of Congress.

Mr. President, one way to solve this problem would be to amend the Constitution. Today, I am also introducing a Senator that proposes a constitutional amendment providing for forfeiture of office by Government officials and judges convicted of felonies involving moral turpitude. While I believe that a constitutional amendment may be the best solution to the problem, I am also introducing this statutory remedy to address the current situation.

This legislation will provide that a judge convicted of a felony involving moral turpitude shall be suspended from office without pay. The legislation specifies that the suspension begins upon conviction and that no additional time accrues toward retirement from that date. However, the judge would be reinstated if the criminal conviction is reversed upon appeal or if articles of impeachment do not result in conviction by the Senate.

Mr. President, the framers of the Constitution could not have intended convicted felons to continue to serve on the bench and to receive compensation once they have seriously violated the law and the trust of the people. I urge my colleagues to carefully consider this legislation.

By Mr. FEINGOLD:
S. 34. A bill to phase out Federal funding for the Tennessee Valley Authority; to the Committee on Environment and Public Works.

TENNESSEE VALLEY AUTHORITY LEGISLATION
Mr. FEINGOLD. Mr. President, today I am introducing legislation, similar to that which I sponsored in the 104th Congress, to terminate funding for little known activities of the Tennessee Valley Authority [TVA], the TVA’s nonpower programs, that are funded by appropriated funds. In fiscal year 1997, Congress appropriated a total of $106 million to support these programs.

TVA was created in 1933 as a government corporation for the unified development of a river basin comprised of parts of seven States. Those activities included the construction of an extensive power system, for which the region is now famous, and regional development or “nonpower” programs. TVA’s responsibilities in the nonpower programs include maintaining its system of dams, reservoirs and navigation facilities, and managing TVA-held lands. In addition, TVA provides recreational programs, makes economic development grants to communities, promotes public use of its land and water resources, and operates an Environmental Research Center.

Only the TVA power programs are intended to be self-supporting, by relying on TVA utility customers to foot the bill. The expense of these “nonpower” programs, on the other hand, are covered by appropriated taxpayer funds.

This legislation would place TVA on a glide path to eliminate its appropriated funding for all appropriated programs of the TVA after fiscal year 2000. While I understand the role that TVA has played in our history, I also know that we face tremendous Federal budget pressure to reduce spending in many areas. I believe that TVA’s discretionary funds should be on the table, and that Congress should act, in accordance with this legislation, to put the TVA appropriated programs on a glide path toward dependence on sources of funds other than appropriated funds. I think that this legislation is a reasonable phased-in approach to achieve this objective, and explicitly codifies both the fiscal year 1996 President’s Budget and TVA’s own recommendations regarding activities that should be examined and implemented as a result of the fiscal year 1996 Energy and Water Appropriations, TVA did complete an assessment of its research program. The following represents the recommendations of that review.

Again, while I understand the important role that TVA played in the development of the Tennessee Valley, many other areas of the country have become more creative in Federal and State financing arrangements to address regional concerns. Specifically, in those areas where there may be excesses within TVA, I believe we can do better by allowing private, local and State government funds to be used in those areas where there may be excesses within TVA, I believe we can do better by allowing private, local and State government funds to be used in those new activities without completely eliminating the TVA, as some in the other body have suggested.

Mr. President, I ask unanimous consent that the full text of this measure be printed in the Record.

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

S. 34

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

SECTION 1. TENNESSEE VALLEY AUTHORITY.
(a) DISCONTINUANCE OF APPROPRIATIONS. Section 27 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 832) is amended—
(1) by inserting “for fiscal years through fiscal year 2000” after “in the other body have suggested.”
(2) recommends any legislation that may be appropriate to carry out the objectives of this Act.

By Mr. FEINGOLD:
S. 35. A bill to amend the Reclamation Reform Act of 1982 to clarify the
accreage limitations and incorporate a means test for certain farm operations, and for other purposes; to the Committee on Energy and Natural Resources.

**IRRIGATION SUBSIDY REDUCTION ACT OF 1997**

Mr. FEINGOLD. Mr. President, I am introducing a measure that I sponsored in the 104th Congress to reduce the amount of Federal irrigation subsidies received by large agribusiness interests. I believe that reforming Federal water pricing policy by reducing subsidies is an important objective to achieve our deficit reduction and other objectives. This legislation is also needed to curb fundamental abuses of reclamation law that cost the taxpayer millions of dollars every year.

In 1901, President Theodore Roosevelt proposed legislation, which came to be known as the Reclamation Act of 1902, to encourage development of family farms throughout the western United States. The idea was to provide needed water for areas that were otherwise dry and give small farms—those no larger than 160 acres—a chance, with a helping hand from the Federal Government, to establish themselves. Accordingly, to a 1996 General Accounting Office report, since the passage of the Reclamation Act, the Federal Government has spent $21.8 billion to construct 133 water projects in the west which provide water for irrigation. Irrigators, and other project beneficiaries, are required by law to repay to the Federal Government the allocated share of the costs of constructing these projects.

However, as a result of the subsidized financing provided by the Federal Government, some of the beneficiaries of Federal water projects repay considerably less than their full share of these costs. According to the 1996 GAO report, irrigators generally receive the largest amount of Federal financial assistance. Since the initiation of the Reclamation Act of 1902, costs associated with irrigation have been repaid without interest. The GAO further found, in reviewing the Bureau of Reclamation’s financial reports, that $16.9 billion, or 78 percent, of the $21.8 billion of Federal investment in water projects is considered to be reimbursable. Of the reimbursable costs, the largest share—$7.1 billion—is allocated to irrigators. As of September 30, 1994 irrigators have repaid only $941 million of the $7.1 billion they owe. GAO also found that the Bureau of Reclamation will likely shift $3.4 billion of the debt owed by irrigators to other users of the water projects for repayment.

There are several reasons why irrigators continue to receive such significant subsidies. Under the Reclamation Reform Act of 1982, Congress acted to expand the size of the farms that could receive subsidized water from 160 acres in size from receiving federally subsidized water. These restrictions were added to the reclamation act to close loopholes through which Federal subsidies were flowing to large agribusinesses rather than the small family farmers that reclamation projects were designed to serve. Agribusinesses were expected to pay full cost for all water delivered to their 960-acre limit. Despite the express mandate of Congress, regulations promulgated under the Reclamation Reform Act of 1982 have failed to keep big agricultural water users from receiving federal subsidies. The General Inspector General of the Department of the Interior continues to find that the acreage limits established in law are circumvented through the creation of arrangements such as farming trusts. These trusts, which in total acreage will exceed the 960 acre limit, are comprised of smaller units that are not subject to the reclamation acreage cap. These smaller units are formed under a single management agreement often through a combination of leasing and ownership.

In a 1989 GAO report, the activities of six agribusiness trusts were fully explored. According to GAO, one 12,345 acre cotton farm (roughly 20 square miles) located in the Imperial Valley, after a partnership, was reorganized to avoid the 960 acre limitation into 15 separate land holdings through 18 partnerships, 24 corporations and 11 trusts which were all operated as one large unit. A seventh very large trust was the sole topic of a 1990 GAO report. The Westhaven Trust is a 23,238 acre farming operation in California’s Central Valley. It was formed for the benefit of 326 salaried employees of the J. G. Boswell Company. Boswell, GAO found, had taken advantage of section 214 of the RRA, which exempts from its 960 acre limit land held for beneficiaries by a trustee in a fiduciary capacity, as long as no single beneficiary’s interest exceeds the 960-acre limit. The RRA, as I have mentioned, does not preclude multiple land holdings from being operated collectively under a trust as one farm while qualifying individually for federally subsidized water. Accordingly, the J. G. Boswell Company reorganized 23,238 acres it held as the Boston Ranch by selling them to the Westhaven Trust, with the land holdings attributed to each beneficiary being eligible to receive federally subsidized water.

Before the land was sold to Westhaven Trust, the J. G. Boswell Company operated the acreage as one large farm and paid full cost for the Federal irrigation water delivered for the 18-month period ending in May 1989. When the trust bought the land, due to the loopholes in the law, the entire acreage became eligible to receive federally subsidized water because the land holdings attributed to the 326 trust beneficiaries range from 21 acres to 547 acres—all well under the 960 acre limit.

In the six cases the GAO reviewed in 1989, owners or lessees paid a total of about $1.3 million less in 1987 for Federal water than they would have paid if their collective land holdings were considered as large farms subject to the Reclamation Act acreage limits. Had Westhaven Trust been required to pay full cost, GAO estimated in 1990, it would have paid $2 million more for its water. The GAO also found, in all seven of these cases, that reduced revenues are likely to continue unless Congress amends the Reclamation Act to close the loopholes allowing benefits for trusts.

The legislation that I am introducing today combines various elements of proposals introduced during previous attempts by other Members of Congress to close loopholes in the 1982 legislation and to impose a $500,000 means test. This new approach limits the amount of subsidized irrigation water delivered to any operation in excess of the 960 acre limit which claimed $500,000 or more in gross income, as reported on their most recent IRS tax form. If the $500,000 or more income was exceeded, an income ratio would be used to determine how much of the water should be delivered to the user at the full-cost rate, and how much at the below-cost rate. For example, if a 961 acre operation earned $1 million dollars, a ratio of $500,000 (the means test value) divided by their gross income would determine the full cost rate, thus the water user would pay the full cost rate on half of their acreage and the below cost rate on the remaining half.

This means testing proposal will be featured, for the second year in a row, in this year’s 1997 Green Scissors report which is scheduled for release next month. This report is compiled by Friends of the Earth and Taxpayers for Common Sense and supported by a number of environmental and consumer groups, including the Concord Coalition, and the Progressive Policy Institute. The premise of the report is that there are a number of subsidies and projects that could be cut to both reduce the deficit and benefit the environment. This report underscores what I and many others in the Senate have long known: we must eliminate practices that can no longer be justified in light of our enormous annual deficit and national debt. The Green Scissors recommendation on means testing water subsidies indicates that if a test is successful in reducing subsidy payments to the highest grossing 10% of farms, then the Federal Government would recover $2 million and $1.1 billion per year, or at least $2.2 billion over 5 years.

When countless Federal programs are subjected to various types of means tests to limit benefits to those who truly need assistance, it makes little sense to continue to allow business interests to dip into a program intended to help small entities struggling to survive. Taxpayers have legitimate concerns when they learn that their
hard earned tax dollars are being expended to assist large corporate interests in select regions of the country who benefit from these loopholes, particularly in tight budgetary times. Other users of Federal water projects, such as the power recipients, should also be concerned with the extent to which they will be expected to pick up the tab for a portion of the funds that irrigators were supposed to pay back. The Federal water program was simply never intended to benefit these large interests, and I also hope that legislative efforts, such as the measure I am introducing today, will prompt Congress to fully reevaluate our Federal water pricing policy.

In conclusion, Mr. President, it is clear that the conflicting policies of the Federal Government in this area are in need of reform, and that Congress should act. Large agribusinesses should not be able to continue to soak the taxpayers, and should make their fair share of payments to the Federal Government. We should act to close these loopholes and increase the return to the Treasury from irrigators as soon as possible.

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

There being no objection, the bill was ordered to be printed in the RECORD.

S. 35

B E 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 "Irrigation Subsidy Reduction Act of 1997."

SEC. 2. FINDINGS.
Congress finds that—
(1) the Federal reclamation program has been in existence for over 90 years, with an estimated period of taxpayer investment of over $70,000,000,000;
(2) the program has had and continues to have an enormous effect on the water resources and agricultural environments of the western States;
(3) irrigation water made available from Federal water projects in the West is a very valuable resource for which there are increasing and competing demands;
(4) the justification for providing water at less than full cost was to benefit and promote the development of small family farms and exclude large corporate farms, but this purpose has been frustrated over the years by inadequate implementation of subsidy and accounting methods;
(5) below-cost water prices tend to encourage excessive use of scarce water supplies in the arid regions of the West, and reasonable price increases for the wealthiest western farmers would provide an economic incentive for greater water conservation;
(6) the Federal Government has increasingly applied eligibility tests based on income for Federal entitlement and subsidy programs, measures that are consistent with the historic approach of the reclamation program of protecting the interests of the wealthiest western farmers who would provide an economic incentive for greater water conservation;
(7) the Federal Government has increasingly applied eligibility tests based on income for Federal entitlement and subsidy programs, measures that are consistent with the historic approach of the reclamation program of protecting the interests of the wealthiest western farmers who would provide an economic incentive for greater water conservation;
(8) the Federal reclamation program has been in existence for over 90 years, with an estimated period of taxpayer investment of over $70,000,000,000;
(9) the program has had and continues to have an enormous effect on the water resources and agricultural environments of the western States; and
(10) irrigation water made available from Federal water projects in the West is a very valuable resource for which there are increasing and competing demands;
(11) irrigation water prices tend to encourage excessive use of scarce water supplies in the arid regions of the West, and reasonable price increases for the wealthiest western farmers would provide an economic incentive for greater water conservation;
(12) the justification for providing water at less than full cost was to benefit and promote the development of small family farms and exclude large corporate farms, but this purpose has been frustrated over the years by inadequate implementation of subsidy and accounting methods;
(13) below-cost water prices tend to encourage excessive use of scarce water supplies in the arid regions of the West, and reasonable price increases for the wealthiest western farmers would provide an economic incentive for greater water conservation; and
(14) the Federal Government has increasingly applied eligibility tests based on income for Federal entitlement and subsidy programs, measures that are consistent with the historic approach of the reclamation program of protecting the interests of the wealthiest western farmers who would provide an economic incentive for greater water conservation.

SEC. 3. AMENDMENTS.
(a) DEFINITIONS.—Section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb) is amended—
(1) in paragraph (6), by striking "owned or operated under a lease which" and inserting "that is owned, leased, or operated by an individual or legal entity that";
(2) by redesignating paragraphs (7), (8), (9), (10), and (11) as paragraphs (8), (10), (11), (12), and (13), respectively;
(3) by inserting after paragraph (8) the following:

"(7) LEGAL ENTITY.—The term 'legal entity' includes a corporation, association, partnership, trust, joint tenancy, tenancy in common, or any other entity that owns, leasess, or operates a farm operation for the benefit of more than one individual under any form of agreement or arrangement.

(8) OPERATOR.—

"(A) IN GENERAL.—The term 'operator'—

"(i) means an individual or legal entity that operates a single farm operation on a parcel or parcels of land that is owned or leased by another individual or legal entity; or agrees any form of agreement or arrangement (or agreements or arrangements); and

"(ii) if the individual or legal entity—

"(A) is an owner, lessee, or operator at less than full cost to a single farm operation; or

"(B) a limited recipient that received irrigation water on or before October 1, 1981, and reports gross farm income from a single farm operation in excess of $500,000 for a tax year;

(b) PRICING.—Section 205 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ee) is amended by adding at the end the following:

"(d) SINGLE FARM OPERATIONS GENERATING MORE THAN $500,000 IN GROSS FARM INCOME.—

"(1) A qualified recipient that reports gross farm income from a single farm operation in excess of $500,000 for a taxable year;

(c) INFLATION ADJUSTMENT.—

"(2) MAXIMUM NUMBER OF ACRES TO WHICH IRRIGATION WATER MAY BE DELIVERED AT LESS THAN FULL COST.—The number of acres determined under this paragraph is the number equal to the number of acres of a single farm operation multiplied by a fraction, the numerator of which is $500,000 and the denominator of which is the amount of gross farm income reported by the outstanding recipient or limited recipient in the most recent taxable year.

"(3) INFLATION ADJUSTMENT FACTOR.—

"(A) IN GENERAL.—For any taxable year beginning in a calendar year after 1997, the $500,000 amount under paragraphs (1) and (2) shall be equal to the product of—

"(I) $50,000; and

"(ii) the inflation adjustment factor for the taxable year.

(b) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means the first revision of the implicit price deflator for the gross domestic product as estimated and published by the Secretary of Commerce.

"(C) ROUNDING.—If any adjustment of the $500,000 amount determined under subparagraph (A) is not a multiple of $100, the adjustment shall be rounded to the next lowest multiple of $100.

"(D) CERTIFICATION OF COMPLIANCE.—Section 206 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ff) is amended to read as follows:

"SEC. 206. CERTIFICATION OF COMPLIANCE.

"(a) IN GENERAL.—As a condition to the receipt of irrigation water for land in a district that has a contract described in section 203,
each owner, lessee, or operator in the district shall furnish the district, in a form prescribed by the Secretary, a certificate that the owner, lessee, or operator is in compliance with this title, including a statement of the number of acres owned, leased, or operated, the terms of any lease or agreement pertaining to the operation of a farm operation, the identity of a lessee or operator, a certification that the rent or other fees paid reflect the reasonable value of the irrigation water to the productivity of the land."

(b) DOCUMENTATION.—The Secretary may require a lessee or operator to submit for the Secretary's examination—

(1) a complete copy of any lease or other agreement executed by each of the parties to the lease or other agreement; and

(2) a return of income tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year in which the single farm operation of the lessee or operator received irrigation water at less than full cost."

(e) TRUSTS.—Section 214 of the Reclamation Act of 1943 (43 U.S.C. 390b) is repealed.

(f) ADMINISTRATIVE PROVISIONS.—

(1) PENALTIES.—Section 224(c) of the Reclamation Act of 1943 (43 U.S.C. 390ww(c)) is amended—

(A) by striking "(c) The Secretary" and inserting the following:

"(c) REGULATIONS; DATA COLLECTION; PENALTIES."

(1) by redesignating sections 229 and 230 as sections 229 and 230, respectively; and

(2) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The Uniformed Services University of the Health Sciences Act of 1972 (43 U.S.C. 390aa et seq.) is amended—

(A) by redesignating sections 229 and 230 as sections 230 and 231, respectively; and

(B) by inserting after section 228 the following:

SEC. 229. MEMORANDUM OF UNDERSTANDING.

"The Secretary, the Secretary of the Treasury, and the Secretary of Agriculture shall enter into a memorandum of understanding or other appropriate instrument to permit the Secretary, notwithstanding section 228 of the Reclamation Act of 1943 (43 U.S.C. 390ww), to have access to and use of available information collected or maintained by the Department of the Treasury and the Department of Agriculture that would aid enforcement of the ownership and pricing limitations of Federal reclamation law.""

By Mr. FEINGOLD:

S. 37. A bill to terminate the Uniformed Services University of the Health Sciences; to the Committee on Armed Services.

THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES TERMINATION AND DEFICIT REDUCTION ACT OF 1997

Mr. FEINGOLD. Mr. President, I am today introducing legislation terminating the Uniformed Services University of the Health Sciences [USUHS], a medical school run by the Department of Defense. The measure is one I proposed when I ran for the U.S. Senate, and was part of a larger, 82 point plan to reduce the Federal budget deficit. The Congressional Budget Office [CBO] estimates that terminating the school would save $369 million over the next six years.

USUHS was created in 1972 to meet an expected shortage of military medical personnel. Today, however, USUHS accounts for only a small fraction of the military's new physicians, less than 12 percent in 1994 according to CBO. This contrasts dramatically with the military's scholarship program which provided over 80 percent of the military's new physicians in that year.

Mr. President, what is even more troubling is that USUHS is also the single most costly source of new physicians for the military. CBO reports that based on figures from 1995, USUHS trained physicians cost the military $615,000 per person. By comparison, the scholarship program cost about $125,000 per person, with other sources providing new physicians at a cost of $60,000.

As CBO notes in its Opening and Revenue Options publication, even adjusting for the lengthier service commitment required of USUHS trained physicians, the cost of training them is still higher than that of training physicians from other sources, an assessment shared by the Pentagon itself. Indeed, CBO's estimate of the savings generated by this measure also includes the cost of obtaining physicians from other sources.

The other body has voted to terminate this program on several occasions, and the Vice President's National Performance Review joined others, ranging from the Grace Commission to the CBO, in raising the question of whether this medical school, which graduated its first class in 1980, should be closed because it is so much more costly than alternative sources of physicians for the military.

Mr. President, the real issue we must address is whether USUHS is essential to the needs of today's military structure, or if we can do without this costly program. The proponents of USUHS frequently cite the higher retention rates of USUHS graduates over physicians from other sources as a justification for continuation of this program, but while a greater percentage of USUHS trained physicians may remain in the military longer than those from other sources, the Pentagon indicates that the alternative sources already provide an appropriate mix of retention rates. Testimony by the Department of Defense before the Subcommittee on Force Requirements and Personnel noted that the military's scholarship program meets the retention needs of the services.

And while USUHS only provides a small fraction of the military's new physicians, it is important to note that relying primarily on these other sources has not compromised the ability of military physicians to meet the needs of the Pentagon. According to the Office of Management and Budget, of the approximately 2,000 physicians serving in Desert Storm, only 103, or 5 percent of the Pentagon's requirement, were USUHS trained.

Mr. President, let me conclude by recognizing that USUHS has some dedicated supporters in the U.S. Senate, and I realize that there are legitimate arguments that those supporters have made in defense of this institution. The problem, however, is that the federal government can no longer afford to continue every program that provides some useful function.

In the face of our staggering national debt and annual deficits, we must prioritize and eliminate programs that can no longer be sustained with limited Federal dollars, or where a more cost-effective means of fulfilling those functions can be substituted. The future of USUHS continues to be debated precisely because in these times of budget restraint it does not appear to pass the higher threshold tests which must be applied to all Federal spending programs.

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

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

S. 37

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 "Uniformed Services University of the Health Sciences Termination and Deficit Reduction Act of 1997".

SEC. 2. TERMINATION OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) TERMINATION.—

(1) IN GENERAL.—The Uniformed Services University of the Health Sciences is terminated.

(b) EFFECTIVE DATE.—The termination referred to in subsection (a), and the amendments made by such subsection, shall take effect on the date of the graduation from the Uniformed Services University of the Health Sciences of the last class of students that enrolled in such university on or before the date of the enactment of this Act.

By Mr. FEINGOLD (for himself and Mr. MCCAIN):

S. 38. A bill to reduce the number of executive branch political appointees; to the Committee on Governmental Affairs.
PRESIDENTIAL APPOINTEES LEGISLATION

Mr. FEINGOLD. Mr. President, I am pleased to be joined by my good friend the senior Senator from Arizona [Mr. MCCAIN] in introducing legislation to reduce the number of presidential political appointees. Specifically, the bill caps the number of political appointees at 2,000. The Congressional Budget Office [CBO] estimates this measure would save $392 million over the next 6 years.

The bill is based on the recommendations of a number of distinguished panels, including most recently, the Twentieth Century Fund Task Force on the Presidential Appointment Process. The task force findings, released last fall, are only the latest in a long line of recommendations that we reduce the number of political appointees in the executive branch. For many years, the proposal has been included in CBO's annual publication Reducing the Deficit: Spending and Revenue Options, and it was central to the recommendations of the National Commission on the Public Service, chaired by former Federal Reserve Board Chairman Paul Volcker.

Mr. President, this proposal is also consistent with the recommendations of the Vice President's National Performance Review, which called for reductions in the number of federal managers and supervisors, arguing that "over-control and micro-management" not only "stifle the creativity of line managers and workers, they consume billions per year in salary, benefits, and administrative costs."

Those sentiments were also expressed in the 1989 report of the Volcker Commission, when it argued the growing number of presidential appointees may "actually undermine effective presidential control of the executive branch." The Volcker Commission recommended limiting the number of political appointees to 2,000, as this legislation does.

Mr. President, it is essential that any administration be able to implement the policies that brought it into office in the first place. Government must be responsive to the priorities of the electorate. But as the Volcker Commission noted, the great increase in the number of political appointees in recent years has not made government more effective or more responsive to political leaders.

Between 1980 and 1992, the ranks of political appointees grew 17 percent, over three times as fast as the total number of executive branch employees and looking back to 1960 their growth is even more dramatic. In his recently published book Thickening Government: Federal Government and the Difussion of Accountability, author Paul Light reports a startling 430 percent increase in the number of political appointees and senior executives in Federal agencies and departments.

In recommending a cap on political appointees, the Volcker Commission report noted that the large number of presidential appointees simply cannot be managed effectively by any President or White House. This lack of control is aggravated by the often competing political agendas and constituencies that some appointees might bring to their positions. Furthermore, the commission argued that this lack of control and political focus "will actually dilute the President's ability to develop and enforce a coherent, coordinated program and to hold cabinet secretaries accountable."

The Volcker Commission also reported that the excessive number of appointees are a barrier to critical expertise, distancing the President and his staff from the most experienced career officials. Though bureaucratic red tape can certainly impede needed reforms, they can also be a source of unbiased analysis. Adding organizational layers of political appointees can restrict access to important resources, while doing nothing to reduce bureaucratic impediments.

Author Paul Light says, "As this sediment has thickened over the decades, presidents have grown increasingly distant from the lines of government, and the front lines from them."

Light adds that "Presidential leadership, therefore, may reside in stripping government of barriers to doing its job effectively.* * *"

Finally, the Volcker Commission also asserted that this thickening barrier of temporary appointees between the President and career officials can undermine the proficiency of civil service by discouraging talented individuals from remaining in Government service or even pursuing a career in Government in the first place.

Mr. President, former Attorney General Elliot Richardson put it well when he noted:

"But a White House personnel assistant sees the position of deputy assistant secretary as a fourth-echelon political-type—a campaign advance man, or a regional political organizer. For a senior civil servant on the other hand, it is an ideal reward for a fourth-echelon political position—the last possible stopping point one has spent 20 or 30 years preparing for pre-empted by an outsider who doesn't know the difference between an audit exception and an authorizing bill."

Mr. President, the report of the Twentieth Century Fund Task Force on the Presidential Appointment Process identified another problem aggravated by the mushrooming number of political appointees: the increasingly lengthy process of filling these thousands of positions. As the task force reported, both President Bush and President Clinton were into their presidencies for many months before their leadership teams were fully in place. The task force noted that "on average, appointees in both administrations were confirmed more than eight months after the inauguration—often an entire presidential term."

By contrast, the report noted that Federal Reserve Board Chairman Janet Yellen, appointed in 1994, had been confirmed in 28 days. In 1990, "Kennedy appointees were confirmed, on average, two and a half months after the inauguration."

In addition to leaving vacancies among key leadership positions in Government, the appointment process delays can have a detrimental effect on potential appointees. The Twentieth Century Fund Task Force reported that appointees can "often be discouraged from waiting for a limited and awkward transition from the private to the public sector."

Mr. President, a story in the National Journal in November of 1993, focusing upon the delays in the Clinton administration in filling political positions, stated that in Great Britain, the transition to a new government is finished a week after it begins, once or so political appointments are made. That certainly is not the case in the United States, recognizing, of course, that we have a quite different system of government from the British parliament form of government.

Nevertheless, there is little doubt that the vast number of political appointees that we have all recently created makes a somewhat cumbersome process, even in the best of circumstances.

The long delays and logjams created in filling these positions under the Bush and Clinton administrations simply ill-illustrates another reason why the number of positions should be cut back.

Mr. President, let me also stress that the problem is not simply the initial filling of a political appointment, but keeping someone in that position over time. A recent report by the General Accounting Office reviewed a portion of these positions for the period of 1981 to 1991, and found high levels of turnover—seven appointees in 10 years for one position—as well as delays, usually of months but sometimes years, in filling vacancies.

Mr. President, while I recognize that this legislative proposal is not likely to be popular with some in both parties, I want to stress that this effort to cap the number of political appointees is bipartisan. The sponsorship of this bill reflects this, and the bill itself applies not only to the current Democratic administration, but to all future administrations as well, whatever their party affiliation.

The sacrifices that deficit reduction efforts require must be spread among all of us. This measure requires us to bite the bullet and impose limitations upon political appointments that both parties have historically supported. The test of commitment to deficit reduction, however, is not simply to propose measures that impact someone else.

As we move forward to implement the NPR recommendations to reduce the number of government employees, streamline agencies, and make government more responsive, we should also right size the number of political appointees, ensuring a sufficient number to implement the policies of any administration without burdening the Federal government with unnecessarily counterproductive political jobs.

Mr. President, when I ran for the U.S. Senate in 1992, I developed an 82 point
There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Section 1. Reduction in Number of Political Appointees.
(a) Definition. In this section, the term “political appointee” means any individual who—
(1) is employed in a position on the executive schedule under sections 3312 through 3316 of title 5, United States Code;
(2) is a limited term appointee, limited emergency appointee, or noncareer appointee in the competitive service as defined under section 3312(a) (5), (6), and (7) of title 5, United States Code, respectively; or
(3) is employed in a position in the executive branch of the Government of a confidential or policy-determining character under Schedule C of part 213 of title 5 of the Code of Federal Regulations.
(b) Limitation. The President, acting through the Office of Management and Budget and the Office of Personnel Management, shall take such actions as necessary to achieve a reduction in the number of political appointees in the executive branch of the Government that is consistent with the recommendations of the Vice President’s National Performance Review [NPR], the administration should not have a problem endorsing this legislation. NPR called for reducing federal managers and supervisors, arguing that “over-control and micromanagement” not only “stifle the creativity of line managers and workers, they consume billions per year in salary, benefits, and administrative costs.”
(c) Effective Date. This section shall be effective on January 21, 1997.

Mr. McCAIN. Mr. President, I am pleased to join with my good friend, the junior Senator from Wisconsin [Mr. FEINGOLD] to introduce legislation that will limit the number of political appointees in the executive branch a total of 200. This legislation could save an estimated $400 million over the next five years.

There is no doubt that our Government is bloated. In recent years, the number of political appointees has grown exponentially. Author Paul Light, in his book Thickening Government: Federal Government and the Diffusion of Accountability, reports a 430 percent increase in the number of political appointees and senior executives in the executive branch government between 1960 and 1992. The Congressional Research Service also found that from 1990 to 1992, the number of political appointees in the executive branch grew 3 times faster than the total number of executive branch employees 17 percent compared to 5.6 percent.

The Government must continue to tighten its belt, and the executive branch must not protect itself from needed cuts. Our current $5 trillion debt and our efforts to reach a balanced budget by the year 2002 call for immediate action. No area of Government spending should be overlooked, not the least of which is funding for Government managers and supervisors. Given that this administration will live up to their rhetoric about reducing the deficit and balancing the budget by supporting this and other measures that get us closer to a balanced budget.

Since this legislation is consistent with the recommendations of the Vice President’s National Performance Review, the administration should not have a problem endorsing this legislation. NPR called for reducing federal managers and supervisors, arguing that “over-control and micromanagement” not only “stifle the creativity of line managers and workers, they consume billions per year in salary, benefits, and administrative costs.”

Limiting the number of political appointees to 200 was recommended by former Federal Reserve Board Chairman Paul Volcker who chaired The National Commission on Public Service. His report supported reducing the number of political appointees, stating that the number of political appointees may “actually undermine effective presidential control of the executive branch.”

Despite all this compelling evidence, Senator FEINGOLD and I have yet to be successful in actually getting this legislation enacted. Last year, we passed an amendment to the Treasury-Postal Appropriations bill that would have placed a 2300 cap on political appointees. Unfortunately, however, the cap was dropped in conference. Given the new era of bipartisanship and the President’s repeated statements that he wants to balance the budget, I am hopeful that we will be successful in this Congress.

Mr. President, I ask unanimous consent to go forward with working with my friend from Wisconsin to enact this important legislation that will streamline Government operations and save the taxpayers money.

By Mr. STEVENS (for himself, Mr. BREAUX, Mr. THURMOND, and Mr. MURKOWSKI):
S. 38. A bill to amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes; to the Committee on Commerce, Science, and Transportation.

The International Dolphin Conservation Program in the eastern tropical Pacific Ocean (ETP) is one of the nation’s most important marine conservation efforts. The Program was authorized by the U.S. Congress in 1988 to protect marine mammals in the ETP. The Program works with fishing industries and governments to reduce dolphin mortality and conserve marine resources in the eastern tropical Pacific Ocean (ETP). Our bill was approved by voice vote in the Senate Commerce Committee, and its companion (H.R. 2823) was passed overwhelmingly in the House of Representatives.

Because of our focus in the second session of the 104th Congress on reauthorizing the Magnuson-Stevens Fishery Conservation and Management Act, we were not able to turn to the International Dolphin Conservation Program until this Congress. The Senate and House opponents of the measure were able to prevent its passage simply by objecting on the Senate floor. We believe the bill would have passed in the Senate by a large majority if they had not objected.

I was pleased to work with Senators BREAUX, THURMOND, and MURKOWSKI in reintroducing the bill. On September 30, 1996, Majority Leader LOTT committed to us that he will do everything possible to get this bill out of the Senate and on the Senate floor if it is necessary to pass this important measure.

The Panama Declaration would cap dolphin mortality in the ETP at 5,000 dolphin per year and set a goal of eventually eliminating dolphin mortality altogether in that area. Only twenty years ago, hundreds of thousands of dolphin were being killed each year in the ETP. The Declaration presents the opportunity to lock in a maximum of 5,000 dolphin mortalities per year and strengthen other conservation measures, including measures relating to fishery observers, bycatch reduction, and the protection of specific stocks of dolphins in the ETP.

The dolphin mortality cap and new conservation measures under the Panama Declaration will only take effect if specific changes are made to U.S. law. The two key changes are: (1) a change to allow tuna caught in compliance with the Panama Declaration (including through the encirclement of dolphins) to be imported into the United States; and (2) a change so that “dolphin Safe” in the U.S. will mean that tuna caught in a set with no dolphin mortality occurred (rather than through non-encirclement). Our bill would make these changes and allow the new regime under the Panama Declaration to go forward. If the U.S. does not make the changes, other nations will move forward without adequate conservation measures and significant increases in dolphin mortality may occur.

Our legislation would guarantee U.S. consumers that no dolphin were killed during the harvest of tuna that is labeled as “dolphin safe.” Under existing law, dolphins may have been killed, but as long as the tuna was not harvested by intentionally encircling dolphins, it can be labeled as “dolphin safe.” To avoid consumer confusion and increase confidence in the “dolphin safe” label, other labels with respect to marine mammals will not be allowed. Only ETP tuna caught without killing any dolphins would be labeled as “dolphin safe.”

The Administration helped negotiate the Panama Declaration, and the
President and Vice President strongly support our legislation to implement it. The bill is also supported by the U.S. tuna boat owners, mainstream environmental groups such as Greenpeace, the Center for Marine Conservation, the Environmental Defense Fund, the National Wildlife Federation, and the World Wildlife Fund, the American Sportfishing Association, the National Fisherman’s Union, Seafarers International, and United Industrial Workers, the 12 nations who signed the Panama Declaration (Belize, Columbia, Costa Rica, Ecuador, France, Honduras, Mexico, Panama, Spain, Vanuatu, and Venezuela), and the editorial boards of a number of the major U.S. newspapers.

I ask for unanimous consent that the following material referred to the bill be printed in the RECORD immediately following my statement: First, the Panama Declaration; second, letter from President Clinton to the President of the United States; third, letter from Vice President Gore supporting the legislation; fourth, article by State Department Under Secretary Tim Wirth supporting the legislation; and fifth, editorials, op-eds, and cartoons, published in the New York Times, the Wall Street Journal, Newsweek, the Washington Post, the Dallas Morning News, the Houston Chronicle, the Christian Science Monitor supporting the legislation; sixth, letters from numerous environmental, fishing, and labor organizations supporting the legislation.

I look forward to working with the Chairman and Ranking Member of the Senate Commerce Committee to secure the expedited approval of the Committee to this important bill, and with the majority leader once the bill has been reported by the Committee.

There being no objection, the material was ordered to be printed in the RECORD, and

DECLARATION OF PANAMA

The Governments of Belize, Colombia, Costa Rica, Ecuador, France, Honduras, Mexico, Panama, Spain, United States of America, Venezuela, meeting in Panama City, Republic of Panama on October 4, 1995, hereby reaffirm the commitments and objectives of the La Jolla Agreement of 1993.

Recognizing the strong commitments of nations participating in the La Jolla Agreement and the substantial successes realized through multilateral cooperation and supporting national action under that Agreement, the Governments meeting in Panama, including those which are, or have announced their intention to become, members of the Inter-American Tropical Tuna Commission (IATTC), announce their intention to formalize by January 31, 1996, the La Jolla Agreement as a binding legal instrument which will be applicable to all national and international coasts heading the EPO or with vessels fishing for tuna in this region. This shall be accomplished by adoption of a binding resolution of the IATTC or other legally binding instrument. The adoption of the IATTC resolution or other legally binding instrument, that utilization of data, and the existing structure of the IATTC, is contingent upon the enactment of changes in United States law as envisioned in Annex I of the La Jolla Agreement. The new legal instrument shall build upon the strengths and achievements of the La Jolla Agreement, the working group formed under the previous version, and the actions of the Governments participating in that Agreement. This binding legal instrument shall consist of the La Jolla Agreement, the interpretation of the governments under that Agreement as modified to achieve the objectives and commitments contained herein.

The Governments meeting in Panama agree that in concluding, adopting, and implementing this binding legal instrument, they will:

1. Commit to the conservation of ecosystems and the sustainable use of living marine resources related to the tuna fishery within the EPO. Adopt conservation and management measures that ensure the long-term sustainability of tuna stocks and other stocks of living marine resources in the EPO. Promote such management measures by the best scientific evidence, including that based on a precautionary methodology, and shall be designed to maintain or restore the biomass of associated stocks at or above levels capable of producing maximum sustainable yield, and with the goal to maintain or restore the biomass of associated stocks at or above levels capable of producing maximum sustainable yield. These measures and methodology should take into consideration, and account for, natural variation, recruitment rate, natural mortality rate, population growth rate, individual growth rate, population parameters K and r, and scientific uncertainty.

2. Commit, acting in concert and in coordination with the IATTC, to the assessment of the catch and bycatch of juvenile yellowfin tuna and other stocks of living marine resources related to the tuna fishery in the EPO and the establishment of measures to, inter alia, avoid, reduce and minimize the bycatch of juvenile yellowfin tuna with the objective of ensuring stocks of associated species, in order to ensure the long-term sustainability of all these species, taking into consideration of the interrelationships among species in the ecosystem.

3. Commit in the exercise of their national sovereignty to enact and enforce this instrument through national legislation and/or regulation, as appropriate.

4. Adopt cooperative measures to ensure compliance with this instrument, building upon decisions of the IATTC and the provisions of the United States law, including sanctions.

5. Establish a system that provides incentives to vessel captains to continue to reduce dolphin mortality, with the goal of eliminating dolphin mortality in the EPO.

6. Establish or strengthen National Scientific Advisory Committees (NATSACs) or the equivalent, of qualified experts, operating in their individual capacities, which shall advise their respective governments on mechanisms to facilitate the formulation of recommendations for achieving the objectives and commitments contained herein, or strengthen existing structures in which they now exercise the functions delineated herein. Membership to NATSACs shall include, inter alia, qualified scientists from the public and private sector and NGOs. To that end NATSACs shall:

7. Establish procedures to, inter alia, hold public meetings, take public participation as appropriate.

8. Promote transparency in their implementation of this Declaration, including through public participation as appropriate.

9. Establish a per-vessel maximum annual DML consistent with the established per-year mortality caps.

Conduct in 1996 a scientific review and assessment of progress toward the year 2001 objective, and consider recommendations as appropriate. Up to the year 2001, in the event that annual mortality of 0.1% of Nmin is exceeded for any stock, all sets on that stock and on any mixed schools containing members of that stock shall cease for that fishing year. In the event that annual mortality of 0.1% of Nmin for any stock is exceeded, all sets on that stock and on any mixed schools containing members of that stock shall cease for that fishing year. Beginning in the year 2001, in the event that annual mortality of 0.1% of Nmin is exceeded for either Eastern or Northeastern Spotted dolphin stocks, the Governments meeting in Panama shall conduct a scientific review and assessment and consider further recommendations.

Establish a per-stock per-year cap of be

...
As soon as possible, the nations of the Intergovernmental Group convened under the auspices of the IATTC will initiate discussions related to formulation of a new, permanent, binding instrument.  

ANNEX I

Envisioned changes in United States law:

1. Primary and Secondary Embargoes. Effective embargo would be imposed on tuna caught in compliance with the L a o j a Agreement as formalized and modified through the processes set forth in the Panama Declaration.

2. Market Access. Effective embargo would be imposed on tuna caught in compliance with the L a o j a Agreement as formalized and modified through the processes set forth in the Panama Declaration.

3. Labeling. The term “dolphin safe” may not be used for any tuna caught in the E P O by a purse seine vessel in a set in which a dolphin mortality occurred as documented by observers by weight calculation and well location.

ANNEX II

Guiding Principles respecting relationships between States both Party and Non-Party to the Agreement:

The Parties to the Agreement incorporate into the Agreement a guiding principle that no Party shall act in a manner that assists non-parties to avoid compliance with the objectives of the Agreement.

When a coastal state that is a Party issues a license to engage in fishing in its Exclusive Economic Zone, the local government directly or through a licensing agreement, to a vessel of a non-party, the license should be subject to the provisions of the Agreement.

The Parties should consider prohibiting persons under their jurisdiction from assisting, in any way vessels of non-complying Parties or non-parties operating in the fishery.

Any state whose vessels are conducting purse-seine tuna-fishing operations in the E P O should be invited to join the Agreement. The Parties should draw the attention of any state that is not a Party to the Agreement to any activity undertaken by its nationals or vessels which, in the opinion of the Parties, impedes the implementation of the objectives of the Agreement.

Options for Action With Respect to Nations Not Party to the Agreement:

A. Diplomatic actions:

- Collective representation to the non-complying nation. This would constitute a communication emanating from a plenary meeting of the participating nations after consultations with the non-party.
- Diplomatic communication. Each participating nation, acting individually or in concert with other nations, would undertake a diplomatic démarche to the non-party.
- Public opinion actions:
  - Public opinion actions: Dissemination of information regarding the non-compliance of the non-party to the public through appropriate media, e.g., a press conference.

B. Operational restrictions:

- Prohibiting nationals from assisting, in any way vessels of non-complying Parties or non-parties operating in the fishery.
- Prohibiting nationals from assisting, in any way vessels of non-complying Parties or non-parties operating in the fishery.
- Refusal of logistical support and/or supplies to tuna-fishing vessels of the non-party nation.

Economic sanctions:

- The Working Group noted ongoing discussions concerning this issue in other international fora. In light of these considerations, the Working Group agreed that trade measures should receive further review by the Parties prior to making any recommendation in this respect.
- Fines (monetary penalties). The Working Group considered that the IRP should identify procedures for imposing fines, including defining the value of the fines (this could be based on a percentage of the Northeast Pacific tuna fishery's commercial value, and the determination of the fines (e.g., an international trust fund) as issues that the Parties should discuss. The Working Group noted that there apparently is no precedent for such fines.
- B. Options for Action With Respect to Nations Not Party to the Agreement:

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- Prohibiting nationals from assisting, in any way vessels of non-complying Parties or non-parties operating in the fishery.
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- Refusal of logistical support and/or supplies to tuna-fishing vessels of the non-party nation.

D. Economic sanctions:

- The Working Group noted that economic sanctions with respect to non-parties call into consideration all the issues raised above with respect to the nations of which sanctions have been imposed on Parties, and noted that the imposition of such sanctions with respect to non-parties involves additional complex legal considerations. The Working Group recommends that the Parties consider whether such sanctions against non-parties are an appropriate means of promoting compliance with the Agreement and whether they are consistent with international law.
CONGRESSIONAL RECORD – SENATE

S399

TAKE THE FINAL STEP TO PROTECT DOLPHINS

[By Timothy E. Wirth]

One of the sharpest criticisms of the environment movement is that it is forever emphasizing major ecological ailments while refusing to acknowledge even the slightest environmental progress.

Make no mistake, the magnitude of the world’s environmental challenges is as immense as it is ominous. Yet in only a flash of human history, we have begun to take on these challenges. There are successes about which we can be optimistic, and they demonstrate that we can resolve, partner and pass, can get the better of dangerous ecologist trends.

Almost 10 years ago, horrific footage of dolphins being slaughtered in large numbers drove home the need for efforts to prevent dolphin mortality in the tuna fishing industry.

Having adopted a Marine Mammal Protection Act for domestic fishing operations, the US began working with international partners through the Inter-American Tropical Tuna Commission (IATTC), with the aim of reducing dolphin mortality. Congress also enacted legislation that included a domestic ban on the sale of tuna not caught in a manner deemed “dolphin safe.”

The results: Dolphin mortality has been virtually eliminated, cut by more than 90 percent in what is known as the Eastern Tropical Pacific tuna fishery. This dramatic decline in dolphin mortality is attributable to American leadership and international cooperation.

The IATTC has evolved into one of the best and most rigorously enforced conservation regimes in the world.

It’s time the United States and all conservationists recognize the enormous drop in dolphin deaths. We need to work closely with the international program, and set the stage for further progress. To do this we must reopen our market to trade in tuna with cooperative nations in the hemisphere.

Fortunately, last fall a coalition of environmental groups and Latin American countries reached an agreement in Panama that will accomplish these goals. The “Panama Declaration,” endorsed by Greenpeace, the Center for Marine Conservation, the Environmental Defense Fund, and the World Wildlife Fund, is a model agreement not only for international cooperation, but also as a way to acknowledge ourselves and our neighbors as our shared conservation partners.

The Panama Declaration sets a goal of eliminating dolphin mortality altogether, establishes a program to protect a wide variety of species throughout the eastern tropical Pacific Ocean, and requires that internationally trained observers are on all tuna vessels. It also sets the stage for efforts to prevent dolphin deaths in the western tropical Pacific Ocean.

The law has served its purpose; reform it,” Our View, Debate).

This legislation would implement a strong international agreement among the nations fishing for tuna in the eastern Pacific—one of the best barometers particularly in light of the progress made in reducing dolphin mortalities. If the US fails to take the steps necessary to implement the Panama Declaration, these countries could turn to fishery management systems that kill more dolphins.

At a time when our environmental laws and commitments are under attack, it is essential that we consolidate gains made in protecting the global environment. It’s time to declare victory with swift congressional enactment of legislation that will implement the Panama Declaration.

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The result has been both satisfying and troubling. The industry has developed safe netting the tuna that run with dolphins. Nevertheless, the dolphins would get tangled in the nets with the tuna. Hundreds of thousands died each year.

Thatadorpied Congress to begin passing laws to protect marine mammals as well. This was a huge breakthrough in 1972. And the industry has responded, designing dolphin-friendly nets and developing tactics for herding dolphins out before winching tuna in. Most recently, in research we did for USA TODAY that we should benefit from experience and recognize that the current law is having some unintended and unacceptable harms on ocean life.

Our commitment to conserving dolphins and other marine mammals is working with Congress to ensure their implementation of the Panama Declaration.

Failure to adopt this legislation could result in loss of controls on dolphin deaths. The choice is between the rule of law and anarchy on the seas.

TAKE THE FINAL STEP TO PROTECT DOLPHINS

[From USA Today, Jan. 6, 1997]

HELP SAVE DOLPHINS

I was pleased to see your Dec. 27 editorial supporting enactment of legislation for the protection of dolphins accidentally caught during fishing operations for tuna (“Dolphin law has served its purpose; reform it,” Our View, Debate). This legislation would implement a strong international agreement among the nations fishing for tuna in the eastern Pacific— one of the best barometers particularly in light of the progress made in reducing dolphin mortalities. If the US fails to take the steps necessary to implement the Panama Declaration, these countries could turn to fishery management systems that kill more dolphins.

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CONGRESSIONAL RECORD — SENATE
Janieuary 21, 1997

SAVING DOLPHINS
American law tries to protect dolphins even in international waters, and the time has come to revise that law. In its present form, it will be much less effective in the future. But the opposed revisions now moving through Congress sharply divide environmentalists.

DOLPHINS SAFER
The number of dolphins killed in tuna nets in the eastern tropical Pacific Ocean has fallen steeply.

<table>
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<th>Year</th>
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<td>1990</td>
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Tuna have the habit of swimming under the dolphins, and to get the tuna, fishermen encircle the dolphins with their nets. In the past this has led to an immense slaughter of dolphins—three decades ago, more than 700,000 a year died in those nets in the great fishing grounds of the eastern Pacific. American law now bans the importation not only of tuna caught by encirclement but tuna from any country that permits its fishermen to use those nets. That includes Mexico, but Mexican fishermen, hoping to regain access to the U.S. market, have greatly improved their practices. The current U.S. law was under 5,000—a triumph of conservation.

But it won’t last. For one thing, the alternative methods of catching tuna, while sparing the dolphins, are no less difficult to manage and sometimes rare marine life. More important, admission to the U.S. market is becoming less effective as an incentive. Other markets are opening up rapidly in Europe, and the dolphin mortality.

THE BEST WAY TO SAVE DOLPHINS
The environmental community is engaged in a rare and bitter brawl over competing Congressional bills aimed at protecting a beloved environmental symbol—the bottlenosed dolphin. Each side thinks it has the better scheme to protect dolphins that are incidentally trapped and killed by giant nets used by tuna fleets. The complex, emotional issue and all the disputants are animated by the best intentions. But the approach contained in a measure sponsored by Representative Wayne Gilchrest, a Maryland Republican, and supported by the Clinton Administration, offers the dolphin a better chance than the other two.

Mr. Gilchrest’s bill risks a lot. People believe dolphins are harmed by fishing methods, but the controversy among environmentalists, object vehemently to encircling nets on any terms and point out that, while the number of dolphin deaths would be small, it wouldn’t be zero. They demand that environmentalists reply that if Congress doesn’t accept this deal, the new international agreement will come unraveled and old-style fishing, cruder and cheaper, will reappearance along with much higher dolphin deaths. They’re right. This agreement, carried out by the bill’s sponsors, Ted Stevens (R-Alaska) and John Breaux (D-La.), is sponsored, can provide permanent protection—as present law does—not to the Pacific’s dolphins.

The proof is in the numbers: Dolphin deaths related to tuna fishing in the eastern Pacific Ocean fell to fewer than 5,000 in 1994 from 600,000 in 1972.

However, you probably think that 5,000 dolphin deaths is too many. And you’re probably concerned that the methods used to trap tuna still end up killing hundreds of thousands of pounds of other species, including sharks, marmots and endangered sea turtles.

Foul Fishing
U.S. SHOULD ACT TO MAKE TUNA TRuly "DOLPHIN SAFE"

Congratulations, Flipper! Your chances of surviving to old age have improved greatly since the United States began to embargo tuna caught in dolphin-killing nets and the food industry began to entice environmentally conscious consumers with “dolphin-safe” tuna.

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However, you probably think that 5,000 dolphin deaths is too many. And you’re probably concerned that the methods used to trap tuna still end up killing hundreds of thousands of pounds of other species, including sharks, marmots and endangered sea turtles.

Furthermore, you probably worry that the “dolphin-safe” label on tuna cans is misleading. The label means that dolphins were not encircled by nets in the eastern Pacific. It does not mean that no dolphins were killed, or that dolphin-deadly methods were not used elsewhere in the Pacific or in other waters.

So, you probably like the new international agreement designed to drastically reduce the dolphin mortality. But you must also acknowledge success. Tuna have the habit of swimming under the dolphins, and to get the tuna, fishermen encircle the dolphins with their nets. In other words, it involves many countries, would allow fleets to return to the old encirclement method of catching tuna. But it would require signatories to use techniques that allow dolphins to escape. Those countries would also investigate ways to avoid killing other species.

The best thing about the new agreement is that it is multilateral rather than unilateral. In other words, it involves many countries rather than the United States alone.

Current U.S. law is well meaning, but it puts the heaviest burden on U.S. fleets by forbidding them alone to use the encirclement method, and it puts the United States in the awkward position of heavily denouncing its market to foreigners to compel good behavior.

Bills to approve the agreement have passed unanomiusly in Senate and House committees. They have President Clinton’s support. Despite opposition from some environmental groups, which cling to the outdated notion that unilateral action by the United States is best, there is no good reason why both houses of Congress should not pass the bills and send them to Mr. Clinton for his signature.

Mr. Gilchrest’s bill risks a lot of people the wrong way because it seems to endorse the very fishing methods that got the dolphin in trouble in the first place. For reasons that are not fully understood by scientists, adult tuna in the rich fishing grounds of the eastern Pacific tend to congregate underneath dolphins. Tuna vessels take a large school of dolphins, cast their mile-long nets and haul in the tuna below. Until a few years ago, thousands of dolphins routinely drowned in the nets. They were crushed when the boats winched them in.

In 1990, Congress placed an embargo on all tuna caught by this method, known as “encirclement,” costing big tuna-fishing countries like Mexico, Ecuador and Costa Rica hundreds of millions of dollars. In 1992, these countries convened in La Jolla, Calif., with representatives like Mexico, Ecuador and Costa Rica, the United States and others to agree on and send them to Mr. Clinton for his signature.

FOUL FISHING
CONGRESSIONAL RECORD — SENATE
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improved it. They installed dolphin "safety panels" in their nets, which acted as escape hatches. They deployed divers to assist dolphins who could not find their way out. They learned to set their nets deeper into the water to allow dolphins to escape while retaining the tuna. These new techniques led to a stunning drop in dolphin mortality in the eastern Pacific Ocean from 133,000 killed in 1986 to 3,274 last year, a figure calculated by independent monitors on boats that used the improved encirclement techniques. Even so, the tuna mortality from encirclement has remained embargoed.

Mr. Gilchrest's bill, which has the endorsement of Vice President Al Gore, would reward and lift the embargo. The bill would also reward any batch of tuna caught without a single dolphin death—a fact to be verified by on-board monitors—with the coveted and commercially important "dolphin-safe" label.

The Gilchrest measure has the support of Greenpeace, the Environmental Defense Fund and several other advocacy groups. It is opposed by the Sierra Club and the Defenders of Wildlife, and by the Earth Island Institute in San Francisco, which has done more scorekeeping on the status of marine mammals, including dolphin populations, than virtually any other group.

Sen. Barbara Boxer (D-Calif.), who helped lead the campaign for dolphin-free tuna, is right to insist on research on the effects on marine life, including dolphins, of circle-net fishing. Further studies should also be conducted on the bycatch dangers of alternative methods. But this is one case where a quest for perfection could undo substantial progress that has been achieved.


DEAR REPRESENTATIVE: Recently, twelve nations, including the United States, signed the Declaration of Panama, an historic international agreement to protect dolphins from illegal and biologically unsustainable fishing in the Eastern Tropical Pacific Ocean. The Panama Declaration, endorsed by the Clinton Administration, the Center for Marine Conservation, Environmental Defense Fund, Greenpeace, National Wildlife Federation, and World Wildlife Fund, will continue progress in reducing dolphin deaths in these waters and will extend protection to other species as merited, regarding the health-related impacts of capture stress. Concerns have been raised that the chase and encirclement of dolphins and other valuable marine life, not to mention tons of juvenile tuna whose demise imperils future tuna stocks.

Senator John Chafee, a Republican environmentalist who is sponsoring a Senate bill comparable to Mr. Gilchrest's, believes that not just the dolphin but an entire marine ecosystem is at stake. He has concluded, rightly, that the best response is the once-reviled but much-improved encirclement method.

(From the Washington Post, J July 4, 1996)
of dolphins causes harm and stress levels that can impede dolphin reproduction or result in dolphin deaths. While dolphins that are chased and encircled probably experience stress levels that currently well-managed, healthy fisheries. From an ecosystem perspective, this is intolerable.

So what needs to be done to protect dolphins? Switching from one fishing method to another, to achieve the same goal, fails. Furthermore, the “dolphin-safe” label only means that no dolphins or other marine mammals were killed when harvesting your tuna. The campaign to save dolphins had all the ingredients: a growing contingent in Congress, this accord was the backbone of American consumers recognize as the “dolphin-safe” label. Since its 1972 passage, the MMPA has prohibited all fishing methods considered “dolphin-safe” by the scientific community. The campaign educated the public about a serious scientific evidenced that chase and enclosure reduces reproductive capacity, causes dolphins to die after release, or develop stress-related diseases/ecosystem protection requirements that we apply to tuna sold in our country. Moreover, H.R. 2823 provides that if ETP fishing nations fail to meet the multilaterally-negotiated framework of successful fisheries management; harvest only mature fish which have spawned at least once. Biologists are concerned that a closed down tuna fishery will begin to decline if efforts continue to focus on young tuna.

Equally alarming is a Greenpeace study showing that methods used to label tuna “dolphin-safe” under U.S. law have resulted in hundreds of thousands of pounds of by-catch (incidental harvest) of other species in the past 30 years alone. Sharks, sea turtles, other fish, and yes, even dolphins, congregate with juvenile tuna and are unavoidably killed in the process. From an ecosystem perspective, this is intolerable.

Unilateral embargoes by the U.S. alone have proved unable to save the world’s dolphin species. Countries that import on imports of “dolphin-unsafe” tuna has led to a trade dispute under the General Agreement on Tariffs and Trade (GATT).

Hammered out through difficult negotiations between government representatives, environmentalists, and fishermen, this agreement would legally bind countries to require mandatory enforcement measures and reporting internationally, while rewarding fishermen who do not kill dolphins. The agreement would mandate continued reductions of dolphin deaths, and would bring many new boats under a regulatory framework designed to reduce by-catch of all marine species.

To take the next step, U.S. laws on dolphin protection must be extended in a recent accord known as the Panamanian Declaration. Supported by Greenpeace, the Seafarers International Union (SIU), the Clinton administration and a growing contingent in Congress, this accord set a significant benchmark, achieving the twin goals of saving dolphins and other marine species from extinction while insuring a sustainable and healthy tuna fishery.
At the same time, many environmental crises know no borders, and the unnecessary killing of marine mammals is one such crisis. One country acting alone cannot save the oceans and protect their bounty. If we succeed in getting governments and fishermen to agree to a goal of zero dolphin deaths, we will achieve real truth in labeling, and more importantly, a package of dolphins can truly live with.

Mr. BREAUX. Mr. President, today, along with Senator STEVENS and others, I am introducing legislation that will implement the Panama Declaration for the protection of dolphins in the tuna fishery of the eastern tropical Pacific Ocean. The United States signed the Panama Declaration on October 4, 1995, along with the Governments of Belize, Colombia, Costa Rica, Ecuador, France, Honduras, Mexico, Panama, Spain, Vanuatu, and Venezuela. By agreeing to the Panama Declaration, these countries have demonstrated their commitment to the conservation of ecosystems and the sustainable use of living resources related to the tuna fishery in the eastern tropical Pacific.

By implementing the Panama Declaration, we will strengthen the Inter-American Tropical Tuna Commission (IATTC), which has proven to be an extremely effective international resource management organization. Implementing the Panama Declaration will ensure the reduction of dolphin mortalities associated with tuna fishing in the eastern tropical Pacific Ocean. In addition, we will enable American tuna fishermen to re-enter that tuna fishery on the same footing as foreign fishermen.

Since 1940, the IATTC has served as the regional fishery management organization for the tuna fishery of the eastern tropical Pacific Ocean, managing that fishery in an exemplary manner. Managing migratory species requires a multi-lateral approach, one which the IATTC is well-suited to perform. The yellowfin tuna fishery of the eastern tropical Pacific Ocean, which the Panama Declaration addresses, falls under the auspices of the IATTC. In this fishery, tuna fishermen use purse seine nets to encircle the dolphins with the objective of catching the tuna swimming below. The dolphins are then safely released before the tuna is hauled abroad.

In recent years, there has been some concern about these fishing practices which, in the past, have resulted in excessive incidental mortality to dolphins. In 1992, in an effort to address this problem, 10 nations with tuna vessels operating in the eastern tropical Pacific agreed to a plan known as the La Jolla Agreement. The La Jolla Agreement established the International Dolphin Conservation Program (IDCP), which is administered by the IATTC.

The regional objective of the IDCP is to reduce dolphin mortalities to insignificant levels approaching zero, with a goal of eliminating them entirely. Pursuant to that program, the number of dolphins killed accidentally in the tuna fishery has been reduced to less than 4,000 annually from a previous average of over 300,000 killed annually. The current dolphin mortality represents approximately four one-hundredths of 1 percent of the 9.5 million yellowfin tuna which, for unknown reasons, in the eastern tropical Pacific.

Thus, the IDCP has been remarkably successful in achieving its goal of reducing unintended dolphin mortalities to biologically insignificant levels approaching zero.

This legislation will implement the Panama Declaration, formalize the 1992 La Jolla Agreement and make it a legal agreement binding on the member countries of the IATTC. The Panama Declaration strengthens the IDCP Establishing a goal of eliminating 15,000 per year dolphin mortalities. Although U.S. fishermen developed the techniques now used in capturing tuna and safely releasing dolphins, they effectively have been forced from fishing in the eastern tropical Pacific since the 1992 amendments to the Marine Mammal Protection Act, which prohibit the encirclement of dolphins. The legislation to implement the Panama Declaration will eliminate the incentives to use alternative fishing methods, such as “log fishing” and “school fishing,” which have serious environmental consequences. Alternative fishing practices lead to excessive by-catch of endangered sea turtles, sharks, billfish, and great numbers of immature tuna and other fish species. In the case of a single species, in this case dolphins, we have caused serious harm to the entire ecosystem. This legislation will result in a reduction of this by-catch problem as well as permit fishermen to encircle dolphins as long as they comply with the stringent regulations imposed by the IATTC.

The purpose of this bill is to improve and solidify efforts to protect dolphins in the eastern tropical Pacific Ocean, to address the problems caused by alternative fishing methods, and to recognize the tremendous gains by other countries in reducing dolphin mortality. The Panama Declaration establishes a common environmental standard for all countries fishing in the region. By formalizing the La Jolla Agreement, U.S. and foreign fishermen in the eastern tropical Pacific will be subject to the most stringent fishery regulations in the world.

The Panama Declaration represents a tremendous environmental achievement, and it enjoys support from such diverse interests as major, mainstream environmental groups, the U.S. tuna fishing fleet, the Clinton administration, and other countries whose fishermen operate in the eastern tropical Pacific.

Mr. President, I ask unanimous consent that a letter of support from Vice President Gore be entered into the RECORD.

I encourage that the majority leader, on the Senate floor on September 30, 1996, had promised to provide floor time at the beginning of this Congress to vote on this legislation. I urge my colleagues to join me in supporting this legislation in order that we may implement this important international agreement.

There being no objection, the letter will be ordered to be printed in the RECORD, as follows:

The Vice President, Washington, June 3, 1996.

Hon. John B. Breaux, U.S. Senate, Washington, DC.

Dear John: I am writing to thank you for your leadership on the International Dolphin Conservation Program Act, S. 1420. As you know, the Administration strongly supports this legislation, which is essential to the protection of dolphins and other marine life in the Eastern Tropical Pacific.

In recent years, we have reduced dolphin mortality in the Eastern Tropical Pacific tuna fishery far below historic levels. Your legislation will codify an international agreement to lock these gains in place, further reduce dolphin mortality, and protect other marine life in the region. This agreement was signed last year by the United States and 11 other nations, but will not take effect unless your legislation is enacted into law.

As you know, S. 1420 is supported by major environmental groups, including Greenpeace, the World Wildlife Fund, the National Wildlife Federation, the Center for Marine Conservation, and the Environmental Defense Fund. The legislation is also supported by the U.S. fishing industry, which has been barred from the Eastern Tropical Pacific tuna fishery.

Opponents of this legislation promote alternative fishing methods, which are environmentally unsound. These fishing methods involve unacceptably high by-catch of juvenile tunas, billfish, sharks, endangered sea turtles and other species, and pose long-term threats to the marine ecosystem. I urge your colleagues to support this legislation. Passage of this legislation this session is integral to ensure implementation of an important international agreement that protects dolphins and other marine life in the Eastern Tropical Pacific.

Sincerely,

Al Gore.
educational agency that denies or prevents participation in constitutional prayer in schools; read twice and placed on the calendar.

**Voluntary School Prayer Protection**

Mr. HELMS. Mr. President, this year marks the 200th anniversary of George Washington's Farewell Address. A few months before the end of his Presidency, in his farewell address to the Nation, he included a parting word of advice—a final warning—that is just as significant and relevant today as it was then. Washington counseled the new Nation:

"Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness."

Our Founding Fathers understood well the intricate relationship between freedom and responsibility. They knew that the blessings of liberty engendered certain obligations on the part of a free people—namely, that citizens conduct their actions in such a way that society can remain cohesive without excessive government intrusion. The American experiment would never have succeeded without the traditional moral and spiritual values of the American people—values that allow people to govern themselves, rather than be governed.

Not long ago, my friend, Margaret Thatcher, highlighted for us the words of another of our Nation's founders, John Adams, who said, "Our Constitution was designed only for a moral and religious people. It is wholly inadequate for the government of any other." Yet over the last 30 years, our society has evidenced increasing apathy—and, in some cases, outright hostility—toward the spiritual principles upon which our Nation was founded.

Mr. President, Bill Bennett once observed to me that America has become the kind of country that civilized countries once dispatched missionaries to centuries ago. If we care about cleaning up the streets and classrooms, if we care about the long-term survival of our Nation—how could there be anything more important for Congress to protect than the right of America's children to participate in voluntary, constitutionally protected prayer in their schools?

Mr. President, the legislation I am introducing today will ensure that student-initiated prayer is treated the same as all other student-initiated free speech—which the U.S. Supreme Court has upheld as constitutionally protected as long as it is done in an appropriate time, place, and manner such that it "does not materially disrupt the school day." [Tinker v. Des Moines School District, 393 U.S. 503.]

Under this bill, school districts could not continue a constitutional violation by ignoring and denying students' rights to voluntary prayer and religious activity in the schools. For the first time, schools would be faced with real consequences for making uninformed and unconstitutional decisions prohibiting all voluntary prayer. The bill creates a complete system of checks and balances to ensure that school districts do not short-change their students one way or the other.

This proposal, Mr. President, prevents public schools from prohibiting constitutionally protected voluntary student-initiated prayer. It does not mandate school prayer and suggestions to students regarding prayer in general. Nor does it require schools to write any particular prayer, or compel any student to participate in prayer. It does not prevent school districts from establishing appropriate time, place, and manner restrictions on voluntary prayer—the same kind of restrictions that are placed on other forms of speech in the schools.

What this proposal will do is prevent school districts from establishing official places with the intent of prohibiting students from exercising their constitutionally protected right to lead, or participate in, voluntary prayer in school.

Mr. President, this bill is especially noxious to the prayer opponents because it explodes the myth popular among school administrators and bureaucrats—a myth perpetuated by liberal groups such as the American Civil Liberties Union—that the U.S. Constitution somehow prohibits every last vestige of religion from the public schools.

Seldom is it heard on the issue of school prayer that the Constitution also forbids governmental restrictions on the free exercise of religion, or that the Constitution protects students' free speech—whether religious or not—and that student-initiated voluntary prayer expressed at an appropriate time, place and manner, has never been outlawed by the Supreme Court.

Mr. President, I find it more than a little ironic that I am forced to revisit this issue on the floor of the Senate again. I remind Senators that in 1994, this same proposal—offered in amendment form by Senator Lott and myself—passed by Senator Thompson and Senator Breaux—two of the leaders in the Senate's respect for the moral and spiritual values that make our Nation whole.

By Mr. HELMS: S. 42. A bill to protect the lives of unborn human beings; read twice, and placed on the calendar.

**The Unborn Children's Civil Rights Act**

Mr. HELMS. Mr. President, 2 years ago—and on five occasions prior to that—I have offered the Unborn Children's Civil Rights Act, proposing that the Senate go on record in favor of reversing the Roe versus Wade decision. That wrongful U.S. Supreme Court decision, handed down 24 years ago today, paved the way for the destruction of more than 35 million innocent children—15 million little innocent, helpless lives every year.

An enormous number of men and women of all ages will descend upon Washington tomorrow—as they have every year since the fateful Roe versus Wade decision—pleading with Congress to remember that a nation which fails to value the God-given gifts of life and liberty will one day find itself in the dustbin of history.

So, as the 105th Congress begins its work, I do hope that all Senators will give thought to the need to put an end to the legalized deliberate destruction of the lives of innocent, helpless little human beings.

The Unborn Children's Civil Rights Act proposes four things:

First, to put Congress clearly on record as declaring that every abortion destroys deliberately, the life of an unborn child; two, that the U.S. Constitution sanctions no right to abortion; and three, that Roe versus Wade was improperly decided.

Second, this legislation will prohibit Federal funding to pay for, or to promote, abortion. Further, this legislation proposes to defund abortion permanently, thereby relieving Congress of annual legislative battles about abortion restrictions in appropriation bills.

Third, the Unborn Children's Civil Rights Act proposes to end indirect Federal funding for abortions by one, prohibiting discrimination, at all federally funded institutions, against citizens who as a matter of conscience object to abortion and two, curtailing attorney's fees in abortion-related cases.

Fourth, this legislation proposes that appeals to the Supreme Court be provided as a right if any lower Federal court declares restrictions on abortion unconstitutional, thus effectively assuring Supreme Court reconsideration of the abortion issue.

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By Mr. HELMS: S. 42. A bill to protect the lives of unborn human beings; read twice, and placed on the calendar.
Mr. President, it has become fashionable today for America's courts to discard the Constitution in order to create rights and protect freedoms founded upon mankind's depraved nature instead of God's eternal and moral truths.

Yet, never has a court handed down such a misguided decision than when it created the right of a woman to choose to terminate the life of her child. Roe versus Wade has no foundation whatsoever in the text or history of the Constitution. It is an ageless invention. Justice White said it best in his dissent: Roe, he declared, was an exercise in raw judicial power.

Why has this Supreme Court's exercise in raw judicial power been allowed to stand? Why has Congress stood idly by for 24 years while 4,000 unborn babies are deliberately, intentionally destroyed every day as a result of legalized abortion?

The answer is simple, Mr. President. Even though Roe versus Wade was and is an unconstitutional decision, Congress has been unwilling to exercise its powers to check and balance a Supreme Court that deliberately allows the destruction of the most defenseless, most innocent of imaginable life.

So, Mr. President, Roe versus Wade still stands; millions of children continue to be deprived of their right to live, to love, and to be loved. It is not a failure of the U.S. Constitution. It is a failure of both the Supreme Court and the Congress for 24 years to overturn Roe versus Wade.

By Mr. HELMS (for himself, Mr. DEWINE, Mr. HATCH, Mr. NICKLES, Mr. ABRAHAM, and Mr. FAIRCLOTH):

S. 43. A bill to throttle criminal use of guns; read twice and placed on the calendar.

THROTTLE CRIMINAL USE OF GUNS

Mr. HELMS. Mr. President, on December 6, 1995, the U.S. Supreme Court handed down an opinion that has undermined the prosecution of literally hundreds of violent and drug trafficking criminals. There could not have been a worse time to go soft on criminals, but when the Supreme Court's decision was announced, hardened convicts across America were overjoyed by the prospect of prison doors swinging open for them.

S. 43. A bill to throttle criminal use of guns; read twice and placed on the calendar.

Since 1965, since the Court's decision just over 1 year ago, hundreds of criminals have indeed been set free. The bill I am introducing today will correct the Supreme Court's blunder, and it will crack down on gun-toting thugs who commit all manner of unspeakable crimes. I am advised that my bill is being numbered S. 43, and it provides that a 5-year mandatory minimum sentence shall be imposed upon any criminal possessing a gun during and in relation to the commission of a violent or drug trafficking crime. If the criminal fires the weapon, the mandatory penalty is elevated to 10 years. If there is a killing during the crime, the punishment is life imprisonment or the death penalty.

This is just common sense, Mr. President; violent felons who possess firearms are demonstrably more dangerous than those who do not. This legislation, of course, applies to anyone lawfully possessing a gun.

Current Federal law provides that a person who, during a Federal crime of violence or drug trafficking crime, uses, carries, or possesses a firearm, shall be sentenced to 5 years to life in prison. That law has been used effectively by Federal prosecutors across the country to add 5 additional years to the prison sentences of criminals who use or carry firearms.

But along came the Supreme Court's unwise decision thwarting prosecutors' effective use of this statute. The Court, in Bailey versus United States, interpreted the law to require that a violent felon actively employ a firearm as a precondition of receiving an additional 5-year sentence. The Court held that the firearm must be brandished, fired or otherwise actively used; so if a criminal merely possesses a firearm, but doesn't fire or otherwise use it, he escapes the heavier penalty.

Someone put it this way: As a result of the Court's decision, any thug who hides a gun under the back seat of his car, or who stashes a gun with his sheet, may walk with a slap on the wrist. The fact is, Mr. President, that firearms are the tools of the trade of most drug traffickers. Weapons clearly facilitate the criminal transactions and embolden violent thugs to commit their crimes.

Mr. President, this Supreme Court decision poses serious problems for law enforcement. It has weakened the Federal criminal law and has already led to the early release of hundreds of violent criminals.

After the word got out about the Bailey decision, prisoners frantically began preparing and filing motions to get out of jail as fast as they could. I was inundated with petitions from criminals. One example is a man named Lancelot Martin, who ran a Haitian drug trafficking operation out of Raleigh, my hometown, the capital city of North Carolina. Martin used the U.S. Postal Service to receive and sell drugs. Police seized his drugs and recovered a 9 mm semi-automatic pistol that Martin used to protect his drug business.

Lancelot Martin was convicted of drug trafficking offenses and received a 5-year sentence for using the gun. But on March 11 of last year, years before his sentence expired, Martin walked free, simply because while his gun and a hefty supply of drugs were found—the gun was not actually employed at the time he was caught.

So, Mr. President, this bill will ensure that future criminals possessing guns, like Lancelot Martin, serve real time when they possess a gun in furtherance of a violent or drug trafficking crime.

The Supreme Court, recognizing the consequences of its decision, issued this invitation to us: "Had Congress intended possession alone to trigger liability * * * it easily could have so provided." That, Mr. President, is precisely the intent of this legislation—to make clear that possession alone does indeed trigger liability.

Mr. President, a modified version of this legislation passed the Senate last year, only to be blocked in the House of Representatives. This bill is a necessary and appropriate response to the Supreme Court's decision of the mandatory penalty for gun-toting criminals. According to Sentencing Commission statistics, more than 9,000 armed violent felons were convicted from April 1991, through October 1995. In North Carolina alone, this statute was used to help imprison over 800 violent criminals. We must strengthen law enforcement's ability to use this strong anticrime provision.

Fighting crime is, and must be, a prime concern in America. It has been said that this country faces one violent crime is committed every 16 seconds. We must fight back with the most severe punishment possible for those who terrorize law-abiding citizens. Enactment of this legislation is a necessary step toward recapturing our Government and our citizens to a real honest-to-God war on crime.

Mr. ABRAHAM. Mr. President, I rise to cosponsor Senator HELMS' bill to amend section 924 of title 18 of the United States Code to ensure that stiff, mandatory sentences are imposed on criminals who possess firearms while committing a crime of violence or drug trafficking offense.

As currently written, title 18 of section 924(c) already mandates that a sentence of 5 years or more be imposed on any defendant who uses or carries a firearm while committing a crime of violence or drug trafficking offense. Over the past several years, however, courts have struggled with the issue of whether a defendant uses a weapon for purposes of section 924(c) if he technically possesses the weapon but does not actually employ it in committing the underlying offense.

This issue was recently taken up by the Supreme Court in the case of Bailey versus United States. Hewing closely to the ordinary meaning of "use," the Court unanimously held that "use" in section 924(c) signifies an active employment of the weapon by the defendant." After observing that the term "possess" is frequently used elsewhere in Federal gun-crime statutes, the Court reasoned that, "[h]ad Congress intended possession alone to trigger liability under section 924(c)(1), it easily could have so done.

The bill I cosponsor today does so provide, as it would amend section 924(c)(1) to apply to any defendant who uses, carries, or possesses a firearm while committing a crime of violence or drug trafficking offense. This is a worthwhile change. Any crime becomes far more dangerous when committed by a criminal who controls a firearm.
Such a criminal should not be rewarded if, in a particular case, it turns out that he has no need actually to employ the weapon. The fact that he so augmented the danger attending his crime is reason enough to impose the stiff sentence set forth in section 504.

Thus, in short, this bill closes a dangerous loophole in current law. I applauded the Senator from North Carolina for his leadership on this issue, and look forward to the bill’s speedy enactment.

By Mr. HELMS:

S. 44. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with the knowledge that the abortion is being performed solely because of the gender of the fetus; read twice and placed on the calendar.

CIVIL RIGHTS OF INFANTS ACT

Mr. HELMS. Mr. President, the distinguished Senator from New Hampshire, Mr. Smith, introduced legislation in the 104th Congress prohibiting the destruction of helpless, unborn babies by a procedure called partial-birth abortions.

Congress heard the outcry of the American people against this shameful abuse of the most innocent humans imaginable; the Partial-Birth Abortion Ban Act was passed by both the House and the Senate only to have it vetoed by President Clinton.

Mr. President, a further reprise. Senator of New Hampshire, Mr. Humphrey brought to the attention of the Senate in 1989 incredibly brutal practice in America–abortions performed solely because prospective mothers prefer a child of a gender from the babies in their womb.

Senator Humphrey, in the 1989 debate called attention to the New York Times article published Christmas morning the year before. It was titled "Fetal Sex Test Used as Step to Abortion." Sadly, Senator Humphrey’s remarks and subsequent legislation were met with general disinterest among those who sanctimoniously defend what they regard as a woman’s right to destroy her unborn child. Those holding such views never discuss an unborn child’s right to live, to love and to be loved.

Mr. President, it was typical for The New York Times, that the Times article with Senator Humphrey deplored began as follows:

In a major change in medical attitudes and practices, many doctors are providing prenatal diagnoses to pregnant women who want to abort a fetus in the basis of the gender of the unborn child.

Geneticists say that the reasons for this change in attitude are an increased availability of technologies, a growing disavowal of doctors to be paternalistic, deciding for patients what is best, and an increasing tendency for patients to ask for the tests. The American College of Obstetricians and Ethicists say they are disturbed by the trend.

Mr. President, this rhetorical horse-radish is simply another measurement of how far the moral and spiritual priorities of America have fallen. Professor George Annas of the Boston University School of Medicine was quoted as saying:

I think the [medical] profession should set limits and I think most people would be outraged. It is not to the point that you would have an abortion because you don’t want a boy or you don’t want a girl. If you are worried about a woman’s right to an abortion, the desk proposes it is not set any limits on this technology.

Mr. President, how sad it is that any mother in a civilized society would be willing to destroy the unborn female if it happens to prefer a male child—or vice-versa. But believe it. It is happening without the Government of the United States lifting an eyebrow, let alone a finger.

And that, Mr. President, is why I am again offering legislation to limit this incredibly inhumane practice.

As I mentioned at the outset of my remarks, the 104th Congress acted on legislation to outlaw the brutal killings of unborn babies subjected to partial-birth abortions. I pray the 105th Congress will take action to end another callous cruelty against the unborn—gender-selection abortions.

Specifically, the legislation I have sent to the desk proposes to amend title 42 of the United States Code governing civil rights. Anyone who administers an abortion for the purpose of choosing the gender of the infant will protect unborn children as title 42 provides. It protects any citizen who is a victim of discrimination.

Mr. President, the American people are clearly opposed to this practice. A Boston Globe poll reports that 93 percent of the American people reject the taking of life as a means of gender selection. Another poll conducted by Newsweek/Gallup showed that four out of every five Americans oppose gender selection abortions.

Even radical feminists cannot ignore the absurdity of denying a child the right to life simply because the parents happened to prefer a child of the opposite gender. The Associated Press reported on August 22, 1996, that the platform adopted by last year’s U.N. women’s conference in Beijing included a provision condemning sex-selection abortions.

Of course, feminists proclaim that gender selection abortions are atrocities in China—or in India where a survivor was taken 7 years ago which revealed that of 8,000 abortions, 7,999 were female.

Now, Mr. President, I do not believe—even for a minute—that the prohibition of aborting a fetus in the basis of the gender of the unborn child.

Statisticians emphasize the merit of the proposal that clinics and agencies reimbursing title X funding should explicitly be authorized to offer adoption services. The National Council for Adoption asserts that an estimated 2 million couples are today hopefully and prayerfully waiting to adopt a child. Yet, 1.5 million babies are refused the right to live every year.

Mr. President, if every abortion in this country could be prevented this year there would still be 500,000 couples and 500,000 children. Small wonder that adoption is called "the loving option.

But it is even more tragic, Mr. President, that women with unplanned or unwanted pregnancies are unaware of the wonderful opportunities available to their child through adoption. These women, states J eff Rosenbery, formerly of the National Council for Adoption, "are not hearing about adoption, and thus are not considering it as a possibility. Young pregnant women are frequently not told by counselors and so they do not pursue that option as an alternative." With this in mind, I offer today the Federal Adoption Services Act of 1997.
a bill that proposes to amend title X of the Public Health Services Act to permit federally-funded planning services to provide adoption services based on two factors: No. 1, the needs of the community in which the clinic is located, and No. 2, the ability of an individual clinic to provide such services.

Mr. President, those familiar with the many Senate debates of the past regarding title X will recall the excessive emphasis placed on preventing and/or spacing of pregnancies, and limiting American family size. I hope that this year, we can reconfess this debate, emphasizing the need to affirm life rather than preventing or terminating it.

Sure, the radical feminists and other pro-abortionists will voice their hysterical objections. So before they raise their voices, let's make clear what this legislation will not do. For example:

No woman will be threatened or coerced into giving up her child for adoption. Family planning clinics will not be required to provide adoption services. Rather, this legislation will make it clear that Federal policy will allow, or even encourage adoption as a means of family planning. Women who use title X services—one-third of whom are teenagers—will be in a better position to make informed, compassionate judgments about the unborn children they are carrying.

Mr. President, I contend that it is not the responsibility of civilized society to protect the rights of the most innocent and most helpless human beings imaginable. Furthermore, shouldn't we do our best to provide couples willing to love and care for these children an opportunity to do so? That question, Mr. President, answers itself—in the affirmative.

By Mr. HELMS:

S. 46. A bill to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes; read twice and placed on the calendar.

CIVIL RIGHTS RESTORATION ACT OF 1997

Mr. HELMS. Mr. President, I send to the desk legislation I first submitted in amendment form on June 25, 1991—wh ich I subsequently introduced as a bill in both the 103rd and 104th Congresses. But as I introduce once more the Civil Rights Restoration Act, I recall that similar antidiscrimination legislation passed this body long before 1973, when I first became a Member of the Senate.

Thirty-three years ago, Congress passed the historic Civil Rights Act of 1964. The intent of that legislation was to prohibit discrimination based on race in a broad variety of circumstances, including hiring practices. Proponents of the Civil Rights Act proclaimed that there was nothing in the bill that would require any quotas or preferential treatment.

Well, three decades later, the Federal Government's quota establishment—aided and abetted by an activist Federal judiciary—have so perverted the plain language and intent of the Civil Rights Act that it is unrecognizable. My proposal today is intended to ensure that all civil rights laws are consistent with the goal of a color-blind society.

Specifically, this legislation prevents Federal agencies, and the Federal courts, from interpreting title VII of the Civil Rights Act of 1964 to allow an employer to grant preferential treatment based on race or national origin of such individual or group, for any reason.

This bill clarifies section 703(j) of title VII of the Civil Rights Act of 1964 to make it consistent with the intent of its authors, Hubert Humphrey and Everett Dirksen. Let me state it for the RECORD:

It shall be an unlawful employment practice for any entity that is an employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or group with respect to selection for, discharge from, compensation for, or the terms, conditions, or privileges of, employment or union membership, on the basis of the race, color, religion, sex, or national origin of such individual or group, for any person, except as provided in subsection (e) or paragraph (2).

It shall not be unlawful employment practice for an entity described in paragraph (1) to grant eligible law enforcement personnel who engage in antiterrorist activities race or national origin preference for employment or promotion.

Specifically, this bill proposes to make part (j) of section 703 of the 1964 Civil Rights Act consistent with subsections (a) and (d) of that section. It is not sufficient for Federal contractors to make those subsections to make preferential treatment on the basis of race—that is, quotas—an unlawful employment practice.

Mr. President, I want to be clear that this legislation does not make outreach programs an unlawful employment practice. Under language suggested years ago by the distinguished Senator from Kansas, Bob Dole, a company can recruit and hire in the inner city, prefer people who are disadvantaged, create literacy programs, recruit in the schools, establish day care programs, and expand its labor pool in the poorest sections of the community.

In other words, expansion of the employee pool is specifically provided for under this act.

Mr. President, this legislation is necessary because in the 33 years since the passage of the Civil Rights Act, the Federal Government and the courts have created a mess of the act as enumerated by both Hubert Humphrey and Everett Dirksen, who made clear that they were unalterably opposed to racial quotas. Yet in spite of the clear intent of Congress, business—big and small—has required hiring quotas in order to keep the all-powerful Federal Government off their backs.

Several times before, I have directed the attention of Senators to the Daniel Lamp Co., a small Chicago lamp factory harassed by investigators from the Equal Employment Opportunity Commission. The CBS news program, "60 Minutes," did a story several years back that exposed the mentality of the quota-enforcing bureaucrats at the EEOC to the Nation. The Daniel Lamp Co. was a small, struggling business which employed 28 people when "60 Minutes" began its investigation—8 of whom were black and 18 of whom were Hispanic. But this obviously nondiscriminatory hiring practice was simply not enough for the EEOC. According to the "60 Minutes" reporter, Morley Safer, the EEOC told the owner of the Daniel Lamp Co. that "based on other larger companies' personnel, Daniel Lamp should employ 8.45 blacks." In other words, this small company—which had never had over 30 people on its payroll—had failed to meet the Federal Government's hiring quotas.

The Daniel Lamp Co., which was justifiably proud of its mostly minority workforce, decided to stand up to the EEOC. For their troubles, they were forced to pay a fine of $148,000, meet the quota set by the agency, and spend $10,000 on newspaper advertisements to tell other job applicants that they might have been discriminated against—and to please contact the Daniel Lamp Co. for a potential financial windfall.

Yet through all of this outrageous conduct, the EEOC continued to insist that the agency does not set hiring quotas. And although one would have reasonably expected that "60 Minutes" exposure of the Daniel Lamp Co.'s predicament would embarrass the Federal Government's quota establishment into mending its ways, it is still business as usual among the bureaucrats.

For example, on November 21, 1996, my office received an unsolicited facsimile transmission from the Department of Labor's Office of Federal Contract Compliance Program [OFCCP]. For those unfamiliar with the OFCCP, it is the branch of the Department of Labor that enforces the Act which was passed in 1964. The department has the authority to investigate cases where race or national origin of employees of Federal contractors is discriminatory. For example, the OFCCP enforces the OFCCP where race or national origin of employees of Federal contractors is discriminatory.

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This facsimile was titled “OF CCP Egregious Discrimination Cases.” Curious as to what constituted egregious—
and one particular case caught my eye. During June 1993, OFCCP investigators conducted an so-called comprehensive review of the San Diego Marriott and Marina. In the course of their walk-through, the OFCCP officers believed they did not see enough African-American women in visible jobs to satisfy their notion of an acceptable workplace.

This unscientific observation prompted a massive investigation of the San Diego Marriott’s hiring practices. After a year-long inquiry—paid for by the American taxpayer, I might add—the OFCCP uncovered only this unremarkable revelation: that of the hotel’s 1,579 employees, 950 were minorities and/or women, including 101 African-Americans.

Insufficiently satisfied that over 60 percent of the workforce were minority or women, the OFCCP found this an egregious case of race discrimination—because not enough black women were employed to suit their idea of diversity. That the laws of the OFCCP are percent minority workforce is insufficient unless the “right” kind of minorities are represented. Mr. President, if that is not a quota, I don’t know what is.

In any event, rather than trying to fight the Department of Labor, the San Diego Marriott settled to the tune of $277,000. And Mr. President, the Marriott Corporation could at least afford such an extravagant settlement. Thousands of small businesses across the country would be bankrupt by such a fine—and it all would take is one Federal bureaucrat failing to see what he or she considers the right kind of faces in the workplace.

Well, this bill is designed to put an end to all this nonsense bandied about by the Federal Government’s power-hungry quota establishment.

Mr. President, as I have said at outset, this legislation should be familiar to students of history. This legislation will bring our civil rights laws full circle, putting America back on the course that Everett Dirksen and Hubert Humphrey envisioned when they sponsored the Civil Rights Act of 1964.

Speaking of Hubert Humphrey, Mr. President—he was a man admired by all of us who served with him. Senator Humphrey was one of the principal authors of the Civil Rights Act of 1964. He hated the idea of quotas and preferential treatment based on race. Senator Humphrey stood right here on the floor of this Body and said what are the strongest terms possible that the Act could not possibly be interpreted to permit quotas:

“If there is any language in [the Civil Rights Act of 1964] which provides that any employer who hires employees on the basis of race, color, or religion or national origin, I will start eating the pages one after another because it is not there.”

Those words have become so familiar to us during the course of our debates regarding this issue, that they perhaps need a little added emphasis. The authors of the Civil Rights Act explicitly stated that the bill was not to be interpreted to require any quotas or percentage-based hiring.

Well, Mr. President, tell that to the Daniel Lamp Company. Tell that to the San Diego Marriott. Tell that to all the other companies and businessmen across this country who have found that, in the United States of America, merit and achievement is sometimes not good enough.

Mr. President, after 30 years, it is obvious that the social experiment known as affirmative action has outlived its usefulness. It is time for the Congress to return the civil rights laws to their original intent of preventing discrimination, and restore the principles upon which our country was built—personal responsibility, self-reliance, and hard work. The Civil Rights Restoration Act aims to do just that.

Mr. President, I ask unanimous consent that a March 20, 1995 article by Paul Craig Roberts and Lawrence M. Stratton, Jr. in National Review be printed in the RECORD.

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

[From the National Review, March 20, 1995]

HOW WE GOT QUOTAS—COLOR CODE

(By Paul Craig Roberts and Lawrence M. Stratton, Jr.)

Bureaucrats and judges have turned the 1964 Civil Rights Act on its head, creating a system of preferences based on race and sex. Can we restore equality before the law?

Fifty years after Brown v. Board of Education, the civil-rights movement has strayed far from the principles upon which our country was built—personal responsibility, self-reliance, and hard work. The Civil Rights Restoration Act aims to do just that.

The Federal Aviation Administration, for example, has formally recognized the Council of African American Business, granting them access to bulletin boards, photocopiers, electronic mail, voice mail, and government contracts, broadcast licenses, and research grants. Consider a few examples:

A 1989 survey by Fortune magazine found that only 14 percent of Fortune 500 companies hired employees based on talent and merit alone; 18 percent admitted that they had racial quotas, while 54 percent used the euphemism “goals.”

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In the 1994 case Haywood v. State of Texas, U.S. District Court Judge Sam Sparks found that the constitutional rights of four white law-school applicants had been violated by quota policies at the University of Texas. However, he awarded $1 in damages and refused to order them admitted ahead of protected minorities with substantially lower scores.

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Pech filed a discrimination lawsuit. When it reached the Supreme Court, U.S. Solicitor General Drew S. Days III argued that Pech had no standing to sue, even though the U.S. Government had been paid the prime contractor's fee of $10,000 to discriminate against him. Whatever the technical merits of the solicitor general's argument, it reveals the system of racial discrimination that exists today passed its test: "Protected minorities" have standing to sue without any requirement of showing that they themselves have ever suffered from an act of discrimination. Today, segregated protect minorities have never suffered from legal discrimination, yet U.S. policy assumes they are victims and provides remedies. In the majority judgment, the Court pointed out that victims of reverse discrimination have no remedy and no legal standing.

The political repercussions of this double standard are by no means restricted to California. In November's congressional elections, white males deserted the Democratic Party in droves, voting Republican by a margin of 63 per cent to 37 per cent. The Wall Street Journal has identified "angry white males" as an important new political group. But more is at stake than the plight of white males. The threat of federal intervention for racial and religious minorities has cast aside the traditional formula for party politics. At issue is equality before the law and the democratic process itself. As freedmen, the gospels of godly will, activism, and persuasion are supplanted by regulatory and judicial coercion, privilege reappears in open defiance of justice.

The Economics of Discrimination

The Civil Rights Act of 1964 undertook to end the race question as a sociological `radar net' for patterns of discrimination. Underutilizers of minority race, religion, or national origin, I will start analyzing problems of discrimination. In 1965 Blumrosen sang "Franklin's Away" during his frequent appearances at hearings. He has proved Blumrosen right.

The White House Conference on Equal Employment Opportunity in August 1965 indicated what was to come. Speaker after speaker described "deeply rooted patterns of discrimination" and "under-representation" of minorities that the EEOC should counter in order to promote "equal employment opportunity." The conference report stressed that the EEOC should counter the condition of minorities must then focus in these general and difficult areas, and the answers can come only gradually as basic institutions, attitudes, customs, and practices are changed. We thus would have before us generations of time before the effects of subjugation of minorities are dissipated.

If discrimination is narrowly defined, for example, by requiring an evil intent to injure minorities, then it will be difficult to find that it exists. If it does not exist, then the plight of the plight of the victim can be attributed to some more general failures in society, in the fields of basic education, housing, family relations, and the like. The condition of minorities must then focus in these general and difficult areas, and the answers can come only gradually as basic institutions, attitudes, customs, and practices are changed. We thus would have before us generations of time before the effects of subjugation of minorities are dissipated.

But if discrimination is widely defined, as, for example, by including all conduct which adversely affects minority group employment opportunities, the prospects for rapid improvement in minority employment opportunities are greatly increased. Industrial relations systems are flexible; they are in control of defined individuals and institutions; they can be altered either by negotiation or by law. If discrimination exists within these institutions, the solutions lies in the industry itself. It is not embedded in the complications of fundamental sociology but can be sharply influenced by intelligent, effective, and aggressive legal action.

"This is the optimistic view of the racial problem in our nation. This view finds discrimination at every turn where minorities are adversely affected by government decisions, which are subject to legal regulation. In this view, we are in control of our own history. The destruction of our society over the race question is inevitable."
specific prohibition of such data collection. An amendment introduced by Senator Everett Dirksen (R., Ill.), said employers did not have to report statistics to the EEOC if they were already required to do so by FEP commissions. Blumrosen later admitted that the requirement he imposed on employers to report the racial composition of their work force was based on “a reading of the statute contrary to the plain meaning.” But what was a mere statute?

Colleen Kelly, a law professor at the University of California School of Law, wrote that Title VII “cannot possibly be stretched to permit the Commission to insist on the filing of reports” and predicted that the EEOC would be “able to defend in court that employers needed. The objective was to make tests so difficult to defend in court that employers would simply abandon them and hire by racial quota.” Enneis testified before Congress in 1974 that he knew of only three or four test-validation studies that satisfied his “objective standards for job applicants and upgraders.” As a 1971 Harvard Law Review article noted, “The Supreme Court agreed with the lower court order against Motorola was handed down during the debates. The record established that the use of professionally developed objective tests is a sensitive, liberal interpretation of Title VII that ‘has the impermanence of permanence.’”

In Griggs the Court ignored clear statutory language and unambiguous legislative history. In the Duke Power case, Myrt v. Motorola, which had troubled many of the legislators who approved the Civil Rights Act, Myrt struck down Motorola Corporation’s use of an employment test that black subs received at a higher rate than whites. The EEOC’s history for the Johnson Library noted that “most members of Congress were concerned about this issue because the court order against Motorola was handed down during the debates. The record established that the use of professionally developed objective tests is a sensitive, liberal interpretation of Title VII that ‘has the impermanence of permanence.’”

The Supreme Court agreed with the lower courts that Duke Power had not adopted the requirement with any intention to discriminate against black workers. Burger admitted that the company’s policy of financing two-thirds of the cost of adult high-school education for its employees suggested good intent. But the Court ruled that absent any indication of an unlawful employment practice, the contrary to Title VII itself. An internal EEOC legal memorandum concluded: “Under the literal language of Title VII, the only actions required by a covered employer are to use and to not discriminate. The subsequent to July 2, 1965. By the explicit terms of Section 703(i), an employer is not required to redress an imbalance in his work force that is the result of past discrimination.” 

Fearing a storm over quotas like one that had occurred during the congressional debates on the Civil Rights Act, the EEOC ruled out trying to amend the Act itself. The memorandum instead urged the agency to rewrite the statute on its own and influence the courts to embrace the EEOC’s “affirmative theory of non-discrimination,” which it defined as “intentional” into the statute, the history said “courts cannot assume as a matter of statutory construction that Congress meant to accomplish an empty act by the courts.” The reverse was true. In the Duke Power case, the Supreme Court accepted the EEOC’s rewrite of the Civil Rights Act. The opinion was written by Chief Justice Warren Burger. EEOC counsel James R. Duke Power, the Supreme Court accepted the EEOC’s rewrite of the Civil Rights Act. The opinion was written by Chief Justice Warren Burger. EEOC counsel James R. Morehead the court’s order against Motorola was handed down during the debates. The record established that the use of professionally developed objective tests is a sensitive, liberal interpretation of Title VII that ‘has the impermanence of permanence.’”

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Fearing a storm over quotas like one that had occurred during the congressional debates on the Civil Rights Act, the EEOC ruled out trying to amend the Act itself. The memorandum instead urged the agency to rewrite the statute on its own and influence the courts to embrace the EEOC’s “affirmative theory of non-discrimination,” which it defined as “intentional” into the statute, the history said “courts cannot assume as a matter of statutory construction that Congress meant to accomplish an empty act by the courts.” The reverse was true. In the Duke Power case, the Supreme Court accepted the EEOC’s rewrite of the Civil Rights Act. The opinion was written by Chief Justice Warren Burger. EEOC counsel James R.
compared to 12 percent of black males, and EEOC findings that 58 percent of whites passed the tests used by Duke Power, compared to 6 percent of blacks. Blaming these disparities, Burger said that "under the Act, practices, procedures, or tests neutral on their face, and even neutral in terms of intent, cannot be maintained if they have the effect of a prior discriminatory employment practice." Burger destroyed job testing when he declared, "The Act proscribes not only overt discrimination in his practices, but a fair in form, but discriminatory in operation.

Burger's casuistry was to be given a name. In the 1976 book Employment Discrimination Law, EEOC District Counsel Barbara Lindemann Schlei and co-author Paul Grossman called the new emphasis on consequences "disparate impact" analysis. One year later, the Supreme Court used the phrase for the first time in the case International Brotherhood of Teamsters v. United States, which dealt with burdens of proof in Title VII cases attacking union seniority systems. "Proof of discriminatory motive," the Court said, "is not required under a disparate-impact analysis that a requirement that had a disparate impact on the races, regardless of intent or the reasonableness of the requirement, constituted discrimination. In short, Burger was inclined to take the measure of prospective employers only. Burger invented a statutory hook for his rule by asserting, falsely, that "Congress has placed on the employer the burden of showing that any given requirement must have a manifest relationship to the employment in question." It was precisely this heavy handed intrusion into job requirements that the Tower Amendment was designed to prevent.

Burger's deference to the EEOC meant that the agency would become the national arbiter of job tests. Following Griggs, the agency immediately issued manuals warning employees about job tests. The 1966 manual increased their minority statistics, they risked costly liability. Ultimately, it became prohibitively expensive to use job tests unless they were race-normed so that blacks could qualify with lower scores.

**The Impact of Disparate Impact**

In a subsequent case interpreting Griggs, a Justice Harry Blackmun expressed his concern that the guidelines were "demonstrably a reasonable measure of job performance." Pulling a phrase out of thin air, Burger said "the touchstone is business necessity. If an employer is in the business of selling a product or providing a service, it cannot have a disparate impact on blacks. Farmers have even sued for asking prospective farm hands whether they could use a hoe, on the grounds that this might lead to problems of productivity to back problems. Perfectly sensible height and weight requirements for prison guards and police officers have also been struck down for having a disparate impact on women.

The EEOC strategy that led to Griggs was not created in a vacuum. Civil-rights activists needing a standard that would enable blacks to attain equality of result became the new goal. In January 1965, President Johnson asked, "Do you feel it's fair to request a multibillion-dollar program of preferential treatment for the Negro, or for any other minority group?" King replied, "I do indeed." In 1969, the U.S. Court of Appeals for the Fifth Circuit, the same court that had initiated school busing in the name of "racial balance," cast aside the prohibition of quotas in Section 703(j) of the Civil Rights Act by upholding a court order that every other person admitted to a Louisiana labor union must be black. Replacing that order with one that was clearly violated Section 703(j), the three judge panel simply wrote, "We disagree."

President Johnson was the most prominent proponent of the shift away from the color-blind ideal. At his commencement speech at Howard University on June 4, 1965, Johnson asserted that the disappearance of legal segregation was not enough:

"You do not take a person who, for years, has been hobbled by chains and liberate him, bring him up to the starting line of a race and then say, "you are free to compete with all others," and still justly believe that you have been fair. This is more than outright to open the gates of opportunity. All our citizens must have the ability to work within those gates."

"This is the next and the more profound state of the battle for civil rights. We seek not just freedom but opportunity. We seek not just legal equity but human ability, not just equality as a right and a theory but equality as a fact and equality as a reality."

President Johnson's prescription meant that while the Nixon Administration went as a green light. As Laurence H. Silberman, Circuit, the Nixon Administration interpreted the Supreme Court's lack of interest in the controversial quota issue by refusing to "take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin.

Johnson's equality-of-results rhetoric and his deference to the EEOC had finally provided the main emotional justification for "affirmative action," but the quotas that now web federal contractors under Executive Order 11246 enjoined by his Administration. Facing strong opposition from the Labor Department, labor unions, members of Congress, and Comptroller General Elmer Staats, Johnson's labor secretary, Willard Wirtz, dropped his plans to impose quotas on federal construction projects in Philadelphia.

Bacon meant non-union contractors and laborers (many of whom were black) could not get government contract work. Sensitive to charges that he was hostile to civil rights, Nixon wrote in his memoirs that he accepted Shultz's proposal to revive the Philadelphia Plan in order to demonstrate to blacks "that we do care."

On June 27, 1969, Assistant Secretary of Labor Arthur A. Fletcher, a black former businessman who had been a professional football player, announced the Philadelphia Plan in the City of Brotherly Love. He said that while "visible, measurable goals to correct obvious imbalances are essential," the plan did not involve "rigid quotas." The Congressional Quarterly disagreed with Fletcher's scholastic distinction, calling the Philadelphia Plan a "non-merit system."

Under the plan, the Labor Department's Office of Federal Contract Compliance (OFCC) would assess the five-county Philadelphia area and set a target percentage of minorities to be employed in several construction trades, with the aim of attaining a racially proportionate workforce. Potential federal contractors would have to submit complex plans detailing goals and timetables for hiring blacks within each trades to satisfy the OFCC's "utilization" targets. Arthur Fletcher said the Philadelphia Plan "put economic flesh and bones on Dr. King's dream."

The US Court of Appeals for the Third Circuit accepted the Nixon Administration's argument that "goals and timetables" were not quotas and that, even if they were, the Civil Rights Act's ban on quotas applied to Title VII remedies, not to executive orders. The Supreme Court avoided the controversial quota issue by refusing to review the case. Although the appeals court's ruling had no force outside the Third Circuit, the Nixon Administration interpreted the Supreme Court's lack of interest in the controversial quota issue by refusing to "take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin."
goals and tabulates" to "correct any identifiable deficiencies of minorities in their work forces. The carrot of government contracts and the stick of disparate-impact liability have quickly enabled "quotas." For many corporate managers, hiring by the numbers was the only protection against discrimination lawsuits and the loss of lucrative contracts. What contractors hired minorities to guard against the sin of "underutilization," and racial proportionality became a precondition of government contracts. The Civil Rights Act remains in the law but the stick of disparate-impact liability became a precondition of government contracts. A DeFunis who is white is entitled to receive his degree. This let the Court conclude that the new quota regime covered "from one-third to one-half of all U.S. workers." The Section 703(j) prohibition of quotas in the 1964 Civil Rights Act remained in the law but the stick of disparate-impact liability became a precondition of government contracts. Although the phrase "federal contractor" connotes workers in a company that is busy with construction projects or weapons systems, colleges and universities are also federal contractors, receiving federal funds through research grants and financial aid to students. Following the Labor Department's lead, Nixon's Department of Health, Education, and Welfare soon required similar "goals" for faculty hiring. Before long the practice had spread to student admissions as well.

In 1974 Douglas tried to get the Court to address quotas in this area. Marco DeFunis challenged the University of Washington Law School's 20 per cent quota for blacks. The school had rejected DeFunis though his GPA and test scores surpassed those of 36 of the 37 admitted blacks. Using his powers as a Circuit Judge, Douglas stayed the Washington Supreme Court's ruling against DeFunis that had created uproar in the state.

By the time DeFunis's case came before the Supreme Court, however, he was about to receive a legal blow. The Court had to avoid the quota issue by declaring the case moot. Douglas dissented on the mootness ruling and addressed the case's merits. He viewed the case through Brown's eyes: there is no superior person by constitutional standards. A DeFunis who is white is entitled to no advantage by reason of that fact; nor is he subject to any disability, no matter what his race or color. Whatever his race, he had a constitutional right to have his application consideration on its individual merits in a race-neutral manner.

But time had passed Douglas by. In Douglas's mind, discrimination was still connected with merit. DeFunis's scores showed that he met a higher objective standard than those admitted in his place. But by this time any standard that had disparate impact was ipso facto discriminatory. In the eyes of Douglas's colleagues, DeFunis was simply a beneficiary of a discriminatory standard. Douglas, who had supported the Griggs decision, obviously did not comprehend its implications.

Burger has second thoughts
Chief Justice Burger had created disparate-impact precedent in a case without realizing its quota implications. Now that quotas were upon him, he found himself joining in dissent with Justice William O. Douglas. As they observed, they were "Orwellian." In Griggs, the Court had declared that "discriminatory preference for any group, minority or majority, is not permitted by Title VII." But that prohibition had not been written into the law. The Burger Court was setting aside all these considerations. In the 1987 case Johnson v. Transportation Agency Santa Clara County, the issue was the maleness rather than the whiteness of the Quota. The Court held that quoting a temporary memorandum would not bar a state agency from adopting a quota regime with the purpose of avoiding liability. The Court upheld the quota schemes in subsequent cases. In the 1983 case Fulllove v. Kutzlick, the Court said a federal spending program setting aside 10 per cent of public-works money for minority businesses violated neither the Constitution's guarantee of equal protection of the laws nor the 1964 Civil Rights Act.

In the 1987 case Johnson v. Transportation Agency Santa Clara County, the issue was the maleness rather than the whiteness of the quota. The Court held that a state agency could not bar a state agency from adopting a quota regime with the purpose of avoiding liability. The Court upheld the quota schemes in subsequent cases. In the 1983 case Fulllove v. Kutzlick, the Court said a federal spending program setting aside 10 per cent of public-works money for minority businesses violated neither the Constitution's guarantee of equal protection of the laws nor the 1964 Civil Rights Act.
Reverse discrimination is now a fact of life. Indeed, in strictly legal terms, the situation for white males today is worse than the situation for blacks under Plessy v. Ferguson's separate but equal doctrine. In fact, blacks suffered unequal treatment under Plessy, but the decision officially required equal treatment. Under today's civil-rights laws and policies, blacks can be legally discriminated against in university admissions, employment, and the allocation of government contracts.

In his famous dissent from Plessy, Justice John Marshall Harlan worried that the Louisiana law requiring racial segregation on public transportation would allow class distinctions to be made between blacks and whites. If race were used as an employment criterion, he said, "there is color-blind, and neither knows nor tolerates class distinction among citizens. In respect of civil rights, all citizens are equal before the law." Today, civil-rights activists reject Harlan's color-blind view. Privilege before the law has replaced equality before the law.

By Mr. HELMS:

S. 47. A bill to prohibit the executive branch of the Federal Government from employing individuals who are not protected against discrimination in Federal employment, for other purposes; read twice and placed on the calendar.

FREEDOM OF SPEECH ACT

Mr. HELMS. Mr. President, many readers of the Washington Times on December 31, 1996, were offended when they read an article, "Postal Inspectors' Bias Code Seen as Silencing Anti-Gay Views." The article reported that the U.S. Postal Service's law enforcement branch had recently issued a new code of conduct for employees that makes it illegal for them to express personal and religious beliefs regarding homosexuality—even during off-duty hours. When asked about the Postal Service's decision, Robert Maginnis, an analyst at the Family Research Council, asserted correctly that "People who have deeply-held moral beliefs need not apply for the Federal jobs. Talk about discrimination! This is reverse discrimination of the worst kind."

Mr. Maginnis was right on target: Freedom of speech is not permitted to those who deplore the favoritism shown people who have the morals of alley cats. I recall the 1994 episode in which the department of Agriculture, Dr. Karl Mertz, whose freedom of speech was callously violated after he dared to stand up against sodomy. Dr. Mertz did so on his own time, when he opposed his government's giving special rights to homosexuals.

Mr. President, during the incident involving Dr. Mertz, it because abundantly clear, at least to me, that the Clinton Administration has conducted and continues to conduct an concerted effort to give homosexuals special rights, privileges, and protections throughout the Federal agencies—rights not accorded to most other groups and individuals.

The fact is, no other group in America is given special rights based on its sexual behavior. To grant special rights to homosexuals would be redundant—the 1964 Civil Rights Act already protects every American from discrimination.

Moreover, the Senate, on September 10, 1996, defeated attempts by Senator Ken Cooper to amend the Civil Rights Act in order to extend special rights to employees based exclusively on the employees' sexual preferences.

Mr. President, after Dr. Mertz's plight was brought to light in 1994, my office began to hear from Federal Government employees throughout Washington and the country who were personally concerned about the Administration's attempts to defend and promote special rights for homosexuals in the workplace.

And we continue to hear from them. These are not hate-filled or mean-spirited; they are understandably distressed by the government's attempts to sanctify and promote a lifestyle that many Americans regard as immoral.

Mr. President, let's look at statements issued by three of the Administration's cabinet members regarding efforts by the Clinton Administration to confer special rights and protections upon homosexuals and lesbians.

On April 15, 1993, then-Secretary of Agriculture, Mike Espy, issued a Civil Rights Policy Statement in which he stated that the USDA would create a workplace free of discrimination against gays and lesbians.

On August 30, 1994, Henry Cisneros, the Secretary of the Department of Housing and Urban Development, likewise informed all HUD employees that his department would not tolerate discrimination on the basis of sexual orientation.

On December 6, 1993, the Secretary of Health and Human Services, Donna Shalala, issued her agency's directive to celebrate cultural "diversity" in a workplace free of discrimination against gays and lesbians.

In fact, Mr. President, Leonard Hirsch, president of Gay, Lesbian and Bisexual Employees of the Federal Government (GLOBE), told the Washington Times that every Cabinet-level department, excluding the Pentagon, now has rules barring discrimination based on sexual orientation.

Which brings us to the issue of whether the Federal Government intends to expand the definition of discrimination to include suppression of the constitutional rights of its employees—rights to personal and religious beliefs regarding homosexuality. The fact is, it is already happening.

To the delight of the homosexual community, Federal employees are required to institute aggressive anti-harassment campaigns and fire any employee who displays offensive behavior toward homosexuals. This spirit of the Civil Rights Act has already taken root at home every morning since Federal agencies and departments have unilaterally adopted a policy to treat homosexuals as a special
class protected under various titles of the Civil Rights Act of 1964.

Congress must not remain silent as the executive branch creates special protections for homosexuals without regard to the constitutional right of freedom of speech enjoyed by all Federal employees. That is the purpose of the legislation I offer today.

Under this bill, no Federal department or agency shall implement or enforce, for the purpose of creating a special class of individuals in Federal employment discrimination law. This bill will also prevent the Federal government from tampering with the first amendment rights of Federal employees to express their moral and spiritual values in the workplace.

Finally, this bill will turn back the tide of the homosexual community in its efforts to force Americans to accept, and even legitimize, moral perversion.

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

By Mr. HELMS:

S. 48. A bill to abolish the National Endowment for the Arts and the National Council on the Arts; read twice placed on the calendar.

THE NATIONAL ENDOWMENT OR THE ARTS TERMINATION ACT OF 1997

Mr. HELMS. Mr. President, something more than 7 years ago, I first reported to the Senate some evidence that a war was then being waged against some standards of decency by some self-proclaimed "artists," funded by the national Endowment for the Arts.

When I came to the Senate floor that day in 1989, I told Senators that the arts community—because they balked at any restriction on Federal funding—had left Congress with two choices: First, absolutely no Federal presence in the arts; or second, granting artists the absolute freedom to use Federal dollars as they wish, regardless of how vulgar, blasphemous, or despicable their works may be. I said at the time that if we indeed must make this choice, then the Federal Government should get out of the arts. But, I felt then that Congress could make another choice—to clean up the NEA, and merely prevent the use of Federal funds to support the creation or production of vulgar or sacrilegious works.

Well, Mr. President, as Paul Harvey says, now you know the rest of the story. For more than 7 years, I offered numerous amendments to put an end to the taxpayer-subsidized obscenity I've detailed today. But without fail, every year, the American people are shocked to hear of another instance in which the NEA has given its blessing—

and the taxpayers' money—to an organization or individual determined to cross the lines of decency and morality.

The last card was played out, Mr. President, when a liberal Federal appeals court, on November 5, 1996, usurped the right of Congress to put any semblance of restrictions on the way the NEA uses the money granted to it by taxpayers as they wish, regardless of how vulgar, blasphemous, or despicable their works may be.

For these reasons, I today introduce The National Endowment for the Arts Termination Act of 1997. The bill mirrors the legislation offered in the House of Representatives this year by Phil Crane, Sam Johnson, and Charlie Norwood.

This bill finally alleviates the burden, shouldered by the American taxpayers, of allocating money every year to an agency whose mission has been sorely mistreated. The strings will be cut and the Federal government will no longer be in the business of propping up "artists" such as Robert Mapplethorpe and Andres Serrano. Furthermore, Congress will rid itself of the annual fight to defend the cultural high ground against a group of people who are in a lifelong crusade to destroy the Judeo-Christian foundations of this country.

Mr. President, this bill is the only solution to end the irresponsible use of the taxpayers' money by this agency. Efforts to reform it have failed. It is time to put the National Endowment for the Arts to rest.

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

By Mr. STEVENS (for himself and Mr. Murkowski):

S. 49. A bill to amend the wetlands regulatory program under the Federal Water Pollution Control Act to provide credit for the low wetlands loss rate in Alaska and recognize the significant extent of wetlands conservation in Alaska, protect Alaska property owners, and to ease the burden on overly regulated Alaskan cities, boroughs, municipalities, and villages; to the Committee on Environment and Public Works.

THE ALASKA WETLANDS CONSERVATION ACT

Mr. STEVENS. Mr. President, I am pleased to introduce the Alaska Wetlands Conservation Act, a bill to conform wetlands protection to the unique conditions found throughout Alaska.

My State contains more wetlands than all other States combined. Since 1978 we have developed less than 10% of Alaskan wetlands. According to the United States Fish and Wildlife Service, about 170.2 million acres of wetlands existed in Alaska in the 1780s
and about 170 million acres exist today. That represents a negligible loss rate over a period of 217 years. Furthermore, almost ninety percent of our wetlands are publicly owned, protected by strict land use designations that guarantee these wetlands will remain intact permanently.

We Alaskans have substantially conserved our wetlands. Unfortunately, Federal policies established to protect and restore wetlands in the southern forty-eight States do not recognize our unique circumstances nor do these policies provide an appropriate level of flexibility in managing the roughly one percent of land available for private or commercial development in Alaska.

My bill continues to require Alaskans who apply for discharge permits under section 404 of the Clean Water Act to avoid or minimize adverse impacts on wetlands, but it would eliminate requirements to mitigate for unavoidable impacts. It also removes the burden on applicants to prove no other alternative sites are available. Most of Alaska’s communities are surrounded by literally millions of acres of wetland. These areas are made unaccessible under the law for mitigation purposes. In Alaska, mitigation makes no sense except to extort compensatory concessions from applicants who would otherwise not be justified.

The threat of mitigation sends a chilling message to potential investors by artificially raising the costs of doing business in Alaska. In turn, this contributes to unemployment and weakening the economic self-sufficiency of our far-flung communities. In the long run, the current program wastes taxpayer money in an ill-advised attempt to protect abundant wetlands that are already more than adequately protected in Alaska. The resources at risk in Alaska are not our wetlands, but our people.

The blind application of legislation written to protect wetlands elsewhere inhibits reasonable growth by our Native and Federal decision makers to those closest to the environment in Alaska as a result of the expansive wetlands regulations issued by bureaucrats inside the beltway. On the other hand, the harm caused by overzealous Federal wetlands policy is documented in many examples of bureaucratic delay, expense and irrational decision making. Ask the Mayor of Juneau how the Federal Government handled that city’s application for a general permit. It is a national disgrace simply because laws intended to protect scarce wetlands elsewhere were strictly applied in an area of abundance. This bill restores rational decision making authority to those closest to the wetlands situation of Alaska. I encourage my colleagues in the Senate and the House to act expeditiously on my proposed remedy.

By Mr. FEINGOLD: S. 51. A bill to amend the Internal Revenue Code of 1986 to eliminate the percentage depletion allowance for certain minerals; to the Committee on Finance.

DEPLETION ALLOWANCES LEGISLATION

Mr. FEINGOLD. Mr. President, I am pleased to introduce legislation to phase out the percentage depletion allowances for four mined substances— asbestos, lead, mercury, and uranium—from the Federal tax code. This measure is based on language passed as part of the Energy Policy Act of 1992 by the other body during the 102nd Congress. Analysis by the Joint Committee on Taxation on the similar legislation that passed the House estimated that, under that bill, income to the Federal treasury from the elimination of percentage depletion allowances for just these four mined commodities would total $83 million over 5 years, $20 million in this year alone. These savings are calculated as the excess amount of federal revenues above what would be collected if depletion allowances were limited to the actual costs in capital investments.

These four allowances are only a few of the percentage depletion allowances placed in the tax code to encourage exploration and output. However, unlike cost depletion or even accelerated depreciation, percentage depletion also makes it possible to recover more than the amount of the original investment. As noted by the Joint Committee on Taxation, of $4.8 billion.

Mr. President, unlike depreciation or cost depletion, the ability to use so-called percentage depletion allows companies to deduct far more than their actual costs. The result is a generous loophole for the company, and an expensive subsidy for the taxpayer.

Historically, percentage depletion allowances were placed in the tax code to reduce the effective tax rates in the mineral and extraction industries far below tax rates on other industries, providing incentives to increase investment in exploration and output. However, unlike cost depletion or even accelerated depreciation, percentage depletion also makes it possible to recover more than the amount of the original investment. As noted by the Joint Committee on Taxation, of $4.8 billion.

There are two methods of calculating a deduction to allow companies to recover the costs of the capital investment: cost depletion, and percentage depletion. Cost depletion allows for the recovery of the actual capital investment over the period which the reserve produces income. Using cost depletion, a company deducts a portion of their original capital investment minus any previous deductions, in an amount that is equal to the fraction of the remaining recoverable reserves. Under this method, the total deductions must not exceed the original capital investment.

However, under percentage depletion, the deduction for recovery of a company’s investment is a fixed percentage of “gross income”—namely, sales revenue—from the sale of the mineral. According to the Budget Committee’s summary of tax expenditures, under this method, total deductions typically exceed the capital that the company invested.

Mr. President, given the need to reduce the deficit and balance the budget, there is just as clear a need to review the spending done through the tax code as there is to scrutinize discretionary spending and entitlement programs. All of these forms of spending must be asked to justify themselves, and be weighed against each other in seeking to reach the broader goal of a balanced budget.

In the case of these particular tax expenditures, we should consider who should bear the costs of exploration, development, and production of natural resources: all taxpayers, or the users and producers of the resource. The current
tax breaks provided to the users and producers of these resources increases pressure on the budget deficit, and shifts a greater tax burden onto other businesses and individuals to compensate for the special treatment provided to particular industries.

Mr. President, the measure I am introducing is straightforward. It eliminates the percentage depletion allowance for asbestos, lead, mercury, and uranium while continuing to allow companies to recover reasonable cost depletion for these minerals. Even as a production subsidy, the percentage depletion tax loophole is inefficient. As the Budget Committee summary of tax expenditures notes, it encourages excessive development of existing properties rather than the exploration of new ones.

Moreover, Mr. President, the four commodities covered by my bill are among some of the most environmentally adverse. The percentage depletion rates for metals makes a mockery of conservation efforts. The subsidy effectively encourages mining regardless of the true economic value of the resource. The effects of such mines on U.S. lands, both public and private, has been both health and environmental scars that will not be able to be repaired.

Ironically, the more toxic the commodity, the greater the percentage depletion received by the producer. Mercury, lead, uranium, and asbestos receive the highest percentage depletion allowance, while less toxic substances receive lower rates.

Mr. President, particularly in the case of the four commodities covered by my bill, these tax breaks create absurd contradictions in government policy. While Federal public health and environmental agencies are struggling to come to grips with a vast children's health crisis caused by lead poisoning, spending millions each year to prevent lead poisoning, test young people, and research solutions, the tax code is providing a subsidy for lead production—a subsidy that is not provided for the lead recycling industry.

Asbestos, too, has posed massive public health problems, and it is indefensible that this commodity, the use of which the Federal Government will effectively ban before the year 2000, continues to receive a massive tax subsidy. Mr. President, it is time for us to ask the Federal Government to get out of the business of subsidizing business in ways it can no longer afford—both financially and for the health of its citizens. This legislation is one step in that direction.

Mr. President, in 1992, I developed an S.416 plan to eliminate the Federal deficit and have continued to work on implementation of the elements of that plan since that time. Elimination of special tax preferences for mining companies at a cost of that S.416 point plan, just as we must cut direct spending programs, if we are to balance that budget, we must also curtail these special taxpayer subsidies to particular industries that can no longer be justified. Finally, Mr. President, in conclusion I want to pay tribute to several elected officials from Milwaukee, Mayor John Norquist and Milwaukee Alderman Michael Murphy, who have brought to my attention the iniquity of the Federal government continuing to provide taxpayer subsidies for the production of toxic substances like lead while our inner cities are struggling to remove lead-based paint from older homes and buildings where children may be exposed to this hazardous material. I deeply appreciate their support and encouragement for my efforts in this area.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows: S. 51

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

SECTION 1. CERAMIC MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(a) IN GENERAL.—Section 613(b)(1) of the Internal Revenue Code of 1986 (relating to percentage depletion rates) is amended—

(A) in subparagraph (A), by striking “and uranium”;

(b) CONFORMING AMENDMENTS.—

(1) Section 613(b)(3)(A) of the Internal Revenue Code of 1986 is amended by inserting “other than lead, mercury, or uranium” after “metal mines”.

(2) Section 613(b)(4) of such Code is amended by striking “asbestos,” “lead,” and “mercury.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 613(b)(3)(A) of the Internal Revenue Code of 1986 is amended by inserting “other than lead, mercury, or uranium” after “metal mines”.

(2) Section 613(b)(4) of such Code is amended by striking “asbestos,” “lead,” and “mercury.”.

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1996.

By Mr. FEINGOLD:

S. 52. A bill to amend the Agricultural Adjustment Act to prohibit the Secretary of Agriculture from basing minimum prices for Class I milk on the distance or transportation costs from any location that is not within a marketing area, except under certain circumstances, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. FEINGOLD (for himself and Mr. KLEIN):

S. 55. A bill to amend the Dairy Production Stabilization Act of 1983 to prohibit bloc voting by cooperative associations of milk producers in connection with the program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 56. A bill to amend the Dairy Production Stabilization Act of 1983 to ensure that all persons who benefit from the dairy promotion and research program contribute to the cost of the program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

DOMESTIC DAIRY POLICY LEGISLATION

Mr. FEINGOLD. Mr. President, today I introduce three bills which attempt to rectify three different problems with domestic dairy policy. My State of Wisconsin is home to more than 26,000 dairy farmers. Over the past couple of years, during the listening sessions I’ve held in Wisconsin counties, I have heard from many of those dairy farmers on the issues addressed by the legislation I am introducing today.

The first bill I am introducing today, if enacted, will be a first step towards rectifying the inequities in the Federal Milk Marketing Order system. The Federal Milk Marketing Order system, created 60 years ago, establishes minimum prices for milk paid to producers throughout various marketing areas in the United States.

My legislation is very simple. It identifies the single most inequitable and injurious provision in the current system—a correction—known as single basing point pricing—is USDA’s practice of basing prices for fluid milk—Class I milk—in all marketing areas east of the Rocky Mountains on the distance from Eau Claire, Wisconsin, to New York City. There is little economic justification for doing so.

In general, the price for fluid milk increases at a rate of 21 cents per 100 miles from Eau Claire, WI. Fluid milk prices, as a result, are $2.98 cents higher in Florida than in Wisconsin, more than $2 higher in New England, and more than $1 higher in Texas.

While this system has been around since 1937, the practice of basing fluid milk price differentials on the distance from Eau Claire was formalized in the 1960s, when arguably the Upper Midwest was the primary reserve for additional supplies of milk. The idea was to encourage local supplies of fluid milks in areas of the country that did not traditionally produce enough fluid milk to meet their own needs. At that time, this was important because our transportation infrastructure made long distance bulk shipments of milk difficult. Thus, the only way to ensure a fresh product of fluid milk was to provide dairy farmers in those distant regions with a milk price high enough to encourage local production.

Mr. President, the system worked too well. Ultimately, it has worked to the disadvantage of the Upper Midwest, and, in particular, Wisconsin dairy farmers.

The artificially inflated Class I prices have provided production incentives beyond those needed to ensure a local supply of fluid milk in some regions, leading to an increase in manufactured products in those marketing orders. Those manufactured products directly compete with Wisconsin’s processed milk...
products, eroding our markets and driving national prices down.

Under the provisions of the 1996 farm bill, the U.S. Department of Agriculture is currently undergoing an informal rulemaking process to consolidate Federal Milk Marketing Orders from 32 to 10. USDA is also looking at how to set prices for milk in those consolidated orders. By statute, USDA is prohibited from basing the new prices on the structure of the current differentials set by the 1985 farm bill. The reforms must be completed by spring, 1999. Secretary of Agriculture Dan Glickman will no doubt be pressured by many supporters of the status quo to maintain the overall price structure that has discriminated against Wisconsin farmers for so many years. I will do everything I can to prevent that from happening. Wisconsin farmers need real Class I price reform that removes the artificial competitive advantages provided to other regions to other regions of the country and allows Upper Midwest farmers to compete on a level playing field.

The legislation that I am introducing today identifies the one change that is absolutely necessary in any outcome—the existence of marketing cooperatives. It prohibits the Secretary of Agriculture from using distance or transportation costs from any location as the basis for pricing milk, unless significant quantities of milk are actually marketed from that location into the recipient market. The Secretary will have to comply with the statutory requirement that supply and demand factors be considered as specified in the Agricultural Marketing Agreement Act when setting milk prices in marketing orders.

This legislation sends a very simple message to the Secretary of Agriculture—that among all the Class I pricing reform options from which the Secretary may choose, he should in no case select on option that either either by intent or effect sets prices based on distance from a single location. I will work towards enactment of this legislation prior to the completion of the proposed rule on Class I pricing reform.

Mr. President, my next two bills address inequities to dairy producers throughout the country under the Dairy Promotion and Research Order—also known as the dairy checkoff. I am pleased to be joined by Senator Kohl today on these two very important bills.

The National Dairy Promotion and Research Program collect roughly $225 million every year from dairy farmers each paying a mandatory 15 cents for every hundred pounds of milk they produce. The program is designed to promote dairy products to consumers and to conduct research relating to milk processing and marketing.

While some of this money appears to be a small amount of money, multiplied by all the milk marketed in this country, it adds up to thousands of dollars each year for the average producer. Given the magnitude of this program, it is critical that Congress take seriously the concerns producers have about their promotion program.

Since participation in the checkoff is mandatory and producers are not allowed to opt out, I have introduced legislation that producers vote in a referendum to approve the program after it was authorized. The problem is that Congress did not provide for a fair and equitable voting process in the original act and it’s time to correct our mistake. My legislation will allow the process to be known as bloc voting by dairy cooperatives.

Under current law, dairy cooperatives are allowed to cast votes in producer referenda on bloc for all of their farmer-members, either in favor of or against continuation of the National Dairy Board. While individual dissenters from the cooperative’s position are allowed to vote individually, many farmers and producer groups claim the current bloc process is weighted against those seeking reform of the program.

Mr. President, the problem bloc voting creates is best illustrated by the results of the August 1993 producer referendum on continuation of the National Dairy Board, called for by a petition of 16,000 dairy farmers. In that referendum, 59 dairy cooperatives voting in bloc, cast 49,000 votes in favor of the program. Seven thousand producers from those cooperatives went against the bloc policy and voted individually against continuing the program.

While virtually all of the votes in favor of the program were cast by cooperative bloc vote, nearly 100 percent of the votes in opposition were cast by individuals. Bloc voting allows cooperatives to cast votes for every indifferent or ambivalent producer in their membership, drowning out the voices of dissenting producers. It biases the referendum in favor of the Dairy Board’s supporters, whose votes should not have greater weight than the dissenters.

The inappropriate nature of bloc voting in Dairy Board referendum is even clearer given that none of the 17 other commodity promotion programs allow cooperatives to bloc vote despite the existence of marketing cooperatives for many of those commodities.

Mr. President, it is time to give dairy farmers a fair voting process for their promotion program. I urge my colleagues to support this very important legislation.

My last bill, Mr. President, provides equity to domestic producers who have been paying into the promotion program for over 10 years while importers have gotten a free ride. Since the National Dairy Promotion and Research Board conducts generic promotion and general product research, domestic farmers have not benefited from these actions. The Dairy Promotion Program Equity Act requires that all dairy product importers contribute to the Dairy Promotion Program for all dairy products imported at the same rate as domestic dairy farmers. This is not an unusual proposal, Mr. President. Many of our largest generic promotion programs in agriculture already assess importers for their fair share of the program, including programs for pork, beef, and cotton.

This legislation is particularly important in light of the passage of the General Agreement on Tariffs and Trade which will result in greater imports of dairy products over the next several years. An assessment of this type on importers would also be allowed under the GATT since our own milk producers are already paying the same assessment.

We have put our own producers at a competitive disadvantage for far too long. It’s high time importers paid for their fair share of the program.

I am also pleased to be an original cosponsor of the National Dairy Promotion and Research Board Reform Act introduced today by Senator Kohl. That bill further enhances producer representation on the National Dairy Board by providing for the direct election of National Dairy Board members, rather than appointment by the Secretary. That process will allow producers to elect members to the board that represent their views on promotion and eliminates the divisive impact of the political appointment process on the Dairy Board. Direct producer selection of board members should also increase accountability to their fellow dairy farmers.

I believe that these bills together comprise a sound reform package for the National Dairy Promotion and Research Board by providing a stronger voice to dairy farmers. These reforms will create a stronger, more effective and more representative Dairy Board. I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of all three bills be printed in the RECORD.
is not within the marketing area subject to the order, unless milk from the location constitutes at least 50 percent of the total supply of milk of the highest use classification in the marketing area. The Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the criteria that are used as the minimum prices referred to in the preceding sentence, indicating that the minimum prices are made in accordance with the preceding sentence; and

(2) by striking the second through fifth sentences.

S. 55

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

SECTION 1. PROHIBITION ON BLOC VOTING.

Section 117 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4508) is amended—

(1) in the first sentence, by striking “Sec- retary shall” and inserting “Secretary shall not”;

(2) by striking the second through fifth sentences.

S. 56

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 “Dairy Promotion Equity Act”.

SEC. 2. FUNDING OF DAIRY PROMOTION AND RESEARCH PROGRAM.

(a) DECLARATION OF POLICY.—The first sentence of section 110(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4503(b)) is amended—

(1) by inserting after “commercial use” the following: “and on imported dairy products”;

(2) by striking “products produced in” and inserting “importer of imported dairy products, each”;

(3) by striking the second through fifth sentences until the results of the referendum are known.

(b) DEFINITIONS.—Section 111 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502) is amended—

(1) in subsection (k), by striking “and” at the end;

(2) in subsection (l), by striking the period at the end and inserting a semicolon;

(3) by striking “milk” and inserting “the term ‘imported dairy product’ means any dairy product that is imported into the United States, including—

(I) milk and cream and fresh and dried dairy products;

(II) butter and butterfat mixtures;

(III) cheese;

(IV) casein and mixtures; and

(V) other dairy products; and

and

(4) by inserting at the end the following:

(6) IMPORTERS.—(A) IN GENERAL.—Of the members of the Board, 2 members shall be representatives of importers of imported dairy products.

S. 35

A bill to require the general application of the antitrust laws to major league baseball, and for other purposes;

SEC. 1. APPOINTMENT.—The importer representatives shall be appointed by the Secretary from nominations submitted by importers under such procedures as the Secretary determines to be appropriate.

(2) ASSESSMENT.—Section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4503(g)) is amended by—

(A) designating the first through fifth sentences as paragraphs (1) through (5), respectively; and

(B) by adding at the end of the following:

(6) IMPORTERS.—

(A) IN GENERAL.—The order shall provide that each importer of imported dairy products shall pay an assessment to the Board in the manner prescribed by the order.

(8) RATE.—The rate of assessment on imported dairy products shall be determined in the same manner as the rate of assessment per hundredweight or the equivalent of milk.

(C) VALUE OF PRODUCTS.—For the purpose of determining the assessment on imports under subparagraph (B), the value to be placed on imported dairy products shall be established by the Secretary in a fair and equitable manner.

(3) RECORDS.—The first sentence of section 113(k) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4503(k)) is amended by—

(A) designating the first through fifth sentences as paragraphs (1) through (5), respectively; and

(B) by adding at the end the following:

(7) IMPORTERS.—

(A) IN GENERAL.—Of the members of the Board, 36 members’ representatives shall be appointed by the Secretary.

(9) REPRESENTATION ON BOARD.—Section 113(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(b)) is amended—

(A) by designating the first through ninth sentences as paragraphs (1) through (5) and paragraphs (7) through (10), respectively;

(B) in paragraph (1) (as so designated), by striking “members” and inserting “36 members’ representatives”;

(C) in paragraph (2) (as so designated), by striking “members” and inserting “members’ representatives”;

(D) by adding after “members’ representatives” the following:

(6) IMPORTERS.—(A) IN GENERAL.—Of the members of the Board, 36 members’ representatives shall be appointed by the Secretary.

(B) APPOINTMENT.—The importer representatives shall be appointed by the Secretary from nominations submitted by importers under such procedures as the Secretary determines to be appropriate.

(2) ASSESSMENT.—Section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4503(g)) is amended by—

(A) designating the first through fifth sentences as paragraphs (1) through (5), respectively; and

(B) by adding at the end the following:

(6) IMPORTERS.—

(A) IN GENERAL.—The order shall provide that each importer of imported dairy products shall pay an assessment to the Board in the manner prescribed by the order.

(8) RATE.—The rate of assessment on imported dairy products shall be determined in the same manner as the rate of assessment per hundredweight or the equivalent of milk.

(C) VALUE OF PRODUCTS.—For the purpose of determining the assessment on imports under subparagraph (B), the value to be placed on imported dairy products shall be established by the Secretary in a fair and equitable manner.

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(A) by designating the first through ninth sentences as paragraphs (1) through (5) and paragraphs (7) through (10), respectively;

(B) in paragraph (1) (as so designated), by striking “members” and inserting “36 members’ representatives”;

(C) in paragraph (2) (as so designated), by striking “members” and inserting “members’ representatives”;

(D) by adding after “members’ representatives” the following:

(6) IMPORTERS.—(A) IN GENERAL.—Of the members of the Board, 36 members’ representatives shall be appointed by the Secretary.

(B) APPOINTMENT.—The importer representatives shall be appointed by the Secretary from nominations submitted by importers under such procedures as the Secretary determines to be appropriate.

(2) ASSESSMENT.—Section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4503(g)) is amended by—

(A) designating the first through fifth sentences as paragraphs (1) through (5), respectively; and

(B) by adding at the end the following:

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(A) IN GENERAL.—The order shall provide that each importer of imported dairy products shall pay an assessment to the Board in the manner prescribed by the order.

(8) RATE.—The rate of assessment on imported dairy products shall be determined in the same manner as the rate of assessment per hundredweight or the equivalent of milk.

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(A) designating the first through fifth sentences as paragraphs (1) through (5), respectively; and

(B) by adding at the end the following:

(7) IMPORTERS.—

(A) IN GENERAL.—Of the members of the Board, 36 members’ representatives shall be appointed by the Secretary.

(9) REPRESENTATION ON BOARD.—Section 113(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(b)) is amended—

(A) by designating the first through ninth sentences as paragraphs (1) through (5) and paragraphs (7) through (10), respectively;

(B) in paragraph (1) (as so designated), by striking “members” and inserting “36 members’ representatives”;

(C) in paragraph (2) (as so designated), by striking “members” and inserting “members’ representatives”;

(D) by adding after “members’ representatives” the following:

(6) IMPORTERS.—(A) IN GENERAL.—Of the members of the Board, 36 members’ representatives shall be appointed by the Secretary.
to baseball’s problems. On the contrary, it would get government out of the way by eliminating a serious government-made obstacle to resolution of the labor difficulties in baseball. Baseball’s antitrust immunity has distorted the labor force in professional major league baseball and has retarded baseball’s growth from the market forces that have allowed the other professional sports, such as football and basketball, to thrive.

I should note that comparable legislation has been introduced in the other body of Congress by the ranking member of the House Judiciary Committee, whose bill bears Mr. Flood’s number.

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

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

S. 53

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 “Curt Flood Act of 1997.”

SEC. 2. APPLICATION OF THE ANTITRUST LAWS TO PROFESSIONAL MAJOR LEAGUE BASEBALL.

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

“SEC. 27. (a) Subject to subsection (b), the antitrust laws shall apply to the business of professional major league baseball.

“(b) Nothing in this section shall be construed to affect:

“(1) the applicability or nonapplicability of the antitrust laws to the amateur draft of professional baseball, the minor league reserve clause, the agreement between professional major league baseball teams and teams of the National Association of Baseball, commonly known as the ‘Professional Baseball Agreement,’ or any other matter relating to the minor leagues;

“(2) the applicability or nonapplicability of the antitrust laws to any restraint by professional baseball affecting player relocation; or

“(3) the application of Public Law 87-331 (15 U.S.C. 1291 et seq.) (commonly known as the ‘Sports Broadcasting Act of 1961’).”

Mr. THURMOND. Mr. President, I rise today in support of the Curt Flood Act of 1997, which I am cosponsoring with Senator HATCH, Senator LEAHY, and others. Our legislation would repeal the antitrust exemption which shields major league baseball from the antitrust laws that apply to all other professional and unregulated businesses in our Nation. This bill is virtually identical to S. 627 in the last Congress which was the result of discussions between myself and Senators HATCH and LEAHY following the February 1995 hearing I chaired on this important issue. The bill is a compromise which has been carefully drafted to ensure that it achieves its purpose without imposing any unnecessary hardship on major league baseball.

It is time to build on the progress we made last year and long past time for the Senate to act. Congress may not be able to solve every problem or heal baseball’s self-inflicted wounds, but we can do this: We can pass legislation that will declare that professional baseball can no longer operate above the law.

Our antitrust laws protect competition and benefit consumers. We are faced with an anomalous situation where the Federal antitrust laws have not applied to certain major league baseball functions and operations for over 70 years.

That we will, at long last, take up the issue of major league baseball’s antitrust exemption. The burden of proof is on those who seek to justify this exemption from the law. No other business or professional sport is possessed of the exemption from law that major league baseball has enjoyed and abused.

One of the players who testified at our hearings last Congress asked a great and pertinent question: If baseball were coming to Congress today to ask us to provide a statutory exemption, would such a bill be passed? I believe the answer to that question is a resounding no.

In addition, there is and has been no independent commissioner who could look out for the best interests of baseball and its fans. Despite repeated assurances, there has been no action to restore a strong, independent commissioner to oversee the game and it has suffered the consequences. It is only now beginning to emerge from a 4-year struggle without a labor-management agreement. I see that the owners last Congress authorized the appropriate committee to begin a search for a new commissioner. In my view baseball would be well served by making a serious commitment to a strong, independent commissioner. Neither fans nor Congress will be inspired by delay, drift or lack of direction.

In Vermont when I was growing up virtually everyone was a Red Sox fan. Now loyalties are split among teams and among various sports. We have a successful minor league team, the Vermont Expos, the champions of the New York-Penn League last season. We also have businesses and jobs that depend on baseball and fans who have been hurt by its shortsightedness and mismanagement over the past several years. There is a strong public interest in baseball and it reverberates throughout the country.

I am concerned about the interests of the public and, in particular, the interests of baseball fans. To reiterate the words of baseball’s last commissioner, Fay Vincent: “Baseball is more than ownership of an ordinary business. Owners have a duty to take into consideration the team a part of America’s national pastime—in trust. This trust sometimes requires putting self-interest second.” Baseball’s fans feel that this trust had been violated over the last several years.

It is the public that is being shortchanged by the policies and practices of major league baseball and by disregard for the interests of the fans.
look forward to moving ahead thought-fully to reconsider major league base-

tball’s exemption from legal require-
ments to which all other businesses
must conform their behavior. Since the
multi-billion dollar businesses that
have grown from what was once our na-
tional pastime are now being run ac-
cordingly to a financial bottom line, a
healthy injection of competition may be
just what is needed.

I want to be reassured, for example,
that the millions of dollars that cannot
be abandoned or exploited by major
league owners and that the negotia-
tions concerning the Professional Base-
ball Agreement proceed to a fair con-
clusion without being skewed by some
notion of antitrust exemption. I want
to consider whether there are measures
we in Congress might take to strength-
en the hands of cities, taxpayers and
fans against the extortionate demands
for new stadiums at public expense. I
want to revisit the issues of antitrust
immunity in connection with sports
broadcasting rights and restrictions on
viewers’ access to programming im-
posed by major league owners. If I had
my way, we would make progress in
clearing each of these matters.

In expediting what I know to be a
co-sponsoring this consensus measure.
I look forward to our prompt hearings,
Committee and Senate consideration
and to working with others to forge a
legal framework in which the public
will be able to access its beloved sport
without the pressures of antitrust ex-
emption legislation.

I am delighted and encouraged that
the ranking Democratic member of the
House Judiciary Committee, Rep. JOHN
CONYERS, J r., also acted on the first
day of legislative activity in the House
to introduce H.R. 21, companion base-
ball antitrust legislation based on what
we reported last Congress. It is right
and fitting that he chose Curt Flood’s
number for this bill.

Mr. Flood passed away yesterday. His
contribution to the game of baseball
grew well beyond his all star play and
outstanding statistics. He was a criti-
cal part of championship teams during
his years patrolling center field for the
St. Louis Cardinals in the last 50’s and
60’s. He was an outstanding hitter,
fielder and all around player in an era of
great players.

His part in baseball history has even
to more to do with his resolve to stand up
for what he knew was the right thing
and to risk and sacrifice, he proudly stood
up for what he believe was right.’’

At this time, I am pleased to support
any efforts that will provide a more
level playing field for baseball’s labor
negotiations and that should help to
prevent future strikes like the one we
experienced in 1994 and 1995 from inter-
rupting the fans enjoyment of the
game of baseball itself. While I am
happy that both the owners and the
players agreed to support this limited
repeal of baseball’s antitrust exemp-
tion, I am concerned about the racial
wealth of professional baseball to control
the relocation of franchises.

Curt Flood put his career on the line
by sitting out the 1970 season as he
challenged baseball’s reserve clause—
rules that prohibited players from
choosing which teams they wished to
play for. While he resumed playing in
1971 after St. Louis and Philadelphia
made a deal with the Washington Sen-
ators, the year off hurt Mr. Flood. his
level of play was not the same and he
spent three more years playing for the
Senators. The head of the players’
union, Don Fehr, called Mr. Flood “a
man of quiet dignity.” He added, “Curt
Flood conducted his life in a way that
set an example for all who had the
privilege to know him. When it came
time to take a stand, at great personal
risk and sacrifice, he proudly stood
firm for what he believe was right.”

I thank my friend from Utah for in-
viting me to co-sponsor this legislation,
and hope other Senators agree with us
that the time has come to act.

By Mr. HATCH (for himself, Mrs.
FEINSTEIN, Mr. D’AMATO, Mr.
HARKIN, and Mr. REID)
S. 54. A bill to reduce interstate
street gang and organized crime activ-
ity, and for other purposes; to the Com-
mittee on the Judiciary.

THE FEDERAL GANG VIOLENCE ACT OF 1997

HATCH. Mr. President, I rise
today to introduce the Gang
Violence Act. I am pleased to be in-
cluded in this important effort by Senator
FEINSTEIN, as well as by Senators
D’AMATO, HARKIN, and REID.

Gang violence in many of our com-
nunities is reaching frightening levels.
Last year, my hometown of Salt Lake
City was shocked by a particularly
awful example. Asipeli Mohi, a 17-year-
old Utahn, was tried and convicted of
the gang-related beating and shooting
death of another teenager, Aaron Chap-
man. Why was Aaron Chapman mur-
dered? He was wearing red, apparently
the color of a rival gang. Ironically,
Mr. Chapman was on his way home
from attending an anti-gang benefit
concert when he was killed. Before
committing this murder, the killer had
racked up a record of five felonies and
fifteen misdemeanors in juvenile court.

Sadly, this example of senseless gang
violence is not an isolated incident in
my State or elsewhere. It is a scene re-
petent with disturbing frequency.

Gang violence is now common even
in places where we would have been
unthinkable several years ago. Indeed,
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many people find it hard to believe that Salt Lake City or Ogden could have such a problem—gangs, they think, are a problem in cities like New York, Chicago, and Los Angeles, but not in our smaller cities. However, the truth is much grimmer. Since 1992, gang activity in Salt Lake City has increased tremendously. For instance, the number of identified gangs has increased fifty-five percent, from 185 to 288, and the number of gang members has increased 146 percent, from 1,438 to 3,545.

The number of gang-related crimes has increased a staggering 196 percent, from 1,741 in 1992 to 3,516 in the first eleven months of 1996. In 1995, there were 174 gang-related drive-by shootings, and in the first eleven months of 1996, this dismay statistic increased to 207.

Our problem is severe. Moreover, there is a significant role the federal government can play in fighting this battle that is inadequate the unbridled extension of federal jurisdiction. Indeed, I often think that we have federalized too many crimes. However, in the case of criminal street gangs, which increasingly are moving interstate, to commit crimes, there is a very proper role for the federal government to play.

This bill will strengthen the coordinated, cooperative response of federal, state, and local law enforcement to criminal street gangs by providing the necessary tools needed to combat gang violence. Violent crimes committed by youth continue to be the fastest growing type of crime. Indeed, even as the general crime rate has leveled off, or even declined slightly over the last couple of years, violent youth crime, much of it committed by gangs, has increased. As my colleagues know, the sophistication and the interstate nature of these gangs has increased as well.

This bill puts teeth into the federal gang statute, adding tough penalties based on the existing Continuing Criminal Enterprise statute in title 21 [21 U.S.C. 848]. Federal prosecutors will be able to charge gang leaders or members under this section if they engage in two or more criminal gang offenses. These offenses include violent crimes, serious drug offenses, drug money laundering, extortion, and obstruction of justice—all offenses commonly committed by gangs.

Our bill adds a one to ten year sentence for the recruitment of persons into a gang. Importantly, there are even tougher penalties for recruiting a minor into a gang, including a four year mandatory minimum sentence.

The bill adds the use of a minor in a crime to the list of offenses for which a person can be prosecuted under federal racketeering laws, known as RICO. It enhances the penalties for transferring a handgun to a minor, knowing that it will be used in a crime of violence, and adds a new federal sentencing enhancement for the use of body armor in the commission of a federal crime.

Finally, the legislation we introduce today adds serious juvenile drug offenses and predicate crimes under the federal Armed Career Criminal Act, and authorizes $20 million over five years to hire federal prosecutors to crack down on criminal gangs.

Mr. President, these are common sense, needed provisions. They're tough. We need to get tough with gangs who recruit kids with the lure of easy money and glamour. This legislation is not a panacea for our youth violence problem, but it is a critical step in addressing this issue. I look forward to working with my colleagues on this bill, and urge their support.

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

S. 54
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the “Federal Gang Violence Act”.

SECTION 2. INCREASE IN OFFENSE LEVEL FOR PARTICIPATION IN CRIME AS A GANG MEMBER.
(a) DEFINITION.—In this section, the term “criminal street gang” has the same meaning as in section 1961 of title 18, United States Code, as amended by section 3 of this Act.

(b) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement, increasing the offense level by not less than 6 levels, for any offense, if the offense was both committed in connection with, or in furtherance of, the activities of a criminal street gang and the defendant was a member of the criminal street gang at the time of the offense.

(c) CONSTRUCTION WITH OTHER GUIDELINES.—The amendment made pursuant to subsection (b) shall provide that the increase in the offense level shall be in addition to any other adjustment under chapter 3 of the Federal sentencing guidelines.

SECTION 3. AMENDMENT OF TITLE 18 WITH RESPECT TO CRIMINAL STREET GANGS.
(a) IN GENERAL.—Section 521 of title 18, United States Code, is amended—
(1) in subsection (a)—
(A) by striking “(a) DEFINITIONS.—”, and
(B) by striking “(a) DEFINITIONS.—”, and inserting the following:
“(a) DEFINITIONS.—In this section:”, and
(C) by striking “(c) PREDICATE GANG CRIME.—The term ‘criminal street gang’ means an ongoing group, club, organization, or association of 3 or more persons, whether formal or informally organized, that—
(1) has as one of its purpose, objective, or effect, the commission of crimes; and
(2) is recognized by the members as a criminal organization;
“(b) AMENDMENT OF TITLE 18 WITH RESPECT TO CRIMINAL STREET GANGS.
(a) IN GENERAL.—Section 521 of title 18, United States Code, is amended—
(1) in subsection (a)—
(A) by striking “(a) DEFINITIONS.—”, and
(B) by striking “(a) DEFINITIONS.—”, and inserting the following:
“(a) DEFINITIONS.—In this section:”, and
(C) by striking “(c) PREDICATE GANG CRIME.—The term ‘criminal street gang’ means an ongoing group, club, organization, or association of 3 or more persons, whether formal or informally organized, that—
(1) has as one of its purpose, objective, or effect, the commission of crimes; and
(2) is recognized by the members as a criminal organization;
“(b) AMENDMENT OF TITLE 18 WITH RESPECT TO CRIMINAL STREET GANGS.
(a) IN GENERAL.—Section 521 of title 18, United States Code, is amended—
(1) in subsection (a)—
(A) by striking “(a) DEFINITIONS.—”, and
(B) by striking “(a) DEFINITIONS.—”, and inserting the following:
“(a) DEFINITIONS.—In this section:”, and
(C) by striking “(c) PREDICATE GANG CRIME.—The term ‘criminal street gang’ means an ongoing group, club, organization, or association of 3 or more persons, whether formal or informally organized, that—
(1) has as one of its purpose, objective, or effect, the commission of crimes; and
(2) is recognized by the members as a criminal organization;
“(b) AMENDMENT OF TITLE 18 WITH RESPECT TO CRIMINAL STREET GANGS.
(a) IN GENERAL.—Section 521 of title 18, United States Code, is amended—
(1) in subsection (a)—
(A) by striking “(a) DEFINITIONS.—”, and
(B) by striking “(a) DEFINITIONS.—”, and inserting the following:
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(C) by striking “(c) PREDICATE GANG CRIME.—The term ‘criminal street gang’ means an ongoing group, club, organization, or association of 3 or more persons, whether formal or informally organized, that—
(1) has as one of its purpose, objective, or effect, the commission of crimes; and
(2) is recognized by the members as a criminal organization;
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(a) IN GENERAL.—Section 521 of title 18, United States Code, is amended—
(1) in subsection (a)—
(A) by striking “(a) DEFINITIONS.—”, and
(B) by striking “(a) DEFINITIONS.—”, and inserting the following:
“(a) DEFINITIONS.—In this section:”, and
(C) by striking “(c) PREDICATE GANG CRIME.—The term ‘criminal street gang’ means an ongoing group, club, organization, or association of 3 or more persons, whether formal or informally organized, that—
(1) has as one of its purpose, objective, or effect, the commission of crimes; and
(2) is recognized by the members as a criminal organization;
CRIMES OF VIOLANCE.—Any person who—

(A) travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity; and

(B) after travel or use of the mail or any facility in interstate or foreign commerce described in subparagraph (A), attempts to commit, or conspires to commit, any crime of violence to further any unlawful activity, shall be fined under this title, imprisoned not more than 10 years, or both.

(2) PREMISES—A person who—

(A) possesses or manufactures, sells, or disposes of any firearm or destructive device; and

(B) in the course of travel or use of the mail or any facility in interstate or foreign commerce, with intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity; shall be fined not more than $10,000, imprisoned for not more than 10 years, or both.

(3) PUBLICATION.—A person who—

(A) is a minor, is not a minor, or conspires to commit, any unlawful activity; and

(B) in the course of travel or use of the mail or any facility in interstate or foreign commerce, with intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity, shall be fined not more than $10,000, imprisoned for not more than 10 years, or both.

(4) CONSPIRACY.—A conspiracy to violate the criminal law, as defined in section 371 of title 18, United States Code, is punished by a fine or imprisonment, or both.

(5) USE IN CRIME.—Section 924(h) of title 18, United States Code, as amended by this section, shall be in effect if the Federal crime in which the defendant is convicted is punishable by a term of imprisonment for more than 1 year.

(6) USE IN CRIME.—Section 924(i) of title 18, United States Code, as amended by this section, shall be in effect if the Federal crime in which the defendant is convicted is punishable by a term of imprisonment for more than 1 year.

(7) USE IN CRIME.—Section 924(j) of title 18, United States Code, as amended by this section, shall be in effect if the Federal crime in which the defendant is convicted is punishable by a term of imprisonment for more than 1 year.

SEC. 6. CRIMES INVOLVING THE RECRUITMENT OF PERSONS TO PARTICIPATE IN CRIMINAL STREET GANG ACTIVITY

SEC. 6. CRIMES INVOLVING THE RECRUITMENT OF PERSONS TO PARTICIPATE IN CRIMINAL STREET GANG ACTIVITY

(a) PENALTIES.—Section 924(a)(6) of title 18, United States Code, is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraph (B) as subparagraph (A);

(b) USE IN CRIME.—Section 924(i) of title 18, United States Code, as amended by this Act, shall be in effect if the Federal crime in which the defendant is convicted is punishable by a term of imprisonment for more than 1 year.

(c) USE IN CRIME.—Section 924(j) of title 18, United States Code, as amended by this Act, shall be in effect if the Federal crime in which the defendant is convicted is punishable by a term of imprisonment for more than 1 year.

SEC. 7. PROHIBITION RELATING TO FIREARMS.

SEC. 7. PROHIBITION RELATING TO FIREARMS.

(a) PENALTIES.—Section 924(a)(6) of title 18, United States Code, is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraph (B) as subparagraph (A);

(b) USE IN CRIME.—Section 924(i) of title 18, United States Code, as amended by this Act, shall be in effect if the Federal crime in which the defendant is convicted is punishable by a term of imprisonment for more than 1 year.

(c) USE IN CRIME.—Section 924(j) of title 18, United States Code, as amended by this Act, shall be in effect if the Federal crime in which the defendant is convicted is punishable by a term of imprisonment for more than 1 year.

SEC. 8. AMENDMENT OF SENTENCING GUIDELINES WITH RESPECT TO BODY ARMOR.

SEC. 8. AMENDMENT OF SENTENCING GUIDELINES WITH RESPECT TO BODY ARMOR.

(a) DEFINITIONS.—In this section—

(A) the term ‘body armor’ means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment; and

(B) the term ‘law enforcement officer’ means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law to make arrests, investigate criminal violations of the laws of the United States in the course of providing any security services, or investigate criminal violations of the laws of any State or its political subdivisions.

(c) APPLICABILITY.—No Federal sentencing guideline amendment made pursuant to this section shall apply if the Federal crime in which the defendant is convicted is punishable by a term of imprisonment for more than 1 year.

(d) USE IN CRIME.—Section 924(i) of title 18, United States Code, as amended by this Act, shall be in effect if the Federal crime in which the defendant is convicted is punishable by a term of imprisonment for more than 1 year.

SEC. 9. ADDITIONAL PROSECUTORS.

SEC. 9. ADDITIONAL PROSECUTORS.

There are authorized to be appropriated $20,000,000 for each of the fiscal years 1998, 1999, 2000, 2001, and 2002 for the hiring of Assistant United States Attorneys and attorneys for the Criminal Division of the Department of Justice to prosecute juvenile criminal street gangs (as that term is defined in section 522(a) of title 18, United States Code, as amended by section 3 of this Act).

By Mr. FEINGOLD (for himself and Mr. REID):
S. 57. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, to limit soft money of political party committees, and for other purposes; to the Committee on Rules and Administration.

THE SENATE CAMPAIGN FINANCING AND SPENDING REFORM ACT

Mr. FEINGOLD. Mr. President, I rise today to introduce the proposed Senate Campaign Financing and Spending Reform Act of 1997, legislation that would provide public financing for Senate elections.

The need for comprehensive campaign finance reform is unquestionable. Each election year continues to set new records for campaign spending by federal candidates, with 1996 campaign expenditures expected to surpass $1.6 billion. The explosion in campaign spending has alienated the American people from the election process, discouraged thousands of qualified yet underfunded candidates from seeking public office, and heightened public disgust with the ways of Washington. Spending levels not seen since the dark days of Watergate.

I have long believed that we need to sever the nexus between money and politics, and end as a prerequisite for elected officials their ability to raise and spend millions of dollars. The most straightforward way to achieve that result is through a system of public financing.

The legislation I am introducing today, which I also introduced at the outset of the 104th Congress, would provide qualified candidates with the means to run a credible, competitive and issue-based campaign without having to raise the average $5 million it takes to win a Senate election.

This bill will establish voluntary spending limits based on each state's individual voting age population. With the cooperation of the candidates, this will finally curtail the skyrocketing spending that has plagued political campaigns in recent years. Just as important, these spending limits will allow members of Congress to focus on their duties and responsibilities as elected officials rather than spending substantial sums of time raising money. For those candidates that do abide by the spending limits, there will be matching funds in the primary election for contributions under $250, once a candidate has raised 15 percent of that state's spending limit in contributions of $250 or less, half of which must come from within the candidate's state. There will be a 100 percent match for contributions under $100, and a 50 percent match for contributions between $101 and $250.

These provisions, along with only providing matching funds for in-state contributions, will encourage candidates to focus on smaller contributions from their home states. I believe this focus upon raising money within our home states is critical. General election candidates will become eligible for public financing benefits equal to the general election spending limit for their state. In addition to agreeing to limit their overall campaign spending, candidates who receive the public benefits must agree to not spend more than $25,000 of their own money.

Opponents of campaign finance reform have often suggested that voluntary spending limits are unconstitutional. That is unfounded. In fact, in the landmark Supreme Court decision in Buckley v. Valeo, the Court noted that "Congress may engage in public financing of election campaigns and may condition acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations." Just as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forego private fundraising and accept public funding.

The legislation also bans so-called "soft money." It allows corporations, labor unions, and wealthiest individuals to contribute unlimited funds, up to millions of dollars, to the political parties outside the scope of Federal election law. The legislation also prohibits so-called Political Action Committee (PAC) contributions to Federal candidates, prohibits lawmakers from sending out franked mass mailings during the calendar year of an election, bars lobbyists from contributing to elected officials they have lobbied in a 12-month period, and codifies a recent ruling by the Federal Election Commission that bars candidates from using campaign funds for personal purposes, such as mortgage payments, country club memberships, and vacations.

Public financing of campaigns will give challengers a legitimate opportunity to run a competitive campaign, will allow incumbent senators to focus on their legislative responsibilities, and will help to extinguish public perceptions that the United States Congress is under the control of the Washington special interests.

Public support for this sort of reform is strong. According to a recent poll by the Mellman Group, 59 percent of the American people—the highest level since Watergate—support full public financing for congressional campaigns. Just 29 percent of the American people oppose this proposal. The Mellman Group even found two out of every three self-described Republicans support public financing. A Gallup poll found similar results, finding 64 percent overall support for a public financing system.

And perhaps most revealing, a very recent Wall Street Journal/NBC News poll found 92 percent of the American people simply believe too much money is spent in Federal elections. I have no illusions that a public financing proposal would win approval in the 108th Congress. I believe that one day those who have opposed public financing will finally get the message the voters are trying to send us and there will be wider support within the Congress for this approach to cleaning up election campaigns.

In the meantime, I do believe there are meaningful reforms that can be considered and enacted with bipartisan support. That is why I have joined with a number of my colleagues on both sides of the aisle, including Senators McCaIN, THOMPSON, WELSTON, and others in co-authoring the first bipartisan campaign finance reform proposal offered in a decade.

That legislation, strongly supported by President Clinton, Common Cause, and numerous grassroots organizations and newspapers nationwide, would begin the process of fundamentally changing and reducing the role of money in our political system. It also encourages candidates to limit their campaign spending, but instead of offering public direct public financing, it provides substantial discounts on broadcast media and postage rates to candidates who agree to limit their overall spending, who agree to limit their own personal spending, and who agree to raise 60 percent of their campaign funds from their home States. I look forward to working with my colleagues on passing such meaningful reform, and will press for action in the first 100 days of this new Congress.

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

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

S. 57

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE—This Act may be cited as the "Senate Campaign Financing and Spending Reform Act".

(b) TABLE OF CONTENTS—

Sec. 1. Short title; table of contents.
Sec. 2. Findings and declarations of the Senate.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Expenditure Limits and Benefits

Sec. 101. Senate expenditure limits and benefits.
Sec. 102. Political action committees.
Sec. 103. Reporting requirements.
Sec. 104. Disclosure by candidates other than eligible Senate candidates.

Subtitle B—General Provisions

Sec. 131. Broadcast rates and preemption.
Sec. 132. Extension of reduced third-class mailing rates to eligible senate candidates.
Sec. 133. Campaign advertising amendments.
Sec. 134. Definitions.
Sec. 135. Provisions relating to franked mass mailings.

TITLE II—INDEPENDENT EXPENDITURES

Sec. 201. Definitions.
TITLE V—REPORTING REQUIREMENTS
Sec. 501. Definitions.
Sec. 502. Eligible Senate candidates.
Sec. 503. Contributions of $50 or more.
Sec. 504. Computerized indices of contributions.

TITLE VI—FEDERAL ELECTION COMMISSION
Sec. 601. Use of candidates' names.
Sec. 602. Reporting requirements.
Sec. 603. Provisions relating to the general counsel of the Commission.
Sec. 604. Penalties.
Sec. 605. Random audits.
Sec. 606. Prohibition of false representation to solicitors.
Sec. 607. Regulations relating to use of non-Federal money.
Sec. 608. Filing of reports using computers and facsimile machines.

TITLE VII—MISCELLANEOUS
Sec. 701. Prohibition of leadership committees.
Sec. 702. Polling data contributed to candidates.
Sec. 703. Restrictions on use of campaign funds for personal purposes.

VIII—EFFECTIVE DATES; AUTHORIZATIONS
Sec. 801. Effective date.
Sec. 802. Repealability.
Sec. 803. Expired review of constitutional issues.

SEC. 2. FINDINGS AND DECLARATIONS OF THE SENATE.
(a) NECESSITY FOR SPENDING LIMITS.—The Senate finds and declares that—
(1) the current system of campaign finance has led to public perceptions that political contributions and their solicitation have undermined the official conduct of elected officials;
(2) permitting candidates for Federal office to raise and spend unlimited amounts of money constitutes a fundamental flaw in the current system of campaign finance, and has undermined public respect for the Senate as an institution;
(3) the failure to limit campaign expenditures has caused individuals elected to the Senate to spend an increasing proportion of their time in office as elected officials raising funds, interfering with the ability of the Senate to carry out its constitutional responsibilities;
(4) the failure to limit campaign expenditures has damaged the Senate as an institution, due to the time lost to raising funds for campaigns; and
(5) to prevent the appearance of undue influence and to restore public trust in the Senate as an institution, it is necessary to limit campaign expenditures, through a system which provides public benefits to candidates who agree to limit campaign expenditures.

(b) NECESSITY FOR ATTRIBUTING COOPERATIVE EXPENDITURES TO CANDIDATES.—The Senate finds and declares that—
(1) public confidence and trust in the system of campaign finance would be undermined should any candidate be able to circumvent the system of caps on expenditures through cooperative expenditures with outside individuals, groups, or organizations;
(2) cooperative expenditures by candidates with outside individuals, groups, or organizations would severely undermine the effectiveness of caps on campaign expenditures, unless they are included within such caps; and
(3) to maintain the integrity of the system of campaign finance, expenditures by any individual, group, or organization that have been made in cooperation with any candidate, authorized committee, or agent of any candidate must be attributed to that candidate's cap on campaign expenditures.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING
Subtitle A—Senate Election Campaign Expenditure Limits and Benefits

SEC. 101. SENATE EXPENDITURE LIMITS AND BENEFITS.
(a) AMENDMENT OF F ECA.—Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 503. Definitions. In this title:
"(a) I ELIGIBLE SENATE CANDIDATE.—The term 'eligible Senate candidate' means a candidate who is certified under section 505(a)(1) as being eligible to receive benefits under this title.
"(b) EXCESS EXPENDITURE AMOUNT.—The term 'excess expenditure amount', with respect to an eligible Senate candidate, means the amount applicable to the eligible Senate candidate under section 505(c).
"(c) EXPENDITURE.—The term 'campaign expenditure' has the meaning given in paragraph (9) of section 303, excluding subparagraph (B)(ii) of that paragraph.
"(d) FUND.—The term 'Fund' means the Senate Election Campaign Fund established by section 509.
"(e) GENERAL ELECTION EXPENDITURE LIMIT.—The term 'general election expenditure limit', with respect to an eligible Senate candidate, means the limit applicable to the eligible Senate candidate under section 503(b).
"(f) PERSONAL FUNDS EXPENDITURE LIMIT.—The term 'personal funds expenditure limit', with respect to an eligible Senate candidate, means the limit applicable to the eligible Senate candidate under section 503(b).
"(g) RUNOFF ELECTION EXPENDITURE LIMIT.—The term 'runoff election expenditure limit', with respect to an eligible Senate candidate, means the limit applicable to the eligible Senate candidate under section 503(b).

SEC. 502. ELIGIBLE SENATE CANDIDATES. In this title, a candidate is an eligible Senate candidate if the candidate—
"(1) files a primary election eligibility certification and declaration under subsection (b) and is in compliance with the representations made in the certification and declaration;
"(2) files a general election eligibility certification and declaration under subsection (c) and is in compliance with the representations made in the certification and declaration; and
"(3) files a runoff election eligibility certification and declaration under subsection (d) and is in compliance with the representations made in the certification and declaration.

"(B) PRIMARY ELECTION ELIGIBILITY CERTIFICATION AND DECLARATION.—
"(i) IN GENERAL.—The requirements of this subsection are met if the candidate files with the Secretary of the Senate—
"(A) a certification, under penalty of perjury, that the candidate has met the threshold contribution requirement of subsection (e); and
"(B) a declaration that the candidate and the candidate's authorized committees—
"(i)(I) will not exceed the primary election expenditure limit or runoff election expenditure limits; and
"(ii) will accept only an amount of contributions for the primary election and any runoff election that does not exceed the primary election expenditure limit and, if there is a runoff election, the runoff election expenditure limit; and
"(iii) will not exceed the primary and runoff election multicandidate political committee contribution limits of subsection (f); and
"(iv) will not exceed the general election expenditure limit.
"(2) DEADLINE FOR FILING DECLARATION.—The declaration under paragraph (1) shall be filed not later than the date on which the candidate files as a candidate for the primary election.

"(C) GENERAL ELECTION ELIGIBILITY CERTIFICATION AND DECLARATION.—
"(i) IN GENERAL.—The requirements of this subsection are met if the candidate files with the Secretary of the Senate—
"(A) a certification, under penalty of perjury, that—
"(I) the candidate and the candidate's authorized committees—
"(i)(I) will not exceed the primary election expenditure limit or runoff election expenditure limits; and
"(ii) will accept only an amount of contributions for the primary election and any runoff election from multicandidate political committees that does not exceed those limits; and
"(iii) will not accept contributions for the primary or runoff election that would cause the candidate to exceed the limitation on contributions from out-of-State residents under subsection (g); and
"(iv) will not exceed the general election expenditure limit.
"(2) DEADLINE FOR FILING DECLARATION.—The declaration under paragraph (1) shall be filed not later than the date on which the candidate files as a candidate for the primary election.

"(D) SPECIAL ELECTIONS.—The provisions of this title, a candidate is an eligible Senate candidate if the candidate—
"(1) files a primary election eligibility certification and declaration under subsection (b) and is in compliance with the representations made in the certification and declaration; and
"(2) files a general election eligibility certification and declaration under subsection (c) and is in compliance with the representations made in the certification and declaration; and
"(3) files a runoff election eligibility certification and declaration under subsection (d) and is in compliance with the representations made in the certification and declaration.
“(i) except as otherwise provided by this title, will not make expenditures that exceed the general election expenditure limit;

“(ii) except as otherwise provided by this title, will not make expenditures that exceed the primary election expenditure limit.

“(1) would cause the aggregate amount of contributions received for the primary election to exceed the sum of the amount of the general election expenditure limit, reduced by any amounts transferred to the current election cycle from a previous election cycle that are not taken into account under subparagraph (A)(ii);

“(ii) would cause the candidate to exceed the limitation on contributions from out-of-State residents under subsection (g);

“(iii) would be in violation of section 315; or

“(iii) deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

“(vii) furnish campaign records, evidence of contributions, and other appropriate information to the Commission; and

“(viii) cooperate in the case of any audit and examination by the Commissioner under section 306 and pay any amounts required to be paid under that section.

“(2) Deadline for Filing Declaration and Certification.—The declaration and certification under paragraph (1) shall be filed not later than the earlier of—

“(A) the date on which the candidate qualifies for the general election ballot under State law; or

“(B) if under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date on which the candidate wins the primary runoff election.

“(d) PRIMARY AND RUNOFF ELECTION EXPENDITURE LIMITS.—

“(1) IN GENERAL.—The requirements of this subsection are met if—

“(A) the candidate or the candidate’s authorized committees did not make expenditures for the primary election in excess of the lesser of—

“(i) 67 percent of the general election expenditure limit; or

“(ii) $2,750,000; or

“(B) the candidate and the candidate’s authorized committees did not make expenditures for the runoff election in excess of 20 percent of the general election expenditure limit.

“(2) INDEXING.—The $2,750,000 amount under paragraph (1)(A)(ii) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that, for purposes of subsection (d)(3) and section 503(b)(3), the base period shall be calendar year 1996.

“(3) INCREASE.—The limitations under subparagraph (A) of paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of, any opponent of the candidate during the primary or runoff election period, whichever is applicable, that are required to be reported to the Secretary of the Senate or to the Clerk of the House with respect to that period under section 304.

“(4) EXCESS AMOUNT OF CONTRIBUTIONS.—

“(A) IN GENERAL.—If the contributions received by the candidate or the candidate’s authorized committees for the primary election or runoff election exceed the expenditures for either election—

“(i) the excess amount of contributions shall be treated as contributions for the general election; and

“(ii) expenditures for the general election may be made from the excess amount of contributions.

“(B) LIMITATION.—Subparagraph (A) shall not apply to the treatment of excess contributions in accordance with subparagraph (A)—

“(i) where the aggregate amount of contributions received for the general election exceeds the limits under subsection (c)(1)(D); or

“(ii) under paragraph (1)(A)(ii) shall be increased by the same percentage as the percentage increase for the calendar period ending on the date of the general election.

“(f) MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTION LIMITS.—The requirements of this subsection are met if the candidate and the candidate’s authorized committees have accepted from multicandidate political committee allowable contributions that do not exceed—

“(1) during the primary election period, an amount equal to 20 percent of the primary election expenditure limit;

“(2) during the runoff election period, an amount equal to 20 percent of the runoff election spending limit;

“(g) LIMITATION ON OUT-OF-STATE CONTRIBUTIONS.—

“(1) REQUIREMENTS.—The requirements of this subsection are met if the candidate and the candidate’s authorized committees accept contributions from individuals who are legal residents of the candidate’s State.

“(2) PERSONAL FUNDS.—For purposes of paragraph (1), amounts consisting of funds earned by the candidate or the candidate’s authorized committees from the broadcast media rates provided under section 315(b) of the Communications Act of 1934;
"(2) the mailing rates provided in section 3626(e) of title 39, United States Code; and

"(3) payments in an amount equal to—

"(A) the public financing amount determined under subsection (B);

"(B) the excess expenditure amount determined under subsection (c); and

"(C) the independent expenditure amount determined under subsection (d).

"(2) PUBLIC FINANCING AMOUNT.—

"(1) DETERMINATION.—The public financing amount is determined under subsection (A).

"(2) ELIGIBILITY.—A candidate who is a major party candidate and has met the threshold requirement of section 502(e)—

"(i) an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less; plus

"(ii) an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 50 percent of the primary election expenditure limit; reduced by

"(III) the threshold requirement under section 502(e);

"(ii) during the runoff election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less; plus

"(III) during the general election period, an amount equal to the general election expenditure limit; and

"(B) in the case of an eligible candidate who is not a major party candidate and who has met the threshold requirement of section 502(e)—

"(i) during the primary election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 10 percent of the general election expenditure limit; reduced by

"(II) during the runoff election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less; plus

"(II) an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 50 percent of the primary election expenditure limit; reduced by

"(III) the threshold requirement under section 502(e);

"(ii) during the runoff election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less; plus

"(II) an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 10 percent of the general election expenditure limit; reduced by

"(III) the threshold requirement under section 502(e);

"(ii) during the runoff election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less; plus

"(II) an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 50 percent of the primary election expenditure limit; reduced by

"(III) the threshold requirement under section 502(e);

"(ii) during the runoff election period, an amount equal to 100 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $100 or less; plus

"(II) an amount equal to 50 percent of the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of more than $100 but less than $251, up to 50 percent of the general election expenditure limit; reduced by

"(III) the threshold requirement under section 502(e);
(a) EXAMINATIONS AND AUDITS.—

"(I) AFTER A GENERAL ELECTION.—After each general election, the Commission shall conduct an examination and audit of the campaign accounts of all candidates for the office of United States Senate in which there was an eligible Senate candidate on the ballot, as designated by the Commission to be maintained as an eligible Senate candidate in a general election if the Commission determines that the eligible Senate candidate may have failed to comply with this title.

"(II) EXCESS PAYMENT.—If the Commission determines any payment was made to an eligible Senate candidate under this title in excess of the aggregate amounts to which the eligible Senate candidate was entitled, the Commission shall notify the eligible Senate candidate, and the eligible Senate candidate shall pay an amount equal to the excess.

"(III) COMMISSION DETERMINATIONS.—If the Commission determines that an eligible Senate candidate made expenditures in an amount equal to the excess amount of the aggregate amounts to which the eligible Senate candidate was entitled, the Commission shall assess a civil penalty against the eligible Senate candidate in an amount equal to the sum of 3 times the amount of the excess expenditures plus an additional amount determined by the Commission.

"(IV) UNEXPIRED FUNDS.—

"(b) ACTIONS FOR RECOVERY OF AMOUNT OF EXCESS EXPENDITURES.—If the Commission determines that an eligible Senate candidate made expenditures that exceeded by more than 2.5 percent the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, the Commission shall assess a civil penalty against the eligible Senate candidate in an amount equal to 3 times the amount of the excess expenditures.

"(c) LARGE AMOUNT OF EXCESS EXPENDITURES.—If the Commission determines that an eligible Senate candidate made expenditures that exceeded 5 percent or more the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, the Commission shall assess a civil penalty against the eligible Senate candidate in an amount equal to 3 times the amount of the excess expenditures.

"(d) APPEALS.—The Commission, on behalf of the United States, may appeal from, and may petition the Supreme Court for certiorari to review, any judgment or decree entered in any action brought under any provision of this title.

"(e) E XCESS EXPENDITURES.—If the Commission determines that an eligible Senate candidate made expenditures in an amount equal to the excess expenditures for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period.

"(II) REPAYMENT.—At the end of the 120-day period, any unexpended funds received under this title shall be repaid to the Senate Election Campaign Fund.

"(III) LIMIT ON PERIOD FOR NOTIFICATION.—No notification shall be made by the Commission under this section with respect to an election more than 3 years after the date of the election.

"(4) DEPOSITS.—The Secretary shall deposit all payments received under this section into the Senate Election Campaign Fund.

"(5) JUDICIAL REVIEW.—Any agency action by the Commission under this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in that court within 30 days after the date of the agency action.

"(b) APPL I CATION OF TITLE 5, UNITED STATES CODE.—Amounts in the Fund shall apply to judicial review of any agency action by the Commission under this title.

"(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given in title 5, United States Code.

"(4) F ISCAL YEAR.—The Fiscal Year to which the Fund is credited in subsection (a) shall be the Fiscal Year ending on the last day of each calendar year.

"(5) F UND ACCOUNT.—The Secretary shall maintain in the Fund a fund account to be known as the 'Senate Election Campaign Fund,' and the balance in any account maintained by the Fund under section 505, shall be subject to the provisions of such sections.

"(6) FUND USE.—Amounts in the Fund shall be used for the following purposes:

"(a) Senate Election Campaign Fund.—There is established on the books of the Treasury of the United States a special fund to be known as the 'Senate Election Campaign Fund.'

"(b) APPROPRIATIONS.—(1) General.—There are appropriated to the Fund each fiscal year, out of amounts in the general fund of the Treasury, for each fiscal year a sum for the purposes of this title, as determined by the Congress. Such amounts shall be available only for the purposes of this title.

"(2) USE OF FUND.—Amounts in the Fund shall be available only for the purposes of—

"(A) Transfers.—The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount not in excess of the amount necessary to meet the current obligations of the Fund as determined by the Commission under this title.

"(B) F Shelf Year.—Amounts in the Fund shall remain available without fiscal year limitation.

"(C) USE OF FUND.—Amounts in the Fund shall be available only for the purposes of—

"(1) Transfers.—The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount not in excess of the amount necessary to meet the current obligations of the Fund as determined by the Commission under this title.

"(2) USE OF FUND.—Amounts in the Fund shall be available only for the purposes of—

"(A) Transfers.—The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount not in excess of the amount necessary to meet the current obligations of the Fund as determined by the Commission under this title.

"(B) USE OF FUND.—Amounts in the Fund shall be available only for the purposes of—

"(1) Transfers.—The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount not in excess of the amount necessary to meet the current obligations of the Fund as determined by the Commission under this title.

"(2) USE OF FUND.—Amounts in the Fund shall be available only for the purposes of—

"(A) Transfers.—The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount not in excess of the amount necessary to meet the current obligations of the Fund as determined by the Commission under this title.

"(B) USE OF FUND.—Amounts in the Fund shall be available only for the purposes of—

"(1) Transfers.—The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount not in excess of the amount necessary to meet the current obligations of the Fund as determined by the Commission under this title.

"(2) USE OF FUND.—Amounts in the Fund shall be available only for the purposes of—

"(A) Transfers.—The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount not in excess of the amount necessary to meet the current obligations of the Fund as determined by the Commission under this title.

"(B) USE OF FUND.—Amounts in the Fund shall be available only for the purposes of—

"(1) Transfers.—The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount not in excess of the amount necessary to meet the current obligations of the Fund as determined by the Commission under this title.
the availability of appropriations, promptly
pay the amount certified by the Commission
to the candidate out of the Senate Election Campaign Fund.

(2) SUSPENSION OF CONTRIBUTIONS.—

(1) WITHHOLDING.—If, at the time of a cer-
tification by the Commission under section 505 for an eligible Senate can-
didate, the Secretary determines that the monies in the Senate Election Campaign Fund are not, or may not be, sufficient to satisfy the full entitlement of all eligible candidates, the Secretary shall withhold from the amount of the payment any amount that the Secretary determines to be necessary to ensure that each eligible Senate candidate will receive the same pro rata share of the candidate’s full entitlement.

(2) SUBSEQUENT PAYMENT.—Amounts with-
held under paragraph (1) shall be paid when the Secretary determines that there are suf-
ficient monies in the Senate Election Campaign Fund to pay all or a portion of the funds withheld from all eligible Senate can-
didates, but, if only a portion is to be paid, the portion shall be paid in such a manner that each eligible candidate receives an equal pro rata share.

(3) NOTIFICATION OF ESTIMATED WITHHOLD-
ing.—

(A) ADVANCE ESTIMATE OF AVAILABLE FUNDS AND PROJECTED COSTS.—Not later than December 31 of any calendar year preceding a calendar year in which there is a regularly scheduled election, the Secretary shall, after consultation with the Commission, shall make an estimate of—

(i) the amount of funds that will be available to make payments under this title in the general election year; and

(ii) the costs of implementing this title in the general election year.

(B) NOTIFICATION TO SECRETARY.—If the Secretary deter-
moves that there will be insufficient funds under subparagraph (A) for any calendar year, the Secretary shall notify by registered mail any actual reduction in the amount of any payment by reason of this subsection.

(C) INCREASE IN CONTRIBUTION LIMIT.—The amount of an eligible candidate’s contribution limit under section 502(c)(3)(B)(iv) shall be increased by the amount of the pro rata withholding under subparagraph (B).

(4) NOTIFICATION OF ACTUAL WITHHOLD-
ing.—

(A) IN GENERAL.—The Secretary shall not-
ify the Commission and each eligible Senate candidate by registered mail of any actual reduction in the amount of any payment by reason of this subsection.

(B) GREATER AMOUNT OF WITHHOLDING.—If the amount of a withholding exceeds the amount estimated under paragraph (3), an elig-
ible Senate candidate’s contribution limit under section 502(c)(3)(B)(iv) shall be increased by the amount of the excess.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 1998.

(2) APPLICABILITY TO CONTRIBUTIONS AND EXPENDITURES.—For purposes of any expendi-
ture or contribution limitation imposed by the amendment made by subsection (b),—

(A) any contribution made before January 1, 1999, shall be taken into account, except that there shall not be taken into account any such expenditure for goods or services to be pro-
vided after June 30, 2000;

(B) all cash, cash items, and Government securities on hand as of January 1, 1999, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period begin-
ing on the 60th day after the date on which the campaign fund was created.

(3) EFFECT OF INVALIDITY ON OTHER PROVI-
SITIONS OF TITLE.—If section 502, 503, or 504 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) or any part of those sections is held to be invalid, this Act and all amendments made by this Act shall be treated as invalid.

(c) RETURN OF EXCESS.—A candidate or au-
thorized committee to receive a contribution from a Senate candidate, the Secretary determines that the aggregate amount of such contributions made to or received by the candidate is not greater than the excess (if any) of—

(i) the aggregate amount of such contributions made to or received by any opponent of the candidate before January 1, 1999; or

(ii) the aggregate amount of such contributions made to or received by the candidate before January 1, 1999.

(d) LIMITATIONS ON MULTICANDIDATE CAM-
Paign Funds.—(ii) 20 percent of the primary election ex-
penditure limit, runoff election expenditure limit, or general election expenditure limit (as those terms are defined in section 501) that is applicable to an eligible Senate candidate (as defined in section 501).

(e) EFFECTIVE DATES.—

(i) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act shall apply to elections on or after January 1, 1999.

(ii) APPLICABILITY.—In applying the amend-
ments made by this section, the aggregate amount of such contributions made to or received by a candidate who is not an eligible Senate candidate before January 1, 1999, shall be treated as invalid.

(f) MEANS OF TERMS.—Any term used in this section that is used in title V shall have the same meaning as when used in title V.
provided in section 502(c)(2), file with the Secretary of the Senate a declaration as to whether the candidate intends to make expenditures for the general election in excess of the general election expenditure limit.

"(2) REPORTS.—

"(A) INITIAL REPORT.—A candidate for the Senate who qualifies for the ballot for a general election—

"(i) who is not an eligible Senate candidate under section 502; and

"(ii) who receives contributions in an aggregate amount or makes or obligates to make expenditures in an aggregate amount for the general election that exceeds 75 percent of the general election expenditure limit; shall file a report with the Secretary of the Senate within 24 hours after aggregate contributions or expenditures have been made or obligated to be made in that amount (or, if later, within 24 hours after the date of qualification for the general election ballot), setting forth the candidate's aggregate amount of contributions received and aggregate amount of expenditures made or obligated to be made for the election of the report.

"(B) ADDITIONAL REPORTS.—After an initial report is filed under subparagraph (A), the candidate shall file additional reports (until the aggregate amount of contributions or expenditures exceeds 200 percent of the general election expenditure limit) with the Secretary of the Senate within 24 hours after the time additional contributions are received, or expenditures are made or obligated to be made, that in the aggregate exceed an amount equal to 10 percent of the general election expenditure limit and after the aggregate amount of contributions or expenditures exceeds 133%, 166%, and 200 percent of the general election expenditure limit.

"(3) NOTIFICATION OF OTHER CANDIDATES.—

"(A) shall, within 24 hours after receipt of a declaration or report under paragraph (1) or (2), notify each eligible Senate candidate of the filing of the declaration or report; and

"(B) if an opposing candidate has received aggregate contributions, or made or obligated to make aggregate expenditures, in excess of the general election expenditure limit, shall notify, under subsection (e), the eligible Senate candidate in the general election of the making of the determination; and

"(C) the commission shall, as soon as practicable, make a determination as to whether any amounts reported under paragraph (1) were for purposes of influencing the election of the individual to the office of Senator.

"(d) CANDIDATES FOR OTHER OFFICES.—

"(1) In general.—The Commission may make its own determination that a candidate in a general election who is not an eligible Senate candidate has made or obligated to make expenditures in an aggregate amount or contributions, or made or obligated to make aggregate expenditures, in the amounts that would require a report under paragraph (2).

"(2) Notification of eligible Senate candidates.—The Commission shall—

"(i) within 24 hours after making a determination under subparagraph (A), notify each eligible Senate candidate in the general election of the making of the determination; and

"(ii) when the aggregate amount of contributions or expenditures exceeds the general election expenditure limit, certify under subsection (e) an eligible Senate candidate's eligibility for payment of any amount under section 502(a).

"(3) NOTIFICATION OF PERSONAL FUNDS.—

"(1) Filing.—A candidate for the Senate, who, during an election cycle, expends more than $100,000 of personal funds, shall file a report with the Secretary of the Senate within 24 hours after expenditures have been made or loans incurred in excess of the personal funds expenditure limit.

"(2) Notification of eligible Senate candidates.—The Federal Election Commission shall notify each eligible Senate candidate in the general election of the filing of the report.

"(3) Action by the commission absent report.—

"(A) In general.—Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the Senate has made expenditures in excess of the amount under paragraph (1).

"(B) Notification of eligible Senate candidates.—Within 24 hours after making a determination under subparagraph (A), the Commission shall notify each eligible Senate candidate in the general election of the making of the determination.

"(4) Records of personal funds.—

"(1) Filing.—Each individual—

"(i) who becomes a candidate for the office of United States Senate;

"(ii) who, during the election cycle for that office, held any other Federal, State, or local office or was a candidate for any such office; and

"(iii) who expended any amount during the election cycle before becoming a candidate for the office of United States Senator that would have been treated as an expenditure if the individual had been such a candidate (including amounts for activities to promote the image or name recognition of the individual);

shall, within 7 days after becoming a candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

"(2) Notwithstanding subparagraph (1), a report shall not apply to any expenditures in connection with a Federal, State, or local election that has been held before the individual becomes a candidate for the office of United States Senator.

"(3) Determination.—The Commission shall, as soon as practicable, make a determination as to whether any amounts reported under paragraph (1) were for purposes of influencing the election of the individual to the office of Senator.

"(4) Filing.—Each candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

"(5) Action by the Commission absent report.—

"(A) Initial report.—A candidate for the office of United States Senator shall file a report with the Secretary of the Senate within 24 hours after aggregate contributions, or made or obligated to make aggregate expenditures, in the amounts that would require a report under paragraph (2).

"(B) Notification of other candidates.—Within 24 hours after a report has been made, the Commission shall notify each eligible Senate candidate in the general election of the making of the determination.

"(C) Presumption.—

"(i) In general.—Except as provided in paragraph (2), a licensee shall not preempt the use of a broadcast station, any candidate advertising or soliciting votes for the same period of time for the same candidate as the licensee broadcast station; and

"(ii) by adding at the end following:

"(2) ELIGIBLE SENATE CANDIDATES.—In the case of an eligible Senate candidate (as described in section 501 of the Federal Election Campaign Act), the charges for the use of a television broadcast station during the general election period (as defined in section 310 of that Act) shall not exceed 50 percent of the lowest charge described in paragraph (1).

"(b) PREAMPTION; ACCESS.—Section 315 of the Communications Act of 1947 (47 U.S.C. 315) is amended—

"(1) in paragraph (2)(B), by striking ``and'' and inserting ``and''; and

"(2) by inserting after sub-paragraph (A) the following:

"(3) preemption.—

"(1) in general.—Except as provided in paragraph (2), a licensee shall not preempt the use during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to subsection (3).

"(2) circumstances beyond control of licensee.—If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising or soliciting votes for the same period of time specified in the program shall broadcast such program without regard to the rates charged for the time.

"(b) Time for legally qualified Senate candidates.—In the case of a legally qualified candidate for the United States Senate, a licensee shall provide broadcast time without regard to the rates charged for the time.

"(c) Time for House of Representatives candidates.—In the case of a legally qualified candidate for the United States House of Representatives, a licensee shall provide broadcast time without regard to the rates charged for the time.

"SEC. 132. EXTENSION OF REDUCED THIRD-CLASS MAILING RATES TO ELIGIBLE SENATE CANDIDATES.

Section 3202(e) of title 39, United States Code, is amended—

"(1) in paragraph (2)(A)—

"(A) by striking "and the National" and inserting "the National"; and

"(B) by striking "and Committee, and, subject to paragraph (3)

"(1) Notification of Senate candidates.—The principal campaign committee of an eligible House of Representatives or Senate candidate shall file a report under section 312(a) with the Federal Election Commission under this subsection.

"(2) Notification of Senate candidates.—A candidate for the office of United States Senator who is not an eligible Senate candidate, or the authorized committee of such a candidate, shall file the report under this subsection. This candidate does not agree to voluntary campaign spending limits.

**Subtitle II—General Provisions**

**SEC. 131. BROADCAST RATES AND PREAMPTION.**

(a) Broadcast Rates.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

"(1) by striking "(b) The charges" and inserting the following:

"(B) Broadcast Media Rates.—

"(1) In general.—The charges;

"(2) in paragraph (2)(A), by redesigning subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adjusting the margins accordingly;

"(3) in paragraph (1)(A) (as redesignated by paragraph (2))—

"(A) by striking "forty-five" and inserting "forty-five"; and

"(B) by striking "sixty" and inserting "sixty".

"(2) in paragraph (2)(B), by striking "and" and inserting "and";

"(3) by striking "least unit charge of the station for the same class and amount of the same period and inserting "least unit charge of the station for the same amount of time for the same period on the same date".

"(d) Eligible Senate candidates.—In the case of an eligible Senate candidate (as described in section 501 of the Federal Election Campaign Act), the charges for the use of a television broadcast station during the general election period (as defined in section 310 of that Act) shall not exceed 50 percent of the lowest charge described in paragraph (1).

"(e) Preamption; Access.—Section 315 of the Communications Act of 1947 (47 U.S.C. 315) is amended—

"(1) in paragraph (2)(B), by striking "and" and inserting "and";

"(2) in paragraph (2)(B), by striking "and" and inserting "and";

"(3) in paragraph (2)(c), by striking the period after "in"; and

"(4) by adding after paragraph (2)(C) the following new subparagraph:
"(D) The terms ‘eligible Senate candidate’ and ‘principal campaign committee’ have the meanings given those terms in section 301 of the Federal Election Campaign Act of 1971; and

(5) by adding after paragraph (2) the following paragraph:

‘(3) of subsection (a) shall include, in addition to the requirements of those paragraphs, an identifiable photographic or similar image of the candidate and states that the candidate meets the requirements of subsection (a)(3);’

SEC. 133. CAMPAIGN ADVERTISING AMENDMENTS.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) by striking ‘Whenever’ and inserting the following:

‘(a) DISCLOSURE.—When a political committee makes a disbursement for the purpose of financing any communication through any broadcast, cablecast, newspaper, magazine, television or cable advertising, or any other type of general public political advertising, or when—

(B) by striking ‘expenditure’ and inserting ‘an expenditure’;

(C) by striking ‘direct’; and

(D) in paragraph (3), by inserting ‘and permanent street address’ after ‘name’;

(2) in subsection (b), by inserting ‘SAME CHARGE AS CHARGE FOR COMPARABLE USE.’ before ‘No’; and

(3) by adding at the end the following:

‘(c) REQUIREMENTS FOR PRINTED COMMUNICATIONS.—A printed communication described in subsection (a) shall be—

‘(1) of sufficient type size to be clearly readable by the recipient of the communication;

‘(2) contained in a printed box set apart from the other contents of the communication; and

‘(3) consist of a reasonable degree of color contrast between the background and the printed statement.

‘(d) REQUIREMENTS FOR BROADCAST AND CABLECAST COMMUNICATIONS.—

‘(1) PAID FOR OR AUTHORIZED BY THE CANDIDATE.—

‘(A) IN GENERAL.—A broadcast or cablecast communication described in paragraph (1) or (2) of subsection (a) shall include, in addition to the name of the political committee, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

‘(B) TELEVISION COMMUNICATIONS.—A broadcast or cablecast communication described in paragraph (1) that is broadcast or cablecast by means of television shall include, in addition to the statement otherwise required under subparagraph (A), a written statement—

‘(i) that states: ‘I [name of candidate] am a candidate for [the office the candidate is seeking], and I have approved this message’;

‘(ii) that appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

‘(iii) that is accompanied by a clearly identifiable photographic or similar image of the candidate.

‘(2) NOT PAID FOR OR AUTHORIZED BY THE CANDIDATE.—A broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the statement—

‘(i) is responsible for the content of this advertisement;’

‘with the blank to be filled in with the name of the political committee or other person paying for the communication; and

‘(ii) that contains a clear statement of the name of any connected organization of the payor, and, if the communication is broadcast or cablecast by means of television, the background and the printed statement in a reasonably readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.’

SEC. 134. DEFINITIONS.

(a) IN GENERAL.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended—

(1) by inserting the following:

‘(18) The term ‘general election’—

‘(A) means an election that will directly result in the election of a person to a Federal office;

‘(B) does not include an open primary election.

‘(2) The term ‘general election period’ means, with respect to a candidate, the period beginning on the day after the date of the primary election for the specific office that the candidate is seeking, whichever is later, and ending on the earlier of—

‘(A) the date of the general election; or

‘(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election.

‘(3) The term ‘immediate family’ means—

‘(A) a candidate’s spouse;

‘(B) a child, stepchild, parent, grandparent, brother, half-brother, sister, half-sister of the candidate or the candidate’s spouse; and

‘(C) the spouse of any person described in subparagraph (A) or (B).

‘(4) The term ‘major party’ has the meaning given the term “major party” for the purposes of section 311(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431);

‘(5) The term ‘newspaper’ means—

‘(A) a periodical publication the circulation of which is sold;

‘(B) a publication intended for mass distribution in a common area;

‘(C) a publication in which the display advertising is sold;

‘(D) a publication containing a subscription; or

‘(E) any publication that is not primarily entertainment in nature.

‘(6) The term ‘political committee’ means—

‘(A) one of a candidate’s authorized committees; or

‘(B) a committee, group, association, political party, or other organization that receives a contribution of $1,000 or more in any calendar quarter;

‘(C) any individual who—

‘(i) contributes to, or is a member of, a candidate’s authorized committees;

‘(ii) is responsible for the content of an advertisement;’

‘with the blank to be filled in with the name of the candidate’s authorized committees; and

‘(D) the words “political committee” and “candidacy” in section 315(e) of title 39, United States Code.

‘(7) The term ‘political advertising’ means—

‘(A) an advertisement that is paid for or authorized by a political committee;

‘(B) an advertisement that is paid for or authorized by a candidate; and

‘(C) an advertisement that is paid for or authorized by a political committee pursuant to section 315(e) of title 39, United States Code.

‘(8) The term ‘political advertising’ does not include—

‘(A) an advertisement that is paid for or authorized by a joint venture, including a political committee; and

‘(B) an advertisement that is paid for or authorized by a person if the advertisement is not the advertisement of another.’

‘(9) The term ‘political committee’ does not include—

‘(A) any political committee that is a joint venture; or

‘(B) any political committee that is a committee described in section 315(e) of title 39, United States Code.

‘(10) The term ‘political consultant’ means—

‘(A) any person who—

‘(i) pays to or employs another person to develop, write, or provide any assistance with respect to any political advertising;

‘(ii) pays to or employs another person to provide any assistance with respect to an advertisement that is paid for or authorized by a political committee; or

‘(iii) pays to or employs another person to develop, write, or provide any assistance with respect to—

‘(A) the content of an advertisement that is paid for or authorized by a political committee; or

‘(B) the content of an advertisement that is paid for or authorized by a political committee.

‘(B) in subsection (d)(1) by striking ‘delivery’—
‘(ii) An expenditure made by—

(A) an authorized committee of a can-

didate; or

(B) a political committee of a political

party.

‘(ii) An expenditure if there is any ar-

rangement, coordination, or direction with

respect to the expenditure between the can-
didate and the person making the expendi-
ture—

‘(iii) An expenditure if, in the same elec-
tion cycle, the person making the expendi-
ture—

‘(I) is or has been authorized to raise or

expend funds on behalf of the candidate or

the candidate's authorized committees; or

‘(II) is or has been served as a member,

employee, or agent of the candidate's au-

thorized committees in an executive or pol-

icymaking position.

‘(iv) An expenditure if the person making

the expenditure has played a significant role

in advising or counseling the candidate or

the candidate's agents at any time on the can-
didate's plans, projects, or needs relating to

the candidate's pursuit of nomination for

election, or to Federal office, in the same elec-
tion cycle, including any advice re-
lating to the candidate's decision to seek

Federal office.

‘(v) An expenditure if the person making

the expenditure retains the professional

services of any individual or other person

also providing services in the same election

cycle to the candidate in connection with the

candidate's pursuit of nomination for elec-
tion, or to Federal office, including any ser-

vices relating to the can-
didate's decision to seek Federal office.

‘(C) Definitions.—For purposes of sub-

paragraph (B)—

‘(i) the person making the expenditure in-

cludes any officer, director, employee, or

agent of a person; and

‘(ii) the term ‘professional service’ in-

cludes any service (other than legal and ac-

counting services for purposes of ensuring

compliance with this title) in support of a can-
didate's pursuit of nomination for elec-
tion, or to Federal office.

‘(D) Express Advocacy.—

‘(A) IN GENERAL.—The term ‘express advo-
cacy’ means a communication that is taken

as a whole, and with reference to external

events, makes an expression of sup-
port for or opposition to a specific candidate,

to a specific group of candidates, or to can-
didates of a political party.

‘(B) Expression of Support for or Oppo-
sition to.—In subparagraph (A), the term

‘expression of support for or opposition to’

includes a suggestion to take action with re-
spect to an election, such as to vote for or

against, make contributions to, or partici-
pate in campaign activity, or to refrain from
taking action.

‘(C) Voting Records.—The term ‘express

advocacy’ does not include the publication

and distribution of a communication that is

limited to providing information about votes

or spending by elected officials on legisla-
tive matters limited to providing information

about votes or spending by elected officials

on legislative matters.

‘(D) Contribution Definition Amend-
mentation.—Section 301(b)(A) of the Federal

Election Campaign Act of 1971 (2 U.S.C. 431(b)(A))
is amended—

(1) by striking ‘or’ at the end of clause (i);

(2) by striking the period at the end of

clause (ii) and inserting ‘; or’; and

(3) by adding at the end the following:

(iii) any payment or other transaction re-
flected in (A) above that is ex-

cluded from the meaning of ‘independent ex-
penditure’ under paragraph (17)(B).

‘SEC. 202. REPORTING REQUIREMENTS FOR CERT-

AIN INDEPENDENT EXPENDITURES.

(a) IN GENERAL.—Section 304 of the Federal

Election Campaign Act of 1971 (2 U.S.C. 434) is

amended by adding at the end the follow-

ing:

(1) TIME FOR REPORTING CERTAIN EXPENDI-

TURES.—

(a) INITIAL REPORT.—A person (including a

political committee) that makes independ-

ent expenditures aggregating $1,000 or more

at any time up to and including the 20th day

before an election shall file a report des-

cribing the expenditures within 48 hours af-

ter making the determination.

(b) ADDITIONAL REPORTS.—After a person

distributes a report under paragraph (A), the

person filing the report shall file an addi-
tional report each time that independent ex-
penditures aggregating an additional $1,000
are made with respect to the same election

as that to which the initial report relates.

(2) EXPENDITURES AGGREGATING $30,000.—

(a) INITIAL REPORT.—A person (including a

political committee) that makes independ-

ent expenditures aggregating $10,000 or more

at any time up to and including the 20th day

before an election shall file a report des-

cribing the expenditures within 48 hours af-

ter making the determination.

(b) ADDITIONAL REPORTS.—After a person

distributes a report under paragraph (A), the

person filing the report shall file an addi-
tional report each time that independent ex-
penditures aggregating an additional $10,000
are made with respect to the same election

as that to which the initial report relates.

(3) PLACE OF FILING; CONTENTS; TRANSMIT-

tAL.—

(a) PLACE OF FILING; CONTENTS.—A report

under this subsection—

(i) shall be filed with the Commission;

and

(ii) shall contain the information re-

quired by subsection (b)(6)(B)(iii), includ-

ing whether each independent expenditure was

made in support of, or in opposition to, a can-
didate.

(b) TRANSMITTAL TO CANDIDATES.—In the
case of an election for United States Sen-

ator, after receipt of a report under this subsec-

tion, the Commission shall transmit a copy of
the report to each eligible candidate seeking
nomination for election to, or to election, to the
office in question.

(4) OBLIGATION TO MAKE EXPENDITURE.—

For purposes of this subsection, an expendi-
ture shall be treated as being made when it is

made or obligated to be made.

(5) DETERMINATIONS BY THE COMMISSION.—

(a) IN GENERAL.—The Commission may,

upon receipt of a report under subsection (A) of

this section, make determinations that are

generally extended in the normal course of

business.

(b) Contribution Definition Amend-
mentation.—Section 301(b)(A) of the Federal

Election Campaign Act of 1971 (2 U.S.C. 431(b)(A))
is amended—

(1) by striking ‘or’ at the end of clause (i);

(2) by striking the period at the end of

clause (ii) and inserting ‘; or’; and

(3) by adding at the end the following:

(iii) any payment or other transaction re-
flected in (A) above that is ex-

cluded from the meaning of ‘independent ex-
penditure’ under paragraph (17)(B).

TITLE III—EXPENDITURES

Subtitle A—Personal Funds; Credit

SEC. 301. CONTRIBUTIONS AND LOANS FROM PERSONAL FUND.

Section 315 of the Federal Election Cam-

paign Act of 1971 (2 U.S.C. 441a) is amended by

adding at the end the following:

(1) LIMITATIONS ON REPAYMENT OF LOANS AND RETURN OF CONTRIBUTIONS FROM PERSONAL FUNDS.—

(i) REPAYMENT OF LOANS.—If a candidate or a member of the candidate's immediate family made a loan to the candidate or to the candidate's authorized committees during an election cycle, no contribution re-

ceived after the date of the general election for

the election cycle may be used to repay

the loan.

(2) RETURN OF CONTRIBUTIONS.—No con-

tribution or any amount or spend any funds, or

solicit or accept an expenditure, of the can-
didate's immediate family may be re-

turned to the candidate or member other

than as part of a pro rata distribution of ex-

penditures from a contribution by the candidate's

immediate family.

SEC. 302. EXTENSIONS OF CREDIT.

Section 301(b)(A) of the Federal Election Cam-

paign Act of 1971 (2 U.S.C. 431(b)(A)), as amended

by section 201(b), is amended—

(1) by striking ‘or’ at the end of clause

(iii); and

(2) by striking the period at the end of

clause (iii) and inserting ‘; or’; and

(3) by inserting at the end the follow-

ing:

(iv) with respect to a candidate and the
candidate's authorized committees, any ex-

tension of credit for goods or services relat-

ing to a candidate's campaign, in a table-

paper, or in a newspaper or magazine, or by a mailing,

or relating to other similar types of general

public political advertising, if the extension of

credit is—

(i) in an amount greater than $1,000, and

(ii) for a period greater than the period,

not in excess of 60 days, for which credit is

extended in the normal course of business after the date on which the goods or

services are furnished or the date of a mail-

ing.

Subtitle B—Soft Money of Political Party

Committees

SEC. 311. SOFT MONEY OF POLITICAL PARTY COMMITTEES.

(a) SOFT MONEY OF COMMITTEES OF POLITICAL

PARTIES.—Title II of the Federal Elec-

tion Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the fol-

lowing:

SEC. 324. SOFT MONEY OF POLITICAL PARTY COMMITTEES.

(a) National Committee.—A national

committee of a political party and the con-
gressional campaign Committees of a politi-

cal party (including a national congressional

campaign Committee of a political party, an

entity that is established, financed, main-

tained, or controlled by the national com-

mittee, a national congressional campaign

committee of a political party, and an officer

or agent of any such party or entity but not

including an entity regulated under sub-

section (b)) shall not solicit or accept an

amount or spend any funds, or solicit or ac-

cept a transfer from another political com-

mittee, that is not subject to Federal laws, pro-

hibitions, and reporting require-

ments of this Act.

(b) STATE, DISTRICT, AND LOCAL COMMIT-

TEES.

(i) IN GENERAL.—Any amount that is

expended or disbursed by a State, district, or
local committee of a political party (including an entity that is established, financed, maintained, or controlled by a State, district, or local committee of a political party and any intermediary or conduit that is any of the following persons or entities:

(i) a contribution to a candidate for State or local office if the contribution is not designated or otherwise earmarked to pay for an activity described in paragraph (1);

(ii) costs of a State, district, or local political committee;

(iii) the non-Federal share of a State, district, or local party committee’s administrative and overhead expenses (but not including the compensation in any month of any individual who spends more than 20 percent of the individual’s time on activity during the month that may affect the outcome of a Federal election) except that for purposes of this paragraph, the non-Federal share of a party committee’s administrative and overhead expenses shall be determined by applying the ratio of the non-Federal disbursements to the total Federal expenditures and non-Federal disbursements made by the committee during the previous presidential election cycle (or such shorter period as the committee is in existence for); and

(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs that name or depict only a candidate for State or local office; and

(v) the cost of any campaign activity conducted by the national committee of a political party, a congressional campaign committee of a political party, and any subordinate committee of a national political committee or congressional campaign committee of a political party, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

(2) _Activities to Which Section 324 Applies._—A political committee (not described in paragraph (1)) to which section 324 applies shall report all receipts and disbursements during the calendar year in which section 324 applies; and transfers to which section 324 applies shall—

(A) include in a report under paragraph (1) or (2) the amount of any transfer described in section 324(d); and

(B) itemize those amounts to the extent required by section 306(b)(3)(A).

(3) _Transfers._—A political committee to which section 324 applies shall—

(A) report all receipts and disbursements that are used in connection with a Federal election;

(B) itemize those amounts to the extent required by section 306(b)(3)(A).

(4) _Political Committees._ Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements that are used in connection with a Federal election.

(5) _Itemization._—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating $200 or more for the same time periods as reports are required for political committees under subsection (a), the political committee shall separately itemize its reporting for the person in the same manner as under paragraphs (3)(A), (5), and (6) of subsection (b).

(6) _Reporting Periods._—Reports required to be filed by this subsection shall be filed for the same time periods as reports are required for political committees under subsection (a).

(b) _Report of Exempt Contributions._—

Section 303(b)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(8)) is amended by adding at the end the following:

(1) _Report of Exempt Contributions._—

Section 303(b)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(8)) is amended by adding at the end the following:

(1) _Authorized Committees._—Section 303(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(4)) is amended—

(A) by striking "and" at the end of subparagraph (H);

(B) by inserting "and" at the end of subparagraph (I); and

(C) by adding at the end the following:

(i) in the case of an authorized committee, disbursements for the primary election, the general election, and any other election in which the candidate participates;

(ii) _Names and Addresses._—Section 303(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended—

(A) by striking "within the calendar year"; and

(B) by striking "such operating expenditures" and inserting "operating expenses, and the election to which the operating expense relates".
``(i) I N GENERAL.—For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a candidate, including contributions by a covered executive branch official, shall be treated as contributions from the person to the candidate.

``(ii) R EPORTING.—The intermediary or conduit through which a contribution is made shall report the name of the original contributor and the name of the intermediary or conduit, and shall report the name of the original contributor to the Commission and to the intended recipient.

``(C) T REATMENT AS CONTRIBUTIONS FROM THE BUNDLER.—Contributions that a bundler delivers to a candidate, agent of the candidate, or the candidate's or an authorized committee of the candidate's designated recipient shall be treated as contributions from the bundler to the candidate as well as from the original contributor.

``(D) N O LIMITATION ON OR PROHIBITION OF CERTAIN ACTIVITIES.—This subsection does not—

``(i) limit fundraising efforts for the benefit of a candidate that are conducted by another individual and the individual making the contribution, the lobbyist advises or otherwise suggests to a candidate, or a person who becomes a member of Congress within the preceding 12 months; or

``(ii) prohibit any individual described in subparagraph (A)(ii)(IV) from soliciting, collecting, or delivering a contribution to a candidate or an authorized committee of a candidate that the individual is not acting on behalf of the entity.

``(b) ANY AUTHORIZED COMMITTEE.—By LOBBYISTS.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 442a) (as amended by section 304(b)(5)(A)) is amended by adding at the end the following:

``(i) of lobbying contact or communication with—

``(1) a member of Congress; or

``(2) any person employed in the office of the member of Congress; or

``(3) any person employed by a committee, joint committee, or leadership office who, to the knowledge of the lobbyist, was employed at the request of or is employed at the pleasure of, reports primarily to, represents, or acts as the agent of the member of Congress.

``SEC. 402. CONTRIBUTIONS BY DEPENDENTS NOT RELATED TO A CANDIDATE.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 442a) (as amended by section 304(b)(5)(A)) is amended by adding at the end the following:

``(m) P ROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.—

``(1) I N GENERAL.—A lobbyist, or a political committee controlled by a lobbyist, shall not make a contribution to or solicit contributions for or on behalf of—

``(A) a member of Congress or candidate for Federal office if, during the preceding 12 months, the lobbyist has made a lobbying contact with the officeholder or candidate; or

``(B) any authorized committee of the President or Vice President of the United States if, during the preceding 12 months, the lobbyist has made a lobbying contact with a covered executive branch official.

``(2) C ONTRIBUTIONS TO MEMBER OF CONGRESS OR CANDIDATE FOR CONGRESS.—A lobbyist, or a political committee controlled by a lobbyist, shall make contributions to a member of Congress or candidate for Congress (or any authorized committee of the President) that are made during the 12 months following such contribution, make a lobbying contact with the member or candidate who becomes a member of Congress or with a covered executive branch official.

``(3) S OLICITATION OF CONTRIBUTIONS.—If a lobbyist advises or otherwise suggests to a client of the lobbyist (including a client that is the principal or an employee of the political committee that is funded or administered by such a client, that the client or political committee should make a contribution to or solicit a contribution for on behalf of—

``(A) a member of Congress or candidate for Congress, the making or soliciting of such a contribution is prohibited if the lobbyist has made a lobbying contact with the member of Congress within the preceding 12 months; or

``(B) an authorized committee of the President or Vice President, the making or soliciting of such a contribution shall be unlawful if the lobbyist has made a lobbying contact with a covered executive branch official within the preceding 12 months.

``(4) D EFINITIONS.—In this subsection, the terms 'covered executive branch official', 'lobbying contact', and 'lobbyist' have the same meanings as those terms in section 3 of the Federal Lobbying Disclosure Act of 1995 (2 U.S.C. 1602).

``(A) The term 'covered executive branch official' includes an employee of the President, the Vice President, the Director of the Office of Management and Budget, the Director of the Office of Personnel Management, the Administrator of the General Services Administration, or an employee of the Federal Election Commission.

``(B) The term 'lobbying contact' means any contact or communication with—

``(i) the President, the Vice President, or other individual.

``(ii) any person employed by a committee, joint committee, or leadership office who, to the knowledge of the lobbyist, was employed at the request of or is employed at the pleasure of, reports primarily to, represents, or acts as the agent of the member of Congress.

``SEC. 403. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.—Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by adding at the end the following:

``(9) A GGREGATION OF CONTRIBUTIONS FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES.—Notwithstanding subsection (5)(B), a candidate may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such a committee), if the contribution, when added to the total of contributions previously accepted from all such committees of that political party, exceeds 1/2 of the total of contributions previously accepted from all such committees of that political party.


``(1) in clause (xiii), by striking "and" after the semicolon at the end; and

``(2) by inserting at the end the following:

``(xv) any advance voluntarily made on behalf of an authorized committee of a candidate by an individual in the normal course of the individual's professional responsibilities as a volunteer for, or employee of, the committee, if the advance is reimbursed by the committee within 10 days after the date on which the advance is made, and the value of advances on behalf of a committee does not exceed $500 with respect to an election.''

``SEC. 405. CONTRIBUTIONS OF $50 OR MORE.—Section 304(b)(2)(A) of Federal Election Campaign Act of 1971 (2 U.S.C. 438(2)(A)) is amended by adding before the semicolon at the end the following: "(e) except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons (not including employees) who provide goods or services to the candidate or his or her authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed.

``SEC. 406. USE OF CANDIDATES' NAMES.—Section 302(e)(4) of Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)(4)) is amended to read as follows:

``(4) N AME OF POLITICAL COMMITTEE.—(A) A UTHORIZED COMMITTEE.—The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

``(B) U NAUTHORIZED COMMITTEE.—A political committee that is not an authorized committee shall not include the name of any candidate in its name or use the name of any candidate in any activity or behavior of such committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.''

``SEC. 602. REPORTING REQUIREMENTS.—

``(a) O PTION TO FILE MONTHLY REPORTS.—Section 304(a)(2) of Federal Election Campaign Act of 1971 (2 U.S.C. 432(b)(2)) is amended by striking "calendar year" each place it appears in the following: (election cycle, in the case of an authorized committee of a candidate for Federal office).

``(b) P ERIOD AT THE END OF THE ELECTION YEAR.—Section 304(b)(5)(A) of Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended by adding before the semicolon at the end the following: "(g) personal and consulting committee.''

``(c) COMPUTERIZED INDICES OF CONTRIBUTIONS.—Section 313(a) of Federal Election Campaign Act of 1971 (2 U.S.C. 438(a)) is amended—

``(1) in subparagraph (A), by inserting "; and" after the semicolon at the end; and

``(2) by striking the period at the end of paragraph (10) and inserting "; and; and".

``(3) by adding at the end the following new paragraph:

``(11) maintain computerized indices of contributions of $50 or more.''

``TITLe V—REPORTING REQUIREMENTS

``SEC. 501. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.—

Paragraphs (2) through (7) of section 304(b) of Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)) are amended by inserting after "calendar year" each place it appears the following: (election cycle, in the case of an authorized committee of a candidate for Federal office).''
which shall be filed no later than the 15th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-primary election report shall be filed no later than the 15th day of the month in which the primary for such election is held, and a post-primary election report shall be filed no later than the 15th day of the month in which the primary for such election is held, and a post-primary election report shall be filed no later than the 15th day of the month in which the primary for such election is held, and a post-primary election report shall be filed no later than the 15th day of the month in which the primary for such election is held.

(b) Filing Date.—Section 304(a)(6)(B) of Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(6)(B)) is amended by striking “20th” and inserting “15th”.

SEC. 603. PROVISIONS RELATING TO THE GENERAL COUNSEL OF THE COMMISSION.

(a) VACANCY IN THE OFFICE OF GENERAL COUNSEL.—Section 306(f) of Federal Election Campaign Act of 1971 (2 U.S.C. 436(f)) is amended by adding at the end the following:

“(5) VACANCY. - In the event of a vacancy in the office of general counsel, the next highest ranking enforcement official in the general counsel’s office shall serve as acting general counsel with full powers of the general counsel until a successor is appointed.”

(b) PAY OF THE GENERAL COUNSEL.—Section 306(f)(1) of Federal Election Campaign Act of 1971 (2 U.S.C. 436(f)(1)) is amended—

(1) by deleting “after” from “staff director”, and

(2) by striking the third sentence.

SEC. 604. PENALTIES.

(a) PENALTIES PRESCRIBED IN CONCILIATION AGREEMENTS.—

(1) CIVIL PENALTY FOR VIOLATION OF ACT.—Section 309(a)(5)(A) of Federal Election Campaign Act of 1971 (2 U.S.C. 439(a)(5)(A)) is amended by striking “which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation” and inserting “which is—

“(i) not less than all contributions and expenditures involved in the violation; and

“(ii) not greater than $50 percent of all contributions and expenditures involved in the violation”;

(2) PENALTY FOR KNOWING AND WILLFUL VIOLATION.—Section 309(a)(5)(B) of Federal Election Campaign Act of 1971 (2 U.S.C. 439(a)(5)(B)) is amended by striking “which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation” and inserting “which is—

“(i) not less than all contributions and expenditures involved in the violation; and

“(ii) not greater than 200 percent of all contributions and expenditures involved in the violation.”

(b) PENALTIES WHEN VIOLATIONS ARE ADJUDICATED IN COURT.—

(1) PROHIBITION OF LEADERSHIP COMMITTEES.—

Section 309(a)(6)(B) of Federal Election Campaign Act of 1971 (2 U.S.C. 439(a)(6)(B)) is amended by striking all that follows “appropriate order” and inserting “order”, including an order for a civil penalty in the amount prescribed under subparagraph (A) or (B) in the district court of the United States for the district in which the defendant resides, transacts business, or may be found.

(b) COURT ORDERS.—Section 309(a)(6)(B) of Federal Election Campaign Act of 1971 (2 U.S.C. 439(a)(6)(B)) is amended by striking all that follows “other order” and inserting “order”, including an order for a civil penalty which is—

“(i) not less than all contributions and expenditures involved in the violation; and

“(ii) not greater than 200 percent of all contributions and expenditures involved in the violation upon a proper showing that the person involved has committed, or is about to commit, (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 of title 96 of the Internal Revenue Code of 1986.”

(3) KNOWING AND WILLFUL VIOLATION PENALTIES.—Section 309(a)(6)(C) of Federal Election Campaign Act of 1971 (29 U.S.C. 439g(6)(C)) is amended by striking “a civil penalty” and all that follows and inserting “a civil penalty which is—

“(i) not less than 50 percent of all contributions and expenditures involved in the violation; and

“(ii) not greater than 150 percent of all contributions and expenditures involved in the violation.”

SEC. 605. RANDOM AUDITS.

Section 311(b) of Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting “(1)” before “The Commission”; and

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

“(2) RANDOM AUDITS.—

“(A) IN GENERAL. - Notwithstanding paragraph (1), the Commission may from time to time conduct random audits and investigations to ensure voluntary compliance with this Act.

“(B) SELECTION OF SUBJECTS. - The subjects of such audits and investigations shall be selected on the basis of criteria established by vote of at least 4 members of the Commission to ensure impartiality in the selection process.

“(C) APPLICABILITY. - This paragraph does not apply to an authorized committee of an eligible Senate candidate subject to audit under section 505(a) or an authorized committee of an eligible House of Representatives candidate subject to audit under section 605(a).”

SEC. 606. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of Federal Election Campaign Act of 1971 (2 U.S.C. 441(h)) is amended—

(1) by inserting after “SEC. 322.” the following: “(a)”; and

(2) by adding at the end the following:

“(B) FALSE SOLICITATION OF CONTRIBUTIONS.—No person shall solicit contributions by falsely representing himself as a candidate, an agent of a candidate, a principal campaign committee, or a political party.”

SEC. 607. REGULATIONS RELATING TO USE OF NON-FEDERAL MONEY.

Section 336 of Federal Election Campaign Act of 1971 (2 U.S.C. 437c) is amended by adding at the end the following:

“(g) REGULATIONS.—The Commission shall promulgate such rules, regulations, or orders which have the purpose or effect of undermining or evading the provisions of this Act as it may determine necessary to effectuate the purposes of this Act.

SEC. 608. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(g) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(g)) is amended by adding at the end the following: “(A) The Commission, in consultation with the Clerk of the House of Representatives, may prescribe regulations under which persons required to file designations, statements, and reports under this Act—

“(1) are required to maintain and file them for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

“(2) may maintain and file them in that manner if not required to do so under regulations prescribed under clause (i).

“(B) The Commission, in consultation with the Clerk of the Senate, shall prescribe regulations which allow persons to file designations, statements, and reports required by this Act through the use of facsimile machines.

“(C) In prescribing regulations under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being transmitted) for signature of designations, statements, and reports covered by the regulations. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

“(D) The Secretary of the Senate and the Clerk of the House of Representatives shall ensure that any computer or other system that they may develop and maintain to receive designations, statements, and reports in electronic form authorized in this paragraph is compatible with any such system that the Commission may develop and maintain.”

TITLE VII—MISCELLANEOUS

SEC. 701. PROHIBITION OF LEADERSHIP COMMITTEES.

(a) DEFINITIONS.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(e)) is amended by adding at the end the following:

“(b) PROHIBITION.—Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended—

(1) by striking paragraph (3) and inserting the following:

“(3) LIMITATIONS.—A political committee that supports or has supported more than 1 candidate shall not be designated as an authorized committee, except that—

“(A) a candidate for the office of President nominated by a political party may designate the national committee of the appointed the candidate’s principal campaign committee if the national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

“(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such Federal office candidate as an authorized committee.”

(2) by adding at the end the following:

“(e) PROHIBITION OF LEADERSHIP COMMITTEES.—

“(A) IN GENERAL.—

“(i) PROHIBITION.—A candidate for Federal office or an individual holding Federal office shall not establish, control any political committee or non-Federal political committee other than a principal campaign committee of the candidate, authorized committee, party committee, or other political committee designated in accordance with paragraph (3).

“(ii) CANDIDATE FOR MORE THAN 1 OFFICE.— A candidate for more than 1 Federal office may designate a separate principal campaign committee for each election to which the Federal office candidate is paying the right to file designations, statements, and reports required under this Act.

“(B) CONTINUATION FOR 12 MONTHS.—For a period of 12 months after the effective date of this paragraph, any political committee designated before that date that is prohibited under subparagraph (A) may continue to make contributions.”
"(ii) Disbursement at the End of 1 Year.—At the end of that period the political committee shall disburse all funds by 1 or more of the following means:

"(I) Making contributions to a person described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of the United States Code.

"(II) Making a contribution to the Treasury of the United States.

"(III) Contributing to the national, State, or local committee of the political party.

"(IV) Making a contribution of not to exceed $1,000 each to candidates or non-Federal candidates.

SEC. 702. POLLING DATA CONTRIBUTED TO CANDIDATES.

Section 301(b) of Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)), as amended by section 311, is amended by inserting at the end the following:

"(D) Valuation of polling data as a contribution.—A contribution of polling data to a campaign shall be valued at the fair market value of the data on the date the poll was completed, depreciated at a rate not more than 1 percent per day from such date to the date on which the contribution was made."

SEC. 703. RESTRICTIONS ON USE OF CAMPAIGN FUNDS FOR PERSONAL PURPOSES.

(a) Restrictions on use of campaign funds.—The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 311) is amended by adding at the end the following:

"SEC. 325. RESTRICTIONS ON USE OF CAMPAIGN FUNDS FOR PERSONAL PURPOSES.

(a) Definitions.—In this section:

(1) Campaign expense.—The term 'campaign expense' means an expense that is attributable solely to a bona fide campaign purpose.

(2) Inherently personal purpose.—The term 'inherently personal purpose' means a purpose that, by its nature, confers a personal benefit, including a home mortgage, rent, or utility payment, clothing purchase, noncampaign travel, country club membership, vacation, or trip of a noncampaign nature, household food items, tuition payment, admission to a sporting event, entertainment, or other form of entertainment not associated with a campaign, dues, fees, or contributions to a health club or recreational facility, and any other inherently personal purpose as determined under the regulations promulgated pursuant to section 301(b) of the Senate Campaign Financing and Spending Reform Act.

(b) Permitted and prohibited uses.—An individual who receives contributions as a candidate for Federal office—

(1) shall use the contributions only for legitimate and verifiable campaign expenses; and

(2) shall not use the contributions for any inherently personal purpose.''.

Mr. FIEGOLD. Mr. President, I am pleased to be able to introduce today to eliminate the current mandate on States to place liens on the homes and estates of older Medicaid beneficiaries receiving home and community-based long-term care services, and to provide more than adequate funding for that change by establishing a certificate of need process to regulate the growth of federally funded nursing home beds. This legislation modifies the estate recovery provisions of OBRA 93 to clarify that States may pursue recovery of the cost of Medicaid home and community-based long-term care services from the estate of beneficiaries, but that States are not required to do so.

Mr. President, slowing the growth of rising health care costs is one of the major challenges of our time. No State has been immune to the pressure on both Federal and State budgets, and addressing the long-term care portion of those Medicaid budgets is a key to containing those costs. Meaningful reform of our long-term care system is the ultimate solution to this problem, and I will introduce long-term care reform legislation in the near future that will outline the path we need to follow—helping States provide flexible, consumer-oriented and consumer-directed home and community-based long-term care services. In the meantime, however, we can take a few important steps down the path toward long-term care reform by repealing the cumbersome mandate on States that they recover the cost of some services by imposing liens on the homes and estates of seniors using home and community-based long-term care services.

Mr. President, in the past, States have had the discretion of recovering payments for those services from the estates of beneficiaries, but in some cases, at least, have chosen not to do so. In Wisconsin, estate recovery for home and community-based long-term care services was implemented briefly in 1991, but was terminated because of the significant problems experienced with the home and Medicaid waiver programs. Many cases were documented where individuals needing long-term care chose to go to an entire community-based long-term care facility because of their fear of estate recovery or the placement of a lien on their homes.

One case in southwestern Wisconsin involved an older woman who was suffering from congestive heart failure, phlebitis, severe arthritis, and who had difficulty just being able to move. She was being screened for the Medicaid version of Wisconsin's model home and community-based long-term care program, the Community Options Program, when the caseworker told her of the new law, and that a lien would be put on the estate of the program's clients. The caseworker reported that the older woman began to sob, and told the caseworker that she had worked hard all her life and paid taxes and could not understand why the things she had worked for so hard would be taken from her family after her death.

When asked if she would like to reconsider services, the older woman refused. As frail as this client was, the social worker noted that she preferred to chance being on her own rather than endanger her meager estate by using Medicaid funded services.

In northeastern Wisconsin, a 95-year-old woman was being cared for by her 73-year-old widowed daughter in their home. The family was receiving some Medicaid long-term care services, including respite services for the elderly caregiver daughter, but the family discontinued all services when they heard of the new law because the older daughter had no place to go when Medicaid was suggested, they refused because of the new law.

Mr. President, these examples are not unusual. Nor were many of the individuals and families who refused help protecting vast estates. For many, the estates being put at risk were modest at best. A couple in the Green Bay area had a mobile home and had less than $20,000 in life savings told the local benefit specialist that they would refuse Medicaid funded services rather than risk not leaving their small estate to their family members.

Leaving even a small bequest to a loved-one is a fundamental and deeply felt need of many seniors. Even the most modest home can represent a lifetime's work, and many are willing to forgo Medicaid funded services, they knew they would need to be able to leave a small legacy.

Mr. President, while the vision of this mandate on States from inside the
Washington beltway may appear simple, the estate recovery requirements are not so simple for program administrators. States, counties, and nonprofit agencies, administrators of Medicaid services, are ill-equipped to be real estate recovery agents.

Further, divestment concerns in the Medicaid Program, already a problem, could continue to grow as pressure to utilize existing loopholes increases with estate recovery mandated in this way. Worse, as the Coalition of Wisconsin Aging Groups has pointed out, children who feel “entitled to inheritance” might force transfers, constituting elder abuse in some cases.

Too, Mr. President, there is a very real question of age discrimination with the estate recovery provisions of OBRA 93. Only individuals over age 55 are subject to estate recovery. Such age-based distinctions border on age discrimination and ought to be minimized.

Mr. President, because I am committed to reducing the deficit and balancing the budget, I firmly believe we must find offsetting spending cuts to fully fund legislative proposals, even when we might disagree with the most estimable proposals. For that reason, I have included provisions in this measure that have been scored by the Congressional Budget Office to more than offset the officially estimated loss in savings from the estate recovery mandate. Nevertheless, while this bill includes offsetting cuts to fund the proposed change, I also believe that the savings ascribed to the existing mandate are questionable.

Prior to enacting estate recovery in Wisconsin, officials estimated $134.4 million a year could be recovered by the lien. Real collections fell far short. For fiscal year 1992, the State only realized a reported $1 million in collections. And for the period of January to June, even after offsets, lowered their estimates, only $2.2 million was realized of an expected $3.8 million in collections.

In addition to lower than expected collections, the refusal to accept home and community-based long-term care because of the prospect of a lien on the estate could lead to the earlier and more costly need for institutional care. Such a result would not only undercut the questionablesavings from the program but directly contravene the Medicaid home and community-based waiver program, which is intended precisely to keep people out of institutions and in their own homes and communities.

The brief experience we had in Wisconsin led the State to limit estate recovery to nursing home care and related services, where, as a practical matter, the potential for estate recovery and liens on homes are much less of a barrier to service. Indeed, just as we should provide financial incentives to individuals to use more cost-effective care, so too should we consider financial disincentives for more costly alter-

natives. A recent study in Wisconsin showed that two Medicaid waiver programs saved $17.6 million in 1992 by providing home and community-based alternatives to institutional care.

In that context, retaining the more expensive long-term care alternatives in the estate recovery mandate makes good sense, and my legislation would not change that portion of the law. But it does not make sense to jeopardize a program that has produced otherwise modest improvements in lowered institutional costs than even the overly optimistic estimates suggest could be recovered from the estates of those receiving home and community-based long-term care.

All in all, the estate recovery provisions of OBRA 93 are likely to produce more expensive long-term care services, may cause an administrative nightmare for State and local government, and offer the prospect of a lien on the estate could lead to the earlier and more expensive utilization of Medicaid services, are ill-equipped to be real estate recovery agents.

Mr. President, taken together, the change in the estate recovery provisions and the slowing of nursing home bed growth, these two provisions will help shift the current distorted Federal long-term care policy away from the institutional bias that currently exists and toward a more balanced approach that emphasizes home and community-based services.

That is the direction that we will need to take if we are to achieve significant long-term care reform.

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

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

S. 58

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

SECTION 1. MEDICAID ESTATE RECOVERIES.

Title XIX of the Social Security Act (42 U.S.C. 1396p(b)(3)(B)) is amended by the addition of a new subsection, which reads as follows:

(a) In general.—A nursing facility shall not receive reimbursement under the Medicare program under title XVIII of the Social Security Act, the Medicaid program under title XIX of such Act, or any other Federal program for services furnished with respect to any beds first operated by such facility on or after the date of the enactment of this Act unless a certificate of need is issued by the State with respect to such beds.

The certificate of need must be issued by a State with respect to a geographic area only if the ratio of

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Washington beltway may appear simple, the estate recovery requirements are not so simple for program administrators. States, counties, and nonprofit agencies, administrators of Medicaid services, are ill-equipped to be real estate recovery agents.

Further, divestment concerns in the Medicaid Program, already a problem, could continue to grow as pressure to utilize existing loopholes increases with estate recovery mandated in this way. Worse, as the Coalition of Wisconsin Aging Groups has pointed out, children who feel “entitled to inheritance” might force transfers, constituting elder abuse in some cases.

Too, Mr. President, there is a very real question of age discrimination with the estate recovery provisions of OBRA 93. Only individuals over age 55 are subject to estate recovery. Such age-based distinctions border on age discrimination and ought to be minimized.

Mr. President, because I am committed to reducing the deficit and balancing the budget, I firmly believe we must find offsetting spending cuts to fully fund legislative proposals, even when we might disagree with the most estimable proposals. For that reason, I have included provisions in this measure that have been scored by the Congressional Budget Office to more than offset the officially estimated loss in savings from the estate recovery mandate. Nevertheless, while this bill includes offsetting cuts to fund the proposed change, I also believe that the savings ascribed to the existing mandate are questionable.

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The certificate of need must be issued by a State with respect to a geographic area only if the ratio of
the number of nursing facility beds in such area to the total population in such area that is likely to need such beds is below the ratio included in guidelines that are established by the Secretary, and approved by the Secretary of Health and Human Services under subsection (c).

(c) DEPARTMENTAL GUIDELINES.—The Secretary of Health and Human Services shall promulgate regulations under which States may submit proposed guidelines for the issuance of certificates of need under subsection (b) for approval.

(d)DEFINITION OF NURSING FACILITY.—In this section, the term ‘nursing facility’ has the meaning given to it by—

(1)‘skilled nursing facility’, under the medicare program under title XVIII of the Social Security Act; and

(2)‘nursing facility’, under the medicaid program under title XIX of such Act.

By Mr. FEINGOLD (for himself and Mr. Kohl):

S. 59. A bill to terminate the Extremely Low Frequency Communication System of the Navy; to the Committee on Armed Services.

EXTREMELY LOW FREQUENCY COMMUNICATION SYSTEM TERMINATION AND DEFICIT REDUCTION ACT OF 1997

Mr. FEINGOLD. Mr. President, today I am introducing legislation for myself and Senator Kohl, which we offered during the 104th Congress to terminate the Extremely Low Frequency Communications System, located in Clam Lake, WI, and Republic, MI.

This project has been opposed by residents of Wisconsin since its inception, but for years we were told that the national security considerations of the cold war outweighed our concerns about this installation in our State. As we continue our efforts to reduce the Federal budget deficit and as the Department of Defense continues to struggle to meet a tighter budget, it is clear that Project ELF should be closed down. If enacted, my legislation would save $9 to $20 million a year.

Project ELF was developed in the late 1970’s as an added protection against the Soviet naval nuclear deployment. It is an electromagnetic messenger system—otherwise known as a bell ringer—usually employed to transmit a signal. The signal is transmitted through the atmosphere by radio waves, called surf signals. These waves are transmitted from a powerful antenna on the ground, which can range from $50 to $100 million.

With the end of the cold war, Project ELF becomes harder and harder to justify. Trident submarines no longer need to take extra precautions against Soviet nuclear forces. They can now surface on a regular basis with less danger of detection or attack. They can also receive more complicated messages through very low frequency [VLF] radio waves or longer wave messages through satellite systems, if it can be done more cheaply.

Not only do Wisconsinites think the mission of Project ELF is unnecessary and anachronistic, but they are also concerned about possible environmental and public health hazards associated with it. While I have heard some ELF supporters say there is no apparent environmental impact of Project ELF, we can only conclude that we do not know that—indeed, we do not know much about its impact at all.

The Navy itself has concluded definitively that operating Project ELF is safe for the residents living near the site. If you are a resident in Clam Lake, that is an unsettling statement. The Navy paid inadequate attention to the system’s possible health effects and violated the National Environmental Policy Act. That decision was overturned on appeal, however, in a ruling that claimed national security interests at the time prevailed over environmental concerns. More recent studies of the impact of electromagnetic fields in general still leave unanswered questions and concerns.

During the 103d Congress, I worked with the Senator from Georgia, Senator Nunn, to include an amendment in the National Defense Authorization Act for fiscal year 1994 requiring a report by the Secretary of Defense on the benefits and costs of continued operation of Project ELF. The report issued by DOD was particularly disappointing because it basically argued that because Project ELF may have a purpose during the cold war, it should continue to operate after the cold war as part of the complete complement of command and control links configured for the cold war.

Did Project ELF play a role in helping to minimize the Soviet threat? Perhaps. Did it do so at risk to the community? Perhaps. Does it continue to play a vital security role to the Nation? No.

Most of us in Wisconsin don’t want it anymore. Many of my constituents have opposed Project ELF since its inception. Congressman David Obey has consistently sought to terminate Project ELF, and in fact, we have him to thank in part for getting ELF scaled back.

A year ago today, a project first conceived by the Carter administration, I look forward to continue working with him on this issue in the 105th Congress.

As we take up the budget for fiscal year 1998, the Department of Defense and the Armed Services Committee will again be searching for programs that have outlived their intended purpose. I hope they will seriously consider zeroing out the ELF transmitter system, as I propose in this bill, and save the taxpayers $9 to $20 million a year. Given both its apparently diminished strategic value and potential environmental and public health hazards, Project ELF is a perfect target for termination.

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

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

S. 59

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Extremely Low Frequency Communication System Termination and Deficit Reduction Act of 1997’’.

SEC. 2. PROHIBITION OF FURTHER FUNDING OF THE EXTREMELY LOW FREQUENCY COMMUNICATIONS SYSTEM.

(a) PROHIBITION ON USE OF FUNDS.—Except as provided in subsection (b), funds appropriated on or after the date of enactment of this Act to or for the use of the Department of Defense for the Extremely Low Frequency Communication System of the Navy, shall not be obligated or expended during fiscal year 1998.

(b) LIMITED EXCEPTION FOR TERMINATION COSTS.—Subsection (a) does not apply to expenditures solely for termination of the Extremely Low Frequency Communication System.

By Mr. LOTT:

S. 61. A bill to amend title 46, United States Code, to extend eligibility for veterans’ burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II; to the Committee on Veterans Affairs.

THE MERCHANT MARINERS FAIRNESS ACT OF 1997

S. 62. A bill to prohibit further extension of establishment of any national monument in Idaho without full public participation and an express Act of Congress, and for other purposes; to the Committee on Energy and Natural Resources.

THE IDAHO PROTECTION ACT OF 1997

Mr. CRAIG. Mr. President, I rise today to introduce legislation that has been forced by recent events. I am talking about President Clinton’s proclamation of last fall declaring nearly
two million acres of southern Utah a national monument.

After the President's announcement, Senator KEMPThorne and I introduced the Idaho Protection Act of 1996. That bill would have required that the public and the State be included before a national monument could be established in Idaho.

When we introduced that bill, I was immediately approached by other Senators of the same persuasion. What we see unfolding before us in Utah ought to frighten all of us. Without including Utah's Governor, Senators, congressional delegation, the State legislature, county commissioners, or the people of Utah—President Clinton set off-limits forever approximately 1.7 million acres of Utah.

Under the 1906 Antiquities Act, President Clinton has the unilateral authority to create a national monument where simple existed that he could do it in the State of Utah, he can do it in Idaho. In fact, since 1906, the law has been used some 66 times to set lands aside. I would note—with very few exceptions, these declarations occurred under the National Environmental Policy Act of 1969 which recognized the need for public involvement in such issues and mandated public comment periods before such decisions are made.

Just 64 percent of the land in Utah is owned by the Federal Government, 62 percent of Idaho is owned by Uncle Sam. What the President has done in Utah, without public input, he could also do in Idaho or any of the States where the Federal Government has a presence.

With Senator KEMPThorne as a co-sponsor, I am once again introducing the Idaho Protection Act. This bill would require that the President and the Congress be fully involved and give approval before such a unilateral Presidential declaration of a new national monument could be imposed on Idaho.

The President's action in Utah has been a wake-up call to people across America. While we all want to preserve what is best in our States, people everywhere understand that much of their economic future is tied up in what happens on their public lands.

In the West, where public lands dominate the landscape, issues such as grazing, timber harvesting, water use, and recreation access have all come under attack by the Administration seemingly bent on kowtowing to a segment of our population that wants these uses kicked off our public lands.

Everyone wants public lands decisions to be made in an open and inclusive process. No one wants the President, acting alone, to unilaterally lock up enormous parts of any State. We certainly don't want that way in the West. There is a recognition that with commerce and energy access can be struck that allows jobs to grow and families to put down roots while at the same time protecting America's great natural resources.

In my view, the President's actions are beyond the pale and for that reason—to protect others from suffering a similar fate, I am cosponsoring this bill.

By Mr. FEINGOLD:

S. 63 A bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes; to the Committee on Labor and Human Resources.

THE CIVIL RIGHTS PROCEDURES PROTECTION ACT OF 1997

Mr. FEINGOLD. Mr. President, I rise today to introduce the Civil Rights Procedures Protection Act of 1997. The 105th Congress will mark the third successive Congress that I have introduced this legislation. Very simply Mr. President, this legislation addresses the rapidly growing and, in my opinion, troubling practice of employers conditioning employment or professional advancement upon their employees willingness to submit claims of discrimination or harassment to arbitration, rather than pursuing them in the courts. In other words, employees raising claims of harassment or discrimination by their employers must submit the adjudication of those claims to arbitration, irrespective of what other remedies may exist under the laws of this Nation.

To address the growing incidents of compulsory arbitration, the Civil Rights Procedures Protection Act of 1997 amends seven civil rights statutes to ensure that those statutes remain effective when claims of this nature arise. Specifically, this legislation affects claims raised under Title VII of the Civil Rights Act of 1965, Section 505 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, Section 1977 of the Revised Statutes, the Equal Pay Act, the Family and Medical Leave Act and the Federal Arbitration Act (FAA). In the context of the Federal Arbitration Act, the protections of this legislation are extended to claims of unlawful discrimination arising under State or local law and other Federal laws that prohibit job discrimination.

Mr. President, I want to be clear that this legislation is in no way intended to bar the use of arbitration, conciliation, mediation or any other form of alternative dispute resolution. The key, however, is that the practices targeted by this bill are not voluntary. Rather they are imposed upon working men and women and are mandatory. Furthermore, the ability to be promoted, or in some cases, to be hired in the first place, is often conditioned upon the employee accepting this type of mandatory arbitration. Mandatory arbitration allows employers to tell all current and prospective employees in effect, 'if you want to work for us, you will have to check your rights as a working American citizen at the door.' In short, working men and women all across this country are faced with the untenable choice of accepting these mandatory limitations on their right to redress in the face of discrimination or placing at risk employment opportunities or professional advancement.

These requirements have been referred to recently as 'front door' contracts; that is, they require an employee to surrender certain rights up front in order to 'get in the front door.' As a nation which values work as well as deplores discrimination, we should not allow this situation to continue.

As I noted Mr. President, today marks the third successive Congress in which this important legislation has been introduced. Given that much of the rhetoric coming out of Washington today is that of 'front door' contracts; that is, they require an employee to surrender certain rights up front in order to 'get in the front door.' As a nation which values work as well as deplores discrimination, we should not allow this situation to continue.

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S. 63

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

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Civil Rights Procedures Protection Act of 1997'.

SEC. 2. AMENDMENT TO TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) is amended by adding at the end the following new section:

"EXCLUSIVITY OF POWERS AND PROCEDURES"

"SEC. 719. Notwithstanding any Federal statute of general applicability that would modify any of the powers and procedures expressly applicable to a claim arising under this title, such powers and procedures shall be the exclusive powers and procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure."

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SEC. 3. AMENDMENT TO THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.
The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) is amended—
(1) by redesignating sections 16 and 17 as sections 17 and 18, respectively; and
(2) by inserting at the end the following new section:
``EXCLUSIVITY OF POWERS AND PROCEDURES
``SEC. 16. Notwithstanding any Federal statute of general applicability that would modify any of the powers and procedures expressly applicable to a claim based on a right or claim arising under this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such right or such claim through arbitration or another procedure.''.

Section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 795) is amended by adding at the end the following new subsection:
``(c) Notwithstanding any Federal statute of general applicability that would modify any of the procedures expressly applicable to a claim based on a right or claim arising under this Act, such powers and procedures shall be the exclusive procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.''.

SEC. 5. AMENDMENT TO THE AMERICANS WITH DISABILITIES ACT OF 1990.
Section 107 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117) is amended by adding at the end the following new subsection:
``(c) Notwithstanding any Federal statute of general applicability that would modify any of the procedures expressly applicable to a claim based on a violation described in subsection (a), such powers and procedures shall be the exclusive powers and procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.''.

Section 17 of the Federal Mediation and Conciliation Act of 1968 (28 U.S.C. 1977) is amended by adding at the end the following new subsection:
``(c) Notwithstanding any Federal statute of general applicability that would modify any of the powers and procedures expressly applicable to a claim based on a violation described in subsection (a), such powers and procedures shall be the exclusive procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.''.

SEC. 7. AMENDMENT TO THE EQUAL PAY REQUIREMENT UNDER THE FAIR LABOR STANDARDS ACT OF 1938.
Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) is amended by adding at the end the following new paragraph:
``(5) Notwithstanding any Federal statute of general applicability that would modify any of the powers or procedures expressly applicable to a claim based on a violation of this Act, such powers and procedures shall be the exclusive procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.''.

SEC. 8. AMENDMENT TO THE FAMILY AND MEDICAL LEAVE ACT OF 1993.
Title IV of the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) is amended by adding at the end the following new section:
``SEC. 406. EXCLUSIVITY OF REMEDIES.
``Notwithstanding any Federal statute of general applicability that would modify any of the procedures expressly applicable to a claim based on a right provided under this Act, such procedures shall be the exclusive procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.''.

SEC. 9. AMENDMENT TO TITLE 9 OF THE UNITED STATES CODE.
Section 14 of title 9, United States Code, is amended—
(1) by inserting ``(a)'' before ``This''; and
(2) by adding at the end the following new subsection:
``(b) This chapter shall not apply with respect to a claim arising from discrimination based on race, color, religion, sex, national origin, age, or disability.''.

SEC. 10. APPLICATION OF AMENDMENTS.
The amendments made by this Act shall apply with respect to claims arising on and after the date of the enactment of this Act.

[From the Boston Globe, Sept. 24, 1996]
A CAUTIONARY TALE ABOUT SIGNING AWAY YOUR RIGHT TO SUE
By Diane E. Lewis

Jane Lajoie thought she had an open-and-shut discrimination case against her employer. Instead, she now has a cautionary tale for the growing number of American workers whose employers have asked them to sign away their rights to have employment complaints brought before a jury.

Lajoie's story begins in 1987 when, after receiving an MBA, she joined Fidelity Management Research Corp. as a data analyst for a successful career: She was convinced that she was not being compensated fairly, that there was no discrimination.

Fidelity denies discriminating against Lajoie. "There was no discrimination. She was compensated properly and fairly. She voiced her concerns," said attorney Wilfred Benoit Jr., who represents Fidelity.

But the Mariborough woman says there was a dark cloud over what should have been her golden years since the US Supreme Court ruled that employees are told they must do it or are made to feel they could lose a job, and then they wind up giving up their right to a jury appeal.

In a lawsuit filed in November, Fidelity asked a state court to have sexual harassment, age, gender and other discrimination claims moved from courts to the system of private justice known as binding arbitration. In the securities industry alone, about $50,000 Wall Street employees are legally bound by arbitration agreements.

Not surprisingly, the American Arbitration Association and the National Association of Securities Dealers have denounced the increased number of mandatory arbitration agreements.

The critics argue that the agreements are generally signed at the time of hiring or in the course of a policy change at a company—times when workers are concerned about maintaining a good first impression and probably not focused on the consequences of compliance.

Last year, the EEOC succeeded in enjoining an employer from requiring workers to sign mandatory arbitration forms and from firing those workers who refused.

In Boston, the Massachusetts Commission Against Discrimination is hoping arbitration will help reduce a two-year backlog of cases. For those who opt for binding arbitration, the dispute would be heard within 30 days after filing and decided in 60 days. Decisions would be binding on both sides.

MCAD Commissioner Michael Duffy has drawn the line: His program will not mediate any cases stemming from mandatory arbitration agreements.

"That is not arbitrators or mediation," said Duffy. "We think it's fine when all parties agree. But problems arise when employees are told they must do it or are made to feel they could lose their jobs if they then wind up giving up their right to a jury trial."

In the meantime, he and others advise what consumer advocates have been telling the public for years: Read the fine print before signing on the bottom line.

By Mr. LUGAR:

S. 64. A bill to state the national missile defense policy of the United States.
Mr. President, I sense a greater willingness in both branches to try to bridge gaps rather than score debating points.

Where the U.S. stands in preparedness for, and defense against, all the other nuclear, chemical and biological threats to the U.S.

The establishment of provisions to give the 106th Congress a vote on whether or not to authorize deployment of the system, as a privileged motion under expedited procedures.

The projected cost and effectiveness of the system, based on development and testing results.

The projected cost and effectiveness of the National Missile Defense system if deployment were deferred for one to three years, while additional development occurs; Arms control factors; and

While the U.S. stands in preparedness for, and defenses against, all the other nuclear, chemical and biological threats to the U.S.

This is a process that has been used by previous Congresses to insure an up-or-down vote in both Houses on the B-2 bomber, the MX missile, and on BMD systems.

In sum, this section establishes a process whereby Congress will vote in 2000 on whether or not to deploy whatever National Missile Defense system has been developed at that time, and with better information than we have today.
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IV. NATIONAL MISSILE DEFENSE VS. ARMS
CONTROL AGREEMENTS

A statement that it is the United States’ legal right to deploy such a National Missile Defense system, and that such a deployment does not threaten Russian or Chinese deterrent capabilities.

A direction to the President to seek both further cooperation with Russia and the elimination of Threat-Neutral-Missile Defense issues, and the re- laxation of the ABM Treaty to allow both sides to have two National Missile Defense sites.

This would greatly increase the effectiveness of our National Missile Defense systems against Third World missile attacks aimed at targets across our borders, while not posing a threat to Russia’s deterrent.

This section also contains a provision requiring the President, if the ballistic missile threat to the U.S. exceeds that which the initial National Missile Defense system is capable of handling, to consult with the Congress regarding the exercise of our right to withdraw from the ABM Treaty under Article X.

V. DOD TO CONTINUE R&D ON NATIONAL MISSILE
DEFENSE

Directs the Secretary of Defense to continue a research and development program on advanced National Missile Defense technologies while the initial site is developed and deployed; this program would be conducted in full compliance with the ABM Treaty.

VI. U.S. POLICY TOWARD OTHER WMD DELIVERY
THREATS

Sets forth U.S. policy on reducing the threat to the U.S. from weapons of mass destruction and associated delivery systems. It further directs the Administration to develop a balanced comprehensive plan for reducing the threat to the U.S. from all weapons of mass destruction and all delivery means.

VII. PRESIDENTIAL AND CONGRESSIONAL REVIEW
OF U.S. DEFENSES AGAINST ALL TYPES OF
WMD ATTACK

Requires a review, following the initial deployment of a National Missile Defense, by the President and the Congress to determine the future course of U.S. defenses against all types of weapons of mass destruction.

VIII. REPORTING REQUIREMENTS

Administration reporting requirements to Congress.

IX. LEGAL DEFINITIONS

The legal definitions of the treaties mentioned in the bill.

By Mr. HATCH:

S. 65. A bill to amend the Internal Revenue Code of 1986 to ensure that members of tax-exempt organizations are notified of the portion of their dues used for political and lobbying activities, and for other purposes; to the

MEMBERSHIP DUES DISCLOSURE AND
DEDUCTIBILITY Legislation.

Mr. HATCH. Mr. President, for many years Congress has recognized that private institutions can often provide better service in certain areas than the government. In this regard, membership organizations that serve various public needs are given tax-exempt status.

However, tax-exempt organizations are involved in political and lobbying activities. These activities may or may not meet with the approval of those who pay dues and certainly should not be subsidized by the taxpayers.

Today, I am introducing legislation that is designed to rectify this problem. My bill is very simple. It requires tax-exempt membership organizations that disclose their political and lobbying activities and organizational resources spent on them. In addition, this bill will give the members of these tax-exempt organizations the opportunity to deduct the nonpolitical portion of their dues for income tax purposes without the so-called “two percent limitation.”

First, let me discuss the issue of full disclosure.

Mr. President, in the Omnibus Budget Reconciliation Act of 1993, Congress disallowed a deduction for expenses relating to lobbying and political activities. Lobbying is no longer a legitimate deductible expense for American businesses. Since tax-exempt organizations generally do not pay any income tax, the law was intended to further allow an individual taxpayer a tax deduction for the portion of annual dues paid to a tax-exempt organization that is attributable to any lobbying or political activities of the organization.

To underscore the point, knowing what portion is and what portion is not deductible when paying their dues, the law requires organizations to annually disclose to the IRS and to the individual members the amount of money spent on political activities by the organization.

However, certain exceptions to the disclosure rules are provided in the tax code and an organization is not required to disclose such information if (1) political activities do not exceed $2,000 a year; (2) the organization elects to pay a proxy tax on the nondeductible portion in order to avoid providing disclosure; or (3) substantially all of the individual members do not deduct their annual dues payments on their tax returns as itemized deductions.

In 1995, the IRS put forth an interpretation of this third exception and explained what they believe Congress meant by substantially all dues are not deductible. In Revenue Procedure 95-35, the IRS let all but three categories of tax-exempt organizations off the hook from the disclosure rules. The three that must comply are: section 501(c)(4) organizations that are not veterans organizations, 501(c)(5) agricultural and horticultural organizations, and 501(c)(6) organizations.

Interestingly, Mr. President, the IRS choose to grant labor unions, which are also 501(c)(5) organizations, a complete exemption from the lobbying disclosure rules. Thus, unions do not have to inform their members how much of their dues are used for political purposes.

I am sure that my colleagues see the obvious problems in this. It is simply not fair that the IRS would treat a labor union preferentially. Why are unions exempt and not, for example, farm cooperatives?

Mr. President, it seems to me that the Clinton administration has twisted the law to favor their friends in union leadership at the expense of the right to know for the rank and file. Let me reiterate this point: the law says clearly that tax-exempt organizations must disclose their political and lobbying activities. It is only the IRS interpretation that enables unions to escape this disclosure requirement and still benefit tax-exempt status.

Second, I find it outrageous that union leadership are able to coerce dues from workers in many states as a condition of employment. But, it adds insult to injury that those dues can be used for political purposes without the knowledge, let alone permission, of the rank and file.

The Supreme Court, in 1988, in Beck v. Communication Workers of America, declared that workers were entitled to contribute their dues to political causes and candidates they chose to support. The Court held that forcing workers to pay a proxy tax on the nonpolitical portion of their dues paid to a tax-exempt organization that is attributable to any lobbying or political activities of the organization is here.

The Beck Court opined that employees have a right to vote, in accordance with the First Amendment right to assemble and petition the Government for a redress of grievances.

Justice William Brennan cited Thomas Jefferson’s view that forcing people to contribute portions of their earnings to political causes or candidates they oppose violates their First Amendment rights. The Beck opinion, Justice William Brennan cited Thomas Jefferson’s view that forcing people to contribute portions of their earnings to political causes or candidates they oppose violates their First Amendment rights.

Justice Brennan also pointed to the example of a person who was entitled to get a substantial rebate of his dues, plus interest.

Yet, this case is merely illustrative of a widespread injustice. Where is the fairness in requiring a worker to contribute to a political cause or as a lobbying effort with which he or she does not agree?

Forcing people to contribute portions of their earnings to political causes they oppose violates their First Amendment rights, said the Beck opinion.

Justice Brennan cited Thomas Jefferson’s view that forcing people to contribute portions of their earnings to political causes they oppose violates their First Amendment rights. Mr. President, it is often a requirement or a condition of employment for workers to be members of a labor union. Yet, this requirement is often very costly. Union dues can run from about $300 to over $1,000 a year. Now, I ask how many of the 13 million members who pay union dues as a condition of employment believe that the 13 million members that pay union dues play an important role in employee-employer relations. I will wager that I am one of the few members of this body who was ever a member of a union. And, that experience, perhaps, is why I believe so strongly that the rank and file have rights that must be protected.
3 to 5 times that amount. In other words, organized labor may have actually spent from $300 million to $500 million on political activities in 1992. While some union members would approve of these expenditures, some definitely would not.

But, I want to be absolutely clear that the bill I am introducing today does not affect any provision in the National Labor Relations Act, the ability of unions to establish closed or agency shops in any state where they are currently permitted or the ability of unions to assess dues or collect fees. Those are debates for another day.

Rather, this bill deals only with the obligation of labor unions, as tax-exempt organizations, to disclose political and lobbying activities to their members. All union members deserve to know how their organizations spend their money. Moreover, because these are tax-exempt organizations, the taxpayers deserve to know what they are subsidizing.

While union members are certainly capable of reading a headline like, “Union leaders commit $35 million to Democrats,” they may wish to have a more comprehensive disclosure of political activity financed with their dues—and I cannot blame them one bit.

Mr. President, polling data suggests that union members would prefer that their unions not engage in partisan political activities at all. But, by an overwhelming 84 percent to 9 percent margin, according to a survey by Luntz and Associates, union members want to force their union leaders to explain what happens to their dues. They simply want to know where the money is spent and why. This seems utterly reasonable and fair to me.

Furthermore, only 19 percent of union members know that they can request a refund if they do not agree with the way the dues are spent or the ideological position of their particular union. When told that they have the right to a refund, 20 percent say they would “definitely” request their money back, and another 20 percent would be “very likely” to request a refund.

Mr. President, let me turn to the issue of deductibility.

Currently, an individual union member may deduct his union dues only if the amount exceed two percent of his or her adjusted gross income. This is designed to prevent unions from using their dues and fees with all other sorts of business expenses and contributions to tax-exempt organizations.

Moreover, this deduction is a form of tax break that could put real money back in the pockets of American workers.

Mr. President, to summarize, if my bill is enacted into law, tax-exempt organizations would be required—really required—to disclose to their members the amount of their political and lobbying activities. It goes further by allowing full deductibility of membership dues to the extent they are used for nonpolitical or lobbying activities.

Mr. President, this proposal is a step in the direction of campaign finance reform. One important objective of campaign finance reform should be to return political power to individual citizens and to diminish the influence of large organizational special interests. Well, Mr. President, knowledge has always been power. To return power to individual voters, they need to know where their dollars are going. At the same time, they will be getting a tax break and possibly an increased income tax deduction on their home pay. I believe this is the fair and honest thing to do. I urge all my colleagues to support and cosponsor this bill.

By Mr. HATCH (for himself, Mr. LIEBERMAN, Mr. GRASSLEY, and Mr. BREAUXX):

S. 66. A bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes; to the Committee on Finance.

THE CAPITAL FORMATION ACT OF 1997

Mr. HATCH. Mr. President, I am pleased to be joined by Senators LIEBERMAN, GRASSLEY, and BREAUXX in introducing the Capital Formation Act of 1997.

Mr. President, reducing the high rate on capital gains has long been a priority of mine. During the last Congress, I joined my good friend, the chairman of the House Ways and Means Committee, Bill Archer, in sponsoring the Archer-Hatch capital gains bill. Then later in the session Senator Lieberman and I offered a bipartisan capital gains tax reduction bill. The Hatch-Lieberman bill, S. 959, contained the same 50 percent deduction for capital gains as well as an enhanced incentive for investments in newly issued stock of small corporations. This measure was supported by 45 senators, and we were pleased that its provisions were included in the Balanced Budget Act of 1995.

The bill we are introducing today is substantially the same. Our bill combines two important elements of capital gains relief with a broad based tax cut and a targeted incentive to give an extra push for newly formed or expanding small businesses. Like the capital gains measure that passed the House and Senate during the last Congress, our bill would allow individual taxpayers to deduct 50 percent of any net capital gain. This means that the top capital gains tax rate for individuals is 19.8 percent on the first $500,000 in capital gains and a 25-percent maximum capital gains tax rate for corporations. Our bill also includes an important provision that would allow homeowners who sell their personal residences at a loss to take a capital gains deduction.

Mr. President, this additional targeted incentive works as follows: If an investor buys newly issued stock of a qualified small business, which is defined as one with up to $100 million in assets, and holds that stock for three or more years, he or she can deduct 75 percent of the gain on the sale of that stock, rather than just the 50 percent deduction provided for other capital gains.

In addition, any time after the end of the 3 year period, if the investor decides to sell the stock of one qualified small business and invest in another qualified small business, he or she can completely defer the gain on the sale of the first stock and not pay taxes on the gain until the second stock is sold. In addition, any time after the investor rolls over the gain into the new stock until he or she sells the stock and cashes out the assets. We think that this additional incentive will make a tremendous amount of capital available for new and expanding small businesses in this country.

In particular, these special incentives should really make a difference in the electronics, biotechnology, and other high tech industries that are so important to our economy and to our future. The software and medical device industries in Utah are perfect examples of how these industries have transformed our economy. While these
provisions are not limited to high tech companies by any means, these are the types of businesses that are most likely to use them because it is so hard to attract capital for these higher risk ventures. In addition, many start-up companies require significant amounts of development funds. With the uncertainty of the R&E tax credit, this bill will give investors an incentive to fund high risk research companies that may be a Novell or Thiel of tomorrow.

Mr. President, our economy is becoming more connected to the global marketplace every day. And, it is vital for us to realize that capital flows across national boundaries very rapidly. Therefore, we need to be concerned with how our trading partners tax capital and investment income.

Unfortunately, the U.S. has the highest tax rate on individual capital gains of all of the G-7 nations, except the U.K. And, even in the U.K., individuals can take advantage of indexing to alleviate some gains caused solely by inflation. For example, Germany totally exempts long-term capital gains on securities. In Japan, investors pay the lesser of 1 percent of the sales price or 20 percent of the net gain. I think it is no coincidence that Germany's saving rate is twice ours, and Japan's is three times as high as ours. In order to stay competitive in the world, it is vital that our tax laws provide the proper incentive to attract the capital we need here in the U.S.

We are aware that some of the opponents of capital gains tax reductions have asserted that such changes would inordinately benefit the wealthy, leaving little or no tax relief for the lower and middle income classes. Nothing could be further from the truth. In fact, capital gains taxation affects every homeowner, every employee who participates in a stock purchase plan, or every senior citizen who relies on income from capital gains. Funds for their basic needs during retirement. A capital gains tax cut is for everybody.

It is interesting to note how the current treatment of capital gains only gives preferential treatment to those taxpayers whose incomes lie in the highest tax brackets. Under the Capital Formation Act of 1997, the benefits will tilt decidedly toward the middle-income taxpayer. A married couple with $30,000 in taxable income who sells a capital asset under our current law pays only a 7.5 percent tax on the capital gain. Further, this bill would slash the taxes on all capital assets. Therefore, this bill will help us balance the budget. The evidence clearly shows that a cut in the capital gains tax rate will increase, not decrease, revenue to the Treasury. During the period from 1978 to 1985, the tax rate on capital gains was cut from almost 50 percent to 20 percent. Over this same period, however, tax receipts increased from $9.1 billion to $26.5 billion. The opposite occurred after the 1986 Tax Reform Act raised the capital gains tax rate. The higher rate resulted in less revenue.

Mr. President, the capital gains tax is really a tax on realizing the American dream. For those Americans who have planted seeds in small or large companies, family farms, or other investments, and who have been fortunate enough and worked hard enough to see them grow, the capital gains tax is a tax on success. It is an additional tax on the reward of a lifetime. The American dream is not dead; it's just that we have been taxing it away.

I urge my colleagues on both sides of the aisle to take a close look at this bill. We believe it offers a solid plan to help achieve the American dream for a brighter future for our children and grandchildren. When it comes down to it, jobs, economic growth, and entrepreneurship are not partisan issues. They are American issues.

I also believe there is a misperception about the term "capital asset." We tend to think of capital assets as something only wealthy persons have. In fact, a capital asset is a savings account—which we should all have—a piece of land, a savings bond, some stocks you own, a mutual fund share, your house, your farm, your 1964 Mustang convertible, or any number of things that have monetary worth. It is misleading to imply that only "the wealthy" would benefit from this bill.

I want to elaborate on this point, Mr. President. Current law already provides a sizeable differential between ordinary income rates and capital gains tax rates for upper income taxpayers. The wealthiest among us pay up to 39.6 percent on ordinary income but only 28 percent on capital gains. We certainly believe income tax rates are too high. And, for middle-income taxpayers in the 28 percent income tax bracket, there is no difference between their capital gains rate and their ordinary income rate. Thus, current law provides no tax incentive for middle income taxpayers to invest assets that may have capital gains. Our bill would correct this problem and give the largest percentage rate reduction to the lowest income taxpayers who is getting no benefit under current law—would be taxed at 14 percent—a 24 percent rate reduction.

Frankly, Mr. President, the introduction of a bipartisan capital gains bill couldn't come at a better time than now. Congress is in the midst of formulating a plan to balance the federal budget. The elements of this plan will have consequences far beyond this year or even beyond 2002 when we hope to achieve our balanced budget goal. Crucial to this plan is a balanced budget is the underlying growth and strength of our economy. Small changes in the behavior of the economy can make or break our ability to put our fiscal house in order. Thus, especially now, we can ill afford to have our economy slow down and create an increased fear of future job insecurity. Both Republicans and Democrats alike can agree that the creation of new and secure jobs is imperative for a vibrant and growing economy.

This is where a reduction of the capital gains rate can be so important. By stimulating the economy and spurring job creation, a cut in the capital gains rate can stave off the downturn that may be on its way.

Many Americans have expressed concern about the wisdom of a tax reduction while we are trying to balance the budget. However, Mr. President, we see this bill as one that will help us balance the budget. The evidence clearly shows that a cut in the capital gains tax rate will increase, not decrease, revenue to the Treasury. During the period from 1978 to 1985, the tax rate on capital gains was cut from almost 50 percent to 20 percent. Over this same period, however, tax receipts increased from $9.1 billion to $26.5 billion. The opposite occurred after the 1986 Tax Reform Act raised the capital gains tax rate. The higher rate resulted in less revenue.

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I want to reiterate that this bill as a change that will help us achieve the American dream for a brighter future for our children and grandchildren. When it comes down to it, jobs, economic growth, and entrepreneurship are not partisan issues. They are American issues.

I urge my colleagues on both sides of the aisle to take a close look at this bill. We believe it offers a solid plan to help achieve the American dream for a brighter future for our children and grandchildren. When it comes down to it, jobs, economic growth, and entrepreneurship are not partisan issues. They are American issues.
"(B) if the net capital gain for such year exceeds the amount taken into account under subsection (a), the rate of tax imposed by section 1 on such excess shall not exceed 25 percent."

"(2) SPECIAL RULES FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying paragraph (1) with respect to any pass-thru entity for purposes of the determination of when gains and losses are properly taken into account shall be made at the entity level.

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term ‘pass-thru entity’ means—

(i) a regulated investment company,

(ii) an S corporation,

(iii) a partnership,

(iv) an estate or trust, and

(v) a common trust fund.

(b) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (15) the following:

"(16) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202."

(c) CONFORMING AMENDMENTS.—

(1) Section 1 is amended by striking subsection (h).

(2) Section 170(e)(1) is amended by striking "the amount of gain" in the material following subparagraph (ii) and inserting "50 percent (8.5% in the case of a corporation) of the amount of gain".

(3) Section 172(d)(2)(B) is amended to add as follows:

"(B) the deduction under section 1202 and the exclusion under section 1203 shall not be allowed."

(4) The last sentence of section 433A(c)(3) is amended by striking all that follows "long-term capital gain," and inserting "the maximum rate on net capital gain under section 1201, or the deduction under section 1202 (whichever is appropriate) shall be taken into account.”

(5) Section 642(c)(4) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year or gain described in section 1203(a), proper adjustment shall be made for any deduction allowable to the estate or trust described in section 1202 (relating to deduction for excess of capital gains over capital losses) or for the exclusion allowable to the estate or trust under section 1212 (relating to exclusion for gain from certain small businesses stock). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(6) The last sentence of section 643(a)(3) is amended to read as follows: "The deduction under section 1202 (relating to deduction of excess of capital gains over capital losses) and the exclusion under section 1203 (relating to exclusion for gain from certain small business stock) shall not be taken into account.

(7) Section 643(a)(6)(C) is amended by inserting "(ii) before there shall and by inserting before the period ‘‘‘‘, and (ii) the deduction under section 1202 (relating to capital gains deduction) and the exclusion under section 1203 (relating to exclusion for gain from certain small business stock) shall not be taken into account.

(8) Section 691(c)(4) is amended by striking "sections 11h, 1201, 1202, and 1211" and inserting "sections 1201, 1202, 1203, and 1211.

(9) The last sentence of section 871(a)(2) is amended by inserting "or 1203" after "section 1202."

(10) Section 904(b)(2) is amended by striking subparagraph (B) as subparagraph (A), and by inserting after subparagraph (A) (as so redesignated) the following:

"(B) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.

(B) Section 904(b)(2)(A), as so redesignated, is amended—

(i) by striking all that precedes clause (i) and inserting the following:

"(A) CORPORATIONS.—In the case of a corporation—;

(ii) by striking in clause (i) "in lieu of applying subparagraph (A)," (C) Section 1201 is amended by striking subparagraphs (D) and (E) and inserting the following:

"(D) RATE DIFFERENTIAL PORTION.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, shall consist of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b).

(D) Section 939(b)(2)(D)(iv) is amended—

(i) by striking "if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year."

(ii) by striking "section 904(b)(3)(E)" and inserting "section 904(b)(3)(D)"."

(11) The last sentence of section 1044(d) is amended by striking "1202" and inserting "1203."

(12)(A) Section 1211(b)(2) is amended to read as follows:

"(2) the sum of—

(A) the excess of the net long-term capital loss over the net long-term capital gain, and

(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain."

(12) So much of section 1222(b)(2) as precedes subparagraph (B) thereof is amended to read as follows:

"(B) in paragraph (2), and inserting "25 percent (25 percent)."

(13) The second sentence of section 691(c)(4) of the Merchant Marine Act, 1996 is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) applies"; and

(ii) by striking "28 percent (34 percent)" and inserting "19.8 percent (25 percent)."

(14) The table of sections for part I of subchapter P of chapter 1 is amended by striking the item relating to section 1202 and by inserting after the item relating to section 1201 the following:

"Sec. 1202. Capital gains deduction."

"Sec. 1203. 50-percent exclusion for gain from certain small business stock.".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section apply to taxable years ending after December 31, 1996.

(2) CONTRIBUTIONS.—The amendment made by subsection (c)(2) applies to contributions on or after January 1, 1997.

(3) USE OF LONG-TERM LOSSES.—The amendments made by subsection (c)(12) apply to taxable years beginning after December 31, 1997.

(4) WITHHOLDING.—The amendments made by subsection (c)(14) apply only to amounts paid after the date of enactment of this Act.

Subtitle B—Capital Gains Reduction for Corporations

SECTION 111. REDUCTION OF ALTERNATIVE CAPITAL GAIN TAX FOR CORPORATIONS.

(a) In General.—Section 1201 is amended to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.

"(1) IN GENERAL.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 311, and 831 (whichever is applicable), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

(i) a tax computed on the taxable income resulting from the amount of net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

(ii) a tax of 25 percent of the net capital gain.

(b) TRANSITIONAL RULE.—

"(1) IN GENERAL.—In the case of any taxable year ending after December 31, 1996, and beginning before January 1, 1998, in applying subsection (a), the net capital gain for such taxable year shall not exceed such net capital
gain determined by taking into account only gain or loss properly taken into account for the portion of the taxable year after December 31, 1996.

(2) SPECIAL RULE FOR PASS-THRU ENTITIES.—Section 1202(d)(2) shall apply for purposes of paragraph (1).

(c) CROSS REFERENCES.—

(1) For computation of the alternative tax—

(1) in the case of life insurance companies, see section 801(a)(2),

(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3)(A) and (D), and

(3) in the case of real estate investment trusts, see section 857(b)(3)(A).

(b) CONFORMING AMENDMENT.—Section 852(b)(3) is amended by inserting “65 percent” and inserting “75 percent.”

(2) INCLUSION OF RETAINED EARNINGS.—Section 1202(d)(1), as redesignated by section 101, is amended by striking “$50,000,000” and inserting “$75,000,000.”

(2) INCLUSION OF RETAINED EARNINGS.—Section 1202(d)(3), as so redesignated, is amended by adding at the end the following:

“(4) losses arising from the sale or exchange of the principal residence (within the meaning of section 1034) of the taxpayer.”

(b) REGULATIONS.—The amendments made by subsection (a) apply to sales and exchanges after December 31, 1996, in taxable years ending after such date.

TITLe II—SmaLL BUSINess VENTURE caPITAL STOCK

SEC. 201. MODIFICATIONS TO EXCLUSION OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) INCREASE IN EXCLUSION PERCENTAGE.—

(1) IN GENERAL.—Section 1203(a), as redesignated by section 101, is amended—

(A) by striking “50 percent” and inserting “75 percent”; and

(B) in the heading, by striking “50-PERCENT” and inserting “PARTIAL”.

(2) CONFORMING AMENDMENTS.—

(A) Section 1012(d) as so redesignated, is amended by adding at the end the following:—

“(i) CROSS REFERENCE.—

For treatment of eligible gain not excluded under subsection (a), see sections 1201 and 1202.”.

(B) the heading for section 1203, as so redesignated, is amended by striking “50-PERCENT” and inserting “PARTIAL”.

(C) The table of sections for part I of chapter 1, as amended by section 101(d), is amended by striking “50-PERCENT” in the item relating to section 1203 and inserting “PARTIAL”.

(b) REDUCTION IN HOLDING PERIOD.—Subsection (a) of section 1202 is amended by striking “5 Years” and inserting “3 Years”.

(c) EXCLUSION AVAILABLE TO CORPORATIONS.—

(1) IN GENERAL.—Section 1203(a), as redesignated by section 101, is amended by striking “other computation of gain”.

(2) CONFORMING AMENDMENT.—Section 1203(c), as so redesignated, is amended by adding at the end the following:

“(4) SECURING MEMBERS OF CONTROLLED GROUP NOT ELIGIBLE.—Stock of a member of a parent-subsidiary controlled group (as defined in subsection (d)(3)) shall not be treated as qualified small business stock while held by another member of such group.”.

(d) REPEAL OF MINIMUM TAX PREFErence.—

(1) IN GENERAL.—Section 57(a) is amended by striking paragraph (7).

(2) CONFORMING AMENDMENT.—Section 53(b)(3)(B) is amended by adding (5) and (7) and inserting “and (5) and (7).”

(e) STOCK OF LARGER BUSINESSES ELIGIBLE FOR EXCLUSION.—

(1) IN GENERAL.—Section 1203(d), as so redesignated by section 101, is amended by striking “$50,000,000” each place it appears and inserting “$100,000,000.”

(2) INCLUSION OF RETAINED EARNINGS.—Section 1203(d), as so redesignated, is amended by adding at the end the following:

“(4) INCLUSION OF RETAINED EARNINGS.—In any calendar year after 1996, the $100,000,000 amount contained in paragraph (1) shall be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 1996’ in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.”.

(f) REPEAL OF PER-ISSUER LIMITATION.—

Section 1203(e)(3), as redesignated by section 101, is amended by striking subsection (b).

(g) OTHER MODIFICATIONS.—

(1) REPEAL OF WORKING CAPITAL LIMITATION.—Section 1203(e)(6), as redesignated by section 101, is amended—

(A) in subparagraph (B), by striking “2 years” and inserting “3 years”; and

(B) by striking the last sentence.

(2) EXCEPTION FROM REDEMPTION RULES WHERE BUSINESS PURPOSE.—Section 1203(c)(3), as so redesignated, is amended by adding at the end the following:

“(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitations of this section.”.

(h) QUALIFIED TRADE OR BUSINESS.—Section 1203(e)(3), as redesignated by section 101, is amended by inserting “and” at the end of subparagraph (C), and at the end of subparagraph (D) and inserting a period, and by striking subparagraph (E).

(i) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section apply to stock issued after the date of enactment of this Act.

(2) SPECIAL RULE.—The amendments made by subsections (a), (c), (e), and (f) apply to stock issued after August 10, 1993.

SEC. 202. ROLLOVER OF GAIN FROM SALE OF QUALIFIED SMALL BUSINESS STOCK.

(a) IN GENERAL.—Part III of chapter 1 is amended by adding at the end the following:

“SEC. 1045. ROLLOVER OF GAIN FROM QUALIFIED SMALL BUSINESS STOCK TO ANOTHER QUALIFIED SMALL BUSINESS STOCK.

(1) NONRECOGNITION OF GAIN.—In the case of any sale of qualified small business stock with respect to which the taxpayer elects the application of this section, eligible gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds—

“(1) the cost of any qualified small business stock the basis of which was reduced as having purchased any property if, but for paragraph (4), the property that would be its cost.

(2) the amount of gain included in income by reason of paragraph (4); and

(3) the amount of gain included in income by reason of paragraph (5).

(2) ELIGIBLE GAIN.—For purposes of this section—

(T) QUALIFIED SMALL BUSINESS Stock.—The term ‘qualified small business stock’ shall have the meaning given such term by section 1203(c).

(2) ELIGIBLE GAIN.—The term ‘eligible gain’ means any gain from the sale or exchange of qualified small business stock held for more than 5 years.

(3) PURCHASE.—A taxpayer shall be treated as having purchased any property if, but for paragraph (4), the property that would otherwise be its cost was the basis of such property in the hands of the taxpayer.

(4) BASIS ADJUSTMENTS.—If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any qualified small business stock which is purchased by the taxpayer during the 60-day period described in subsection (a).

(c) SPECIAL RULES FOR TREATMENT OF REPLACEMENT STOCK.—

(1) HOLDING PERIOD FOR ACCRUED GAIN.—For purposes of this section, any replacement qualified small business stock shall be treated as gain from the sale or exchange of qualified small business stock held more than 5 years to the extent that the amount of such gain does not exceed the amount of the reduction in the basis of such stock by reason of subsection (b).

(2) TACKING OF HOLDING PERIOD FOR PURPOSES OF DEFERRAL.—For purposes of applying this section, if any replacement qualified small business stock disposed of before the taxpayer has held such stock for more than 5 years, gain from such stock shall be treated eligible gain for purposes of subsection (a).

(3) REPLACEMENT QUALIFIED SMALL BUSINESS STOCK.—For purposes of this subsection, the term ‘replacement qualified small business stock’ means qualified small business stock the basis of which was reduced under subsection (b)(4).”.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a)(22) is amended—

(A) by striking “or 1044” and inserting “, 1044, or 1045”;

(B) by striking “or 1044(d)” and inserting “, 1044(d), or 1045(d)”;

(2) The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end the following:

“Sec. 1045. Rollover of gain from qualified small business stock to another qualified small business stock.”.

(c) EFFECTIVE DATE.—The amendments made by this section apply to stock sold or exchanged after the date of enactment of this Act.

SUMMARY OF CAPITAL FORMATION ACT OF 1997

The Capital Formation Act of 1997 would reduce the tax rate on capital gains and encourage investment in new and growing business enterprises through the following provisions:

1. Broad-Based Tax Relief:—

(1) Individual taxpayers would be allowed a deduction of 50 percent of any net capital gain. The top effective rate on capital gains would be 18.8 percent.

(2) Corporations would have a maximum capital gains tax rate of 25 percent.
This bill gives people at all income levels a reason to put their money in places where that money will help businesses start and grow and that means more jobs for Americans and more economic prosperity for our country. The benefits of this legislation will not flow just to people of wealth. Anyone who has stock, who has money invested in a mutual fund, who owns a home, who has a stock option plan at work, has a stake in capital gains tax relief. In this country, and in the minds of hundreds of millions of middle-class American families, stand to benefit from this legislation.

I often cite data on employee stock options and stock purchase plans in talking about stakeholders in a capital gains cut. A recent count showed that over three hundred American corporations with over seven million workers offered these plans. Each of those workers and their spouses and their children stand to gain from this legislation.

This capital gains bill rewards those people who are willing to invest their money and not spend it. It rewards people who put their money in places where it will add to our national pool of savings. A woman who has put several thousand dollars in savings to meet their capital needs, expand their businesses and hire more workers. The 1995 Nobel Prize winner in Economics, Robert Lucas, had this to say about capital gains taxes: When I left graduate school in 1963, I believed that the single most desirable change in the U.S. tax structure would be the taxation of gains as ordinary income. I now believe that neither capital gains nor any of the income from capital should be taxed at all." Professor Lucas went on to say that his analysis shows that even under conservative assumptions, eliminating capital gains taxes would increase available capital in this country by about 35 percent.

This is a huge incentive to invest in this country, we hope you will consider joining us in cosponsoring this important legislation.

I would also like to point out that this bill contains a targeted sweetener for investments in qualified small businesses. This is an attempt to promote investments in small businesses, the firms that are driving job creation in our economy. We expect these provisions to be very helpful to the kinds of small businesses we need for our future, the high technology companies that will be the source of new jobs in the next century. The bill provides a 75 percent exclusion of capital gains from sales of investment in qualified small businesses, and a corporate rate of 25 percent. It also has a targeted provision which provides a "sweetener" for investments in qualified small businesses. In addition, it allows taxpayers to deduct losses that are a loss of a principal residence, something which is very important in places like my home state of Connecticut as well as in California and Texas.

Before I go any further, I must give credit where credit is due. The targeted provisions of this legislation build on the fine work of Senator DALE BUMPERS, who has been a leader in providing incentives for start-up businesses to attract the talented people that this country needs. They have a targeted incentive piece included in the 1993 reconciliation bill and he succeeded. The legislation we are introducing today builds on, and we hope, improves, on that targeted incentive.

I would also like to note that I am also joining Minority Leader DASCHLE today as a cosponsor of his Targeted Investment Incentive and Economic Growth Act of 1997. That proposal contains a capital gains tax provision which contains features of a targeted rollover piece I introduced in the last Congress, S. 1053, as well as features from the targeted section of the bill I am introducing with Senator HATCH today. Senator HATCH and Minority Leader DASCHLE's legislation is also very helpful insofar as he improves upon the targeted capital gains bill we passed in 1993, much in the same way the broader capital gains bill being introduced today does. I am also delighted that Senator DASCHLE's bill incorporates a version of a bill I introduced in June of 1993, The Equity Expansion Act of 1993. That bill created a preferred type of stock options for companies willing to offer stock options to a wide cross section of their employees. Under current law, taxpayers are taxed on a stock option when they exercise their right to buy stock, not when they sell that stock. Those adverse effects of the current tax law are known as the "double taxation" of capital gains. Under current law, taxpayers are taxed on a stock option when they exercise their right to buy stock, not when they sell that stock. This is a huge incentive to invest in this country. They have a targeted incentive piece included in the 1993 reconciliation bill and he succeeded. The legislation we are introducing today builds on, and we hope, improves, on that targeted incentive.

In closing, I applaud both Senator HATCH and Minority Leader DASCHLE, in their efforts to promote economic growth by changing the way we tax investment in this country. They have done yeoman's work on this issue and I hope that we will be able to move forward in a bipartisan way to make these incentives a reality in the very near future.
Ms. SNOWE. Mr. President, I am extremely pleased that one of the first resolutions introduced in the 105th Congress by the Republican leadership will significantly increase biomedical research funding at NIH. I truly believe that the Government can and should do more toward solving the mysteries of this devastating disease.

In my home state of Maine, one of every five American women are living with breast cancer. Today, over 2.6 million American women are living with this disease. In my home state of Maine, it is the most commonly diagnosed cancer among women, representing more than 30 percent of all new cancers in Maine women.

In addition to these enormous human costs, breast cancer also exacts a heavy financial toll—over $6 billion of our health care dollars are spent on breast cancer annually.

Today, however, there is cause for hope. Recent scientific progress made in the fight against breast cancer is encouraging. Researchers have isolated the genes responsible for inherited breast cancer and are beginning to understand the mechanism of the cancer cell itself. It is imperative that we capitalize upon these advances by continuing to support the scientists investigating this disease and their innovative research.

For this reason, my bill increases the FY 96 funding authorization level for breast cancer research to $590 million. This level represents the funding level scientists believe is necessary to make progress against this disease. This increase in funding will contribute substantially toward solving the mysteries surrounding breast cancer. Our continued investment will save countless lives and health care dollars, and prevent undue suffering in millions of American women and families.

On behalf of the 2.6 million women living with breast cancer, I urge my colleagues to support this important bill.

Mr. KYL. Mr. President, I rise today to introduce the Voter Turnout Enhancement Study (VoTES) Commission Act, a bill designed to promote fiscal responsibility while helping to motivate more Americans to get to the polls on Election Day.

Mr. President, there are far too many people who, for one reason or another, choose not to exercise their right to vote. Although the reasons for their non-participation are undoubtedly varied, I suspect that one perception that the choices they will make on the ballot will not make enough of a difference. One person, explaining why she chose not to participate in last November's election, told me, "It doesn't make any difference in my life who's president." This is a common enough sentiment that the election last fall posted one of the lowest voter turnout rates this century.

The "Motor Voter" bill that President Clinton championed a few years ago as a way to get out the vote apparently had little effect, other than to impose additional costs and mandates on state and local governments and their taxpayers. Although the bill did help in registration, it came down flat. If anything, it did little, if anything, to motivate people to get to the polls. Like the woman in Tucson, too many people did not believe they had enough of a stake in the outcome of the election to take the time to vote.

Of course, people do have a stake in the outcome of every election. For one thing, the candidates chosen determine how much and for what purpose citizens are taxed. Most people I hear from say it is where the majority of those elected in the past failed to heed their concerns; they say their taxes are far too high.

One survey, which was published in Reader's Digest last year, found that 48 percent of Americans felt their own taxes were "too high." According to the poll, the maximum tax burden that Americans think a family of four should bear is 25 percent of its total income, even if the family's income is $20,000 per year. But the government takes far more than that. The average family—whose income is not $20,000, but something far less than that—now pays nearly 40 percent of its income in taxes. That is more than it spends on food, clothing, and shelter combined. People around the country are reacting to that heavy burden. The new faces in the House and Senate in recent years have been those of people pledging to oppose tax increases and support tax cuts. President Clinton won reelection, promising to support tax cuts. In some cases, people around the country have also placed limits on how much their state governments can tax them. But advocates of tax cuts, and tax limits themselves, can only achieve their purpose if people are willing to go to the polls to support them.

With that in mind, one way to demonstrate to people that their choices at the polls have a real effect on their lives would be to move the deadline for filing income tax returns to Election Day. That would give people a reason to vote by focusing their attention on the role of government—and how much government largesse they receive, the tax-filing deadline from April to November, its potential effect on voter turnout, as well as any economic impact it might have. The bill explicitly requires that an independent commission conduct a cost-benefit analysis—a requirement that Congress would be wise to impose routinely on legislative initiatives to separate the good ideas from the bad, and save taxpayers a lot of money. The amendment to the Treasury and General Government Appropriations Act, 1998, requires that an independent commission conduct a cost-benefit analysis—substantialley toward solving the mysteries surrounding breast cancer. Our continued investment will save countless
SECTION 2. FINDINGS.
(a) FINDINGS.—The Congress finds that:
(1) The right of citizens of the United States to vote is a fundamental right.
(2) Federal, state, and local governments to promote the exercise of that right to vote to the greatest extent possible.
(3) The power to tax is a power that citizens of the United States only guards vest in their elected representatives to the federal, state, and local governments.
(4) The only regular contacts most Americans have with government are the filing of their personal income tax returns and their participation in federal, state, and local elections.
(5) About 91 million individual income tax returns were filed in 1996, but only about 92 million Americans cast votes in that year’s presidential election.

SECTION 3. ESTABLISHMENT OF COMMISSION.
(a) ESTABLISHMENT.—There is established a commission to be known as the Voter Turnout Enhancement Study Commission (hereafter in this Act referred to as the `Commission’).
(b) MEMBERSHIP.—
(1) COMPOSITION.—The Commission shall be composed of nine members of whom—
(A) 3 shall be appointed by the President;
(B) 3 shall be appointed by the Majority Leader of the Senate; and
(C) 3 shall be appointed by the Speaker of the House of Representatives.
(2) PERIOD OF APPOINTMENT, VACANCIES.— Members shall be appointed no later than 30 days after the date of the enactment of this Act, and serve for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.
(d) COMPENSATION.—
(1) RATES OF PAY.—Except as provided in paragraph (2), members of the Commission shall receive the following:
(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, in accordance with the schedule in the Internal Revenue Code of 1986 (relating to determination of present value for purposes of pension cash-out restrictions, and for other purposes; to the Committee on Finance.

THE RETIREMENT PROTECTION ACT AMENDMENT ACT OF 1997

By Mr. KYL.

S. 69. A bill to amend the Internal Revenue Code of 1986 to allow a one-time election of the interest rate to be used to determine present value for purposes of pension cash-out restrictions, and for other purposes; to the Committee on Finance.

By Mrs. BOXER (for herself, Mr. CHAFEE, Mr. REED, and Mr. DURBIN):

S. 70. A bill to apply the same quality and safety standards to domestically manufactured handguns that are currently applied to imported handguns; to the Committee on the Judiciary.

THE AMERICAN HANDGUN STANDARDS ACT

By Mrs. BOXER. Mr. President, today I am introducing the American Handgun Standards Act, a bill to require that handguns made in the United States meet the same quality and safety standards currently required of imported handguns. I am joined in this effort by Senators JOHN CHAFEE, J A C K REED, and D I C K DURB I N.

This bill is aimed at junk guns—the cheap, unsafe, and easily concealable handguns that are the criminals’ favorite. Under our bill, junk guns will no longer be allowed to be manufactured or sold in the United States of America.

Nearly 30 years ago Congress declared junk guns the problem of junk guns. Following the assassination of Senator Robert Kennedy, Congress passed the Gun Control Act of 1968, which banned the importation of junk
The need for strong action is clear. Gunshots are now the leading cause of death among children in California. A child dies from gunfire every 92 minutes in the United States. A total of 39,720 people died from gunfire wounds in 1994 and approximately 250,000 Americans can survive a gunshot wound. If we were in a war with this many casualties, there would be protests in the streets to end it. Let us end now, end this junk gun war.

For each person killed by gunfire, up to 8 are wounded. Many survivors of gunshot wounds face debilitating injuries that require constant medical attention. The economic costs of gun violence are staggering. Direct medical costs alone cost Americans more than $20 billion. When indirect costs, such as lost productivity, are considered, the total economic cost of gun injuries soars to over $120 billion.

I first introduced junk gun legislation less than a year ago. Since then, I have received support so strong that it has surpassed even my most optimistic hopes. More than two dozen California cities and counties have passed local ordinances banning junk gun sales, and my legislation has been endorsed by the California Police Chiefs Association and 36 individual police chiefs and sheriffs representing some of California’s largest cities, including Los Angeles, San Francisco, San Jose and Sacramento.

This legislation has generated such strong support for good reason. A junk gun is a firearm that has been altered or modified in any way, and which is not subject to quality and safety standards. Real handguns made in the United States have been subjected to rigorous quality and safety standards, but junk guns made in the United States were left totally unregulated. Even toy guns are subject to quality and safety standards, but real handguns made in the United States are not required to meet even one.

The junk gun market for junk guns, defined as those handguns and domestically produced handguns that fail to meet the quality and safety standards required of imported handguns; (4) Traffic in junk guns constitutes a serious threat to public welfare and to law enforcement officers; (5) Junk guns are used disproportionately in the commission of crimes; and (6) Junk guns are used disproportionately in the commission of crimes.

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work on jobs that require equal skill, effort, and responsibility and that are performed under similar working conditions.

(6) Certain employers have already made great strides in improving pay disparities in the workplace and their achievements should be recognized.

SEC. 3. ENHANCED ENFORCEMENT OF EQUAL PAY REQUIREMENTS.

(a) NONRETALIATION PROVISION.—Section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)) is amended—

(1) by striking paragraph (3) and inserting the following:

``in the complaint'' and inserting ``, including expert fees'';``The court may award the prevailing party reasonable attorney's fees and other expenses of litigation, including expert fees''.

(b) ENHANCED PENALTIES.—Section 16(b) of such Act (29 U.S.C. 216(b)) is amended—

(1) by inserting after the first sentence the following: ``Any employer who violates section 6(d) shall additionally be liable for such compensatory or punitive damages as may be appropriate.'';

(2) in the sentence beginning ``An action'' by striking ``, or be served'' and inserting ``, or be served'';

(3) in the sentence beginning ``No employees'' by striking ``, or be served'' and inserting ``, or be served'';

(4) by inserting after such sentence the following: ``in any other action brought to enforce section 6(d)''.

(c) INCREASED PENALTIES.—Section 16(b) of such Act (29 U.S.C. 216(b)) is amended—

(1) by inserting after the first sentence the following:

``in the complaint'' the following: ``or be served'';

(2) in the second sentence, by inserting before ``the first or'' and inserting ``, the first or'';

(3) in the third sentence, by striking ``, or punitive damages'' before ``and the agreement'' and inserting ``, or punitive damages'', before ``and the agreement'';

(d) TRAINING.—The Equal Employment Opportunity Commission, subject to the availability of funds appropriated under section 8(b), shall provide training to Commission employees and affected individuals and entities on matters involving discrimination in the payment of wages.

SEC. 5. TRAINING.

The Equal Employment Opportunity Commission, subject to the availability of funds appropriated under section 8(b), shall provide training to Commission employees and affected individuals and entities on matters involving discrimination in the payment of wages.

SEC. 6. RESEARCH, EDUCATION, AND OUTREACH.

The Secretary of Labor shall conduct studies and provide information to employers, labor organizations, and the general public concerning the means available to eliminate pay disparities between men and women, including—

(1) conducting and promoting research to develop the means to correct expeditiously the conditions leading to the pay disparities;

(2) publishing and otherwise making available to employers, labor organizations, professional associations, the media, and the general public the findings resulting from studies and other materials, relating to eliminating the pay disparities;

(3) sponsoring and assisting State and community informational and educational programs;

(4) providing information to employers, labor organizations, professional associations, and other interested persons on the means of eliminating the pay disparities; and

(5) recognizing the achievements of employers, labor organizations, and professional associations that have worked to eliminate the pay disparities; and

(c) ACTION BY SECRETARY.—Section 6(c) of such Act (29 U.S.C. 216(c)) is amended—

(1) by inserting or, in the case of a violation of section 6(d), additional compensatory or punitive damages, before ``and the agreement'';

(2) by inserting before the period the following: `,`, or such compensatory or punitive damages, as appropriate';

(3) in the third sentence, by inserting before the period the following: ``, and in the case of a violation of section 6(d), additional compensatory or punitive damages'';

(4) in the third sentence, by striking the first sentence and inserting the following: ``, or becomes a party plaintiff in a class action brought to enforce section 6(d)'';

(5) by inserting the following: ``, or becomes a party plaintiff in a class action brought to enforce section 6(d)''.

SEC. 4. COLLECTION OF PAY INFORMATION BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

Section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4) is amended by adding at the end thereof the following new subsection:

``(i)(1) The Commission shall, by regulation, require each employer who has 100 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year to maintain payroll records and to prepare and submit to the Commission containing information from the records. The reports shall contain pay information, analyzed by the race, sex, and national origin of the employees. The reports shall disclose the best information of an employer in a manner that permits the identification of the employer.

``(2) The third through fifth sentences of section 705(c) shall apply to employers, regulations, and records described in paragraph (1) in the same manner and to the same extent as to employers, regulations, and records described in such section.''

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(3) in the third sentence, by inserting before the period the following: ``, and in the case of a violation of section 6(d), additional compensatory or punitive damages'';

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(5) by inserting the following: ``, or becomes a party plaintiff in a class action brought to enforce section 6(d)''.
easily make about today's economy. He said, "America has enjoyed 22 months of uninterrupted economic recovery." The current expansion, albeit one of the weakest this century, has gone on a little longer. But", President Kennedy went on to say, "recovery is not enough. If we are to prevail in the long run, we must expand the long-run strength of our economy. We must move along the path to a higher rate of economic growth."

Economic growth. Tracking it is the domain of economists and statisticians, but what does it mean for the average American family, and why should policy-makers be so concerned about the slow rate of economic growth during the last 4 years?

Slow growth means fewer job opportunities for young Americans just entering the work force and for those people seeking to free themselves from the welfare rolls. It means stagnant wages and salaries, and fewer opportunities for career advancement for those who do have jobs. It means less investment in new plant and equipment, and new things needed to enhance workers' productivity and ensure that American businesses can remain competitive in the global marketplace. It means less revenue for the U.S. Treasury, compared to what we could collect with higher rates of economic growth, for the critical programs serving the American people. And it means that interest rates are higher than they need to be because national debt, as a share of Gross Domestic Product is higher, we all pay more for such things as home mortgages, college loans, and car loans.

For most of the 20th century, our Nation enjoyed very strong rates of economic growth and the dividends that came with it. The 1930s saw annual economic growth above 5 percent. In the 1960s, it was above 6 percent. Economic growth during the Kennedy and Johnson years averaged 4.8 percent annually. During the decade before President Reagan took office, the economy grew at an average rate of 3.2 percent a year, according to data supplied by the Joint Economic Committee.

The Clinton years, by contrast, have seen the economy grow at an average rate of only about 2.3 percent. What that means is that, while we may not exactly be hurting as a Nation, we are not becoming much better off, either. And we are certainly not leaving much of a legacy for our children and grand-children to meet the needs of tomorrow.

So what do we do to enhance economic growth—to ensure that jobs are available for those who want them, that wages are higher, and that American business maintains a dominant role in the global economy?

Those are, after all, the goals of the agenda I am laying out today—an agenda focused on economic growth and opportunities for Americans, for those struggling to make ends meet today, and for our children when they enter the work force tomorrow.

Let me answer then, beginning with another quotation from John Kennedy: "It is increasingly clear—to those in Government, business, and labor who are responsible for our economy's success—that our obsolete tax system, the drag on private purchasing power, profits, and employment. Designed to check inflation in earlier years, it now check growth instead. It discourages new business enterprises that would otherwise be created. It diverts resources. It invites recurrent recessions, depresses our Federal revenues, and causes chronic budget deficits."

Mr. President, in preparing this Tax Code, I am proposing attacks some of the most significant deficiencies in our Nation's Tax Code that are inhibiting savings and investment, and job creation—deficiencies that are preventing us from reaching our potential as a Nation. I do not make these proposals as a substitute for fundamental tax reform, which I believe is the ultimate solution to the problem. But fundamental tax reform is going to take some time to accomplish, maybe several years. What America needs now are things we can do quickly—to make sure our movement into the 21st century is based on the bedrock of a strong and growing economy.

I believe these Tax Code changes will help stimulate the economy and, in turn, produce more revenue for the Federal Government to assist in deficit reduction. Still, I recognize that under existing budget rules which require static scoring of tax bills, there may be a need for offsetting spending cuts. With that in mind, I am asking the Joint Committee on Taxation, as well as the respected Institute for Policy Innovation, to estimate the economic impact of these proposals, including the effect on federal revenues. Should the result of those analyses indicate that there will be some revenue loss—most likely because of rules requiring static scoring—my intention would be to propose some offsetting spending cuts.

Mr. President, fiscal responsibility would come in so-called corporate welfare programs. In other words, in exchange for the targeted subsidies from corporate welfare programs, we would adopt broadly applicable tax incentives to support activities veted by the free market. That is what free enterprise is all about.

The CAPITAL GAINS REFORM ACT

Mr. KYL. Mr. President, the first of the five tax-related bills I am introducing is based upon President Johnson's Kennedy's economic growth from three decades ago. Like the Kennedy plan, the legislation would reduce the percentage of long-term capital gains included in individual income subject to tax to 30 percent. It would reduce the alternative tax on the capital gains of corporations to 22 percent.

I would note that President Kennedy's plan called for a deeper capital gains tax cut than the Republican-controlled Congress proposed last year.

There was a reason that John Kennedy called for a significant cut in the capital gains tax. "The present tax treatment of capital gains and losses is both inequitable and a barrier to economic growth", the President said. "The tax on capital gains directly affects investment decisions, the mobility and flow of risk capital from static to more dynamic situations, the ease of entry and exit as experienced by new ventures in obtaining capital, and thereby the strength and potential for growth of the economy."

So, if we are concerned whether new jobs are being created, there is supporting evidence in the form of job creation by new technology developed by workers who get to keep more of their hard-earned money. We must work to ensure that American businesses can remain competitive in the global marketplace.

Mr. President, it may come as a surprise to some people, but experience shows that lower capital gains tax rates have a positive effect on federal revenues. The most impressive evidence in this regard is contained in a recent report by the American Council for Capital Formation, can be found in the period from 1978 to 1985. During those years, the top marginal federal tax rate on capital gains was cut by almost 45 percent—from 35 percent to 20 percent—but total individual capital gains tax receipts nearly tripled—from $9.1 billion to $26.5 billion annually.

Research by experts at the prestigious National Bureau of Economic Research indicates that ameliorating capital gains tax rates—that is, the rate that would bring in the most Treasury revenue—is somewhere between nine and 21 percent. The bill I am introducing today would set an effective top rate on capital gains earned by individuals, by virtue of the 70 percent exclusion, at 11.88 percent.

Mr. President, when capital gains tax rates are too high, people need only hold onto their assets to avoid the tax increases. But that means less investment, fewer new businesses and new jobs, and—as historical records show—for less revenue to the Treasury than if capital gains taxes were set at a lower level. Just as the Target store down the street does not lose money on weekend sales because volume is more than makes up for lower prices—lower capital gains tax rates can encourage more economic activity and, in turn, produce more revenue for the government.

Capital gains tax reform will help the Treasury. A capital gains tax reduction would help unlock a sizable share of the estimated $7 trillion of capital that
Mr. President, the original intent of the AMT was to make it harder for large, profitable corporations to avoid paying any federal income tax. But the way to have accomplished that objective was not, in my view, to impose an AMT, but to identify and correct the provisions of law that allowed large companies to inappropriately lower their federal tax liabilities to begin with.

Ironically, the primary shelters corporations were using to minimize their tax liability—what is, the depreciated appreciation and safe harbor leasing of the old Tax Code—were being corrected at the time the AMT was enacted.

I would point out that the AMT is not a tax per se. As indicated in an April 3, 1996 report by the Congressional Research Service, the AMT is merely intended to serve as a prepayment of the regular corporate income tax, not a permanent increase in overall corporate tax liability. What that means in practical terms is that businesses are forced to make interest-free loans to the federal government under the guise of the AMT. Corporations pay a tax for which they are not liable, but which they are able to apply toward their future regular tax liability.

I would also point out that most of the corporations paying the AMT are relatively small. The General Accounting Office, in its annual study of the AMT issue, found that, in most years between 1987 and 1992, more than 70 percent of corporations paying the AMT had less than $10 million in assets.

The AMT's effect on the economy, moreover, is due to the small amount of revenue raised, due in large part to its requirement that corporations calculate their tax liability under two separate but parallel income tax systems. Firms must calculate their AMT liability even if they end up paying the regular tax. At a minimum, that means that firms must maintain two sets of records for tax purposes.

The compliance costs are substantial. In 1992, for example, while only about 28,000 corporations filed the AMT form, and an even greater—but unknown—number of firms performed the calculations needed to determine their AMT liability. A 1993 analysis by the Joint Committee on Taxation found that the AMT added 16.9 percent to a corporation's total cost of complying with federal income tax laws.

Mr. President, repealing the corporate AMT would help free up badly needed capital to assist in business expansion and job creation. According to a study by DRI/McGraw-Hill, repeal of the AMT would, over the 1996-2005 time period, increase fixed investment by a total of 7.9 percent, raise Gross Domestic Product by 1.6 percent, and increase labor productivity by 1.6 percent. The study also projected repeal would produce an additional 100,000 jobs a year during the years 1998 to 2002.

Mr. President, most Americans know the importance of planning ahead for retirement. Sometimes that means buying a less expensive car, wearing clothes that fit a little longer, or forgoing a vacation or two. But by doing with a little less during one's working years, people know they can enjoy a better and more secure life during retirement, and maybe even leave their children or grandchildren a little better off when they are gone.

Savings not only create more personal security, they help create new opportunities for others, too. Savings are real investments that help others create new jobs in the community. They make our country more competitive. And ultimately they make a citizen's retirement more secure by providing a return on the money invested during his or her working years.

So how does the government reward all of this thrift and careful planning? It imposes a hefty tax on the end result of such activity—up to 55 percent of a person's estate. The respected liberal Professor of Law at the University of California at Berkeley, Cass R. Sunstein, observed that "polls and practices show that we like sin taxes, such as on alcohol and cigarettes." "The estate tax," he went on to say, "is an anti-sin, or a virtue, tax. It is a tax on work and savings without consumption, on thrift, on long-term savings. There is no reason even a liberal populace need support it."

At one time, the estate tax was required of only the wealthiest Americans. But inflation and a good insurance policy can push people of even modest means into its grip. The estate tax is applied to all of the assets owned by an individual at the time of death. The tax rate, which starts at 37 percent, can quickly rise to a whopping 55 percent—the highest estate tax rate in the world.

It is true that each person has a $600,000 exemption, but that does not provide as much relief as one might expect. Unless a couple goes through expensive estate planning so that trusts are written into their wills and at least $600,000 of the assets are owned by each spouse—that is, not held jointly—the
couple will end up with only one $500,000 exemption. Many people do not realize that literally every asset they own, including the face value of life insurance policies, all retirement plan assets, including Individual Retirement Accounts, is counted toward the $600,000 limit.

As detrimental as the tax is for couples, it is even more harmful to small businesses, including those owned by women and minorities. The tax is imposed on a family business when it is least able to afford the payment—upon the death of the person with the greatest practical and institutional knowledge of that business's operations. It should come as no surprise then that a 1993 study by Prince and Associates—a Stratford, Connecticut research and consulting firm—found that nine out of 10 family businesses that failed within three years of the principal owner's death confessed their companies' demise to trouble paying estate taxes. Six out of 10 family-owned businesses fail to make it to the second generation. Nine out of 10 never make it to the third generation. The estate tax is a major barrier to growth.

Think of what that means to women and minority-owned businesses. Instead of passing a hard-earned and successful business on to the next generation, many families have to sell the company in order to pay the estate tax. The upward mobility of such families is stopped in its tracks. The proponents of this tax say they want to hinder "concentrations of wealth." What the tax really hinders is new American success stories.

With that in mind, the 1995 White House Conference on Small Business identified the estate tax as one of small business's top concerns. Delegates to the conference voted overwhelmingly to endorse its repeal.

Obviously, there is a great deal of peril to small businesses when they fail to plan ahead for estate taxes. So many small business owners try to find legal means of avoiding the tax or preparing for it, but that, too, comes at a significant cost. Some people simply slow the growth of their businesses to limit their estate tax burden. Of course, that means less investment in our communities and fewer jobs created. Others divert money they would have spent on new equipment or new hires to insurance policies designed to cover estate tax costs. Still others spend millions on lawyers, accountants, and other advisors in order to plan around the tax. But that leaves fewer resources to invest in the company, start up new businesses, hire additional people, or pay better wages.

The deficiencies surrounding the tax can best be illustrated by the findings of a 1994 study published in the Seton Hall Law Review. That study found that compliance costs totaled a whopping $7.5 billion in 1992, a year when the estate tax raised only $11 billion.

The estate tax raises only about one percent of the federal government's annual revenue, but it consumes eight percent of each year's private savings. That is about $15 billion sidelined from the Nation's economy. Economists calculate that if the money paid in estate taxes since 1971 had been invested instead, it would have been $399 billion higher, the economy would have been $46 billion larger, and we would have 262,000 more jobs. Obviously, the income and payroll taxes that would have been paid on these savings and the amount collected by the government in estate taxes.

There have been nine attempts to reform the estate tax during the last 50 years. Few would contend that it has been made any fairer or more efficient. The only thing that has really changed is that lobbyists and estate planners have gotten a little wealthier. Probably the best thing we could do is repeal the estate tax altogether. That is what I am proposing in the Family Heritage Preservation Act.

Mr. President, the National Commission on Economic Growth and Tax Reform, which was charged to make the tax code simpler, looked at the estate tax during the course of its deliberations just over a year ago. The Commission concluded that "[i]t makes little sense and is patently unfair to impose extra taxes on people who choose to pass their assets on to their children and grandchildren instead of sending them lavishly on themselves." It went on to endorse repeal of the estate tax.

INVEST MORE IN AMERICA ACT

Mr. KYL. Mr. President, the last in the series of bills that make up what I call the Agenda for Economic Growth and Opportunity is the Invest More in America Act, a bill that would allow small businesses to fully deduct the first $250,000 they invest in equipment in the year it is purchased. The bill is based on another recommendation made by the White House Conference on Small Business in 1995.

Mr. President, the last year approved legislation to phase in an increase in the expensing limit to $25,000 by the year 2003. That is a step in the right direction, but it is not nearly enough.

Businesses investing more than the annual expensing allowance must recover the cost of their investments over several years using the current depreciation system. Inflation, however, erodes the present value of their depreciation allowances in future years. Moreover, many businesses are required to make significant capital investments to comply with various government regulations, including environmental regulations, and in many cases they must be able to immediately expense such costs.

The increased expensing allowance provided by the Invest More in America Act would spur additional investment in business assets and lead to increased productivity and more jobs.

CONCLUSION

Mr. KYL. Mr. President, as I said at the beginning of my remarks, I am asking the Joint Tax Committee and the Institute for Policy Innovation to analyze the economic and revenue effects of this economic growth package. It is my intention that, if there is a revenue loss to the Treasury associated with it, it could at least partially be offset by reductions in corporate welfare spending.

Mr. President, the Agenda for Economic Growth and Opportunity will help improve the standard of living for Americans. It will help eliminate from the federal budget much of the largesse the government showers on a select group of business enterprises through corporate welfare.

I invite my colleagues' support for this very important initiative.

By Mr. BREAUX:

S. 77. A bill to provide for one additional Federal judge for the Middle District of Louisiana by transferring one Federal judge from the eastern district of Louisiana; to the Committee on the Judiciary.

LOUISIANA JUDICIAL DISTRICTS LEGISLATION

Mr. BREAUX. Mr. President, I rise today to offer legislation that will correct a serious inequity in Louisiana's judicial districts.

My legislation adds an additional judge to the middle district of Louisiana, based in Baton Rouge. U.S. District Judges John Parker and Frank Polozola, the two Baton Rouge, judges, have almost 2,000 cases pending. The national average for federal judges is approximately 1,000 cases pending. Case filings in the Middle District have increased more than four times the national average. The Baton Rouge district also ranks first among the Nation's 97 federal court districts in total filings, civil filings, weighted filings and in the percent change in total filings last year.

Louisiana's Middle District is composed of nine parishes. The state capital and many of the State's adult and juvenile prisons and forensic facilities are located in this district. The Court is regularly required to hear most of the litigation challenging the constitutionality of State laws and the actions of State agencies and officials. The District now has several reapportionment and election cases pending on the docket which generally require the immediate attention of the court. Additionally, because numerous chemical, oil, and industrial plants and hazardous waste sites are located in the Middle District, the Court has in the past and will continue to handle complex mass tort cases. One environmental case alone, involving over 7,000 plaintiffs and numerous defendants, is being handled by a judge from another district because both of the Middle District's judges were recused.

Since 1984, the Middle District has sought an additional judge because of its concern that its caseload would continue to rise despite the fact that its judges' caseload would exceed that of the National average and ranked among the highest in numerical standing within the United States and the
Fifth Circuit. Both the Judicial Conference and the Judicial Council of the Fifth Circuit have approved the Middle District’s request for an additional judgeship after each biennial survey from 1984 through 1994.

Mr. HATCH. I must now know that my colleagues will agree with me that the clear solution to this obvious inequity is to assign an additional judge to Louisiana’s Middle District. I look forward to the Senate’s resolution of this important matter.

By Mr. HATCH (for himself and Mr. THOMAS):

S. 78. A bill to provide a fair and balanced resolution to the problem of multiple imposition of punitive damages, and for other purposes; to the Committee on the Judiciary.

THE MULTIPLE PUNITIVE DAMAGES FAIRNESS ACT OF 1997

Mr. HATCH. Mr. President, I rise today to introduce the legislation which will at last deal with one of the most unfair aspects of our civil justice system—the availability of multiple awards of punitive damages for the same wrongful act. I introduced identical legislation last Congress in the form of S. 671, and I hope that we can move this bill in the 105th Congress.

While there are countless abuses and excesses in our civil justice system, the fact that one defendant may face repeated punishment for the same conduct is one of the most egregious and unconscionable. This can happen in a variety of ways, but in any case is unjust and unfair. A defendant might, for example, be sued by a different plaintiff for essentially the same action, or might be sued by the same parties in a different state based on essentially the same conduct. The only effective means of addressing these problems is through a nationwide solution, which the legislation I introduce today would provide.

Significantly, this legislation will not affect the compensatory damages that injured parties will be entitled to receive. Even in cases of multiple lawsuits based on the same conduct, under this legislation injured parties will be entitled to receive full compensatory damages when they are wrongfully harmed. My legislation deals only with punitive damages. Punitive damages are not intended to compensate injured plaintiffs or reduce them whole, but rather constitute punishment and an effort to deter future egregious misconduct. Punitive damages reform is not about shielding wrongdoers from liability, nor does such reform prevent victims from being rightfully compensated for their damages. It is about ensuring that wrongdoers do not face excessive and unfair punishments.

I certainly do not argue that a person or company that acts maliciously should not be subject to punitive damages. But it is neither just nor fair for a defendant to face the repeated imposition of punitive damages in several states for the same act or conduct, as our system currently permits. Exorbitant and out-of-control punitive damage awards also have the effect of punishing innocent people: employees, consumers, shareholders, and others who ultimately pay the price of these outrageous awards. This is not a hypothetical problem. Last Term, the Supreme Court considered a case, BMW v. Gore, in which a state court let stand a multimillion dollar punitive damage award against an automobile distributor who failed to inform a buyer that his new vehicle had been refinished to cure superficial paint damage. The defendant in that case could be exposed to thousands of claims based on the same conduct.

The plaintiff, a purchaser of a $40,000 BMW automobile, learned nine months after his purchase that his vehicle might have been partially refinished. As a result of the discovery, he sued the automobile dealer, the North American distributor of the manufacturer for fraud and breach of contract. He also sought an award for punitive damages. At trial, the jury was allowed to assess damages on the partially refinished vehicles that had been sold throughout the United States over a period of ten years. As sought by the plaintiff’s attorney, the jury returned a verdict of $4,000 in compensatory damages and $4,000 in punitive damages. On appeal to the state supreme court, the punitive damage award was reduced to $2 million, applicable to the North American distributor.

On reviewing the BMW v. Gore case, the United States Supreme Court recognized that excessive punitive damages “implicate the federal interest in preventing individual states from imposing undue burdens on interstate commerce.” While that decision for the first time recognized some outside limits on punitive damage awards, the Court's decision leaves ample room for the Court’s determination and action under the provisions. The provisions would not apply to any action brought under a federal or state statute that specifically mandates the amount of punitive damages to be awarded. This legislation is needed to correct a glaring injustice. I hope my colleagues will join me in supporting it, and I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

SEC. 2. DEFINITIONS.

For purposes of this Act:

(I) CLAIMANT.—The term “claimant” means any person who brings a civil action and any person on whose behalf such an action is brought. If such an action is brought through or on behalf of an estate, the term includes the claimant’s decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the claimant’s legal guardian.

(II) DEFENDANT.—The term “defendant” means any legally cognizable wrong or injury for which punitive damages may be imposed.
Mr. HATCH. Mr. President, today I introduce the Civil Justice Fairness Act of 1997. Last Congress, I introduced a similar bill that, had it been enacted, would have granted significant relief from litigation abuses to individuals, consumers, small businesses and others. Unfortunately, given President Clinton’s repeated vetoes of litigation reform measures in the 104th Congress, it was clear that we would be unable to enact more legislation before the 105th Congress.

This Congress, I urge my colleagues to revisit the important issue of litigation reform. Product liability reform remains badly needed, as do the more comprehensive reforms of the civil litigation system embodied in my civil justice reform bill, the Civil Justice Fairness Act of 1997.

The problems with our current civil justice system have resulted in several perverse effects. First, all too often the system fails to accomplish its most important function—serving plaintiffs adequately. Second, it imposes unnecessarily high litigation costs on all parties. Those costs are passed along to consumers—in effect, to each and every American—in the form of higher prices for products and services we buy. Those costs can even harm our nation’s competitive- ness in the global economy.

Congress must face these problems and enact meaningful legislation reforming our civil justice system. Reforms are needed to eliminate abuses and procedural problems in litigation, and to restore to the American people a civil justice system deserving of their trust, confidence and support. To achieve this goal, I am introducing civil justice reform legislation. This bill will correct some of the more serious abuses in our present civil justice system through a number of provisions.

The legislation will address the problems of excessive punitive damage awards and of multiple punitive damage awards. We all know that punitive damage awards are out of control in this country. Further, the imposition of multiple punitive damages for the same wrongful conduct—particularly concerns about the fairness of punitive damages and their ability to serve the purposes of punishment and deterrence for which they are intended. The Supreme Court, legal scholars, practicing litigators, and others have acknowledged for years that punitive damages may raise serious constitutional issues. A decision from the U.S.
Supreme Court last term finally held that in certain circumstances a punitive damage award may violate due process and provided guidance as to when that would occur.

In the case, BMW versus Gore, the Supreme Court recognized that excessive punitive damages “implicate the federal interest in preventing individual states from imposing undue burdens on interstate commerce.” The decision for the first time recognizes some outside limits on punitive damage awards. The Court’s decision leaves plenty of room for legislative action, and legislative reforms are now needed more than ever to set up the appropriate boundaries.

The decision also highlights some of the extreme abuses in our civil justice system. The BMW versus Gore case was brought by a doctor who had purchased a BMW automobile for $40,000 and later discovered that the car had been partially refinished prior to sale. He sued the manufacturer in Alabama State Court on a theory of fraud, seeking compensatory and punitive damages. The jury found BMW liable for $4,000 in compensatory damages and $4 million in punitive damages. On appeal, the Alabama Supreme Court reduced the punitive damages award to $2 million—which still represents an astonishing award for such inconsequential harm.

In its 5 to 4 decision, the Supreme Court held that the $2 million punitive damages award was grossly excessive and therefore violated the due process clause of the 14th amendment. The court remanded the case for further proceedings. The majority opinion set three guideposts for courts to employ in assessing the constitutional ex cessiveness of a punitive damages award: the reprehensibility of the conduct being punished, the ratio between compensatory and punitive damages, and the difference between the punitive award and criminal or civil sanctions that could be imposed for comparable conduct.

Justice Breyer, in a concurring opinion joined by Justices O’Connor and Souter, emphasized that, although constitutional due process protections generally cover purely procedural protections, the narrow circumstances of the case justified added protections to ensure that legal standards providing for discretion are adequately enforced so as not to become the “appliance of law, rather than a decisionmaker’s caprice.” Congress has a similar responsibility to ensure fairness in the litigation system and the application of law in that system. It is high time for Congress to provide specific guidance to courts on the appropriate level of damage awards, and to address other issues in the civil litigation system.

The BMW case also illustrates the potential abuses of the system that can occur through the availability of multiple punitive damage awards essentially the same conduct. Under current law, the company can still, in every other state in which it sold one of its vehicles, be sued for punitive damages for the same act.

Multiple punitive damage awards can hurt not only defendants but also injured parties. Funds that would otherwise be available to compensate later victims would be swallowed at an early stage by excessive punitive damage awards. A Federal response is critical: if only the one State limits such awards, other States still remain free to impose multiple punitive damages. An important provision in my bill limits these punitive damage awards. I am also today introducing separate legislation that would deal only with the multiple punitive damages problem.

In addition to reforming multiple punitive damage awards, my broad civil justice reform legislation addresses general abuses of punitive damages litigation. It includes a heightened standard of proof to ensure that punitive damages are awarded only if there is clear and convincing evidence that the harm suffered was the result of conduct either specifically intended to cause that harm, or carried out with conscious, flagrant indifference to the right or the safety of the claimant.

The legislation would also limit punitive damages may not be awarded against the seller of a drug or medical device that received pre-market approval from the Food and Drug Administration.

Additionally, this legislation would allow a bifurcated trial, at the defendant’s request, on the issue of punitive damages and limits the amount of the award to either $250,000 or three times the economic damages suffered by the claimant, whichever is greater. The bill provides a special limit in the cases of small business or individuals; in those cases, punitive damages will be limited to the lesser of $250,000 or three times economic damages.

The legislation would also limit a defendant’s joint liability for non-economic loss to several only and shall not be joint. The trier of fact will determine the proportional liability of each person, whether or not a party to the action, and enter separate judgments against each defendant.

Another provision would shift costs and attorneys fees in circumstances in which a party has rejected a settlement offer, forcing the litigation to proceed, and then obtain a less favorable judgment. This provision encourages parties to act reasonably, rather than pursue lengthy and costly litigation. It allows a plaintiff or a defendant to be compensated for their reasonable attorneys fees and costs from the point at which the other party rejects a reasonable settlement offer.

Another widely reported problem in our civil justice system is abuse in contingency fee cases. This bill encourages attorneys to disclose fully to clients the hours worked and fees paid in all contingency fee cases. The bill calls upon the Attorney General to draft model State legislation requiring such disclosure to clients. It also requires the Attorney General to study possible abuses of the contingency fee system and, where such abuses are found, to draft model State legislation specifically addressing those problems.

This legislation also states the freedom to experiment with alternative patient compensation systems based upon no-fault principles. The Secretary of Health and Human Services would award grants based upon application to enumerated criteria and subject to enumerated reporting requirements. Persons or entities participating in such experimental systems may obtain from the Secretary a waiver from the provisions of this legislation for the duration of the experiment. The Secretary would collect information regarding these experiments and submit an annual report to Congress, including an assessment of the feasibility of implementing no-fault systems, and legislation recommendations.

I urge my colleagues to take a serious look at these problems within our civil justice system. I believe this bill...
addresses these issues in a common sense way, and I hope my colleagues will join me in supporting this legislation. I ask for unanimous consent that a section-by-section description of the bill be printed in the Record. There being no objection, the material was ordered to be printed in the Record, as follows:

**Section-by-Section Description of the Congress Act of 1997**

**Title I—Punitive Damages Reform**

Sec. 101. Definitions.—This section defines various terms used in Title I of the bill.

Sec. 102. Multiple Punitive Damages Fairness.—This section prohibits generally the award of multiple punitive damages. With one exception, it prevents courts from awarding punitive damages based on the same act or course of conduct for which punitive damages have already been awarded against the same defendant. Under the exception, an additional award of punitive damages may be permitted if the court determines in a pretrial hearing that the claimant will offer new and substantial evidence of previously undiscovered, additional wrongful behavior on the part of the defendant, other than injury to the claimant. In those circumstances, the court must make specific findings of fact to support the award, must determine that the amount of punitive damages awarded by the amounts of prior punitive damages based on the same acts, and may not disclose to the jury the court’s determination under this section. This section would not apply to any action brought under a federal or state statute that specifically mandates the amount of punitive damages to be awarded.

Sec. 103. Uniform Standards for Award of Punitive Damages.—This section sets the following uniform standards for the award of punitive damages in any State or Federal Court action: (1) In general, punitive damages may be awarded only if the claimant establishes by clear and convincing evidence that the conduct causing the harm was either specifically intended to cause harm or carried out with conscious, flagrant indifference to the safety of the claimant. (2) Punitive damages may not be awarded in the absence of an award of compensatory damages exceeding nominal damages. (3) Punitive damages may not be awarded against a manufacturer or producer of a drug or medical device which was the subject of pre-market approval by the Food and Drug Administration (FDA). This FDA exception is not applicable where a party has withheld or misrepresented relevant information to the FDA. (4) Punitive damages may not be awarded as a complaint. Instead, a party must establish at a pretrial hearing that it has a reasonable likelihood of proving facts at a sufficient level to support an award of punitive damages. (5) Punitive damages are warranted and, if so, the amount of such damages. If a defendant requests bifurcated proceedings, evidence relevant to whether punitive damages are warranted and, if so, the amount of such damages may not be introduced in the proceeding on compensatory damages. Evidence of the defendant’s profits from his misconduct, if any, is admissible. (6) When punitive damages are awarded, the defendant’s overall wealth is inadmissible in the proceeding on punitive damages. In any civil action where the plaintiff seeks punitive damages, the amount awarded shall not exceed three times the economic damages or $250,000, whichever is greater.

Sec. 104. Effect on Other Law.—This section specifies that certain state and federal laws are not superseded or affected by this legislation, and that nonconveniens rules are similarly unaffected.

**Title II—Joint and Several Liability**

Sec. 201. Several Liability for Non-Economic Loss.—This section limits a defendant’s joint liability for non-economic damages. In any civil case, a defendant’s liability for non-economic loss shall be several only and shall not be joint. The trier of fact will determine the proportional liability of each defendant. It establishes separate judgments against each defendant.

**Title III—Civil Procedural Reform**

Sec. 301. Trial Lawyer Accountability.—This section contains two major provisions. The first provides that it is the sense of the Congress that each State should require attorneys who enter into contingent fee agreements to disclose to their clients the actual amount awarded and how it was expended in connection with such agreements. The second provision directs the Attorney General to study and evaluate contingent fee agreements and their abuses in State and Federal court; to develop model legislation to require attorneys who enter into contingency fee agreements to disclose to clients the actual services provided and the amount of fees, and to curtail abuses in contingency fee awards based on the study; and to report the Attorney General’s findings and recommendations to Congress.

Sec. 302. Honesty in Evidence.—This section amends Federal Rule of Evidence 702 to reform the rules regarding the use of expert testimony. It clarifies that courts retain substantial discretion to determine whether the testimony of an expert witness that is premised on scientific, technical, or medical knowledge is not based on information or data generally accepted in the relevant scientific community to be sufficiently established to have gained general acceptance in which it belongs. The section follows the standard for admissibility of expert testimony enunciated in Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993). It also mirrors the common law Frye rule that requires that scientific evidence have “general acceptance” in the relevant scientific community to be admissible. This section further clarifies that expert witnesses have expertise in the particular field on which they are testifying. Finally, this section mandates that the testimony of expert witnesses on a contingency fee basis is inadmissible.

Sec. 303. Fair Shifting of Costs and Reasonable Attorney Fees.—This section modifies Federal Rule of Civil Procedure 68 to allow a party, not just the defendant, to make a written offer of settlement or to allow a judgment to be entered against the offering party. It expands the time period during which an offer can be made from 10 days before trial to any time during the litigation. If within 21 days the offer is accepted, a judgment may be entered by the court. If, however, a final judgment is not more favorable to an offeree than the offer, the offeree must pay attorney fees and costs incurred after the time of the offer. Thus, this is not a true “loser pays” provision where a loser pays the winner’s attorney’s fees, but rather a narrower attorney fee and cost-shifting idea applicable only when a party has made an offer of settlement or judgment. This section also significantly expands the definition of costs. Currently, costs are narrowly defined and do not create enough of a financial incentive for a party to make an offer that allows judgment to be entered against the offeror. This section also allows a party to make an offer of judgment after liability has already been determined but before the amount or extent has been adjudicated.

**Title IV—Health Care Liability Reform**

Sec. 401. Definitions.—This section sets up definitions for various terms used in Title IV of the bill.

Sec. 402. Limitations on Noneconomic Damages.—In any health care liability action, the maximum amount of noneconomic damages awarded to a claimant is $250,000. This limit shall apply regardless of the number of parties against whom the action is brought, and regardless of the number of times the claimant’s recovery or return to work, or upon the claimant’s death, except for the portion of the payments allocable to future earnings which shall be paid to any individual to whom the claimant owed a duty of support and to the extent required by law at the time of death. Such payments shall expire upon the death of the last person to whom a duty of support is owed or the expiration of the obligation pursuant to the judgment for periodic payments.

Sec. 403. Statute of Limitations.—This section provides a reasonable uniform statute of limitations for health care liability actions, with one exception for minors. The general rule is that an action must be brought within two years from the date the injury and its cause was or reasonably should have been discovered, but in no event can an action be brought more than six years after the date of the alleged date of injury. This section also allows an exception for young children. The rule for children under six years of age is that an action must be brought within two years from the date the injury and its cause was or reasonably should have been discovered, but in no event can an action be brought more than six years after the date on which the child attains 12 years of age, whichever is later.

Sec. 404. Periodic Payment of Future Damages.—This section allows for the periodic payment of large awards for losses accruing in the future. If damages for losses incurred in the past are to be determined, the court shall allow the parties to have 60 days in which to negotiate an agreement providing for the payment of such damages in a lump sum, periodic installments, or a combination of both. If no agreement is reached within those 60 days, a defendant may elect to pay the damages on a periodic basis to a court with the determination of the amount and periods for such payments, reducing amounts to present value for purposes of determining the funding obligations of the individual who enters into a judgment for periodic payments for future damages terminate in the event of the claimant’s recovery or return to work; or upon the claimant’s death, except the portion of the payments allocable to future earnings which shall be paid to any individual to whom the claimant owed a duty of support and to the extent required by law at the time of death. Such payments shall expire upon the death of the last person to whom a duty of support is owed or the expiration of the obligation pursuant to the judgment for periodic payments.

Sec. 405. State No-Fault Demonstration Projects.—This section allows states to experiment with alternative patient compensation systems based upon no-fault principles. Grants shall be awarded by the Secretary of Health and Human Services to states that apply for demonstration projects. The grants shall be made by interested states according to the standards and criteria established by the Secretary. Persons or groups of persons who apply for the demonstration projects involved may obtain a waiver from the Secretary from the provisions of this Title for
the duration of the experiment, which shall be no greater than five years. The Secretary shall collect information regarding these experiments and submit an annual report to Congress. An assessment would obviate the need for a new basis for federal court jurisdiction. The resolution of punitive damages claims is left to state courts or to federal courts that currently have jurisdiction over those claims.

**Title V—Miscellaneous Provisions**

Section 501. Federal-Cause of Action Precluded.—This section provides that the bill does not provide any new basis for federal court jurisdiction. The resolution of punitive damages claims is left to state courts or to federal courts that currently have jurisdiction over those claims.

Section 502. Effective Date.—This section states that the bill, except as otherwise provided, shall be effective 30 days after the date of enactment and apply to all civil actions commenced after such date, including those in which the harm, or harm-causing conduct, precedes the bill's enactment.

By Mr. KOHL:

S. 80 A bill to amend the Internal Revenue Code of 1986 to provide for the rollover of gain from the sale of farm assets into an individual retirement account; to the Committee on Finance.

**Family Farm Retirement Equity Act of 1997**

Mr. KOHL. Mr. President, I rise today to introduce the Family Farm Retirement Equity Act of 1995, a bill to help improve the retirement security of our nation's farmers.

As we begin the 105th Congress, we can anticipate legislative action dealing with pension reform and the tax treatment of retirement savings. In his 1996 State of the Union address, President Clinton mentioned his concerns about the retirement security of farmers and ranchers, and many of us in Congress have sought to address this concern, as well.

Last year, Congress passed the 1996 farm bill, bringing sweeping changes to the traditional farm support programs, and greatly affecting the income side of the average farmer’s financial sheet. But it is equally important that we address the other side of the farm financial equation—the cost side. And some of the biggest costs that farmers face are the costs associated with retirement planning. In fact, those costs are sometimes so monumental that farmers are dropping out of agriculture, without having made the appropriate provisions for their security.

In the last Congress, efforts were made to address the financial concerns of retiring farmers and ranchers. In fact, the Senate version of the 1995 Budget Reconciliation Act included the legislation that I am reintroducing today, the Family Farm Retirement Equity Act. Unfortunately, that important provision did not survive the conference negotiations between House and Senate budget leaders. It is my hope that we will be able to revisit this matter this year, and address this growing financial crisis.

Farming is a highly capital-intensive business. To the extent that the average farmer reap's any profits from his or her farming operation, much of that income is reinvested into the farm. Rarely are there opportunities for farmers to put money aside in individual retirement accounts. Instead, farmers tend to rely on the sale of their accumulated capital assets, such as real estate, livestock, and machinery, in order to provide the income to sustain them during retirement. All too often, farmers are finding that the lump-sum payment of capital gains taxes levied on those assets leave little for retirement.

The legislation that I am reintroducing today would provide retiring farmers the opportunity to rollover the proceeds from the sale of their farms into a tax-deferred retirement account. Instead of paying a large lump-sum capital gains tax at the point of sale, the income from the sale of a farm would be taxed only as it is withdrawn from the retirement account. Such a change in method of taxation would help prevent the financial distress that many farmers now face upon retirement.

Another concern that I have about rural America is the diminishing interest of our younger rural citizens in continuing in farming. Because this legislation will facilitate the transition of our older farmers into a successful retirement, the Family Farm Retirement Equity Act will also pave the way for a more graceful transition of our younger farmers toward farm ownership. While low prices and low profits in farming will continue to take their toll on our younger farmers, I believe that this will be one tool we can use to make farming more viable for the next generation.

This proposal is supported by farmers and farm organizations throughout the country. It has been endorsed by the American Farm Bureau Federation, the American Sheep Industry Association, the American Sugar Beet Association, the National Association of Wheat Growers, the National Cattleman's Beef Association, the National Corn Growers Association, National Pork Producers Council, and the Southwestern Peanut Growers Association.

Further, I am very pleased that a modified version of this legislation has also been included in the Targeted Investment Incentive and Economic Growth Act, which I am reintroducing today by Minority Leader DASCHLE and other Senators. I look forward to swift action on that legislation, so that the working families and small businesses targeted for assistance can enjoy tax relief as soon as possible.

I ask unanimous consent that the full text of the bill and a summary be included in the RECORD.

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

S. 80

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

**SECTION 1. SHORT TITLE; REFERENCE TO INTERNAL REVENUE CODE.**

(a) **Short Title.**—This Act may be cited as the "Family Farm Retirement Equity Act of 1997."

(b) **Reference to Internal Revenue Code of 1986.**—Whenever the word "such" is used in this Act, a reference is expressed in terms of an amendement to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**SEC. 2. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.**

(a) **In General.**—Part III of chapter 6 of title 26 (relating to contributions and deductions) is amended by inserting after section 502 the following new section:

**SEC. 1034A. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT ACCOUNT.**

"(a) **Nonrecognition of Gain.**—Subject to the limits of subsection (c), if for any taxable year a taxpayer has qualified net farm gain from the sale of qualified farm assets, then, at the election of the taxpayer, such gain shall be recognized only to the extent it exceeds the contributions to 1 or more asset rollover accounts of the taxpayer for the taxable year.

"(b) **Asset Rollover Account.**—

"(1) **General Rule.**—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(2) **Aggregation Limitation.**—For purposes of this title, the term "asset rollover account" means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

"(3) **Contribution Limitations.**—

"(i) **General Rule.**—No deduction allowed.

"(ii) An amount determined by multiplying the qualified net farm gain of the taxpayer for the taxable year by 10 percent, reduced by the lesser of—

"(A) $300,000 (as reduced by an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000).

"(B) $300,000 (as reduced by an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000).

"(iii) An amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

"(iv) An amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

"(B) **Spouse.**—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting $20,000 for $10,000 for each year the taxpayer's spouse is a qualified farmer.

"(C) **Time when Contribution Deemed Made.**—For purposes of this section, a contribution shall be deemed made to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).
CONGRESSIONAL RECORD – SENATE

S459

JANUARY 21, 1997

Mr. KOHL. Mr. President, one of the basic tenets upon which this Nation was founded was that there should be no taxation without representation. But the dairy farmers of this nation know all too well that taxation without representation continues today. They live with that reality in their businesses every day.

Dairy farmers are required to pay a 1 percent tax, in the form of an assessment, on every hundred pounds of milk that they sell. This tax goes to fund dairy promotion activities, such as those conducted by the National Dairy Promotion and Research Board, commonly known as the National Dairy Board. Yet these same farmers that pay hundreds, or in some cases thousands, of dollars every year for these mandatory promotion activities have no direct say over who represents them on that Board.

In the summer of 1993, a national referendum was held giving dairy producers the opportunity to vote on whether or not the National Dairy Board should continue. The referendum was held after 16,000 dairy producers, more than 10 percent of dairy farmers nationwide, signed a petition to the Secretary of Agriculture calling for the referendum.

Farmers signed this petition for a number of reasons. Some felt they could no longer afford the promotion assessment that is taken out of their milk checks every month. Others were frustrated with what they perceived to be a lack of clear accountability for their promotion activities. And still others were alarmed by certain promotion activities undertaken by the Board with which they did not agree. But overriding all of these concerns was the fact that dairy farmers have no direct power over the promotion activities which they fund from their own pockets.

When the outcome of the referendum on continuing the National Dairy Board was announced, it had passed overwhelmingly. But because nearly 90 percent of all votes cast in favor of continuing the Board were cast by bloc-voting cooperatives, there has been skepticism among dairy farmers about the validity of the vote.

While I believe that dairy promotion activities are important for enhancing markets for dairy products, it matters more what dairy farmers believe. After all, they are the ones who pay hundreds or thousands of dollars every year for these promotion activities. And they are the ones who have no direct say over who represents them on that Board.

It is for this reason that I rise today to reintroduce the National Dairy Promotion Reform Act of 1997.

Some in the dairy industry have argued that this issue is dead, and that to reintroduce such legislation will only reopen old wounds. But I must respectfully disagree.

The intent of this legislation is not to rehash the referendum debate, which was a contentious one. Instead, the intent is to look forward.
Farmers in my state have traditionally been strong supporters of the cooperative movement, because the cooperative business structure has given them the opportunity to be equal partners in the businesses that market their products and supply their farms. I have been a strong supporter of the cooperative movement for the same reason.

But there is a growing dissent among farmers that I believe is dangerous to the long-term viability of agricultural cooperatives. As I talk to farmers around Wisconsin, I hear a growing concern that their voices are not being heard by their cooperatives. They frequently cite the 1993 National Dairy Board referendum as an example. The bill that I am reintroducing today seeks to address one small part of that concern, by giving dairy farmers a more direct role in the selection of their representatives on the National Dairy Board. Whereas current law requires the National Dairy Board to be appointed by the Secretary of Agriculture, this legislation would require that the Board be an elected body.

Further, although the legislation would continue the right of farmer cooperatives to nominate individual members to be on the ballot, bloc voting by cooperatives would be prohibited for the purposes of the election itself. There are many issues for which the cooperatives can and should represent their members. But on this issue, farmers ought to speak for themselves.

It is my hope that this legislation will help restore the confidence of the U.S. dairy farmer in dairy promotion. To achieve that confidence, farmers need to know that they have direct power over their representatives on the Board. This bill gives them that power.

I welcome my colleague from Wisconsin, Senator Feingold, as an original cosponsor of this bill, and I am also pleased to join today as an original cosponsor of two pieces of legislation that he is introducing today, as well.

Senator Feingold's two bills would make other needed improvements in the national dairy promotion program. Specifically, one bill would require that imported dairy products be subject to the same dairy promotion assessment as are paid on domestic dairy products today. The other would prohibit the practice of bloc voting by cooperatives for the purpose of any future farmer referendum regarding the National Dairy Board.

The explicit details of the election process and necessary.

I ask unanimous consent that the full text of the bill and summary be included in the Record.

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

S. 81

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 Dairy Promotion Reform Act of 1997".

SECTION 2. DAIRY VOTING REFORM. Section 113(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(b)) is amended—

(1) by designating the first and second sentences as paragraphs (1) and (2), respectively;

(2) by designating the third through fifth sentences as paragraph (3);

(3) by designating the sixth sentence as paragraph (4);

(4) by designating the seventh and eighth sentences as paragraph (5);

(5) by designating the ninth sentence as paragraph (6);

(6) in paragraph (1) (as so designated), by striking "and appointment";

(7) by striking paragraph (2) (as so designated) and inserting the following:

"(2) QUALIFICATIONS, NOMINATION, AND ELECTION OF MEMBERS.—"

"(A) QUALIFICATIONS AND ELECTION.—"

"(i) IN GENERAL.—Subject to clause (ii), each member shall be a milk producer nominated in accordance with subparagraph (B) and elected by a vote of producers through a process established by the Secretary.

(ii) BLOC VOTING.—In carrying out clause (i), the Secretary shall not permit an organization certified under section 114 to vote on behalf of the members of the organization.

(B) NOMINATIONS.—"

"(i) SOURCE.—Nominations shall be submitted by organizations certified under section 114, if the Secretary determines that a substantial number of milk producers are not members of, or the interests of the producers are not represented by, a certified organization, from nominations submitted by the producers in the manner authorized by the Secretary.

(ii) CONSULTATION WITH MEMBERS.—In submitting nominations, each certified organization shall demonstrate to the satisfaction of the Secretary that the milk producers who are members of the organization have been fully consulted in the nomination process.

(iii) QUALIFICATIONS.—Nominations shall be submitted by organizations certified under section 114, if the Secretary determines that a substantial number of milk producers are not members of, or the interests of the producers are not represented by, a certified organization, from nominations submitted by the producers in the manner authorized by the Secretary.

(iv) ELECTION.—In making such appointments, and inserting "In establishing the process for the election of members of the Board;

(v) in the first sentence of paragraph (3) (as so designated), by striking "making such appointments, and inserting "In making such appointments, and inserting "In establishing the process for the election of members of the Board;

(vi) in paragraph (4) (as so designated)—

(A) by striking "appointment" and inserting "election";

(B) by striking "appointments" and inserting "elections".

National Dairy Promotion Reform Act of 1997

SUMMARY OF THE BILL

The bill would amend the Dairy Production Stabilization Act of 1983 to require that future members of the National Dairy Board be elected directly by dairy producers, and not appointed by the Secretary of Agriculture as they are currently.

The bill would also prohibit the practice of bloc voting by producers cooperatives for the purpose of the Board elections. However, cooperatives could continue to nominate members to be on the ballot, as long as they regularly consult with their membership in the nomination process.

The explicit details of the election process would be developed by the Secretary of Agriculture.

By Mr. Kohl:
CONGRESSIONAL RECORD — SENATE
January 21, 1997
S461

I take in my legislation to try to encourage private businesses to undertake activities that would increase the supply of quality child care.

The legislation gives flexibility to businesses that want to get involved in providing child care for their employee's dependents. Though the shortage of quality child care is definitely a national problem, it does have uniquely local solutions. What sort of child care infrastructure works best in a community is going to depend on the sort of work that's done. Whether there are many part-time or odd hour shifts, whether the local economy has a few very large employers or a lot of small employers, or some mix. My legislation includes a tax incentive that would allow many different kinds of businesses to take advantage of it—and that would allow them to be as creative as possible.

The 21st century economy will be one in which more of us are working, and more of us are trying to balance work and family. How well we adjust to that balance will determine how strong we are as an economy and as a Nation of families. My legislation is an attempt to encourage businesses to play an active role in this deeply important transition.

In the 1950's, Federal, State, local governments, communities, and businesses banded together to build a highway system that is the most impressive and useful of our times. Those roads allowed our economy to flourish and our people to move safely and quickly to work. In the 1990's, we need the same sort of national, comprehensive effort to build safe and affordable child care for our children. As more and more parents—of all income levels—move into the work force, they need access to quality child care just as much as their parents needed quality highways to drive to work. And if we are successful—and I plan to be successful—in the 21st century, excellence will be as common as interstate highways.

Child care is an investment that is good for children, good for business, good for our States, and good for the Nation. We need to involve every level of government—and private communities and private businesses—in building a child care infrastructure that is the best in the world. My legislation is a first, essential step toward this end. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 82

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. SHORT TITLE

This Act may be cited as the "Child Care Infrastructure Act of 1997".

SEC. 2. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE

(a) IN GENERAL.—Subpart D of part IV of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year shall not exceed $1,000.

"(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $1,000.

"(c) DEFINITIONS.—For purposes of this section:

"(1) QUALIFIED CHILD CARE EXPENDITURE.—The term 'qualified child care expenditure' means any amount paid or incurred—

"(A) to acquire, construct, rehabilitate, or expand property,

"(B) which is to be used as part of a qualified child care facility of the taxpayer,

"(C) as part of a business, and

"(D) for the operating costs of a qualified child care facility of the taxpayer, for the care of such facility.

"(2) QUALIFIED CHILD CARE FACILITY.—(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

"(i) which is to be used as part of a qualified child care facility of the taxpayer,

"(ii) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

"(iii) which does not constitute part of the principal residence (within the meaning of section 162) of the taxpayer.

"(B) The term 'qualified child care facility' includes buildings and structures used to provide care for children.

"(3) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

"(i) the principal use of which is to provide child care assistance, and

"(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a child care facility.

"(4) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

"(i) IN GENERAL.—If, as of the close of any taxable year, there is a recapitulation event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapitulation percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer
described in subsection (c)(1)(A) with respect to such facility had been zero.

(2) *APPRECIATION--RECAPTURE PERCENTAGE.*—

(A) IN GENERAL. — For purposes of this subsection, the recapture percentage shall be determined from the following table:

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<tr>
<th>Year</th>
<th>Recapture Percentage</th>
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(B) YEARS. — For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

(3) *RECAPTURE EVENT DEFINED.*—For purposes of this subsection, the term 'recapture event' means—

(A) *CESSATION OF OPERATION.*—The cessation of the operation of the facility as a qualified child care facility.

(B) *CHANGE IN INTERESTSHIP.*—

(i) *IN GENERAL.*—Except as provided in clause (ii), the disposal of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

(ii) *AGREEMENT TO ASSUME RECAPTURE LIABILITY.*—The disposition of any interest in a qualified child care facility, whether or not such interest is transferred by the operator of such facility, with respect to which the credit described in subsection (a) was allowable.

(4) *SPECIAL RULES.*—

(A) *TAX BENEFIT RULE.*—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

(B) *NO CREDITS AGAINST TAX.*—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subparagraph A, B, or D of this part.

(C) *NO RECAPTURE BY REASON OF CASUALTY LOSS.*—The increase in tax in this section shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstructing or replacing within a reasonable period established by the Secretary.

(e) *SPECIAL RULES.*—For purposes of this section—

(1) *AGGREGATION RULES.*—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

(2) *DISTRIBUTION OF ESTATES AND TRUSTS.*—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

(3) *APPLICATION IN THE CASE OF PARTNERSHIPS.*—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

(4) *SUBDIVISION.*

(1) *REDUCTION IN BASIS.*—For purposes of this subtitle—

(A) IN GENERAL. —If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

(B) *CERTAIN DISPOSITIONS.*—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property immediately before the event resulting in such recapture shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment resulting in a reduction in carryovers) determined under subsection (d).

(2) *OTHER DEDUCTIONS AND CREDITS.*—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

(g) *TERMINATION.*—This section shall not apply to taxable years beginning after December 31, 1996.

(b) *CONFORMING AMENDMENTS.*—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking out 'plus' at the end of paragraph (11);

(B) by striking out the period at the end of paragraph (12), and inserting a comma and 'plus'; and

(C) by adding at the end the following new paragraph:

'Sec. 45D. Employer-provided child care credit.'

S. 83. A bill to consolidate and revise the authority of the Secretary of Agriculture relating to plant protection and quarantine, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

PLANT PROTECTION ACT

Mr. AKAKA.

Mr. President, today I am introducing the Plant Protection Act, a comprehensive consolidation of Federal laws governing plant pests and diseases, noxious weeds, and the plant products that harbor pests and weeds. During the past century, numerous Federal laws were enacted to address problems caused by plant pests and noxious weeds. While some of these pests, such as chestnut blight, which wiped out the common tree of our Appalachian forests, elm blight, which has eliminated millions of maple trees throughout our towns and cities, and the white pine blister rust, which eliminated western white pine as a source of timber for several decades, alien weeds also cause havoc, and nowhere is this problem more apparent than in Hawaii. Because our climate is so accommodating, Hawaii is heaven-on-earth for weeds. Weeds such as gorse, ivy gourd, miconia, and banana are ravaging our tropical and subtropical landscape.

Noxious weeds are a problem of monumental proportions. Insects such as Mediterranean fruit fly, fire ant, and alien pine beetle in America's forests and cause billions of dollars in crop losses annually. Destructive plant diseases include chestnut blight, which wiped out the common tree of our Appalachian forests, elm blight, which decimated many maple trees throughout our towns and cities, and the white pine blister rust, which eliminated western white pine as a source of timber for several decades. Alien weeds also cause havoc, and nowhere is this problem more apparent than in Hawaii. Because our climate is so accommodating, Hawaii is heaven-on-earth for weeds. Weeds such as gorse, ivy gourd, miconia, and banana are ravaging our tropical and subtropical landscape.

Invasive noxious weeds do more than just compete with domestic species. They transform the landscape, change the rules by which native plants and animals live on America's farms, ranches, range lands, forests, national parks, recreation areas, urban landscapes, world-renewed grasslands, waterways, farm and range land across the Nation are overrun by noxious weeds.
Farmers experience the greatest economic impact of this problem. The Office of Technology Assessment estimates that exotic weeds cost U.S. farmers $3.6 to $5.4 billion annually due to reduced yields, crops of poor quality, increased herbicide use, and other weed control costs. Noxious weeds are a significant drain on farm productivity.

Despite the magnitude of this problem, few people get alarmed about weeds. The issue certainly doesn't appear on the cover of Time or Newsweek. Perhaps if kudzu, a weed known as the “vine that ate the South,” attacked the Capitol grounds, weeds would finally get the attention they deserve.

Several of these foreign weeds are truly the King Kong of plants. Some are 50 feet tall. Others have 4 inch thorns. Some have roots 25 feet deep, and others produce 20 million seeds each year.

My least-favorite weed is the tropical soda apple, a thorny plant with a sweet-sounding name. It bears small yellow and green fruit. But, like fruit from the citrus tree, tropical soda apples are a source of great strife.

This import from Brazil has inch-long spines covering its stems and leaves. The fruit is a favorite among cattle, and when they pass the seeds in their manure new weeds quickly sprout. As cattle are shipped from state to state with soda apple seeds in their stomachs you can easily imagine how the problem rapidly spreads. Tropical soda apple is a weed control nightmare.

The saga of tropical soda apple prompted me to introduce S. 690, the Federal Noxious Weed Improvement Act during the 104th Congress. S. 690 would grant the Secretary of Agriculture emergency powers to restrict the entry of a foreign weed until formal action can be taken to place it on the noxious weed list. This legislation would prevent future tropical soda apples from taking root.

I have incorporated the text of S. 690 into section 4 of the Plant Protection Act. Other provisions of the legislation I had introduced today are drawn from USDA recommendations for consolidating weed and plant pest authorities.

Because the U.S. Department of Agriculture’s authority over plant pests and noxious weeds is dispersed throughout many statutes, Federal efforts to protect agriculture, forestry, and our environment are seriously hindered. To enable the Department to respond more efficiently to this challenge, the Plant Protection Act will consolidate these authorities into a single statute.

I ask unanimous consent that the text of the Plant Protection Act be printed in the Record.

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

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

(1) MAIL.—

(a) No person shall convey in the mail, or deliver from a post office or by a mail carrier, in the mail, or cause to be delivered from a post office or by a mail carrier, any article, or means of conveyance, that is prohibited or restricted from entry into the United States, by regulation, a list of noxious weeds or plant pests, or any biological control organism.

(b) POSTAL EMPLOYEES.—This subsection shall not apply to an employee of the United States in the performance of the duties of the employee in handling the mail.

(c) POSTAL LAWS AND REGULATIONS.—Nothing in this subsection authorizes a person to open a mailed letter or other mailed sealed matter except in accordance with the postal laws and regulations.

(2) RESTRICTIONS ON NOXIOUS WEEDS.—No person shall move into a State, or sell or offer for sale in the State, a plant species the sale of which is prohibited by the State because the plant species is designated as a noxious weed or has a similar designation.

(d) ADMINISTRATION.—The Secretary may issue regulations to carry out this section, including regulations requiring that a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance imported, entered, to be exported, or moved in interstate commerce:

(1) be accompanied by a permit issued by the Secretary prior to the importation, entry, exportation, or movement in interstate commerce;

(2) be accompanied by a certificate of inspection issued in a manner and form required by the Secretary or by an appropriate official of the country or State from which the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is to be moved;

(3) be subject to remedial measures the Secretary determines to be necessary to prevent the spread of plant pests; and

(4) in the case of a plant or biological control organism to be grown or handled under post-entry quarantine conditions by or under the supervision of the Secretary for the purpose of determining whether the plant or biological control organism may be infested with a plant pest or noxious weed, or may be a plant pest or noxious weed.

(e) LIST OF RESTRICTED NOXIOUS WEEDS.—

(1) PUBLICATION.—The Secretary may publish, by regulation, a list of noxious weeds that are prohibited or restricted from entering the United States or that are subject to restrictions on interstate movement within the United States.

(2) PETITIONS TO ADD OR REMOVE PLANT SPECIES.—

(A) IN GENERAL.—A person may petition the Secretary to add or remove a plant species from the list required under paragraph (1).

(B) ACTION ON PETITION.—The Secretary shall—

(i) act on a petition not later than 1 year after receipt of the petition by the Secretary; and

(ii) if the Secretary determines that the petition should be granted, publish in the Federal Register a notice of the determination.
with a plant pest or noxious weed that the Secretary has reason to believe was moved into the United States or in interstate commerce.

(2) ORDERING TREATMENT OR DISPOSAL BY THE OWNER.—Except as provided in subsection (c), the Secretary may order the owner of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance subject to disposal under paragraph (1), or the owner's agent, to treat, apply other remedial measures to destroy, or otherwise dispose of the plant, plant product, biological control organism, plant pest, noxious weed, or means of conveyance if the Secretary finds that the plant pest or noxious weed:

(A) is on certain premises a plant, plant product, biological control organism, article, or means of conveyance destroyed or returned to the shipping point of origin under this Act or is moving subject to this Act; and

(B) the Secretary has reason to believe is infested with the plant pest or noxious weed.

(2) REQUIREMENTS FOR ACTION.—

(A) INADEQUATE STATE MEASURES.—After review and consultation with the Governor or other appropriate official of the State, the Secretary may take action under this subsection if the Governor or other appropriate official of the State determines that the measures being taken by the State are inadequate to eradicate the plant pest or noxious weed.

(B) NOTICE TO STATE AND PUBLIC.—Before taking any action under this subsection, the Secretary shall—

(i) notify the Governor or other appropriate official of the State; and

(ii) issue a statement and publish the statement in the Federal Register within a reasonable period of time, not to exceed 10 business days, after commencement of the action.

(3) COMPENSATION OF OWNER FOR UNAUTHORIZED DISPOSAL.—

(A) IN GENERAL.—The Secretary may pay compensation to a person for economic losses incurred by the person as a result of any unauthorized disposal or return to the shipping point of origin, or ordered to be destroyed, exported, or returned to the shipping point of origin, under section 6(a) of this Act; and

(B) FINAL DETERMINATION.—The determination by the Secretary of the amount of any compensation paid under this subsection shall be final and shall not be subject to judicial review.

(C) LEAST DRAMATIC ACTION TO PREVENT DISSEMINATION.—No plant, plant product, biological control organism, article, or means of conveyance shall be destroyed, exported, or returned to the shipping point of origin, or ordered to be destroyed, exported, or returned to the shipping point of origin, under this section unless, in the opinion of the Secretary, less drastic action that is feasible, and that would be adequate, to prevent the dissemination of a plant pest or noxious weed is not to or known to be widely prevalent or likely to spread within and throughout the United States.

(D) COMPENSATION OF OWNER FOR UNAUTHORIZED DISPOSAL.—

(A) IN GENERAL.—The owner of a plant, plant product, biological control organism, article, or means of conveyance destroyed or returned to the shipping point of origin, or ordered to be destroyed, shall be compensated for losses incurred in the care, control, or disposal of the plant, plant product, biological control organism, article, or means of conveyance.

(B) SOURCE FOR PAYMENTS.—A judgment rendered in favor of the owner shall be paid from funds appropriated for plant pest control activities of the Department of Agriculture.

SEC. 7. INSPECTIONS, SEIZURES, AND WARRANTS.

(a) IN GENERAL.—Consistent with guidelines approved by the Attorney General, the Secretary may—

(1) stop and inspect, without a warrant, a person or means of conveyance moving into the United States to determine whether the person or means of conveyance is carrying a plant, plant product, biological control organism, article, or means of conveyance that is carrying a plant, plant product, biological control organism, article, or means of conveyance that is carrying a plant, plant product, biological control organism, or article regulated under this Act or is moving subject to this Act;

(2) stop and inspect, without a warrant, a person or means of conveyance moving into interstate commerce from or within a State, portion of a State, or premises determined under section 6(b) of this Act and subject to the Secretary's jurisdiction, on proper oath or affirmation showing probable cause to believe that the person or means of conveyance is carrying a plant, plant product, biological control organism, or article regulated under this Act or is moving subject to this Act; and

(3) enter, with a warrant, a premises in the United States for the purpose of making inspections and seizures under this Act.

(b) WARRANTS.—

(1) IN GENERAL.—A United States judge, a jury of a court of record in the United States, or a United States magistrate judge may, within the jurisdiction of the court of record, or magistrate judge, issue a warrant under this Act or is moving subject to this Act.

(2) EXECUTION.—The warrant may be executed by the Secretary or a United States Marshal.

SEC. 8. COOPERATION.

(a) IN GENERAL.—To carry out this Act, the Secretary may cooperate with—

(1) other Federal agencies;

(2) States or political subdivisions of States;

(3) national, State, or local associations;

(4) national governments;

(5) international organizations; and

(6) international organizations, or article regulated under this Act or is moving subject to this Act.

(C) TRANSFER OF BIOLOGICAL CONTROL METHODS.—At the request of a Federal or
SEC. 10. ADMINISTRATION.

(a) IN GENERAL.—The Secretary may acquire and maintain such real or personal property, employ such persons, make such grants, and enter into such contracts, cooperative agreements, memoranda of understanding, or other agreements as are necessary to carry out this Act.

(b) PERSONNEL OF USER FEE SERVICES.—Notwithstanding any other law, the Secretary shall provide adequate personnel for services provided under this Act that are funded by user fees.

(c) TORT CLAIMS.—

(1) IN GENERAL.—The Secretary may pay a tort claim in the manner authorized in the first paragraph of section 2672 of title 28, United States Code, if the claim arises out of the performance or attempted performance of a proprietary function of the United States.

(2) TIME LIMITATION.—A claim may not be allowed under paragraph (1) unless the claim is presented in writing to the Secretary not later than 2 years after the claim accrues.

SEC. 11. REIMBURSABLE AGREEMENTS.

(a) PRECLEARANCE.—

(1) IN GENERAL.—The Secretary may enter into a reimbursable fee agreement with a person for preclearance (at a location outside the United States) of plants, plant products, and articles for movement into the United States.

(2) ACCOUNT.—All funds collected under this subsection shall be credited to an account that may be established by the Secretary in accordance with section 3717 of title 28, United States Code.

(b) PRECLEARANCE.ÐAll funds collected under this Act that are paid for similar services in a court of the United States at any designated place of hearing.

(c) PECUNIARY GAINS OR LOSSES.—If a person derives pecuniary gain from an offense described in subsection (a) or (b), or if the offense results in pecuniary gain to the person, a civil penalty shall be assessed.

(d) AGENTS.—For purposes of this Act, the term "agents" means persons employed by the Department of Agriculture performing services under this Act, including, without limitation, persons who conduct research, are employed by the Secretary, or are employed by the Department of Agriculture, or any of their agents.

(e) VIOLATIONS.—The Secretary may issue a civil penalty if a person violates or is about to violate this Act, or if the Secretary has reason to believe that the person is about to violate this Act, or if the person has violated or is about to violate this Act.

(f) ENFORCEMENT.—The Secretary may enforce this Act by any means that are reasonable and necessary to the proper enforcement of this Act.

SEC. 12. VIOLATIONS; PENALTIES.

(a) CRIMINAL PENALTIES.—A person who knowingly violates this Act, or who knowingly aids, abets, or conspires with another person to violate this Act, shall be fined not more than $25,000 for each violation.

(b) CIVIL PENALTIES.—The Secretary may assess a civil penalty against the person.

(c) INTEREST.—Overdue funds due the Secretary shall accrue interest at the rate of not more than 6 percent per annum.

(d) AGENTS.—For purposes of this Act, the term "agents" means persons employed by the Department of Agriculture performing services under this Act, including, without limitation, persons who conduct research, are employed by the Secretary, or are employed by the Department of Agriculture, or any of their agents.

SEC. 13. ENFORCEMENT.

(a) INVESTIGATIONS, EVIDENCE, AND SUBPOENAS.—

(1) INVESTIGATIONS.—The Secretary may gather and compile information and conduct any investigations the Secretary considers necessary for the administration and enforcement of this Act.

(2) EVIDENCE.—The Secretary shall have power to require by subpoena the attendance and testimony of witnesses, and the production of all documentary evidence relating to the administration or enforcement of this Act or any matter under investigation in connection with this Act.

(b) LOCATION.—The Secretary may issue a civil penalty if a person violates or is about to violate this Act, or if the Secretary has reason to believe that the person is about to violate this Act, or if the person has violated or is about to violate this Act.

(c) VIOLATIONS.—The Secretary may issue a civil penalty if a person violates or is about to violate this Act, or if the Secretary has reason to believe that the person is about to violate this Act, or if the person has violated or is about to violate this Act.

(d) AGENTS.—For purposes of this Act, the term "agents" means persons employed by the Department of Agriculture performing services under this Act, including, without limitation, persons who conduct research, are employed by the Secretary, or are employed by the Department of Agriculture, or any of their agents.

SEC. 14. PREEMPTION.

(a) IN GENERAL.—Except as provided in subsection (b), no State or political subdivision of a State may regulate an article of food, drug, cosmetic, or biological control organism, plant pest, noxious weed, or plant product in foreign commerce to control a pest or noxious weed, eradicate a disease, or prevent the introduction or dissemination of a biological control organism, plant pest, or noxious weed.
appropriated such sums as are necessary to carry out paragraph (1) without fiscal year limitation.

SEC. 17. REPEALS.

The following provisions of law are repealed:

(2) The Joint Resolution of April 6, 1937 (50 Stat. 57, chapter 69; 7 U.S.C. 148 et seq.).
(8) The Halogeiton Glomeratus Control Act (7 U.S.C. 1651 et seq.).

By Mr. GRAMM:

S. 84. A bill to authorize negotiation of free trade agreements with the countries of the Americas, and for other purposes; to the Committee on Finance.

S. 85. A bill to authorize negotiation for the accession of Chile to the North American Free Trade Agreement, and for other purposes; to the Committee on Finance.

AMERICAS FREE TRADE ACT AND NAFTA YEAR ON YEAR

Mr. GRAMM. Mr. President, when America trades, America wins. The United States of America is the greatest trading Nation the world has ever known. From beef to computers to engineering, last year American workers exported more than $830 billion in goods and services. No other country even came close.

Over the last decade, America’s exports in goods of all kinds grew by 131 percent. By comparison, Europe’s exports of goods grew by 96 percent, and Japan’s total grew less than half the rate of Europe’s by 24 percent. The U.S. trade expansion involved virtually every sector of the economy, but it was particularly pronounced in the export of manufactured goods. From 1985 to 1995, U.S. exports of manufactured goods grew by over 180 percent. That growth rate was six times the rate for Germany and almost nine times Japan’s export growth.

In short, trade wins. American workers’ incomes, and farms are more competitive and far more successful than the merchants of fear and defeatism advertise.

Fortunately, we have resisted incessant cries to model our economic and trade policies after those of Japan, Germany, and others, and we have outperformed them in every respect. Lately, one does not hear much talk about Japan’s economic miracle, and Germany’s double-digit unemployment rate finds few admirers. Instead, what Pericles said of ancient Athens in the days of that city’s glory may without fear be said of us. “The magnitude of our city draws the produce of the world into our harbor, so that to the Athenian the fruits of other countries are as familiar a luxury as those of his own.”

In fact, successful economic and trade policies have resulted in the addition of 18 million jobs to the Nation since 1985, 6 million jobs more than the total job creation for Japan and the nations of the European Community combined.

We must not forget that the most valuable products of trade are high-wage jobs. An export job in America pays better, 15 percent better, than the average pay in the Nation. Today, America exports over $26,000 in manufactured goods for every man and woman employed in manufacturing.

On January 1989, President Reagan gave his final State of the Union address. As a veteran of those trade battles, President Reagan warned us all: “A creative, competitive America is the answer to a changing world, not trade wars that will close doors, create great barriers, and destroy millions of jobs. We should always remember: protectionism is destructionism.”

Mr. President, on May 21, 1986, I introduced legislation to begin negotiations for a free trade agreement with Mexico. On February 26, 1987, I introduced a bill that laid out a framework for negotiating a North American free trade area, and on January 26 of that same year the Senate adopted an amendment that I offered to the omnibus farm bill, authorizing the negotiation of a North American Free Trade Agreement.

On February 7, 1989, I once again introduced trade legislation and called for a free trade agreement encompassing the entire Western Hemisphere. I have introduced similar legislation in the 103d and the 104th Congress, providing authority for negotiation of a free trade agreement with the nations of the Americas.

Today, I am introducing two pieces of legislation to extend free trade from Point Barrow, AK, to Cape Horn at the tip of South America. The first bill, the Americas Free Trade Act, will provide fast track authority for consideration of free trade agreements with any or all of the nations of the Western Hemisphere.

While renewing fast track authority, the legislation provides two very important reforms made necessary by the abuse of the fast track authority in the 1990s. First of all, the legislation explicitly excludes labor and environmental provisions from the fast track approval process.
These are important issues to be addressed in our relations with other nations, but the Senate must not surrender its constitutional treaty review responsibilities over these important matters.

The legislation also deals with the problem of unrelated matters being included in a bill implementing a trade agreement. Similar to the Byrd Rule that excludes extraneous matter from reconciliation legislation, this bill will permit a point of order to be raised against any provision in an implementing bill that is not necessary to carry out the provisions of the trade agreement. This point of order, as with the Byrd Rule, would strike the offending provision from the bill rather than cause the entire bill to fail.

As with legislation that I have introduced in the past, this bill provides special procedures for trade agreements with Cuba. In short, Fidel Castro's despotism would be eligible, but a free trade agreement with a free Cuba would be made a national priority.

I am also introducing today legislation to provide for Chile to join the North American Free Trade Agreement (NAFTA) in order to protect the extension of fast track authority for free trade agreements for any nation of the Western Hemisphere, as the Americas Free Trade Act would do. I do not believe that we should delay the process of including Chile in NAFTA, or hold Chile hostage to that process, should a broader trade bill require more time to be enacted. I believe that a free trade agreement with Chile could and should be concluded this year, and I am eager to see the progress toward lower barriers to trade and economic growth move forward.

We are the best competitor the world has ever known, and we have the biggest stake. Trade and expanding economic opportunity power America's economic growth and prosperity. Let us embrace them, not destroy them.

Mr. President, I ask unanimous consent that the text of the Americas Free Trade Act and the NAFTA Accession Act, together with an outline of each bill, be included in the Record. There being no objection, the materials were ordered to be printed in the Record, as follows:

S. 84

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 "Americas Free Trade Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The countries of the Western Hemisphere have enjoyed more success in the twentieth century in the peaceful conduct of their relations among themselves than have the countries of the rest of the world.

(2) The economic prosperity of the United States and its trading partners in the Western Hemisphere is increased by the reduction of trade barriers.

(3) Trade protection endangers economic prosperity in the United States and through-out the Western Hemisphere and undermines civil liberty and constitutionally limited government.

(4) The successful establishment of a North American Free Trade Area is the pattern for the reduction of trade barriers throughout the Western Hemisphere, enhancing prosperity in place of the cycle of increasing trade barriers and deepening poverty that results from a resort to protectionism and trade retaliation.

(5) The reduction of government interference with the economic and social sectors of a nation's economy and the concomitant promotion of economic opportunity and free-dom promote civil liberty and constitutionally limited government.

(6) Countries that observe a consistent policy of free trade, the promotion of free enterprise and other economic freedoms (including effective protection of private property rights), and the removal of barriers to foreign direct investment, in the context of constitutionally limited government and minimal interference in the economy, will follow the surest and most effective prescription to alleviate poverty and provide for economic, social, and political development.

SEC. 3. FREE TRADE AREA FOR THE WESTERN HEMISPHERE.

(a) IN GENERAL.—The President shall take action to initiate negotiations to obtain trade agreements with the sovereign countries and areas of the Americas, the terms of which provide for the reduction and ultimate elimination of tariffs and other nontariff barriers to trade, for the purpose of promoting the eventual establishment of a free trade area for the entire Western Hemisphere.

(b) RECIPROCAL BASIS.—An agreement entered into under subsection (a) shall be reciprocal and provide for mutual reductions in trade barriers to promote trade, economic growth, and employment.

(c) BILATERAL OR MULTILATERAL BASIS.—Agreements may be entered into under subsection (a) on a bilateral basis with any foreign country described in that subsection or on a multilateral basis with all of such countries or any group of such countries.

SEC. 4. FREE TRADE WITH FREE CUBA.

(a) RESTRICTIONS PRIOR TO RESTORATION OF FREEDOM IN CUBA. —The President shall not make the certification that freedom has been restored in Cuba, unless the President certifies to Congress that—

(1) freedom has been restored in Cuba;

(2) the claims of United States citizens for compensation for expropriated property have been appropriately addressed;

(b) STANDARDS FOR THE RESTORATION OF FREEDOM IN CUBA.—The President shall make the certification that freedom has been restored in Cuba, for purpose of subsection (a), unless the President determines that—

(1) a constitutionally guaranteed democratic government has been established in Cuba with leaders chosen through free and fair elections;

(2) the rights of individuals to private property have been restored and are effectively protected and broadly exercised in Cuba;

(3) Cuba has a currency that is fully convertible domestically and internationally;

(4) all political prisoners have been released in Cuba;

(5) the rights of free speech and freedom of the press in Cuba are effectively guaranteed.

(c) PRIORITY FOR FREE TRADE WITH FREE CUBA.—Upon making the certification described in subsection (a), the President shall give priority to the negotiation of a free trade agreement with Cuba.

SEC. 5. INTRODUCTION AND FAST-TRACK CONSIDERATION OF IMPLEMENTING BILLS.

(a) INTRODUCTION IN HOUSE AND SENATE.—When the President submits to Congress a bill to implement a trade agreement described in section 3, the bill shall be introduced and the Senate shall be considered as described in section 151(c) of the Trade Act of 1974 (19 U.S.C. 1912(c)).

(b) RESTRICTIONS ON CONTENT.—A bill to implement a trade agreement described in section 3—

(1) shall contain only provisions that are necessary to implement the trade agreement; and

(2) may not contain any provision that establishes or requires or authorizes the establishment of a labor or environmental protection standard or amends (or requires or authorizes an amendment of) any labor or environmental protection standard set forth in law or regulation.

(c) POINT OF ORDER IN SENATE.—

(1) APPLICABILITY TO ALL LEGISLATIVE FORMS OF IMPLEMENTING BILL.—For the purposes of this subsection, the term "implementing bill" means the following:

(A) THE BILL.—A bill described in subsection (a), without regard to whether that bill originated in the Senate or the House of Representatives.

(B) AMENDMENT.—An amendment to a bill referred to in subparagraph (A).

(C) CONFERENCE REPORT.—A conference report on a bill referred to in subparagraph (A).

(D) AMENDMENT BETWEEN HOUSES.—An amendment between the houses of Congress in relation to a bill referred to in subparagraph (A).

(E) MOTION.—A motion in relation to an item referred to in subparagraph (A), (B), (C), or (D).

(f) MAKING OF POINT OF ORDER.—(A) AGAINST SINGLE ITEM.—When the Senate is considering an implementing bill, a Senator may make a point of order against any part of the implementing bill that contains material in violation of a restriction under subsection (b).

(B) AGAINST SEVERAL ITEMS.—Notwithstanding any other provision of law or rule of the Senate, when the Senate is consider- ing an implementing bill, it shall be in order for a Senator to raise a single point of order that several provisions of the implementing bill violate subsection (b). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order.

(g) EFFECT OF SUSTAINMENT OF POINT OF ORDER.—(A) AGAINST SINGLE ITEM.—If a point of order made against a part of an implementing bill under paragraph (2)(A) is sustained by the President of the Senate, the part of the implementing bill against which the point of order is sustained shall be deemed stricken.

(B) AGAINST SEVERAL ITEMS.—In any case of a point of order made under paragraph (2)(B) against several provisions of an implementing bill, only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken.

(C) STRICKEN MATTER NOT IN ORDER AS AMENDMENT.—Matter stricken from an implementing bill under this paragraph may not be offered as an amendment to the implementing bill (in any of its forms described in paragraph (1)) from the floor.

(D) WAIVERS.—Before the President of the Senate rules on a point of order under this subsection, any Senator may move to waive the application of this subsection to all of the provisions against which the point of order is raised. Such a motion to waive is
amendable in accordance with the rules and precedents of the Senate.

(A) APPEALS.—After the Presiding Officer rules on a point of order under this subsection, any Senator may appeal the ruling of the Presiding Officer on the point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

(2) MAKING OF POINT OF ORDER.—

(i) W AIVERS.—A point of order under this subsection is waived only by the affirmative vote of at least the requisite majority.

(ii) REQUISITE MAJORITY.—For purposes of clauses (i) and (ii), the requisite majority is three-fifths of the Members of the Senate, duly chosen and sworn.

(c) APPLICABILITY OF FAST TRACK PROCEDURES.—Section 151 of the Trade Act of 1974 (19 U.S.C. 2191) is amended—

(1) in subsection (b)(3)—

(A) by inserting “section 5 of the Americas Free Trade Act,” after “the Omnibus Trade and Competitiveness Act of 1988”; and

(B) by amending subparagraph (C) to read as follows:

“(C) if changes in existing laws or new statutory authority is required to implement such trade agreement or agreements or such extension, provisions, necessary to implement such trade agreement or agreements or such extension, either repealing or amending existing provisions or providing new statutory authority.”;

(2) in subsection (c)(1), by inserting “or under section 5 of the Americas Free Trade Act,” after “the Uruguay Round Agreement Acts,”.

THE AMERICAS FREE TRADE ACT—SUMMARY

I. The President is directed to undertake negotiations to establish free trade agreements between the United States and countries of the Western Hemisphere (including North and South America and the Caribbean). Agreements may be bilateral or multilateral.

II. The President, before seeking a free trade agreement with Cuba under the Act, would have to certify (1) that freedom has been restored to Cuba only if he determines that—

(A) constitutionally guaranteed democratic government has been established in Cuba, with leaders freely and fairly elected;

(B) private property rights have been restored and are effectively protected and broadly exercised;

(C) Cuba has a convertible currency;

(D) all political prisoners have been released;

(E) free speech and freedom of the press are effectively guaranteed.

If the President certifies that freedom has been restored to Cuba, priority will be given to the negotiation of a free trade agreement with Cuba.

III. Congressional fast track procedures for consideration of any such agreement (i.e., expedited consideration, no amendments), are extended permanently.

IV. Fast track procedures are amended to provide that a bill applying to an implementing bill only if such bill contains legislation that is “necessary” to implement the trade agreement. Also, such bills will be subject in the Senate to the Byrd Rule that applies to extraneous provisions in reconciliation bills. That is, any provision that does not meet the “necessary” standard is subject to a point of order which, if sustained, causes the offending provisions to be stricken from the bill (rather than the whole bill failing). This point of order can be overruled only by a vote of three-fifths of the members duly sworn.

V. Labor and environmental standards may not be included as elements of an implementing bill.

SEC. 2. ACCESSION OF CHILE TO THE NORTH AMERICAN FREE TRADE AGREEMENT

Subject to section 3, the President is authorized to enter into an agreement which provides for the accession of Chile to the North American Free Trade Agreement and the provisions of section 151(c) of the Trade Act of 1974 (19 U.S.C. 2191(c)) shall apply with respect to a bill to implement such agreement if such agreement is entered into on or before December 31, 1998.

SEC. 3. INTRODUCTION AND FAST-TRACK CONSIDERATION OF IMPLEMENTING BILL

(a) INTRODUCTION IN HOUSE AND SENATE.—When the President submits to Congress a bill to implement a trade agreement described in section 2, the bill shall be introduced by the Presiding Officer in the House and the Senate as described in section 151(c) of the Trade Act of 1974 (19 U.S.C. 2191(c)).

(b) RESTRICTIONS ON CONTENT.—A bill to implement a trade agreement described in section 2—

(1) shall contain only provisions that are necessary to implement the trade agreement; and

(2) may not contain any provision that establishes (or requires or authorizes the establishment of) a labor or environmental protection standard set forth in existing law or regulation.

(c) APPLICABILITY OF FAST TRACK PROCEDURES.—Section 151 of the Trade Act of 1974 (19 U.S.C. 2191) is amended—

(1) in subsection (b)(1)—

(A) by inserting “section 5 of the Americas Free Trade Act,” after “the Omnibus Trade and Competitiveness Act of 1988”; and

(B) by amending subparagraph (C) to read as follows:

“(C) if changes in existing laws or new statutory authority is required to implement such trade agreement or agreements or such extension, provisions, necessary to implement such trade agreement or agreements or such extension, either repealing or amending existing provisions or providing new statutory authority.”;

(2) in subsection (c)(1), by inserting “or under section 5 of the Americas Free Trade Act,” after “the Uruguay Round Agreement Acts.”;

THE NAFTA ACCESSION ACT—SUMMARY

I. The President is directed to undertake negotiations for the accession of Chile to the North American Free Trade Agreement.

II. Congressional fast track procedures for consideration of any such agreement (i.e., expedited consideration, no amendments), are extended through December 31, 1998.

III. Fast track procedures are amended to provide that they apply to an implementing bill only if such bill contains legislation that is “necessary” to implement the trade agreement. Also, such bill will be subject in the
Senate to a procedure like the Byrd rule that applies to extraneous provisions in reconciliation bills. That is, any provision that does not meet the “necessary” standard is subject to a point of order which, if sustained, causes the offending provision to be stricken from the bill (rather than the whole bill falling), and this point of order can be overruled only by a vote of three-fifths of the members duly sworn.

IV. Labor and environmental standards may not be included as elements of an implementing bill.

By Ms. SNOWE (for herself and Mr. LEAHY):
S. 86. A bill to amend the Public Health Service Act to provide, with respect to research on breast cancer, for the increased involvement of advocates in decision making at the National Cancer Institute; to the Committee on Labor and Human Resources.

By Ms. SNOWE (for herself and Mrs. FEINSTEIN):
S. 87. A bill to amend the Public Health Service Act to provide a one-stop shopping information service for individuals with serious or life-threatening diseases; to the Committee on Labor and Human Resources.

By Ms. SNOWE:
S. 88. A bill to permit individuals to continue health plan coverage of services while participating in approved clinical studies; to the Committee on Labor and Human Resources.

S. 89. A bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services; to the Committee on Labor and Human Resources.

S. 90. A bill to require studies and guidelines for breast cancer screening for women ages 40-49, and for other purposes; to the Committee on Labor and Human Resources.

S. 91. A bill to establish an Office on Women's Health within the Department of Health and Human Services; to the Committee on Labor and Human Resources.

WOMEN'S HEALTH LEGISLATION
Ms. SNOWE. Mr. President, I rise today to introduce a package of six bills designed to improve the health of countless women across America. By introducing these bills during the opening days of the 105th Congress, I hope to convey that women's health is one of my top legislative priorities for this Congress, and that I will do everything I can to see that it is a priority for the 105th Congress as well.

For too many years, women's health care needs were ignored or poorly understood, and women were systematically excluded from important health research. The first broad, forward looking health agenda designed to redress the historical inequities that face women in medical research, prevention and services. Since the introduction of WHEA, we have made important strides on behalf of women's health. Legislation from that first package became law in June 1993, mandating the inclusion of women and minorities in clinical trials at NIH. We secured dramatic funding increases for research into breast cancer, osteoporosis, and cervical cancer, and my legislation established the Office of Research on Women's Health at NIH. And last year the Healthy Women, Healthy Protection Act, which I cosponsored, became law. This Act will end the practice of “drive-thru deliveries”, where hospitals discharge mothers and their newborns too soon after delivery.

Several of the bills I am introducing today target one of the major public health crises facing this nation—breast cancer. This year alone, 180,000 new cases of breast cancer will be diagnosed in this country, and more than 44,000 women will die of the disease. Breast cancer is the most common form of cancer and the second leading cause of cancer deaths among American women.

Our first priority in the fight against breast cancer must be to maintain and strengthen our commitment to discovering new treatments for this deadly disease. As the Federal Government continues to fund breast cancer research, we must also make sure that funding goes to those projects which victims of breast cancer believe are important and meaningful to them in their fight against this disease.

Over the past three years, the Department of Defense has included lay breast cancer advocates in breast cancer research decision making. The involvement of these breast cancer advocates has helped foster new and innovative breast cancer drug trials, dissemination of information on clinical trials and research projects. While maintaining the highest level of quality assurance through peer review, breast cancer advocates have helped to ensure that all breast cancer research reflects the experiences and wisdom of the individuals who have lived with the disease. In addition, breast cancer advocates provide a vital educational link between the scientific and lay communities.

The first bill I am introducing today, which I am introducing with my colleague from Vermont, Senator LEAHY, urges the National Institutes of Health to follow the DOD's lead. This bill, the Consumer Involvement in Breast Cancer Research Act, urges NIH to include breast cancer advocates in breast cancer research decision making, and to report on progress that the Institute is making next year.

But finding new research alone is not enough—we must ensure that people who are suffering from deadly diseases such as breast cancer have access to information about the latest, most innovative therapies which are frequently available only through experimental drug trials. At a breast cancer hearing which I sponsored last year with my colleagues, Senators CONNIE MACK and DIANNE FEINSTEIN, we heard testimony from breast cancer advocates on the difficulty patients and physicians face in learning about ongoing clinical trials. The second bill I introduce today addresses this knowledge gap, by establishing a data bank of information on clinical trials and experimental treatments for all serious or life-threatening illnesses.

This “one-stop shopping information service” will include a registry of all major public and private clinical trials, and will contain information describing the purpose of the trial, eligibility criteria for participating in the trial, as well as the location of the trial. The database will also contain information on all completed clinical trials, enabling patients to make fully informed decisions about medical treatments. The bill would allow people with a serious or life-threatening illness, or the doctor of a family member, to quickly access this critical information so they could locate a clinical trial near them that may offer hope by extending their lives or alleviating their...
suffering. I am pleased that my colleague from California, Senator Feinstein, is joining me in introducing this important bill.

Providing people with information about clinical trials is only the first step; access to these experimental treatments—must we also ensure that they have adequate insurance coverage to cover costs associated with clinical trials. While pharmaceutical companies typically cover the costs of the experimental treatments, insurance companies are expected to cover the costs of non-experimental services. Yet many insurance companies deny coverage for these non-experimental services when a patient is enrolled in an experimental trial.

As a result, many patients who could benefit from these potentially life-saving investigational treatments do not have access to them because their insurance will not cover these associated costs. Denying reimbursement for these services also impedes the ability of scientists to conduct important research, by reducing the number of patients who are eligible to participate in clinical trials.

The third bill I am introducing today, the Improved Patient Access to Clinical Studies Act of 1997, addresses this problem. This bill would prohibit insurance companies from denying coverage for services provided to individuals participating in clinical trials, if those services would otherwise be covered by the plan. This bill would also prevent health plans from discriminating against enrollees who choose to participate in clinical trials.

Another form of discrimination in health insurance we see today is based on genetic information. This is a particular concern to women who inherit or may have inherited a mutated form of the breast cancer gene [BRCA1 or BRCA2]. Women who inherit either of these genes have a considerably increased risk of developing breast cancer in their lifetime, and a 50 percent chance of developing ovarian cancer. Although there is no known treatment to ensure that women who carry the mutated gene do not develop breast cancer, genetic testing makes it possible for carriers of these mutated genes to take extra precautions in order to detect cancer at its earliest stages—precautions such as mammograms and self-examinations.

The tremendous promise of genetic testing, however, is significantly threatened when insurance companies use the results of genetic testing to deny or limit coverage to consumers on the basis of genetic information. Yet this practice is relatively common today. In fact, a recent survey of individuals with a known genetic condition in the family revealed that 22 percent had been denied health insurance coverage because of genetic information.

In addition to the potentially devastating consequences of being denied health insurance on the basis of genetic information, the fear of discrimination has equally harmful consequences for consumers and for scientific research. For example, many women who might take extra precautions if they knew they had the breast cancer gene may not seek testing for their health insurance. Patients may be unwilling to disclose information about their genetic status to their physicians out of fear, hindering treatment or preventive efforts. And people may be unwilling to contribute financially to potentially groundbreaking research because they do not want to reveal information about their genetic status.

The Kassebaum/Kennedy Health Care Reform Act took the first step in protecting Americans in group health plans from genetic discrimination by preventing discrimination in health insurance based on a pre-existing genetic condition. My bill, the Genetic Information Nondiscrimination in Health Insurance Act of 1997, takes the next crucial steps to prohibit genetic discrimination. My bill prevents insurers from charging higher premiums based on genetic information, prohibits insurers from requiring or requesting a genetic test as a condition of coverage, requires informed written consent before an insurance company can disclose genetic information to a third party, and extends these important protections to Medigap.

While there is much that we still do not know in the fight against breast cancer, we do know that mammograms are currently the most effective weapon we have in the fight against breast cancer. Yet experts still disagree about the effectiveness of mammograms for women in their forties. In fact, the National Cancer Institute (NCI) in 1993 reversed its position on the effectiveness of mammograms for women in their forties, producing widespread confusion in women and their doctors. To assure women in their forties that they have clear guidance from their government on when to have a mammogram, I am reintroducing my bill, the Breast Cancer Screening Act of 1997, directing NCI to reissue its guidelines recommending mammograms for women in this age group. This legislation is particularly crucial in light of recent studies that show a reduced death rate for women in their forties who seek mammograms. In fact, one Swedish study of 150,000 women found a 60 percent lower death rate for women who obtained mammograms beginning in their forties.

Finally, the sixth bill I am introducing today is the Women's Health Office Act of 1997. This bill creates or codifies offices of women's health at various federal agencies, including the Office of the Assistant Secretary at HHS, the Centers for Disease Control, the Agency for Health Care Policy and Research, the Health Resources and Services Administration, and the Food and Drug Administration. This bill provides for short and long-range goals and coordination of all activities that related to disease prevention, health promotion, delivery of health services and scientific research concerning women.

The bill also creates a clearinghouse for information on women's health.

By statutorily creating Offices of Women's Health, the Deputy Assistant Secretary for Women's Health will be able to better monitor various Public Health Service agencies and advise them on scientific, legal, ethical and policy issues. Agencies would establish a Coordinating Committee on Women's Health to identify and prioritize which women's health projects should be conducted. This will also provide a mechanism for coordination within and across these agencies, and with the private sector. But most importantly, this bill will ensure the presence of enduring offices dedicated to addressing the ongoing needs and gaps in research policy, programs, and education and training in women's health.

The Kassebaum/Kennedy Health Care Reform Act provides the following recognition: 'The health of American women requires a far greater understanding of women's health needs and conditions, and ongoing evaluation in the areas of research, education, prevention, treatment and the delivery of services. I believe that passage of these important bills will help ensure that women's health will never again be a missing page in America's medical textbook.'

Mrs. Feinstein. Mr. President, today Senator Snowe and I are introducing S. 87, a bill to set up a toll-free service so that people with life-threatening diseases and the medical community can find out about research projects on new treatments.

There are thousands of serious and life-threatening diseases, diseases for which we have no cure. For genetic diseases alone, there are 3,000 to 4,000. We are familiar with diseases like cancer, Alzheimer's disease and multiple sclerosis. But there are thousands of others that are not so well known, like cystinosis, Tay-Sachs disease, Wilson's disease, and Sjogren's syndrome. Indeed, there are over 5,000 known rare diseases, diseases most of us have never heard of, affecting between 10 and 20 million Americans.

Cancer kills half a million Americans per year. Diabetes affects 15 million Americans per year, half of whom do not know they have it. Arthritis affects 40 million Americans every year. 150,000 American children die every year. Among children, the rates of chronic respiratory diseases (asthma, bronchitis and sinusitis), heart murmurs, migraine headaches, anemia, epilepsy and diabetes are increasing. Few families escape illness today. Every family fears it.

THE BILL

Our bill requires the Secretary of Health and Human Services to establish a 'one-stop shopping' database, including a toll-free telephone number, so that patients and physicians can conveniently find out what clinical research trials are being conducted on experimental treatments. By accessing
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January 21, 1997

S 92

A constituent suggestion

By Mr. KERRY:

A constituent has requested help for her family who have been told, falsely, that their daughter has a terminal illness. The family has not been able to locate information about treatments being researched. Our witness, Nancy Evans, testified that the National Cancer Institute has established 1-800-4-CANCER, but the NC1 information is incomplete. It does not include all trials and the information is often difficult for the layperson to understand.

In addition, the National Kidney Cancer Association has called for a central database.

It is helpful to think about the plight of the individuals that this bill could help. These are people who have a terminal illness; their physicians have tried every treatment they can find. Cancer patients, for example, have probably had several rounds of chemotherapy, which has left them debilitated, virtually lifeless. These patients cling to slim hopes. They are desperate to try anything. But step one is finding out what is available, even if it is still in the experimental stage.

One survey found that a majority of patients and families are willing to use investigational drugs (drugs being researched but not approved for sale), but find it difficult to locate information on research projects. A similar survey of physicians found that 42 percent of physicians are unable to find printed information about rare illnesses.

Physical therapists, no matter how competent and well trained, also cannot be knowledgeable about experimental treatments being researched. And most Americans do not have sophisticated computers hookups that provide them instant access to the latest information. Our witness, Nancy Evans, testified that she can find out more about a company's clinical trials by calling her stockbroker than by calling existing data services.

Many desperate families have called me, Representative of the Ninth District of Florida, requesting help. Others have located their pleas at the White House. Others call lawyers, 911, or other connections, computer sophistication or access to top-flight university medical schools to find out about research on treatments of disease. I hope this bill will offer some hope to the millions who are suffering today.

S. 92

A bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes; the Committee on Labor and Human Resources.

MODERATE HELP FOR THE ILL

The bill we introduce does not guarantee that anyone will participate in a clinical research trial. Researchers would still control who participates and set the requirements for the research. But for those who cling to slim hopes for a cure, for those who want to live longer, for those who want to feel better, this database can offer a little help.

If you have a life-threatening illness, you should not have to have political or other connections, computer sophistication or access to top-flight university medical schools to find out about research on treatments of disease. I hope this bill will offer some hope to the millions who are suffering today.

By Mr. KERRY:

S. 92. A bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes; the Committee on Labor and Human Resources.

WORKPLACE RELIGIOUS FREEDOM ACT

Mr. KERRY. I am proud today to introduce the Workplace Religious Freedom Act of 1997. This bill would protect workers from on-the-job discrimination. It represents a milestone in the protection of religious liberty, assuring that all workers have equal employment opportunities.

In 1972, Congress amended the Civil Rights Act of 1964 to require employers to reasonably accommodate an employee's religious observance unless doing so would impose an undue hardship on the employer. This 1972 amendment, although completely appropriate, has been interpreted by the courts so narrowly as to place little restraint on an employer's refusal to provide religious accommodation. The "Workplace Religious Freedom Act" will restore to the religious accommodation provision the weight that Congress originally intended and help assure that employers have a meaningful obligation to reasonably accommodate their employees' religious practices.

The restoration of this protection is no small matter. For many religiously observant Americans the greatest peril to their ability to carry out their religious faiths on a day-to-day basis may come from employers. I have heard accounts from around the country about a small minority of employers who will not make reasonable accommodation for employees to observe the Sabbath and other holy days or for employees who must wear religiously-required garb, such as a yarmulke, or for employees who must wear clothing that meets religious modesty requirements.

The refusal of an employer, absent undue hardship, to provide reasonable accommodation of a religious practice should be seen as a form of religious discrimination, as originally intended by Congress in 1972. And religious discrimination should be treated fully as seriously as any other form of discrimination that stands between Americans and equal employment opportunities. Enactment of the "Workplace Religious Freedom Act" will constitute an important step towards ensuring that all members of society, whatever their religious beliefs and practices, will be protected from an invidious form of discrimination.

It is important to recognize that, in addition to protecting the religious freedom of employees, this legislation protects employers from an undue burden. Employers would be allowed to take time off only if their doing so does not pose a significant difficulty or expense for the employer. This common sense definition of "undue hardship" is used in the Americans with Disabilities Act and has worked well in that context.

I believe this bill should receive bipartisan support. The same bill was endorsed in the last session by a wide range of organizations including the Jewish Community Relations Council, the Christian Legal Society, and the Baptist Joint Committee on Public Affairs, the Christian Legal Society, and the Jewish Community Relations Council of Greater Boston.

I urge this body to pass this legislation so that all American workers can both be assured of equal employment opportunities and the ability to practice their religion.

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

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

S. 92

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

SECTION 1. SHORT TITLE.

(a) Definitions. Section 701(j) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(j)) is amended—

SEC. 2. AMENDMENT.

(a) Definitions. Section 701(j) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(j)) is amended—

SEC. 3. EFFECTIVE DATE.
(1) by inserting "(1)" after "(j)"; 
(2) by inserting "; after initiating and engaging in an affirmative and bona fide effort," after "unable"; and 
(3) by striking the following: 
(1) As used in this subsection, the term "unlawful employment practice under this title for failure to provide a reasonable accommodation to the religious observance or practice of an employee who is an individual with a disability means an accommodation that is a reasonable accommodation as defined in section 12111(3) of this title and that is provided to an employee who is an individual with a disability; 
(2) If the requested accommodation is not provided to, or is not provided in a timely manner to, an employee who is an individual with a disability, the employee is entitled to receive the reasonable accommodation described in the employment application or offer letter, or in the employee's personnel file, that is requested by the employee; and 
(3) If the requested accommodation is not provided to, or is not provided in a timely manner to, an employee who is an individual with a disability, the employee is entitled to receive the reasonable accommodation described in the employment application or offer letter, or in the employee's personnel file, that is requested by the employee.

S. 93. A bill to increase funding for child care under the temporary assistance for needy families program; to the Committee on Finance.

By Mr. KERRY.

SEC. 1. INCREASED FUNDING FOR CHILD CARE.

(a) In general.—Section 418(a) of the Social Security Act (42 U.S.C. 609(a)) is amended by striking paragraph (3) and inserting the following:

``(3) For the fiscal year ending June 30, 2000, the amount of funds provided under this subsection shall be $3,967,000,000.

(b) Appropriation.—For such fiscal year, there are appropriated—

(A) $3,967,000,000 for fiscal year 2000; 
(B) $3,967,000,000 for fiscal year 2000; 
(C) $3,967,000,000 for fiscal year 2000; 
(D) $3,967,000,000 for fiscal year 2000; 
(E) $3,967,000,000 for fiscal year 2000; and 
(F) $3,967,000,000 for fiscal year 2000.

(c) Effective date.—The amendment made by this section shall take effect at the end of the 1999 fiscal year.

By Mr. DORGAN:

S. 95. A bill to provide for Federal campaign finance reform, and for other purposes; to the Committee on Rules and Administration.

CAMPAIGN FINANCE REFORM LEGISLATION.

By Mr. DORGAN, and Mr. KERRY, Mr. President, the current system of electing Members of Congress is badly in need of reform. Elections are too long, too expensive and too expensive; incumbents have a decided advantage over their challengers, voter participation continues to decline, and 30-second political attack ads are polluting the airwaves. The American people want us to fix the system, and they want us to do it now. It is my view that campaign finance reform, along with balancing the budget, should be the highest priorities on this Senate agenda in the 105th Congress.

Successive Supreme court decisions have made it increasingly difficult to control campaign spending. In its review of the Federal Election Campaign Act (FECA) of 1971, the Court, in Buckley v. Valeo, struck down the mandatory spending limits in that law as an infringement of First Amendment rights. The Court stated unequivocally: "In the free society ordained by our Constitution, it is not the government, but the people—individuals as citizens and candidates and collective associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign." The Court at that time, however, did retain its support of FECA which limited contributions to political candidates because of the Court's stated
concern that unlimited gifts to candidates were a recipe for corruption. Simply put, the Courts have prohibited mandatory spending limits while preserving contribution limits. In the love of God, it seems to me that we will have to pass a constitutional amendment to get a handle on the spending side of the campaign equation, and I intend to co-sponsor just such a broadcasting act.

Nevertheless, there are short term solutions that can and should be addressed, including voluntary spending limits. The system is, and the public is disgusted with the ever increasing amounts of money flowing into congressional campaign coffers. Whether we like it or not, the public believes they are being taxed. They feel that money flows toward power, and are convinced that large campaign contributions buy influence. To put their concerns in some perspective, one need only look at the statistics. The average cost of winning a Senate seat rose from $60,100 in 1976 to $3.6 million in the 1996 election cycle, and incumbents on average have a spending advantage of more than 2-to-1 over challengers.

There is simply no way to justify these expenditures. No wonder the American people have grown cynical of public institutions and officials, and no wonder talented people in our communities do not want to run for elective office. If we hope to reverse public attitudes and restore confidence in our government officials and institutions, we should begin with campaign finance reform. The opportunity to pass a law each year to pass meaningful and bipartisan reform, something that has eluded us for more than a decade. I hope we will seize the moment.

While I intend to support comprehensive reform efforts as I have in the past, I am introducing legislation today to address what I perceive to be a serious problem in the system now. My bill includes the following provisions which I will describe briefly:

1. Voluntary spending limits, limitation on personal funds, fee on non-complying candidates

As a result of the Supreme Court decisions mentioned above, the only way to control spending in the short term is through voluntary expenditures. My bill contains voluntary limits which are based on a percentage of the voting age population in each state. They are contained in the campaign finance reform bill that passed the Senate in the 103rd Congress and which have been the basis of comprehensive proposals and support in the House as well. In addition, my bill would limit the amount of personal or family money that a candidate can contribute to his or her campaign to $25,000. I don’t believe any candidate should be able to spend unlimited personal funds in an attempt to buy a seat in the U.S. Senate.

Unlike other bills, however, my proposal imposes a fee on candidates who choose not to comply with the spending limits. Under my legislation, non-complying candidates would be subject to a fee equal to 50 percent of their expenditures exceeding the spending limits. The fee would be due and payable at the time candidates are required to submit quarterly and other reports to the Federal Election Commission. The proceeds from the fee would be distributed by the FEC on a fair and equitable basis among complying candidates, and I hope that this fee will provide a strong incentive for candidates to comply with the voluntary spending limits.

2. Soft money

My bill prohibits national political parties and congressional campaign committees from raising or spending so-called “soft money.” Only money raised and spent according to the requirements and restrictions of federal law can be used to “expressly advocate” the election or defeat of a federal candidate. This is one of that candidate. In practice, however, unlimited amounts of soft money are being raised by the national parties and congressional campaign committees, outside the restrictions and prohibitions of FEC law, ostensibly to support state and local candidates as well as federal candidates to the extent that they do not directly advocate the election or defeat of that candidate. In practice, however, soft money is being raised and spent on federal elections because of a loophole in federal election law.

Soft money is contributed to national parties and corporations, which are prohibited from contributing to federal elections except through their PACs, and from individuals who have reached the aggregate federal contribution limits of $25,000 a year. In a nutshell, soft money contributions are unlimited and unregulated.

It is this pot of soft money which has dramatically increased in recent election cycles. The Republican national committees raised $101.1 million in the 1992 election cycle, a 133 percent increase over the $42.9 raised in 1992. The Democratic party committees raised $112 million in 1996, a 237 percent increase over the $36.5 million. A substantial portion of soft money spending by party campaign committees has gone to finance the generic issue ads which have flooded the airwaves this election cycle.

The figures above illustrate the problem. My bill would eliminate it by preventing national committees from raising or spending soft money in elections, coupled with the source and dollar restrictions in federal campaign finance law.

3. Express advocacy

As mentioned above, only money raised under the restrictions and prohibitions of federal election law can be used to advocate the election or defeat of a candidate for federal office. As currently defined in FEC regulations, only communications which use such words as “vote for,” “elect,” “support,” “defeat,” “reject” or “Smith for Congress” are considered express advocacy which must be paid for with hard money, i.e., money subject to restrictions and prohibitions, i.e., hard money.

This overly narrow definition of what constitutes “expression” is, I believe, a giant loophole for attack ads. Simply by avoiding the magic words mentioned above, political parties, corporations, unions and other special interest groups can pay for express advocacy which fall outside the restrictions to congressional campaigns. It is my belief that many people who want to participate financially in the political process simply cannot afford to do so. These voters believe that they have no voice. They are increasingly frustrated, disgusted and disengaged. My bill will afford them the opportunity to participate in the process.

The American public and the voters in my state of North Dakota are clearly appalled by the amount of money involved in electing federal officials. They are adamant that we clean up the system—NOW. If we don’t, we do so at our personal and collective peril.

I want the people of North Dakota and the Midwest to know that I intend to support and to work as hard as I can to enact comprehensive campaign finance legislation this year. I think is in all our best interests to educate voters, to change public attitudes, to encourage participation by ordinary citizens, and to restore the nation’s faith in public officials. They are adamant that we pass a constitutional amendment to get a handle on the spending side of the campaign equation, and I intend to co-sponsor just such a broadcasting act.
reintroducing legislation today that would direct the Secretary of the Army to determine whether certain nationals of the Philippine Islands performed military service on behalf of the United States during World War II.

Mr. President, our Filipino veterans fought side by side and sacrificed their lives on behalf of the United States. This legislation would confirm the validity of their claims and further allow qualified individuals the opportunity to apply for military and veterans benefits. Unfortunately, they are not entitled to. As this population becomes older, it is important for our nation to extend our firm commitment to the Filipino veterans and their families who participated in making us the great nation that we are today.

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

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

SEC. 1. Determinations by the Secretary of the Army.

(a) In General.—Upon the written application of any person who is a national of the Philippine Islands, the Secretary of the Army shall determine whether such person performed any military service in the Philippine Islands, the Secretary of the Army shall have performed military service to each person determined by the Secretary to have performed military service in the Philippine Islands, the Secretary of the Army shall issue a certificate of service referred to in subsection (a) available to any person who is a national of the United States during World War II which performed any military service in the Philippine Islands, the Secretary of the Army shall issue a certificate of service issued to any person who is a national of the United States, conclusively establishing the period, nature, and character of the military service described in the certificate.

(b) Effect of Certificate of Service.—A certificate of service issued to any person under subsection (a) shall, for the purpose of any law of the United States, conclusively establish the period, nature, and character of the military service described in the certificate.

SEC. 2. Certificate of Service.

(a) Issuance of Certificate of Service.—The Secretary shall issue a certificate of service to each person determined by the Secretary to have performed military service described in section 1(a).

(b) Effect of Certificate of Service.—A certificate of service issued to any person under subsection (a) shall, for the purpose of any law of the United States, conclusively establish the period, nature, and character of the military service described in the certificate.

SEC. 3. Applications by Survivors.

An application submitted by a surviving spouse, child, or parent of a deceased person described in section 1(a) shall be treated as an application submitted by such person.

SEC. 4. Limitation Period.

The Secretary may not consider for the purpose of this Act any application received by the Secretary more than two years after the date of enactment of this Act.

SEC. 5. Prospective Application of Determinations by the Secretary of the Army.

No benefits shall accrue to any person for any period prior to the date of enactment of this Act as a result of the enactment of this Act.

SEC. 6. Regulations.

The Secretary shall issue regulations to carry out sections 3, 4, and 5.
recent study there is a higher default rate on child support payments than on used car loans. I believe that every single member of this body will agree with me that this is wrong. If, under the newly revised federal law, states can reclaim, we can all be pleasure and satisfaction from watching them do it. If they cannot, we must take action. I urge my colleagues to support this bill so that America's children of every income level will be assured of the support they need and deserve.

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

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

S. 97

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 "Uniform Child Support Enforcement Act of 1997".

SEC. 2. EFFECTIVE DATE; AMENDMENTS.

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect on the first day of the first calendar month that begins after the 3-year period that begins with the date of the enactment of this Act, if the Secretary of Health and Human Services certifies to the Congress that on such first day no less than 50 percent of the States have not adopted a 75 percent collection rate in child support cases in which child support is awarded and due under the jurisdiction of such States pursuant to part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

(b) ELIMINATION OF PROVISIONS OF LAW RELATING TO STATE ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OTHER THAN MEDICAL SUPPORT OBLIGATIONS.—Not later than 90 days after the date of the enactment of this Act and the amendments made by this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal proposing such technical and conforming amendments as are necessary to eliminate State enforce- ment of child support obligations other than medical support obligations and to bring the law into conformity with the policy embodied in this Act.

SEC. 3. NATIONAL CHILD SUPPORT ORDER REGISTRY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of the Treasury shall establish in the Internal Revenue Service a national registry of abstracts of child support orders.

(2) CHILD SUPPORT ORDER DEFINED.—As used in this section the term "child support order" means an order, issued or modified by a State court or an administrative process established under State law, that requires an individual to make payments for support and maintenance of a child of or a child and the parent with whom the child is living.

(3) CONTENTS OF ABSTRACTS.—The abstract of a child support order shall contain the following information:

(A) The names, addresses, and social security account numbers of each individual with right to payment under the order, to the extent that the authority that issued the order has not prohibited the release of such information.

(B) The date and place of birth of any child with respect to whom payments are to be made under the order.

(C) The dollar amount of child support required to be paid on a monthly basis under the order.

(D) The date the order was issued or most recently modified, and the date the order is scheduled to be reviewed by a court or an administrative process established under State law.

(E) Any orders superseded by the order.

(F) Other information as the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, determines.

(b) ELIMINATION OF PREVIOUS ABSTRACTS.—If the Secretary certifies to the Congress that on such first day no less than 50 percent of the States have adopted a 75 percent collection rate in child support cases in which child support is awarded and due under the jurisdiction of such States pursuant to part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.), the applicable amendments made by this Act shall take effect on the first day of the first calendar month that begins after such first day.

SEC. 4. CERTAIN STATUTORILY PRESCRIBED PROCEDURES REQUIRED AS A CONDITION OF RECEIVING FEDERAL CHILD SUPPORT FUNDS.

(a) IN GENERAL.—Section 666(a) of the Social Security Act (42 U.S.C. 666(a)) is amended by inserting after paragraph (19) the following:

"(20)(A) Procedures which require any State court or administrative agency that issues or modifies (or has issued or modified) a child support order to abstract the order to the Internal Revenue Service on the later of—

(i) the date the order is issued or modified; or

(ii) the effective date of this paragraph.

(B) Procedures which—

(i) require any individual with the right to collect child support to present to the Internal Revenue Service a copy of an order to collect such support, unless the individual affirmatively elects to retain such right at any time; and

(ii) allow any individual who has made the election referred to in clause (i) to rescind or revive such election at any time.

SEC. 5. COLLECTION OF CHILD SUPPORT BY INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7725. COLLECTION OF CHILD SUPPORT.

"(a) EMPLOYEE TO NOTIFY EMPLOYER OF CHILD SUPPORT OBLIGATION.—

(1) IN GENERAL.—Each employee shall specify, on a withholding certificate that is furnished to such employee's employer—

(A) the monthly amount (if any) of each child support obligation of such employee, and

(B) the TIN of the individual to whom such obligation is owed.

(2) WHEN CERTIFICATE IS FILED.—In addition to the other times required times for filing a withholding certificate, a new withholding certificate shall be filed within 30 days after the date of any change in the information specified under paragraph (1).

(3) PERIOD CERTIFICATE IN EFFECT.—Any specification under paragraph (1) shall continue in effect until the date the employer receives a notice from the Secretary to verify amount of child support obligation or if the Secretary determines that the specification is not accurate.

(4) AUTHORITY TO SPECIFY SMALLER CHILD SUPPORT AMOUNT.—In the case of an employee who is employed by more than 1 employer for any period, such employee may specify less than the monthly amount described in paragraph (1)(A) to each such employer so long as the total of the amounts specified to all such employers is not less than such monthly amount.

(b) CERTIFICATES EXEMPT.—This section shall not apply to a child support obligation for any month if the individual to whom such obligation is owed has notified the Internal Revenue Service of such individual's obligation more than 30 business days before the beginning of such month.

"(c) EMPLOYER OBLIGATIONS.—

"(1) REQUIREMENT TO DEDUCT AND WITHHOLD.—

(a) IN GENERAL.—Every employer who receives a certificate under subsection (a) that specifies that the employee has a child support obligation for any month shall deduct and withhold from the wages (as defined in section 3401(a)) paid to such employee during each month that such certificate is in effect an additional amount equal to the amount of such obligation or the other amount specified by the Secretary under subsection (d).

(b) LIMITATION ON AGGREGATE WITHHOLDING.—No event shall deduct and withhold under this section a payment of wages an amount in excess of the amount of such payment which would be permitted to be garnished on section 331(b) of the Consumer Credit Protection Act.

(2) NOTICE TO SECRETARY.—

(a) IN GENERAL.—Every employer who receives a withholding certificate shall, within 30 business days after such receipt, submit a copy of such certificate to the Secretary.

(b) EXCEPTION.—Subparagraph (A) shall not apply to any withholding certificate if—

(i) a previous withholding certificate is in effect with the employer, and

(ii) the information shown on the new certificate with respect to such child support is the same as the information with respect to child support shown on the certificate in effect.

(3) WHEN WITHHOLDING OBLIGATION TAKES EFFECT.—Any withholding obligation with respect to a child support obligation of an employee shall commence with the first payment of wages after the certificate is furnished.

(c) SECRETARY TO VERIFY AMOUNT OF CHILD SUPPORT OBLIGATION.—

(1) VERIFICATION OF INFORMATION SPECIFIED ON WITHHOLDING CERTIFICATES.—Within 45 business days after receiving a withholding certificate of any employee, or a notice from any person claiming that an employee is delinquent in making any payment pursuant to a child support obligation, the Secretary shall determine whether the information is accurate. In making the determination under paragraph (2), the Secretary shall, within 45 business days after such determination, notify the employer to whom such certificate was furnished of the correct amount of such obligation, and such amount shall apply to all such certificates issued or modified (or has issued or modified) by such employer after the date the employer receives such notice.

(2) EMPLOYER NOTIFICIED IF INCREASED WITHHOLDING IS REQUIRED.—If the Secretary determines that an employee's obligation is greater than the amount (if any) shown on the withholding certificate in effect with respect to such employee, the Secretary shall, within 45 business days after such determination, notify the employer to whom such certificate was furnished of the correct amount of such obligation, and such amount shall apply to all such certificates issued or modified (or has issued or modified) by such employer after the date the employer receives such notice.

(3) DETERMINATION OF CORRECT AMOUNT.—In making the determination under paragraph (2), the Secretary shall take into account whether the employee is an employee of more than 1 employer and shall appropriately adjust the amount of the required withholding from each such employer.

(4) CHILD SUPPORT OBLIGATIONS REQUIRED TO BE PAID WITHIN INCOME TAX RETURN.—

(a) IN GENERAL.—The child support obligation of any individual for months ending with or within any taxable year shall be paid as follows:

(1) Not later than the last date (determined without regard to extensions) prescribed for filing his return of tax imposed by chapter 1 for such taxable year.

(2)(i) if such return is filed not later than such date, with such return, or
Subsection (g) of section 6654 of such Code is amended by adding at the end the following new paragraph:

"(j) WITHHOLDING OF CHILD SUPPORT OBLIGATIONS.—For purposes of applying this section, the amounts collected under section 7525 shall be deemed to be a payment of the amount described in subsection (f)(1) or (f)(2) even though such amounts were actually withheld or paid, as the case may be.

"(k) WITHHOLDING CERTIFICATE REQUIRED.—Not later than 90 days after the date this Act takes effect, each employee who has a child support obligation to which section 7525 of the Internal Revenue Code of 1986 (as added by this section) applies shall furnish a new withholding certificate to each of such employee's employers. A certificate required under the preceding sentence shall be treated as required under section 7525.

"(l) REPEAL OF OFFSET OF PAST-DUE SUPPORT AGAINST OVERPAYMENTS.—

(1) Section 6402 of such Code, as amended by section 130(17) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, is amended by striking subsections (c) and (h) and by redesignating subsections (e), (f), and (g) as subsections (c), (d), (e), (f), (g), and (h), respectively.

(2) Section 6402 of such Code is amended by striking ``(c) and (d)'' and inserting ``(c), (d), and (e)'' and inserting ``(c) and (d)''.

(3) Subsection (c) of section 402(h) of such Code (as redesignated by paragraph (1)) is amended—

(A) by striking ``(other than past-due support subject to the provisions of subsection (c))'' in paragraph (3),

(B) by striking ``(other than past-due support collected pursuant to an assignment under section 402(h)(26) of the Social Security Act and'' in paragraph (2).

(4) Subsection (d) of section 402(h) of such Code (as redesignated by paragraph (1)) is amended—

(A) by striking ``(other than past-due support subject to the provisions of subsection (c))'' in paragraph (3),

(B) by inserting ``(other than past-due support collected pursuant to an assignment under section 402(h)(26) of the Social Security Act and'' in paragraph (2).

(h) REPEAL OF COLLECTION OF PAST-DUE SUPPORT.—Section 6305 of such Code is hereby repealed.

(h) CLERICAL AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 64 of such Code is amended by striking the item relating to section 7525.

(2) The table of sections for chapter 77 of such Code is amended by adding at the end thereof the following new item:

"Sec. 7525. Collection of child support."
Mr. GRAMS. Madam President, I thank my colleague from Oklahoma for helping us in supporting this bill.

Madam President, I rise today to introduce legislation, together with Senator NICKLES, along with Senators KYL and COATS, that I believe will be doubly fitting that I join my dear friend from our days in the House of Representatives and now Senate colleagues.

The November election sends us a very clear message that the American people want us to work together, to work together in a bipartisan manner, to balance the Federal budget, control the growth of Government, and to restore its accountability. While we see the tax burden increase on the middle class, working families need our help, and it is time that Congress and the President come together to deliver it.

Since the opening days of the 105th Congress, a renewed spirit of cooperation has settled in over Washington. Instead of the partisan politics that have often and too often exploited our disagreements, the talk from the Capitol in Washington has centered on creating consensus. Just yesterday in his inaugural address the President affirmed this commitment to the American people. He said, "The American people returned to office a President of one party and a Congress of another. Surely they did not do this to advance the politics of petty bickering and partisanship, which they plainly deplore."

While a sign of that new commitment, I believe, is the strongest and the most compassionate statement this Congress and his President can make in 1997 on behalf of working families is to cut their taxes and to leave them a little bit more of their own money at the end of the day, the extensive debate that we have undertaken in the past 2 years over fiscal policy has helped us to understand that working families are indeed overtaxed.

The child tax credit is appropriate and necessary to stimulate economic growth and to allow families to make more of their own spending decisions. The people of Minnesota sent me to Washington with their instructions to make the $500-per-child tax credit a top priority. Like struggling men and women nationwide, Minnesotans have seen over the past 20 years what aggressive tax policy can do to their families over the past 40 years. It is far from merely being a fact of life. Taxes today dominate the family budget.

There is no better argument for tax relief than to consider that taxpayers today are spending more to feed their Government than they are spending to feed, clothe, and shelter their families. When we debated the $500-per-child tax credit in the last Congress, some of my colleagues expressed their concern that any tax relief now would jeopardize the efforts to balance the Federal budget. Balance the budget first, they said, and then cut taxes later. Their concerns missed a very important part. The budget will never be balanced or stay balanced until we decide that it is the people who should prosper under it and not the Government.

Recent economic data reveal that despite an enormous deficit, the Government is in fact getting bigger, not smaller. Government spending and taxes continue to soar, and total taxation now claims the largest bite in the Nation's income in history. Without significant changes, the deficit will continue to grow, and the $500-per-child tax credit will be coming again in fiscal year 1998 and reach over $200 billion by the year 2002.

By enacting the $500-per-child tax credit we can begin turning back the decades of abuse which taxpayers have suffered at the hands of their own Government, a Government often eager to spend the taxpayers' money with reckless regard. The $500-per-child tax credit is the right solution because it takes power out of the hands of Washington's spenders and puts it back where it can do the most good, and that is in the hands of families.

Nobody outside of Washington's insulated fantasy world really thinks the Government can spend the family's money better than the family would. By leaving that money in the family bank accounts, taxpayers are then empowered to use it to directly benefit their own household. They can make the best decisions on how to spend those dollars. Beyond the direct benefits, families' tax relief can have a substantial and a positive impact on the economy as a whole.

It was John F. Kennedy who observed that "an economy harpered with high tax rates will never introduce enough revenue to balance the budget, just as it will never produce enough output and enough jobs." President Kennedy was able to put these theories to work in the early 1960's when he enacted significant legislation that sparked one of the few periods of sustained growth that we have experienced in the last half century.

It was 20 years later when President Ronald Reagan cut taxes once again that rejuvenated the economy, which responded enthusiastically with 19 million new jobs that were created, and take-home pay grew 13 percent between 1982 and 1996. It is now President Clinton who has the opportunity to work with the Republican majority in Arkansas that has targeted the middle class. It is my belief that over taxation is slowly destroying the middle class. It is my belief that the good people of Arkansas in the United States Senate.

In my lifetime, I have observed the precipitous decline of the economic and moral health of the American family. This decline is attributable to many causes not the least of which is the rising tax burden. As a member of the baby boomer generation, I, like all of you, have watched our 2% tax rate of the 1950's grow to 25%, nearly a 300% increase since World War II. This means that America's families send one out of every four dollars to Washington. In real terms, the average American family pays more in federal taxes than it spends on food, clothing, transportation, insurance, and recreation combined.

What is the payback for millions of hardworking American families? It is increasing crime, decreasing educational systems, intrusive government, and a very real threat to our overall quality of life by the shrinking of America's backbone— the middle class. It is my belief that over taxation is slowly destroying the middle class. It is my belief that the American family is paying more than it is spending on food, clothing, transportation, insurance, and recreation combined.

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translates into over $25 billion of tax relief each year, of which over 78 percent would directly benefit working and middle class families. I am convinced that parents, not government, can best decide how to allocate resources between their family with two children would receive $1,000 to pay for clothes, college, or health insurance for the children. The Family Tax Fairness Act of 1997 is a statement by our government and our society that all our families and all of our children are valuable.

In closing, I am reminded of the words of William Sumner in his speech, The Forgotten Man.

"The Forgotten Man ... delving away in patient industry supporting his family, paying his taxes, casting his vote, supporting the church and school ... but he is the only one for whom there is no provision in the great scramble and the big divide. Such is the Forgotten Man. He works, he votes, and his chief business in life is to pay ... Who and where is the Forgotten Man in this case? Who will have to pay for it all?"

Sadly, the Forgotten Man is a metaphor for today's American family. So, while I urge support for the repeal of the death tax—the inheritance tax—that killer of the American dream ... and while I urge support for dramatically cutting the capital gains tax rate, which both economists and experience teach will actually increase federal revenues, let us not forget the American family.

I urge my colleagues to join Senator Grams and myself in support of the Family Tax Fairness Act of 1997.

I thank the chair and yield the floor.

Mr. NICKLES. Madam President, Senator Grams and Senator Hutchinson will be introducing legislation dealing with the $500 tax credit per child. I compliment them on this legislation. I am happy to cosponsor it with them. I support legislation that will restore individual families the opportunity to keep more of their own money. I might mention that the definition of "child" in the legislation which we are introducing includes children up to age 18 in contrast to that introduced by the President which is up to age 12, a big difference. It is a very profamily, very positive protaxpayer piece of legislation of which I am very happy to cosponsor. And I compliment my colleagues from Minnesota and Arkansas for their leadership on this issue.

I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

By Mrs. BOXER:

S. 99. A bill to amend the Internal Revenue Code of 1986 to allow companies to deduct from their gross receipts donations to elementary and secondary schools for use in their educational programs, and for other purposes; to the Committee on Finance.

THE COMPUTER DONATION INCENTIVE ACT OF 1997

Mrs. BOXER. Mr. President, in March 1996 scores of volunteers throughout California helped make NetDay 96 one of the most successful one-day public projects in history. At the close of the day we all noted that this electronic barn-raising could be a turning point in educational history—but only if we followed through with other steps to help our children reach the Information Superhighway. I would like to take one step by introducing the Computer Donation Incentive Act of 1997.

The successful education of America's children is closely linked to the use of innovative educational technologies, particularly computer-based instruction and research. Unfortunately, far too many public elementary and secondary school classrooms lack the computers they need to take advantage of these new educational technologies.

The Computer Donation Incentive Act will help get our students those computers. Current law allows computer manufacturers to receive a greater deduction for donations of computers to educational institutions. I am concerned that this financial incentive may encourage manufacturers to focus these donations on the rich. The Computer Donation Incentive Act of 1997 will help get our students those computers.

The Computer Donation Incentive Act provides computer manufacturers the same enhanced deduction for donating computers for educational purposes that they currently receive for donating computers to colleges and universities for scientific purposes. Similarly, the bill will allow manufacturers to receive a deduction for donating computers to elementary and secondary schools for educational use. The Boxer-Chafee bill will provide a reasonable incentive for businesses to donate computers to schools. I would like to emphasize the donated computers must be nearly new; those donated by manufacturers must be no more than 2 year old, and those donated by nonmanufacturers must be no more than 3 year old.

Along with computers and software, businesses should also donate their expertise, providing the training required to bring our schools fully on-line—and there is more and more to do. Teachers and students both need such training in order to integrate computer-based lessons into their basic curriculum.

Along, neither NetDay nor an adjustment to the Tax Code can solve all our educational problems or even make every student computer literate for the next century. But together, each initiative we take will help provide our students with the tools they need to drive the Information Superhighway and compete in a global information-based marketplace. Such initiatives are investments in the futures of our children.

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. 99

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

SECTION 1. CHARITABLE CONTRIBUTIONS OF SCIENTIFIC EQUIPMENT TO ELEMENTARY AND SECONDARY SCHOOLS.

(a) IN GENERAL.—Subparagraph (B) of section 170(e)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

"(B) QUALIFIED RESEARCH OR EDUCATION CONTRIBUTION.—For purposes of this paragraph, the term 'qualified research or education contribution' means a charitable contribution by a corporation of tangible personal property (including computer software) of which any part was used in research or experimentation (within the meaning of section 174), or for research training, in the United States in physical or biological sciences, or

"(ii) a governmental unit described in section 162(b)(3), or

"(iii) an organization described in section 170(b)(2)(A)(ii).

(i) in the case of a corporation to which subparagraph (B) of section 170(c)(2) applies, the corporation does not make any contribution to a governmental unit in the same tax year under section 170(c)(2) in excess of the limitation under such subparagraph for the corporation for such year, or

(ii) the corporation is not a foreign corporation.
The act also protects airlines from frivolous complaints by establishing a fine which will be imposed on an employee who files a complaint if the Department of Labor determines that there is no merit to the complaint.

I want to acknowledge the leadership of Representative JAMES CLYBURN who will introduce the bill in the House of Representatives. I am pleased to introduce the companion legislation in the Senate.

This bill will provide important protections to aviation workers and the general public. I urge my colleagues to join me in supporting it.

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

S. 100

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 "Aviation Safety Protection Act of 1997." 

SECTION 2. PROTECTION OF EMPLOYEES PROVIDING AIR SAFETY INFORMATION.

(a) GENERAL RULE. Ð Chapter 421 of title 49, United States Code, to provide protection for aviation workers.

(b) WORKER PROTECTIONS. Ð The worker protections contained in the Occupational Safety and Health Act (29 U.S.C. 651 et seq.) are very important to American workers. OSHA provides protection for aviation workers from retribution by their employers. However, because of a loophole in the law, aviation workers are not protected by the OSHA whistleblower protection.

(c) EXECUTIVE ORDER. Ð The President of the United States, by an executive order, may extend whistleblower protection for aviation workers.

(d) EFFECTIVE DATE. Ð The amendments made by this section shall take effect on the date specified in subparagraph (A), the President of the United States shall notify the Congress of the United States of America in Congress assembled, the Council of the United States of America, and the Federal Aviation Administration of the Ð
A reasonable attorney fee in an amount not
Labor may award to the prevailing employer
brought under paragraph (1) is frivolous or
 Secretary of Labor finds that a complaint
stay of the order that is the subject of the re-
ceedings under this subparagraph shall not,
trict court for the district in which the vio-
file a civil action in the United States dis-
tractor, or subcontractor named in an order
Secretary of Labor shall order the air carrier, contractor, or subcontractor named in the order.
which is necessarily incurred by the complainant (as determined
award costs of litigation (including rea-

(C) NONAPPLICABILITY TO DELIBERATE VIOLATIONS. — Subsection (a) shall not apply with respect to a
contractor or subcontractor of an air carrier who, acting without direction from the air carrier (or an agent, contractor, or sub-
the United States Code, is amended by adding at the end the

By Mr. BOXER: S. 101. A bill to amend the Public Health Service Act to provide for the training of health professions students
with respect to the identification and referral of victims of domestic violence; to the Committee on Labor and Human Resources.

Mrs. BOXER. Mr. President, I rise today to introduce the Domestic Violence Identification and Referral Act.

Spousal abuse, child abuse, and elder abuse injures millions of Americans each year, and is growing at an alarming
rate. An estimated 2 to 4 million women are beaten by their spouses or former spouses each year. In 1993, 2.9
million children were reported abused or neglected (the number reported in 1980. Studies also showed
that spouse abuse and child abuse often go hand-in-hand.

Doctors, nurses, and other health care professionals are on the front lines of this abuse, but they cannot stop
what they have been trained to see or talk about. The Domestic Violence Identification and Referral Act addresses this need by encouraging medi-
cal schools to incorporate training on domestic violence into their curricu-

There is a need for this legislation. While many medical specialties, hospitals, and other organizations have
made education about domestic violence a priority, this instruction typically occurs on the job or as part of a
continuing medical education program. A 1994 survey by the Association of American Medical Colleges (AAMC)
found that 60 percent of medical school graduates rated the time devoted to in-
struction in domestic violence as inadequate.

The bill I am introducing today would give preference in Federal fund-
ing to those medical and other health professional schools which provide sig-
nificant training in domestic violence. It defines significant training to in-
clude identifying victims of domestic violence and maintaining complete
medical records, providing medical advice regarding the dynamics and na-
ture of domestic violence, and referring victims to appropriate public and non-
profit entities for assistance.

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

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

There being no objection, the bill was ordered to be printed in the RECORD, as follows:
S. 101
Be it enacted by the Senate and House of Rep-
resentatives of the United States of America in
Congress assembled,

SEC. 1. SHORT TITLE. This Act may be cited as the “Domestic Violence Identification and Referral Act of 1997.”

SEC. 2. ESTABLISHMENT, FOR CERTAIN HEALTH PROFESSIONS PROGRAMS, OF PRO-
VISIONS REGARDING DOMESTIC VIOLENCE.

(a) TITLE VII PROGRAMS; PREFERENCES IN FINANCIAL AWARDS.—Section 791 of the Pub-
lic Health Service Act (42 U.S.C. 295b) is amended by adding at the end the following:

(c) PREFERENCES REGARDING TRAINING IN IDENTIFICATION AND REFERRAL OF
VICTIMS OF DOMESTIC VIOLENCE.—
(1) In general.—In the case of a health professions entity specified in paragraph (2), the Secretary shall, in making awards of grants or contracts under this title, give preference to any such entity (if otherwise a qualified applicant for the award involved) that has in effect the requirement that, as a condition of receiving a degree or certificate (as applicable) from the student have had significant training in carrying out the following functions as a provider of health care:

(1) Identifying victims of domestic vio-

lence, and maintaining complete medical
records that include documentation of the
examination, treatment given, and referrals made, and recording the location and nature of the victim’s injuries.

(2) Examining and treating such victims,
within the scope of the health professional’s con-
tinuing education, at a minimum, providing medical advice regard-
ing the dynamics and nature of domestic
violence.

(3) Referring the victims to public and
nonprofit private entities that provide serv-
ces for such victims.

(b) RELEVANT HEALTH PROFESSIONS EN-
TITIES.—For purposes of paragraph (1), a health professions entity specified in this paragraph is any entity that is a school of medicine, a school of osteopathic medicine, a graduate program in mental health practice, a school of nursing (as defined in section 853), a pro-
gram for the training of physician assistants, or a program for the training of allied health professionals.

(3) REPORT TO CONGRESS.—Not later than 2
years after the date of the enactment of
the
Domestic Violence Identification and Referral Act of 1997, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report specifying the health professions entities that are receiving preference under paragraph (1); the number of hours of training required for health professions entities that are receiving preference under such paragraph; the extent of clinical experience so required; and the types of courses through which the training is being provided.

(4) Definitions.—For purposes of this subsection, the term ‘domestic violence’ includes behavior commonly referred to as domestic violence, sexual assault, spousal abuse, woman battering, partner abuse, child abuse, elder abuse, and acquaintance rape.

(5) Title VIII Programs; Preferences in Financial Awards.—Section 806 of the Public Health Service Act (42 U.S.C. 298b-7) is amended by adding at the end the following:

“(f) Preferences Regarding Training in Identification and Referral of Victims of Domestic Violence.—

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

(A) Identifying victims of domestic violence, and maintaining complete medical records that include documentation of the examiner's examination, treatment given, and referrals so required; and the types of courses through which the training is being provided.

(2) Relevant Health Professions Entities.—For purposes of paragraph (1), a health professions entity specified in this paragraph is any entity that is a school of nursing or other health-related private entity that is eligible to receive an award described in such paragraph.

(3) Report to Congress.—Not later than 2 years after the date of enactment of the Domestic Violence Identification and Referral Act of 1997, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report specifying the health professions entities that are receiving preference under paragraph (1); the number of hours of training required by the entities for purposes of such paragraph; the extent of clinical experience so required; and the types of courses through which the training is being provided.

(4) Definitions.—For purposes of this subsection, the term ‘domestic violence’ includes behavior commonly referred to as domestic violence, sexual assault, spousal abuse, woman battering, partner abuse, child abuse, elder abuse, and acquaintance rape.

By Mr. BREAUX (for himself, Mr. AKAKA, Mr. BINGMAN, Mr. CHAFEE, Mr. COCHRAN, Mr. CRAIG, Mr. GLENN, Mr. JEFFORDS, Mr. LEAHY, Mr. INOUYE, Ms. MIKULSKI, and Mr. REID):

S. 102. A bill to amend title XVIII of the Social Security Act to improve medicare treatment and education for beneficiaries with diabetes by providing coverage for outpatient self-management training services and uniform coverage of blood-testing strips for individuals with diabetes; to the Committee on Finance.

Mr. BREAUX. Mr. President, diabetes is the fourth cause of death from diseases in the United States. Deaths attributable to diabetes or resulting complications number about 250,000 per year. Diabetes also results in about 12,000 new cases of blindness each year and greatly increases an individual’s chance of heart disease, kidney failure, and stroke.

The terrible irony, Mr. President, is that diabetes is largely a treatable condition. While there is no known cure, individuals who have diabetes can lead completely normal, active lives so long as they stick to a proper diet, carefully monitor the amount of sugar in their blood, and take their medicine, which may or may not include insulin. In other words, taking care of themselves, diabetics must take to self-management education programs—at least once when they are diagnosed with the disease and then periodically after that to keep up with the latest treatments and any changes in their own condition.

Appropriate preventive education services for diabetics have the potential to save a great deal of money that would otherwise go for hospitalizations and other acute care costs—not to mention a great deal of unnecessary pain and suffering. CBO projects that this proposal would save Medicare money in the long-run.

Medicare currently covers diabetes self-management education services in hospital inpatient settings and in limited outpatient settings, specifically hospital outpatient departments or rural health clinics. Medicare does not cover education services if they are given in any other outpatient setting, such as a doctor’s office. Even the limited coverage of outpatient settings that is currently permitted under Medicare is subject to State-by-State variation according to fiscal intermediaries’ interpretation.

Medicare currently covers only the cost of the paper test strips that are used to monitor the sugar levels in the blood—but only for diabetics who require insulin to control their disease. All noninsulin dependent diabetics must purchase these test strips at their own expense.

Today, I am introducing the Medicare Diabetes Education and Supplies Amendments of 1997. This legislation would provide Medicare coverage for outpatient education on a consistent and equitable basis throughout the country. The bill would extend Medicare coverage of outpatient programs beyond hospital-based programs and rural health clinics and direct the Secretary of Health and Human Services to do two things: First, to develop and implement payment amounts for outpatient diabetes education programs; and second, to adopt quality standards for outpatient education programs.

By Mr. MURKOWSKI (for himself, Mr. CRAIG, Mr. GRAMS, Mr. KEMPThONE, Mr. ABRAHAM, Mr. HELMS, Mr. THURMOND, Mr. KYL, Mr. HOLLINGS, Mr. MACK, Mr. FAIRCLOTH, Mr. HATCH, Mr. WARNER, Mr. BOND, Mr. SMITH, Mr. ROBERTS, Mr. SANDER, Mr. LOTT, and Mr. JEFFORDS):

S. 104. A bill to amend the Nuclear Waste Policy Act of 1982; to the Committee on Energy and Natural Resources.

Mr. MURKOWSKI. Mr. President, last summer, the U.S. Court of Appeals issued a ruling that confirmed something that many of us already understood: the Federal Government has an obligation to provide a safe, central disposal of America’s spent nuclear fuel and nuclear waste, beginning less than 1 year from today.

This is a commitment that Congress, and the Department of Energy, made 15 years ago. We’ve collected $12 billion from America’s ratepayers for this purpose. But after spending 6 billion of those dollars, the Federal Government is still not prepared to deliver on its promise to take and safely dispose of our Nation’s nuclear waste by 1998.

Unfortunately, used fuel is being stored near our neighborhoods and rivers, in the backyard of constituents young and old all across this land. Used nuclear fuel is being stored near the east and west coast concentrations of people, near our neighborhoods and rivers, in the backyard of constituents young and old all across this land. Used nuclear fuel is being stored near the east and west coast concentrations of people.

Today, high-level nuclear waste and highly radioactive used nuclear fuel is accumulating at over 80 sites in 41 States, including weapons facilities. It is stored in populated areas, near our neighborhoods and schools, on the shores of our lakes and rivers, in the backyard of constituents young and old all across this land.

Today, high-level nuclear waste and highly radioactive used nuclear fuel is accumulating at over 80 sites in 41 States, including weapons facilities. It is stored in populated areas, near our neighborhoods and schools, on the shores of our lakes and rivers, in the backyard of constituents young and old all across this land. Used nuclear fuel has already cost Americans over 30 years of age. Each year that goes by, our ability to continue storage of this used fuel at each of these sites in a safe and responsible
way diminishes. It is irresponsible to let this situation continue. It is unsafe to let this dangerous radioactive material continue to accumulate at more than 80 sites all across the country. It is unwise to block the safe storage of this material, and to force it away from high populations. This is a national problem that requires a coordinated, national solution.

Today, on behalf of myself, Mr. Craig, Mr. Grams, Mr. Kempthorne, Mr. Garamendi, Mr. Monroney, Mr. Coburn, Mr. Rockefeller, Mr. Bentsen, Mr. Abraham, Mr. Craig, Mr. Grams, Mr. Inouye, Mr. Lott and me, I introduce the text of S. 1936, from the 104th Congress, as the Nuclear Waste Policy Act of 1997. This legislation, which was passed by the Senate last summer by a 63-to-37 vote, sets forth a program that will allow the Department of Energy to meet its obligation as soon as possible. The bill is an integrated system to manage used fuel from commercial nuclear powerplants and high-level radioactive waste from DOE's nuclear weapons facilities. The integrated system includes construction and operation of temporary storage centers, a safe transportation network to transfer these byproducts, and continuing scientific studies at Yucca Mountain, NV, to determine if it is a suitable repository site.

During floor consideration of S. 1936 last year, we received many constructive suggestions for improving the bill. The final version of S. 1936 passed by the Senate incorporated many of these changes. The most important provisions of the bill include:

Role for EPA.—The bill provides that the Environmental Protection Agency shall issue standards for the protection of the public from releases of radioactive materials from a permanent nuclear repository. The Nuclear Regulatory Commission is required to base its licensing determination on whether the repository can be operated in accordance with EPA's radiation protection standards.

National Environmental Policy Act (NEPA).—The bill complies fully with NEPA by requiring two full environmental impact statements, one in advance of operation of the temporary storage facility and one in advance of repository licensing by the Nuclear Regulatory Commission. The bill provides that where Congress has statutorily determined need, location, and size of the facilities, these issues need not be reconsidered.

Transportation routing.—The bill includes language of an amendment offered by Senator Moseley-Braun, which provides that, in order to ensure that spent nuclear fuel and high-level nuclear waste is transported safely, the Secretary of Energy will use transportation as an option to minimize, to the maximum practicable extent, transportation through populated and sensitive environmental areas. The language also requires that the Secretary develop, in consultation with the Secretary of Transportation, a comprehensive management plan that ensures the safe transportation of these materials.

Transportation requirements.—The bill provides that transportation of spent fuel under the Nuclear Waste Policy Act shall be governed by all requirements of Federal, State, and local governments. In addition, those laws are inconsistent with or domestic problems and Indian tribes to the same extent that any person engaging in transportation in interstate commerce must comply with those requirements, as provided by the Atomic Energy Act, that law will govern. State and local laws are preempted only if those laws are inconsistent with or duplicative of the Nuclear Waste Policy Act or the Atomic Energy Act. This language is consistent with the preemption authority found in the existing Atomic Energy Act.

Finally, the bill contains bipartisan language that was drafted to address the administration's objections to the siting of an interim facility at the Nevada test site before the viability assessment of the Yucca Mountain permanent repository site was available. The language provides that construction shall not begin on an interim storage facility at Yucca Mountain before December 31, 1998. The bill provides for the delivery of an assessment of the viability of Yucca Mountain by the President and Congress by the Secretary 6 months before the construction can begin on the interim facility. If, based upon the information before him, the President determines, in his discretion, that Yucca Mountain is not suitable for development as a repository, then the Secretary shall cease work on both the interim and permanent repository programs at the Yucca Mountain test site. The bill also provides that, if the President makes such a determination, he shall have 18 months to designate an interim storage facility site. If the President fails to designate a site, or if a site he has designated is not approved by Congress within 2 years of his determination, the Secretary is instructed to construct an interim storage facility at the Yucca Mountain site. This provision ensures that the construction of an interim storage facility at the Yucca Mountain site will not occur before the President and Congress have had an ample opportunity to review the technical assessment of the suitability of the Yucca Mountain site for a permanent repository.

Finally, the bill contains bipartisan language that was drafted to address the administration's objections to the siting of a permanent repository at the Yucca Mountain site. The bill provides that, if any law does not conflict with the provisions of the Nuclear Waste Policy Act and the Atomic Energy Act, that law will govern. State and local laws are preempted only if those laws are inconsistent with or duplicative of the Nuclear Waste Policy Act or the Atomic Energy Act. This language is consistent with the preemption authority found in the existing Atomic Energy Act. Finally, the bill contains bipartisan language that was drafted to address the administration's objections to the siting of an interim facility at the Nevada test site before the viability assessment of the Yucca Mountain permanent repository site was available. The language provides that construction shall not begin on an interim storage facility at Yucca Mountain before December 31, 1998. The bill provides for the delivery of an assessment of the viability of Yucca Mountain by the President and Congress by the Secretary 6 months before the construction can begin on the interim facility. If, based upon the information before him, the President determines, in his discretion, that Yucca Mountain is not suitable for development as a repository, then the Secretary shall cease work on both the interim and permanent repository programs at the Yucca Mountain test site. The bill also provides that, if the President makes such a determination, he shall have 18 months to designate an interim storage facility site. If the President fails to designate a site, or if a site he has designated is not approved by Congress within 2 years of his determination, the Secretary is instructed to construct an interim storage facility at the Yucca Mountain site. This provision ensures that the construction of an interim storage facility at the Yucca Mountain site will not occur before the President and Congress have had an ample opportunity to review the technical assessment of the suitability of the Yucca Mountain site for a permanent repository.

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Mr. KEMPTHORNE. Mr. President, I urge my colleagues to support the Nuclear Waste Policy Act of 1997 which passed the Senate by a 2-to-1 ratio.

The Nuclear Waste Policy Act of 1997, which I am proud to cosponsor, will establish an interim storage facility for spent nuclear fuel and high-level radioactive waste at the Nevada test site. The interim storage site will address our near-term problem of safely storing spent nuclear fuel and high-level waste while the characterization, permitting and construction of the permanent repository at Yucca Mountain proceeds.

My State of Idaho currently stores a large variety of Department of Energy, Navy and commercial reactor spent nuclear fuel at the Idaho National Engineering Laboratory. This spent nuclear fuel is stored in temporary facilities currently designed with some storage capacity. We can and will store this used fuel at each of these sites in a safe and responsible way diminishes. The only responsible choice is to support legislation that solves this problem by safely moving this used fuel to a safe, monitored facility in the remote Nevada desert. This answer will lead us to a safer future for all Americans.

To facilitate our consideration of such legislation, Senator MURkowski and I along with 16 other cosponsors are introducing a bill to amend the Nuclear Waste Policy Act of 1982. This legislation is identical to S. 3936 that passed the Senate toward the end of the past Congress. Unfortunately, that legislation was not acted upon by the other body nor signed into law. It is my intention to assure that this high-level nature of this legislation. The Senate Energy and Natural Resources Committee will hold a hearing on this bill on February 5 and will move to a speedy markup. I encourage the Senate and House to act quickly and to send it to the President for his signature.

This bill contains all of the important clarifications and changes addressing the concerns that were raised prior to and during floor debate in the 104th Congress. This legislation is that will allow a solution for nuclear waste disposal. Let us move forward to enact it into law. I encourage the administration to work with us to make that a reality.

This bill provides a clear and simple choice. We can choose to have one, remote, safe, and secure nuclear waste storage facility. Or, through inaction, we can kick the hard decisions down the road. The Craig-Murkowski bill will make substantial, necessary and meaningful progress in our Nation's efforts to deal with the problem of radioactive nuclear waste. The bill is similar to the Nuclear Waste Policy Act of 1996 which passed the Senate by a 2-to-1 ratio.

The Nuclear Waste Policy Act of 1997, which I am proud to cosponsor, will establish an interim storage facility for spent nuclear fuel and high-level radioactive waste at the Nevada test site. The interim storage site will address our near-term problem of safely storing spent nuclear fuel and high-level waste while the characterization, permitting and construction of the permanent repository at Yucca Mountain proceeds.

I believe an agreement for the consolidation of this Nation's commercial nuclear waste is long overdue. Today, old fuel is stored at over 100 facilities around the country. In 1980, the Department of Energy [DOE] recognized the danger of such a system and entered into an agreement with much of the nuclear power industry to fund the research and development of a central, permanent facility. DOE was to be responsible for collecting and storing the fuel starting in 1988. Since 1980, the DOE has collected over $11 billion of the taxpayers' dollars for this permanent facility. Last year, however, the DOE announced that it will not be able to begin storing waste from commercial reactors until at least the year 2010. In my opinion, Michigan cannot wait that long. Michigan has four nuclear plants in operation today. All four were designed with some storage capacity, but none are capable of storing used fuel for an extended period of time. Indeed, the Palisades plant in Southaven, MI, has already run out of used fuel storage space. The plant now stores its nuclear waste in steel casks which sit on a platform about 100 yards from Lake Michigan. This storage arrangement illustrates the need for a national storage facility.

Mr. President, this is a very good bill which solves a vexing nation problem. The Craig-Murkowski bill will make important progress in the way the United States stores radioactive nuclear waste. The bill will show the citizens of this country that this Congress is prepared to address the problems in a fair and rational manner.

I urge my colleagues to support the Nuclear Waste Policy Act of 1997 and I want to thank Senators CRAIG and MURkowski for their tenacious determination to solve this national problem.
of the Nuclear Waste Policy Act and hope that both the House and Senate will move quickly to pass this legislation and present it to the President.

By Mr. MOYNIHAN:

S. 105. A bill to repeal the habeas corpus requirement that a Federal court defer to State court judgments and uphold a conviction regardless of whether the Federal court believes that the State court erroneously interpreted Constitutional law, except in cases where the Federal court believes the State court acted in an unreasonable manner; to the Committee on the Judiciary.

HABEAS CORPUS LEGISLATION

Mr. MOYNIHAN. Mr. President, I introduce this bill to repeal an unprecedented provision—unprecedented until the 104th Congress—to tamper with the constitutional protection of habeas corpus. The provision reads:

(1) If any application for writ of habeas corpus on behalf of a person in custody pursuant to the judgment of State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

(a) was an unreasonable application of, or clearly established Federal law, as determined by the Supreme Court of the United States; or

(b) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

Last year we enacted a statute which holds that constitutional protections do not exist unless they have been unreasonably violated, an idea that would have confounded the framers. Thus, we introduced a virus that will surely spread throughout our system of laws. Article 1, Section 9, Clause 2 of the Constitution stipulates, "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it."

We are mightily and properly concerned about the public safety, which is why we enacted the counterterrorism bill. But we have not been invaded, Mr. President, and the only rebellion at hand appears to be against the Constitution itself. We are dealing here, sir, with a fundamental provision of law, one of those essential civil liberties which precede and are the basis of political liberties.

The writ of habeas corpus is often referred to as the "Great Writ of Liberty." William Blackstone (1723-90) called it "the most celebrated writ in English law, and the great and efficacious writ in all manner of illegal imprisonment."

I repeat what I have said previously here. I urge you to communicate to the Congress your resolve, and your duty under the Constitution, to prevent the enactment of such unconstitutional legislation and the consequent disruption of so critical a part of our criminal punishment system.

The constitutional infirmities reside in three provisions of the legislation: one requiring federal courts to defer to erroneous state court rulings on evidentiary matters, one imposing time limits which could operate to completely bar any federal habeas corpus review at all, and one preventing federal courts from hearing the existence necessary to decide a federal court from hearing the evidence necessary to decide a federal constitutional question. They violate the Habeas Corpus Suspension Clause, the judicial powers of Article III, and due process. None of these provisions appeared in the bill that you and Senator Biden worked out in the last Congress together with representatives of prosecutors' organizations.

The deference requirement would bar any federal court from granting habeas corpus relief where a state court has misapplied the United States Constitution, unless the constitutional error rose to a level of "unreasonableness." The time-limits provisions would bar any federal habeas corpus petition if it was filed more than six months after conviction or any habeas filings. If the Federal court believes that the habeas corpus petition is "unreasonably wrong" effectively precludes Federal review. I find this disorienting.

Anthony Lewis has written of the habeas provision in that bill: "It is a new and remarkable concept in law: mere wrongness in a constitutional decision is not to be noticed." We have agreed to this; to what will we be agreeing next? I restate Mr. Lewis' observation, a person of great experience, long a student of the courts, "It is a new and remarkable concept in law: that mere wrongness in a constitutional decision is not to be noticed."

Backward reeves the mind.

On December 8, 1995, four former U.S. Attorneys General, two Republicans and two Democrats, all persons with whom I have the honor to be acquainted, Benjamin R. Civiletti, J. R., Edward H. Levi, Nicholas Katzenbach, and Elliot Richardson—I served in administrations with Mr. Levi, Mr. Katzenbach, Mr. Richardson; I have the deepest respect for each of them—wrote President Clinton. I ask unanimous consent that the full text be printed in the RECORD as follows:


Dear Mr. President: The habeas corpus provisions in the Senate terrorism bill, S. 105, are unconstitutional. Though intended in large part to expedite the death penalty review process, the litigation and constitutional challenges frustrate the imposition of the death penalty. We strongly urge you to communicate to the Congress

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* January 21, 1997

CONGRESSIONAL RECORD — SENATE

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under Article III. By stripping the federal courts of authority to exercise independent judgment and forcing them to defer to prejudiced judgments made by state courts, the proposal would be the antithesis of the oldest constitutional mission of the federal courts: "the duty . . . to say what the law is." Marbury v. Madison, 5 U.S. (1 Cranch) 137, 177 (1803). Although Congress is free to alter the federal courts' jurisdiction, it cannot order them how to interpret the Constitution, or dictate any other law. United States v. Klein, 80 U.S. (13 Wall.) 126 (1871). In 1996, the Supreme Court reitered that Congress has no power to assign "rubber stamp work" to an Article III court. Congress must now establish a scheme that operates without court participation;" the Court said, "but that is a matter quite different from instruction; it can only be a judgment pursuant to a decision the court has not authority to evaluate." Gutierrez de Martinez v. Lamagno, 115 S. Ct. 2227, 2234.

Finally, in prohibiting evidentiary hearings where the constitutional issue raised does not go to guilt or innocence, the legislation again violates Due Process. A violation of constitutional process cannot be eliminated by a vacuum. The determination of the facts assumes "and importance fully as great as the substantive rule of law to be applied." Wingo v. Wedding, 411 U.S. 564, 574 (1974).

Prior to 1996, the last time habeas corpus legislation at length in constitutional terms was in 1968. A bill substantially eliminating federal habeas corpus review for state prisoners was defeated because, as Republican Senator Hugh Scott put it at the end of debate, "if Congress tamper with the great writ, its action would have about as much chance of being held constitutional as delegating to celluloided dog chasing the asbestos cat through hell." In more recent years, the habeas reform debate has been viewed as a mere adjunct of the debate over the death penalty. But when the Senate took up the terrorism bill this year, Senator Moynihan sought to reconnect with the large framework of constitutional liberties: "If I had to live in a country which had habeas corpus but not free elections," he said, "I would take habeas corpus every time." Senator Chafee noted that his uncle, a Harvard Law School graduate, has called habeas corpus "the most important human rights provision in the Constitution." With the debate back on constitutional grounds, Senator Biden said he would delete the habeas requirement nearly passed, with 46 votes. We respectfully ask that you insist, first and foremost, on the preservation of independent federal review, i.e., on the rejection of any requirement that federal courts defer to state court judgments on federal constitutional questions. We also urge that separate time limits be set for filing federal and state habeas corpus petitions—a modest change which need not interfere with the setting of strict time limits for federal habeas relief. Ultimately, it is the public's interest in the prompt and fair disposition of criminal cases which will suffer. The passage of an unconstitutional law would be the least of our ills.

We respectfully urge you, as both President and a former professor of constitutional law, to call upon Congress to remedy these flaws. We respectfully urge you, as the President, to send the legislation back to the drawing board. I fear that we will not fix it now.

We Americans think of ourselves as a new nation. We are not. Of the countries that existed in 1914, there are only eight which have not had their form of government changed by violence since then. Only the United Kingdom goes back to 1285 when the delegates who drafted our Constitution established this Nation, which continues to exist. In those other nations, sir, a compelling struggle took place, from the middle of the 18th century until the middle of the 19th century, and beyond into the 20th, and even to the end of the 20th in some countries, to establish those basic civil liberties which form the foundation of our liberties and, of those, none is so precious as habeas corpus, the "Great Writ."

Here we are trivializing this treasure, putting in jeopardy a tradition of protection of individual rights by Federal courts that goes back to our earliest years. Senator Taft was right. And Senator Taft was right. Why are we in such a rush to amend our Constitution? Why do we tamper with provisions as profound to our traditions and liberty as habeas corpus? The Federal courts do not complain. It may be that we have enacted the laws without the wishes of the majority who are executed sooner than they otherwise would have been. You may take satisfaction in that or not, as you choose, but we have begun to weaken a tenet of justice at the very base of our liberties. The virus will spread. This is new. It is profoundly disturbing. It is terribly dangerous. If I may have the presumption to join in the judgment of four Attorneys Generals, Mr. Civiletti, Mr. Levi, Mr. Katzenbach, and Mr. Richardson—and I repeat that I have served in administrations with three of them—this matter is unconstitutional and should be repealed from law.

Fifteen years ago, June 6, 1982, to be precise, I gave the commencement address at St. John University Law School in Brooklyn. I spoke of the proliferation of court-curbing bills at that time. I remarked:

"* * * some people—indeed, a great many people—have decided that they do not agree with the Supreme Court and that they are not satisfied to Debate, Legislative, Litigate. They have embarked upon an altogether new and I believe quite dangerous course of action. A new triumvirate hierarchy has emerged. Convene (meaning the calling of a constitutional convention), Overrule (the attempt to restrict courts) to their jurisdiction, Overrule (the jurisdiction of certain courts to decide particular kinds of cases). Perhaps the most pernicious of these is the attempt to restrict the writ of habeas corpus. Nothing else is so profound to our liberties and, of those, none is so precious as habeas corpus, the "Great Writ."

Perhaps the most pernicious of these is the attempt to restrict the writ of habeas corpus. Nothing else is so profound to our liberties and, of those, none is so precious as habeas corpus, the "Great Writ."

We are not Americans of ourselves as a new nation. We are not. Of the countries that existed in 1914, there are only eight which have not had their form of government changed by violence since then. Only the United Kingdom goes back to 1285 when the delegates who drafted our Constitution established this Nation, which continues to exist. In those other nations, sir, a compelling struggle took place, from the middle of the 18th century until the middle of the 19th century, and beyond into the 20th, and even to the end of the 20th in some countries, to establish those basic civil liberties which form the foundation of our liberties and, of those, none is so precious as habeas corpus, the "Great Writ."

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It is a commonplace that our democracy is characterized by majority rule and minority rights. Our Constitution vests majority rule in the Congress and the President while the courts are the guardians of the minority.

While the legislature makes the laws, and the executive enforces them, it is the courts that tell us what the laws say and whether they conform to the Constitution.

This notion of judicial review has been part of our heritage for nearly two hundred years. There is not a more famous case in American constitutional history than Marbury v. Madison and few more famous dicta than Chief Justice Marshall’s that

"It is emphatically the province and the duty of the judicial department to say what the law is."

But in order for the court to interpret the law, it must decide cases. If it cannot hear certain cases, then it cannot protect certain rights.

We need to deal resolutely with terrorism. And we have. But the guise of combating terrorism, we have diminished the fundamental civil liberties that Americans have enjoyed for two centuries; therefore the terrorists will have won.

My bill will repeal this dreadful, unconstitutional provision now in public law. I ask unanimous consent that the article entitled “First in Damage to Constitutional Liberties,” by Nat Hentoff from the Washington Post of November 16, 1996, and the article entitled “Clinton’s Sorriest Record” from the New York Times of October 14, 1996, be printed in the Record at the conclusion of my remarks.

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

1. First in Damage to Constitutional Liberties
   By Nat Hentoff
   There have been American presidents to whom the Constitution has been a nuisance to be overruled by an unwise necessities. In 1788-9, seven years after the Bill of Rights was ratified, John Adams triumphantly led Congress in the passage of the Alien and Sedition Acts. It imprisoned a number of journalists and others for bringing the press into contempt or disrepute. So much for the First Amendment.

2. Abroad at Home; Clinton’s Sorriest Record
   By Anthony Lewis
   Bill Clinton has not been called to account in this session of Congress, in contrast to his Presidency. That is his appalling record on constitutional rights.

The Clinton years have seen, among other things, a series of measures stripping the courts of their power to protect individuals from official abuse—the power that has been an essential feature of American life. There has been nothing like it since the Radical Republicans, after the Civil War, acted to keep the courts from holding the occupation of the South unconstitutional.

The Republican Congress of the last two years initiated some of the attacks on the Bill of Rights. But President Clinton has resisted them as other Presidents have. And he proposed some of the measures trampling on constitutional protections.

Much of the worst has happened this year. President Clinton sponsored a counterterrorism bill that became law with a number of repressive features in it. One had to do with terrorism: a provision gutting the power of Federal courts to examine state criminal convictions, on writs of habeas corpus, to make sure there was no violation of constitutional rights.

The Senate might well have moderated the habeas corpus provision if the President had put his mind to it. But he broke a promise and gave way.

The counterterrorism law also allows the Government to deport a legally admitted alien who is suspected of a connection to terrorism, without letting him see or challenge the evidence. And it is virtually a blank check to the Government to designate organizations as “terrorists” — a designation that could have included Nelson Mandela’s African National Congress before apartheid gave way to democracy in South Africa.

The immigration bill just passed by Congress has many sections prohibiting review in courts of decisions by the Immigration and Naturalization Service or the Attorney General. Some of those provisions have drastic retroactive consequences.

For example, Congress in 1986 passed an amnesty bill that allowed many undocumented aliens to legalize their presence in this country. They had to file by a certain date, but a large number said they failed to do so because improper I.N.S. regulations discouraged them.

The Supreme Court held that those who could show they were entitled to amnesty but were put off by the I.N.S. rules could file late. Lawsuits involving thousands of people and costing millions of dollars went on to show that the I.N.S. law throws all those cases—and individuals—out of court.

In another case, in the courts for years, stems from an attempt to deport a group of Palestinians. Their lawyer sued to block the deportation action; a Federal district judge, Stephen V. Wilson, a Reagan appointee, found that it was an unlawful selective proceeding against people for exercising their constitutional right of free speech. The new immigration law says the courts may not hear such cases.

The immigration law protects the I.N.S. from judicial scrutiny in a broader way. Over the years the courts have barred the service from deliberately discriminatory policies, for example the practice of disallowing visas to asbestos workers in countries, such as Chile, seeing persecution in certain countries. The law bars all lawsuits of that kind.

Those are just a few examples of recent immigration decisions of the courts.

The immigration law also strips the asylum claims of people fearing persecution in certain countries. The law bars all lawsuits of that kind.

It is a commonplace that our democracy is characterized by majority rule and minority rights. Our Constitution vests majority rule in the Congress and the President while the courts are the guardians of the minority.

While the legislature makes the laws, and the executive enforces them, it is the courts that tell us what the laws say and whether they conform to the Constitution.

This notion of judicial review has been part of our heritage for nearly two hundred years. There is not a more famous case in American constitutional history than Marbury v. Madison and few more famous dicta than Chief Justice Marshall’s that

"It is emphatically the province and the duty of the judicial department to say what the law is."

But in order for the court to interpret the law, it must decide cases. If it cannot hear certain cases, then it cannot protect certain rights.

We need to deal resolutely with terrorism. And we have. But the guise of combating terrorism, we have diminished the fundamental civil liberties that Americans have enjoyed for two centuries; therefore the terrorists will have won.

My bill will repeal this dreadful, unconstitutional provision now in public law. I ask unanimous consent that the article entitled “First in Damage to Constitutional Liberties,” by Nat Hentoff from the Washington Post of November 16, 1996, and the article entitled “Clinton’s Sorriest Record” from the New York Times of October 14, 1996, be printed in the Record at the conclusion of my remarks.

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

1. First in Damage to Constitutional Liberties
   By Nat Hentoff
   There have been American presidents to whom the Constitution has been a nuisance to be overruled by an unwise necessities. In 1788-9, seven years after the Bill of Rights was ratified, John Adams triumphantly led Congress in the passage of the Alien and Sedition Acts. It imprisoned a number of journalists and others for bringing the press into contempt or disrepute. So much for the First Amendment.

2. Abroad at Home; Clinton’s Sorriest Record
   By Anthony Lewis
   Bill Clinton has not been called to account in this session of Congress, in contrast to his Presidency. That is his appalling record on constitutional rights.

The Clinton years have seen, among other things, a series of measures stripping the courts of their power to protect individuals from official abuse—the power that has been an essential feature of American life. There has been nothing like it since the Radical Republicans, after the Civil War, acted to keep the courts from holding the occupation of the South unconstitutional.

The Republican Congress of the last two years initiated some of the attacks on the Bill of Rights. But President Clinton has resisted them as other Presidents have. And he proposed some of the measures trampling on constitutional protections.

Much of the worst has happened this year. President Clinton sponsored a counterterrorism bill that became law with a number of repressive features in it. One had to do with terrorism: a provision gutting the power of Federal courts to examine state criminal convictions, on writs of habeas corpus, to make sure there was no violation of constitutional rights.

The Senate might well have moderated the habeas corpus provision if the President had put his mind to it. But he broke a promise and gave way.

The counterterrorism law also allows the Government to deport a legally admitted alien who is suspected of a connection to terrorism, without letting him see or challenge the evidence. And it is virtually a blank check to the Government to designate organizations as “terrorists”—a designation that could have included Nelson Mandela’s African National Congress before apartheid gave way to democracy in South Africa.

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Those are just a few examples of recent immigration decisions of the courts.
It is by no means clear that Bob Dole would do better. He supported some of the worst legislation in the Senate, as the Gingrich Republicans did in the House. Why, especially, is a lawyer President indifferent to constitutional rights and their protection by the courts?

By Mrs. BOXER.

S. 106. A bill to require that employees who participate in cash or deferred arrangements are free to determine whether invested in employer real property and employer securities, and if not, to protect such employees by applying the same prohibited transaction rules that apply to traditional defined benefit pension plans, and for other purposes; to the Committee on Finance.

S. 107. A bill to require the offer in every defined benefit plan of a joint and 1/2 survivor benefit annuity option and to require comparative disclosure of all benefit options to both spouses; to the Committee on Finance.

S. 108. A bill to require annual, detailed investment reports by plans with qualified cash or deferred arrangements, and for other purposes; to the Committee on Labor and Human Resources.

LEGISLATION TO PROTECT AMERICAN PENSION FUNDS

Mrs. BOXER. Mr. President, today I am introducing three bills designed to protect Americans' pension funds. I. THE 401(k) PENSION PLAN PROTECTION ACT

The first bill, the "401(k) Pension Plan Protection Act of 1997," would give employees who participate in a 401(k) plan the assurance that their employer cannot force them to invest their employee contributions in the company.

The 401(k) Pension Protection Act will increase employees' investment freedom and protect employees against low yielding and undiversified 401(k) investments in their employer. It allows employees to protect themselves against loss of jobs and pensions if their employer becomes bankrupt.

Unfortunately, such losses have already occurred. A year ago, Color Tile, Inc., a nationwide retailer of floor and employer real estate, went bankrupt. The preferred spouse is the spouse who participated in the retirement plan. This means that the unequal treatment disproportionately impacts women because women's jobs are less often covered by a pension plan. Women need better pension survivor benefits because three out of four marriages they outlive their husbands.

The Pension Benefits Fairness Act was designed to correct the situation that prompts employees to choose 401(k) plans over traditional defined benefit plans, despite their poor investment performance. The act would require that pension plans offer equal survivor benefit options.

The act exempts a certain type of 401(k) plan from the 10 percent limit—where employees are free to direct how their contributions are invested and to move their investments in the 401(k) with reasonable frequency. In such situations, the 10 percent limitation does not apply and employees are free to assume the risk of undiversified investment in their employer.

The 401(k) Pension Protection Act would protect 23 million employees in 401(k) plans investing more than 765 million dollars in assets.

All 401(k) members need the 401(k) Pension Protection Act. Unlike traditional pension plans, companies sponsoring 401(k)s do not guarantee that investments will provide the promised pension. Instead, 401(k) participants bear all risk of undiversified investment in their employer.

Participants in 401(k)s also need the protections of the act because unlike traditional pension plans—401(k)s are not insured against bankruptcy of the plan sponsor by the Pension Benefit Guaranty Corp., or PBGC. The act also encourages the Secretary to provide for the delivery of reports through company e-mail. This should help minimize the cost of providing reports.

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By Mr. INOUYE (for himself and Mr. Akaka).

S. 109. A bill to provide Federal housing assistance to Native Hawaiians; to the Committee on Indian Affairs.
In recognition of this catastrophic decline, and of the role the Federal Government played in facilitating such a decline, the Congress enacted The Hawaiian Homes Commission Act (HHCA), which set aside 200,000 acres of Ceded public lands for homesteading by native Hawaiians. As then Secretary of the Interior Franklin K. Lane was quoted in a report to the HHCA as saying: “One thing that impressed me—was the fact that the natives of the islands who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and are in poverty.” Congress thus sought to return the Hawaiian people to the land, thereby revitalizing a dying race. And yet, despite what arguably were good intentions, the Congress subsequently and systematically failed to appropriate sufficient funds for the administration of the HHCA. Faced with no means of securing the necessary funding which would enable the development of infrastructure or housing, the administrators were forced to lease large tracts of the homelands to non-Hawaiians for commercial and other purposes in order to generate revenue to administer and operate the program. Hawaiians were thereby denied the benefits of those very lands set aside for their survival as the indigenous inhabitants of Hawaii.

Over the years, I am sad to report, this Government has taken the anomalous legal position that native Hawaiians are not eligible to reside on those lands set aside under the Hawaiian Homes Commission Act are the most severe. Ninety-five percent of the current applicants, approximately 13,000 native Hawaiians, are in need of housing, with one half of those applicant households facing overcrowding and one third paying more than 30 percent of their income for rent; and under the Department of Housing and Urban Development (HUD) guidelines, 70.8 percent of the Department of Hawaiian Home Lands (DHH) lessees and applicants fall below the HUD median family income, with more than half having incomes below 30 percent.

Mr. President, I find these statistics deplorable and unconscionable. They are the direct result of a pattern of purposeful neglect on the part of our Federal Government.

At the time of the arrival of Captain Cook to Hawaii’s shores in 1778, there was a thriving community of nearly 1 million indigenous inhabitants. But over time, introduced diseases and the devastating physical, cultural, social, and spiritual effects of Western contact nearly decimated the native Hawaiian population. In 1826, less than 50 years later, the native Hawaiian population had decreased to an estimated 242,650, and by 1913, this number had dropped to 22,600.

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Mr. President, I thank you for your consideration of this most important measure and ask unanimous consent that the bill be printed in the RECORD in its entirety. I urge my colleagues to act favorably and expeditiously on this measure.

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

SEC. 1. SHORT TITLE. This Act may be cited as the "Native Hawaiian Housing Assistance Act of 1997".

SEC. 2. FINDINGS AND PURPOSES.

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

(1) The Federal Government has a responsibility to promote the general welfare of the Nation by employing its resources to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of lower income and by developing effective partnerships with governmental and private entities to accomplish these objectives.

(2) Based upon the status of the Kingdom of Hawaii as an independent sovereign and the unique historical and political relationship between the United States and Native Hawaiians, the Native Hawaiian people have a continuing right to local autonomy in traditional and cultural affairs and an ongoing right of self-determination and self-governance that has never been extinguished.

(3) The authority of Congress under the Constitution of the United States to legislate and address matters affecting the rights of indigenous peoples of the United States includes the authority to legislate in matters affecting Native Hawaiians.

(4) In 1920, in recognition of the severe decline in the Native Hawaiian population, Congress enacted the Hawaiian Homes Commission Act, 1920, which set aside approximately 200,000 acres of the ceded public lands for Native Hawaiian homesteads and thereby affirming the special relationship between the United States and the Native Hawaiians.

(5) In 1990, under the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4), the United States reaffirmed the special relationship between the United States and the Native Hawaiian people—

(A) by transferring what the United States deemed to be a trust responsibility for the administration of the Hawaiian Homes Land trust by the United States, mandating that such lands be held "in public trust" for "the betterment of the conditions of Native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, and continuing Federal superintendence by retaining the exclusive legal responsibility to enforce this public trust.

(B) by ceding to the State of Hawaii title to the public lands formerly held by the United States, mandating that such lands be held "in public trust" for "the betterment of the conditions of Native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, and continuing Federal superintendence by retaining the exclusive legal responsibility to enforce this public trust.

(C) in recognition of the special relationship between the United States and the Native Hawaiian people, Congress has extended to Native Hawaiians the same rights and privileges accorded to American Indians and Alaskan Natives under the Native American Programs Act of 1974, the American Indian Religious Freedom Act, the Native American Graves Protection and Repatriation Act, the National Historic Preservation Act, the Native American Languages Act, the American Indian, Alaska Native and Native Hawaiian Culture and Arts Development Act, the Job Training and Partnership Act, and the Older Americans Act of 1965.

(7) The special relationship has been recognized and reaffirmed by the United States in the area of Native Hawaiian cultural affairs and an ongoing right of self-determination and self-governance that has never been extinguished.

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

(1) To implement the recommendation of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing (in this Act referred to as the "Commission") that Congress establish a Native Hawaiian Housing Assistance Program to alleviate and address the severe housing needs of Native Hawaiians by extending to them the same Federal housing assistance available to American Indians and Alaskan Natives.

(2) To address the following needs of the Native Hawaiian population, as documented in the Final Report of the Commission, "Building the Future: A Blueprint for Change" (1992); the United States Department of Housing and Urban Development report, "Housing Needs of Native Hawaiians" (1995); and the State Department of Hawaiian Home Lands report "Department of Hawaiian Home Lands Beneficiary Needs Study" (1995):

(A) Native Hawaiians experience the highest percentage of housing problems in the Nation; 49 percent, compared to 44 percent for American Indian and Alaskan Native households in Indian Reservations and 40 percent for all United States households, particularly in the area of overcrowding (27 percent versus 3 percent in all United States households and versus 7 percent for Hawaiian island households experiencing overcrowding.

(B) Native Hawaiians have the worst housing conditions of any group represented in the United States; 13,000 Native Hawaiians are living in overcrowded and substandard homes and are seriously overrepresented in the State's homeless population, representing over 30 percent.

(C) Among the Native Hawaiian population, the needs of the native Hawaiians eligible for Hawaiian homelands are the most severe. 95 percent of the current applicants, approximately 13,000 Native Hawaiians, are in need of housing, with one-half of those applicants facing overcrowding and one-third paying more than 30 percent of their income for shelter. Under Department of Housing and Urban Development guidelines, 70.8 percent of Department of Hawaiian Homelands lessees and applicants fall below the Department of Housing and Urban Development median family income, with more than half having incomes below 30 percent.

SEC. 3. HOUSING ASSISTANCE.

The Native American Housing Assistance and Self-Determination Act of 1996 (Public Law 104-330) is amended by adding at the end the following new title:

"TITLE VIII—HOUSING ASSISTANCE FOR NATIVE HAWAIIANS"

"SEC. 801. DEFINITIONS.

(A) In this title—

(1) the term 'Department of Hawaiian Home Lands' means the department of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920;

(2) the term 'Hawaiian Home Lands' means those lands set aside by the United States for homesteading by Native Hawaiians under the Hawaiian Homes Commission Act, 1920, and any other lands acquired pursuant to that Act; and

(3) the term 'Native Hawaiian' has the same meaning as in section 201 of the Hawaiian Homes Commission Act, 1920.

"SEC. 802. BLOCK GRANTS FOR AFFORDABLE HOUSING.

(A) AUTHORITY.—For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this title) make available to carry out this title grants to Native Hawaiian families to carry out affordable housing activities in the State of Hawaii. Under such a grant, the Secretary shall provide the grant amounts directly to the Department of Hawaiian Home Lands. Of the Department of Hawaiian Home Lands shall, to the maximum extent practicable, allocate and deploy private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians, in order to carry out such activities.

(B) APPLICABILITY OF OTHER PROVISIONS.—

(1) In general.—Subject to paragraph (2), titles I through IV apply to assistance provided under this section in the same manner as titles I through IV apply to assistance provided on behalf of an Indian tribe under titles I through IV.

(2) EXCEPTION.—The Secretary may by regulation provide for such modifications to the applicability of titles I through IV to assistance provided under this section as the Secretary determines to be necessary to meet the unique housing needs of Native Hawaiians.

"SEC. 803. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title for each of fiscal years 1997, 1998, 1999, 2000, and 2001.

"SEC. 4. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.

Section 104 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a) is amended—

(1) in subsection (k), by adding at the end the following new paragraph:

"(10) The term 'Hawaiian Home Lands' means those lands set aside by the United States for homesteading by Native Hawaiians under the Hawaiian Homes Commission Act, 1920, and any other lands acquired pursuant to that Act.

(11) The term 'Native Hawaiian' has the same meaning as in section 201 of the Hawaiian Homes Commission Act, 1920.

(12) The term 'Native Hawaiian housing authority' means any public body (or agency or instrumentality thereof) established under the laws of the State of Hawaii, that is authorized to engage in or assist in the development or operation of low-income housing for Native Hawaiians that includes the Department of Hawaiian Home Lands and the Office of Hawaiian Affairs.''; and

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

"(11) APPLICABILITY TO NATIVE HAWAIIAN HOUSING.—
(1) IN GENERAL.—Subject to paragraphs (2) and (3), subsections (a) through (k) apply to Native Hawaiian families, Native Hawaiian housing authorities, and private nonprofit organizations in the planning and development of affordable housing for Native Hawaiians, in the same manner as those subsections apply to Indian families and to Indian housing authorities, respectively.

(2) EXCEPTION.—The Secretary may by regulation provide for such modifications to the applicability of subsections (a) through (k) to Native Hawaiian families, Native Hawaiian housing authorities, and private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians as the Secretary determines to be necessary to meet the unique housing needs of Native Hawaiians.

(3) LIMITATION.—Any assistance provided under this subsection, including any assistance provided to Native Hawaiians not residing on the Hawaiian Home Lands, shall be limited to the State of Hawaii.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

By Mr. INOUYE (for himself and Mr. AKAKA):

S. 110.—A bill to amend the Native American Graves Protection and Repatriation Act to provide for improved notification and consent, and for other purposes; to the Committee on Indian Affairs.

THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT AMENDMENT ACT OF 1997

Mr. INOUYE. Mr. President, I rise today to introduce a bill to amend the Native American Graves Protection and Repatriation Act to clarify certain provisions of that act as they pertain to Indian tribes and native Hawaiian organizations. This bill is similar to the bill I introduced in the last session of the Congress—a bill which passed this body by unanimous consent on September 13, 1996. Unfortunately, the House of Representatives failed to act on the bill before the adjournment of the 104th Congress.

In 1990, the Congress enacted the Native American Graves Protection and Repatriation Act (NAGPRA) to address the growing concern among Indian tribes, Alaska Native villages, and Native Hawaiian organizations regarding the proper disposition of thousands of Native American human remains and sacred objects in the possession and control of museums and Federal agencies.

NAGPRA requires museums and Federal agencies to compile summaries and inventories of human remains, associated and unassociated funerary objects, sacred objects, and cultural patrimony and development of affordable housing for Native Hawaiians that have an ownership or possessory interest in the remains, objects or patrimony, and, upon request, to repatriate those remains or cultural items to the appropriate Indian tribe or native Hawaiian organization.

NAGPRA further provides a process governing the treatment of human remains or cultural items inadvertently discovered and intentionally excavated from Federal or tribal lands.

In the years since the enactment of NAGPRA, Native Hawaiians have been at the forefront in the repatriation of ancestral remains and the treatment of any traces of human remains inadvertently discovered on Federal lands.

Hundreds of native Hawaiian kupuna—ancestors—have been returned to Hawaii—released from the confines of more than 25 museums in the United States, Canada, Switzerland, and Australia—and returned to the land of their birth.

Despite these accomplishments, Native Hawaiian organizations have experienced difficulty in ensuring the implementation of the act—ironically, not abroad, but in Hawaii.

In written testimony submitted to the Committee on Indian Affairs by Hui Malama i Na Kupuna O Hawai’i Nei, a native Hawaiian organization, fore a. December 9, 1995 oversight hearing on the act, a number of concerns were raised—concerns which this bill seeks to address, namely: The lack of written consent where Native American remains are excavated or removed from Federal lands for study; following an inadvertent discovery of Native American remains, the lack of assurances that the process for removal complies with the requirements that are associated with an intentional excavation and removal of human remains; and notification to native Hawaiian organizations when inadvertent discoveries of Native American human remains are made on Federal lands.

In addition to amendments which address these concerns, this bill also incorporates two technical amendments requested by the administration: a provision expanding the responsibility of the NAGPRA Review Committee to include associated funerary objects in the database of culturally unidentifiable human remains; and provisions providing the Secretary of the Interior with authority to use fines collected to supplement the cost of enforcement-related activities.

As one of the original sponsors of the act, it is my view that these amendments are consistent with the original purpose, spirit, and intent of NAGPRA, and are necessary to clarify the existing law. Is it my expectation that if adopted, these amendments will ensure better cooperation by Federal agencies in the implementation of the act in the State of Hawaii and the rest of the United States. For while these amendments address concerns raised by the native Hawaiian people, they will also serve to benefit Indian country.

The responsibility borne by those who choose, or who are called upon to care for the remains of their ancestors is a heavy one. By acting favorably on this measure, the House can assist these individuals and organizations as they continue in their efforts to bring their ancestors home and provide them with proper treatment when they are removed from sacred burial sites.

Mr. President, I thank you for this time today, and I urge my colleagues to support this bill when it comes before the Senate for consideration.

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

SECTION 1. AMENDMENTS TO THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT.

(a) WRITTEN CONSENT REQUIRED IF NATIVE AMERICAN REMAINS ARE EXCAVATED OR REMOVED FOR PURPOSES OF STUDY.—Section 3(c) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 300(c)) is amended—

(1) in paragraph (3), by striking "and" at the end of the paragraph; and

(2) in paragraph (4), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(B) each appropriate Indian tribe or Native Hawaiian organization. The requirement under paragraph (1) shall not be interpreted as allowing or requiring, in any case in which a Federal agency or instrumentality has management authority, the appropriate official of the Federal agency or instrumentality shall notify each appropriate Indian tribe or Native Hawaiian organization, any recordation or analysis that is in addition to any recordation or analysis that is otherwise allowed or required under this Act;"

(b) REQUIREMENTS FOR INADVERTENT DISCOVERIES.—Section 3(d) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 300(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking "with respect to Federal lands" and inserting "with respect to those Federal lands;"

(B) by inserting after the first sentence the following: "In any case in which a Federal agency or instrumentality has management authority, the appropriate official of the Federal agency or instrumentality shall notify each appropriate Indian tribe or Native Hawaiian organization. The notification required under the preceding sentence shall be provided not later than 3 business days after the date on which the Federal agency or instrumentality receives notification of the discovery."; and

(C) in the last sentence, by inserting "and, in the case of Federal lands, the appropriate official of the Federal agency or instrumentality with management authority over those lands notified each appropriate Indian tribe or Native Hawaiian organization by the date specified in the preceding paragraph," after "that notification has been received;" and

(2) in paragraph (2), by adding at the end the following new sentence: "Any person or entity that disposes of, or controls, a cultural item referred to in the preceding sentence shall comply with the applicable requirements of subsection (a)."

(c) REVIEW COMMITTEE.—Section 8(c)(5) of the Native American Graves Protection and
Although the Philippines and Japan were not considered war zones from 1950 to 1962, the extent and nature of U.S. military involvement in both countries are not dissimilar to U.S. military involvement in other Asian countries during the Korean and Vietnam Wars. The Philippines and Japan as vital supply and staging bases brought tens of thousands of U.S. military personnel to these countries. As a result, interracial relations in both countries were common among the large number of Amerasian children being fathered by U.S. citizens. There are now over 50,000 Amerasian children in the Philippines. According to the Embassy of Japan, there are 6,000 Amerasian children in Japan born between 1987 and 1992.

Public Law 97–359 was passed in the hope of redressing the situation of Amerasian children in Korea, Laos, Kampuchea, Thailand, and Vietnam who, due to their illegitimate or mixed racial ancestry lack a father, or stable mother figure. They are not considered war zone children. This legislation also expanded the immigration to the United States of Amerasian children in the Philippines and Japan. These children of American citizens deserve the same viable opportunities of employment, education, and family life that is afforded their counterparts from Korea, Laos, Kampuchea, Thailand, and Vietnam.

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

Mr. President, I rise to introduce legislation which amends Public Law 97–359, the Amerasian Immigration Act, to include Amerasian children from the Philippines and Japan as eligible applicants. This legislation also expands the eligibility period for the Philippines to November 24, 1992, the date of the last United States military base closure and the date of enactment of the proposed legislation for Japan.

Under the Amerasian Immigration Act of 1991, children born in Korea, Laos, Kampuchea, Thailand, and Vietnam after December 31, 1990, and before October 22, 1982, who were fathered by United States citizens, are allowed to immigrate to the United States. The initial legislation introduced in the 97th Congress included Amerasians born in the Philippines and Japan with no time limits concerning their births. The final version as enacted by the Congress included only those children born in the U.S. or engaged in active military combat from the Korean War onward. Consequently, Amerasians from the Philippines and Japan were excluded from eligibility.

I am encouraged that, on behalf of its 277,000 members, the Fraternal Order of Police has decided to support this bill. In addition, the Law Enforcement Officers Protection Act of 1982 represents eight of the largest Associations of law enforcement officers, has also indicated that they are in support of this bill.

I am also pleased that President Clinton has taken an avid interest in this subject. In a statement similar to remarks he made many times at campaign appearances around the country, President Clinton said to an audience in Cincinnati, Ohio on September 16, 1996:

So that's my program for the future—do more to break the gangs, ban those cop killer bullets, drug testing for parolees, improve the opportunities for community-based strategies that lower crime and give our kids something to say yes to.

Mr. President, it has been fifteen years since I first introduced legislation in the Senate to outlaw armor-piercing, or “cop-killer,” bullets. In 1982, the National Rifle Association’s Benevolent Association of New York City alerted me to the existence of a Teflon-coated bullet capable of penetrating the soft body armor police officers were then beginning to wear. Shortly thereafter, I introduced the Law Enforcement Officers Protection Act of 1982 to prohibit the manufacture, importation, and sale of such ammunition.

At that time, armor-piercing bullets that made the infamous “Green Hornet”—were manufactured with a solid steel core. Unlike the softer lead composition of most other ammunition, this hard steel core prevented these rounds from deforming at the point of impact, thus permitting the rounds to penetrate the 18 layers of Kevlar in a standard-issue police vest or “flak-jacket.” These bullets could go through a bullet-proof vest like a hot knife through butter. My legislation simply banned any handgun ammunition capable of penetrating the soft body armor police officers made with a core of steel or other hard metals.

Despite the strong support of the law enforcement community, it took four years before this seemingly non-controversial legislation was enacted into law. The National Rifle Association initially opposed it—that is, until the NRA realized that a large number of its members were themselves police officers who strongly supported banning these insidious bullets. Only then did the NRA lend its grudging support. The bill passed the Senate on March 6, 1986 by a vote of 97–1, and was signed by President Reagan on August 8, 1986 (Public Law 99–408).
That 1986 Act served us in good stead for 7 years. To the best of my knowledge, not a single law enforcement officer was shot with an armor-piercing bullet. Unfortunately, the ammunition manufacturers eventually found a way around it. By 1993, a new Swedish-made armor-piercing round, the M39E, had appeared. This new ammunition evaded the 1986 statute’s prohibition because of its unique composition. Like most common ammunition, the M39E contained lead core, thereby evading it from the 1986 law. But this core was surrounded by a heavy steel jacket, solid enough to allow the bullet to penetrate body armor. Once again, our nation’s law enforcement officers were at risk. Immediately upon learning of the existence of the new Swedish round, I introduced a bill to ban it.

Another protracted series of negotiations ensued before we were able to update the 1986 statute to cover the M39E. We did it with the support of law enforcement organizations, and with technical assistance from the Bureau of Alcohol, Tobacco and Firearms. In particular, Mr. Pasco, then the Assistant Director of Congressional Affairs at BATF, worked closely with me and may staff to get it done. The bill passed the Senate by unanimous consent on November 19, 1993 as an amendment to the 1994 Crime Bill.

Despite these legislative successes, it was becoming evident that continuing “innovations” in bullet design would result in new armor-piercing rounds capable of evading the ban. It was at this time that I asked the ATF for technical assistance to help us keep up. In earnest the idea of developing a new rounds capable of penetrating body armor, regardless of their composition, will ever be available to those who would use them against our law enforcement officers.

I wish to assure the Senate that this measure would in no way infringe upon the rights of legitimate hunters and sportsmen. It would not affect legitimate sporting ammunition used in rifles. It would not affect the availability of armor-piercing rounds, for which no one can seriously claim there is a genuine sporting use. These cop-killer rounds have no legitimate uses, and they have no business being in the arsenals of criminals. They are designed for one purpose: to kill police officers.

The 1986 and 1993 cop-killer bullet laws I sponsored kept us one step ahead of the designers of new armor-piercing rounds. When a new round is introduced today is enacted—and I hope it will be early in the 105th Congress—it will put them out of the cop-killer business permanently.

Mr. President, I ask unanimous consent that the letter of support from the Fraternal Order of Police be printed in the RECORD.

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

JANUARY 16, 1997

Hon. DANIEL P. MOYNIHAN, U.S. Senate,
Washington, D.C.

DEAR SENATOR MOYNIHAN: On behalf of the 277,000 members of the Fraternal Order of Police, I am writing to advise you of our support of legislation which you plan to introduce banning “cop-killer” bullets.

Continuing innovations in the construction of ammunition place the vest-wearing police officer in jeopardy. Your bill requiring performance-based evaluations in order to restrict the availability of armor-piercing bullets for handgun police officers will secure a greater measure of safety for all of America’s law enforcement officers. Although no bill or piece of legislation can protect them fully from the dangers inherent to police work, your bill will enhance the value of the body armor, which, sometimes, is all that stands between life and death.

The F.O.P. supports this effort to quantify and identify “cop-killer” bullets for handguns based on their ability to penetrate body armor, to prevent them from being used against law enforcement officers. If I can be of assistance in working to pass this legislation, please do not hesitate to contact me or Executive Director Jim Pasco, at (202) 547-8189.

Again, thank you for continued concern and support for the safety and protection of America’s law enforcement officers.

Sincerely,

GILBERT G. GALLEGOS,
National President.

S. 1221

By Mr. INOUYE, Mr. President, I am introducing legislation today to amend Title VII of the Public Health Service Act to establish a psychology post-doctoral fellowship program, and for other purposes; to the Committee on Labor and Human Resources.

THE PUBLIC HEALTH SERVICE ACT AMENDMENT OF 1997

Mr. INOUYE. Mr. President, I am introducing legislation today to amend Title VII of the Public Health Service Act to establish a psychology post-doctoral program.

Psychologists have made a unique contribution to serving the Nation’s medically undeserved populations. Expertise in behavioral science is useful in addressing many of our most distressing concerns such as violence, addiction, mental illness, children’s behavior disorders, and family disruptions. Establishment of a psychology post-doctoral program could be most effective in finding solutions to these pressing societal issues.

Similar programs supporting additional, specialized training in traditionally underserved settings or with specific undeserved populations have been demonstrated to be successful in providing services to those same underserved populations during the years following the training experience. That is, medical health professionals who have participated in these specialized federally funded programs have tended not only to meet their payback obligations, but have continued to work in the public sector or with the undeserved populations with whom they have become to work.

While the doctorate in psychology provides broad-based knowledge and mastery in a wide variety of clinical skills, the specialized post-doctoral fellowship programs provide particular diagnostic and treatment skills required to effectively respond to these underserved populations. For example, what looks like severe depression in an elderly person might be a withdrawal related to hearing loss, or what looks like poor academic motivation in a child might actually be culturally related. Southeast Asia might be reflective of a cultural value of reserve rather than a disinterest in academic learning. Each of these situations requires different interventions, of course, and specialized assessment skills.

Domestic violence is not just a problem for the criminal justice system, it is a significant public health problem. A single aspect of the issue, domestic violence against women results in approximately 20,000 to 30,000 emergency visits to physicians each year. Rates of child and spouse abuse in rural areas are particularly high as are the rates of...
alcohol abuse and depression in adolescents. A post-doctoral fellowship program in the psychology of rural populations could be of special benefit in addressing these problems.

Given the changing demographics of the population in between the ages of life and numbers of the elderly, the rising percentage of minority populations within the country, as well as an increased recognition on the long-term sequel of violence and abuse—and given the demonstrated success and effective training of specialized training programs, it is incumbent upon us to encourage participation in post-doctoral fellowship programs that respond to the needs of the Nation's underserved.

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

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

S. 113

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

SECTION 1. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

Part E of title VII of the Public Health Service Act (42 U.S.C. 294o) is amended by adding at the end thereof the following:

"SEC. 779. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

"(a) IN GENERAL.—The Secretary shall establish a post-doctoral fellowship program to make grants to and enter into contracts with eligible entities to encourage the provision of psychological training and services in underserved treatment areas.

"(b) ELIGIBLE ENTITIES.—"(1) INDIVIDUALS.—In order to receive a grant under this section an individual shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such individual—

"(A) has received a doctorate degree through a graduate program in psychology provided by an accredited institution at the time such grant is awarded;

"(B) will provide services in a medically underserved population during the period of such grant;

"(C) will comply with the provisions of subsection (c); and

"(D) will provide any other information or assurances as the Secretary determines appropriate.

"(2) INSTITUTIONS.—In order to receive a grant or contract under this section, an institution shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such institution—

"(A) is an entity approved by the State, that provides psychological services in medically underserved areas or to medically underserved populations (including entities that care for mentally retarded, mental health institutions, and prisons);

"(B) will use amounts provided to such institution under this section to provide financial assistance to effect on January 1, 1994, 15 percent decrease in lunch business. This decision was based on 2,000 fewer lunch customers from January through June 1994 as compared to the same period in 1993. The Wall Street Restaurant in Des Moines, Iowa, an upscale restaurant serving American and Continental cuisine, has seen its revenues decline 40 percent since the beginning of 1994. Owner Joey Fasano reduced his staff from 50 to 35 employees. The Bocca in Middlesex County, New Jersey, averaged 40 to 60 lunches per day prior to 1994. The restaurant now serves between 30 and 40 lunches per day. Owner Robert Campione reduced his staff from 18 to 14 employees. The 37th Street Hideaway Restaurant in New York City did 150 lunches a day prior to 1994. Owner Van Panopoulos now serves 40 lunches and his dinner business has dropped 30 to 40 percent. Mr. Panopoulos reduced his staff from 20 to 10 employees. Bianco's in Denver, Colorado, closed its lunch service in April 1994 because of the decline in business. Owner Fred White reduced his staff from 26 to 15 employees.

Edward's at Kanola in Hawaii has seen its revenues decline by 15 percent since 1994. Owner Edward Frady attributes the decline in his business to the reduction in business meals and entertainment expense deduction.

I sincerely hope that the business meals reduction to 50 percent does not become a Luxury Tax Two, in which the Congress moves to tax only after the damage has been done and huge job losses have occurred. Accordingly, I urge my colleagues to join me in cosponsoring this important legislation.

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

S. 114

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

SECTION 1. REPEAL OF REDUCTION IN BUSINESS MEALS AND ENTERTAINMENT TAX DEDUCTION.

(a) IN GENERAL.—Paragraph (1) of section 274(n) of the Internal Revenue Code of 1986 (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by striking "50 percent'' and inserting "80 percent''.

(b) CONFORMING AMENDMENT.—The heading for section 274(n) is amended by striking "50 percent'' and inserting "80 percent''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

By Mr. INOUYE:

S. 115. A bill to increase the role of the Secretary of Transportation in administering section 901 of the Merchant Marine Act, 1936, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MERCHANT MARINE LEGISLATION

Mr. INOUYE. Mr. President, the legislation I am introducing today would centralize the authority in the Secretary of Transportation for administering our cargo preference laws. The background of these laws, the need for them, and the problems with, in my view, necessitate the legislation, are succinctly stated in a Journal of Commerce article dated November 18, 1988. While the printing of this article was several years ago, the background it provides and the light it sheds on our
present needs are still pertinent. I ask unanimous consent that the text of the bill and the article be printed in the Record. There being no objection, the items were ordered to be printed in the Record, as follows:

S. 115

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

SECTION 1. TRANSPORTATION IN AMERICAN VESSELS OF GOVERNMENT PERSONNEL AND CERTAIN CARGOES.

Section 901(b)(2) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)(2)), is amended to read as follows:

"(2)(A) The Secretary of Transportation shall have the sole responsibility for determining and designating the programs that are subject to the requirements of this subsection. Each department or agency that has responsibility for a program that is designated by the Secretary of Transportation pursuant to the preceding sentence shall, for the purposes of this subsection, administer such program pursuant to regulations promulgated by such Secretary."

(2)(B) The Secretary of Transportation shall—

(i) review the administration of the programs referred to in subparagraph (A); and

(ii) on an annual basis, submit a report to Congress concerning the administration of such programs.

[From the Journal of Commerce, November 18, 1988]

CARGO PREFERENCE

What it is: A series of statutes, going back to 1904, require U.S.-flag vessels to carry a minimum share of cargoes produced by U.S. government programs. It is the oldest U.S. maritime program and while subsidies and financing aids have shrunk over the years, preference has survived.

Background: The preference laws began by tracking this country's extension of its military and naval power, starting with the Spanish-American War. More recently, they have come to reflect the expansion of government programs extending U.S. economic power abroad.

The Military Transportation Act of 1904 was the first of the preference statutes and its requirement for U.S.-flag vessel use, 100 percent is the highest.

In 1934 Congress adopted Public Resolution 17 to require that half of the exports financed by the Reconstruction Finance Corp. were to move in U.S.-flag vessels. Later that resolution was made to apply to financing of the Export-Import Bank, established originally to facilitate trade with the Soviet Union.

In the early postwar period, Congress acted each year to apply the resolution's 50 percent to U.S.-flag vessel use, with the exception of the Korean War. It permanently inserted the requirements into the 1954 Agricultural Trade Development and Assistance Act, better known as Food for Peace, in 1963.

Public Law 661 in 1963 made clear that preference should benefit and protect all U.S.-flag vessels, not just liners, and that all U.S. government programs administered by non-military agencies procure equipment, materials or commodities for themselves or foreign governments, had to use U.S. flags to the extent of 50 percent.

Importance to Carriers: In the last year for which statistics are available, calendar 1986, U.S.-flag carriers hauled more than 33 million tons of commercial shipments car-

ried that year. As an industry, the revenue amounted to about $502 million. Necessity for Preference: Preference statutes are formally predicated on the need for assured carriage of the existing cargo carried by a U.S.-flag merchant fleet to act as a military auxiliary in times of national emergencies.

Past efforts to apply preference to commercial cargoes have failed, reflecting U.S. governmental sensitivity to objections by this country's trading partners as well as stern opposition form U.S. exporters, importers and agricultural interests. The availability of preference cargoes has unquestionably helped some U.S. agencies. But critics argue that preference has encouraged keeping obsolete vessels in operation long after they had been scrapped.

Extent of Preference: The Defense Department, the Agriculture Department and the Agency for International Development are the agencies most heavily involved in utilizing shipping and observing cargo preference. But there are at least 10 others with the same cargo preference responsibilities although smaller volumes. The Export-Import Bank in 1987 reported an unusually high, 90 percent rate of U.S.-flag vessel use. It brought participating carriers some $145 million in revenue.

Problems: In 1991, the Maritime Administration is responsible for monitoring other government agencies to try to make sure they live up to preference requirements. In fiscal year 1991, those agencies shared the minimums for the most part. Among the exceptions were cases in which the cargo origins and destinations were such that U.S.-flag vessels were simply not available.

Despite Reagan administration pledges to honor cargo preference requirements, the Navy and the Agriculture Department have had a number of preference fights with the maritime industry.

One produced an agreement by which the carriers agreed to forgo preference claims on new Agriculture Department-supported export programs with commercial-like terms in return for increasing to 75 percent their share of giveaway relief food shipments.

In another such dispute, the Navy and the U.S. State Department were forced to negotiate a cargo-sharing agreement with Iceland and other defense partners there. Iceland threatened the future of U.S. bases in that country if the United States didn't agree to a depar- ture from 100 percent U.S.-flag carriage of defense shipments.

There have been other, largely budget-driven attempts to bypass preference, but carriers and their corporate cousins generally have managed to forestall them.

Comment: Budgetary austerity and the Defense Department's strict insistence of competitive procurement have combined to make for increasing carrier dissatisfaction, especially with the Navy's Military Sealift Command.

Efforts already are under way to change the competitive procurement system the command uses. Carriers hope generally, to end the pressures they believe force rates downward to depressed levels.

The presidentially appointed Commission on Merchant Marine and Defense has recommended that all U.S.-flag preference requirements programs be raised to 100 percent but the tight budget and such interests as farmers and traders will work against such a step. Agricultural interests have tried unsuc- cessfully to have existing preference removed from government programs in the belief that they inhibit U.S. farm exports.

By Mr. INOUYE:

S. 116. A bill to restore the traditional day of observance of Memorial Day; to the Committee on the Judiciary.

MEMORIAL DAY LEGISLATION

Mr. INOUYE. Mr. President, in our effort to accommodate many Americans by making the last Monday in May, Memorial Day, we have lost sight of the significance of the day to our nation. My bill would restore Memorial Day to May 30 and authorize our flag to fly at half mast on that day. In addition, this legislation would authorize the President to issue a proclamation designating Memorial Day and Veterans Days as days for prayer and ceremonies. This legislation would help re- store the recognition our veterans de- serve for the sacrifices they have made on behalf of our nation.

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

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

S. 116

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

SECTION 1. RESTORATION OF TRADITIONAL DAY OF OBSERVANCE OF MEMORIAL DAY.

(a) IN GENERAL.—Section 602(a) of title 5, United States Code, is amended in the item relating to Memorial Day by striking out “the last Monday in May,” and inserting in lieu thereof “May 30.”

(b) DISPLAY OF FLAG.—Section 2(d) of the joint resolution entitled “An Act to codify and standardize existing customs pertaining to the display and use of the flag of the United States of America”, approved June 22, 1942 (36 U.S.C. 174(d)), is amended by striking out “the last Monday in May;” and inserting in lieu thereof “May 30.”

(c) PROCLAMATION.—The President is au- thorized and requested to issue a procla- mation calling upon the people of the United States to observe Memorial Day as a day for prayer and ceremonies showing respect for American veterans of wars and other mili- tary conflicts.

By Mr. INOUYE:

S. 117. A bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of residential ground rents, and for other purposes; to the Committee on Finance.

RESIDENTIAL GROUND RENTS LEGISLATION

Mr. INOUYE. Mr. President, I rise today to speak on an issue of great importance to Hawaii's leasehold home- owners. In fiscal year 1996, at my re- quest, the Congress appropriated $40,000 to study the feasibility of re- forming the Internal Revenue Code to address ground lease rent payments and to determine what role, if any, the Federal Government should play in encouraging lease to fee conversions. The nationwide study was conducted by the Hawaii Real Estate and Research Cen- ter.

The legislation introduced today is based on the second and sections of this study. The bill would: First, provide a mortgage interest deduction for residential leasehold properties by allowing the nonredeemable ground
lease rents to be claimed as an interest deduction; and second, include a tax credit for up to $5,000 for certain transaction costs on the transfer of certain residential leasehold land for a 5-year period, ending on December 31, 2001. Transaction costs include closing costs, attorneys’ fees, surveys, appraisals, and telephone, office, and travel expenses.

In most private home ownership situations in this country, a homeowner owns the building—single-family home, condominium, or cooperative apartment—on leased land. The research conducted under the leasehold study shows that residential leaseholds are not uncommon in other parts of the United States and elsewhere in the world. Residential leaseholds exist in places such as Baltimore, MD, Irvine, CA, native American lands in Palm Springs, CA, Fairhope, AL, Pearl River Basin, MS, and New York, NY. The study further indicates that there are few States that regulate residential leaseholds. Of those that do, the most common requirement applies only to condominium or time share units requiring adequate disclosure of the lease terms. For the most part, States are unaware of any leasehold problems in their jurisdictions. However, residential leaseholds have proven to be problematic for the State of Hawaii.

The formation of Hawaii’s land tenure system can be traced back to 1778 when British Capt. J James Cook made his first contact with the Hawaiian civilization. Leasing was the preferred system to maintain control and retain a portfolio asset value. Residential leaseholds were first developed on the Island of Oahu after World War II. Population increases created a demand for housing and other types of real estate development. Local income tax policy encouraged the retention of land to avoid payment of large capital gains taxes.

Hawaii’s land tenure system is now anomalous to the rest of the United States because of the concentration of land in the hands of government, large charitable trusts, large agriculturally based companies and owners of small parcels or urban properties. High land prices and high renegotiated rents continue to raise stability in the residential leasehold system. In 1967, the Hawaii State Legislature enacted a Land Reform Act which did not become effective until the U.S. Supreme Court issued its 1984 decision in Hawaii Housing Authority v. Midkiff, 104 S. Ct., 231 (1984). The act and the Supreme Court decision basically divided the market into a ‘single-family home market in which leaseholds were subject to mandatory conversion, and a leasehold condominium market which did not come within the scope of the law.’

Mandatory conversions on the single-family home market occurred from 1979 to 1982, and 1986 to 1990. As of 1992, there are approximately 4,600 single-family homes remaining in residential leaseholds. However, resolution over condominium leasehold reform remains uncertain. In 1990, the Honolulu City Council enacted legislation that would cap lease rent increases. The constitutionality of this law was challenged in the U.S. District Court, District of Hawaii. The court found the law unconstitutional because the formula it used to arrive at permitted lease rent was illogical.

In 1991, due to the Hawaii State Legislature’s unwillingness to address the leasehold problems, the Honolulu City Council again enacted a mandatory leasehold conversion law for leasehold condominiums, Ordinance 01-95. The constitutionality of this law is currently being challenged in the Federal court. Another bill which linked lease rent increases with the Consumer Price Index and the level of disposable income available to condominium owners was also similar to the one enacted in 1990, was found to be unconstitutional.

The uncertainty in the residential leasehold market continues to create economic and emotional distress for the leasehold residents of Hawaii. Voluntary conversion has helped to ease the situation and substantially reduce the stock of leasehold residential units in Hawaii. Yet, voluntary conversion is not enough to resolve the residential leasehold problems.

My legislation will help reduce the economic hardship due to the uncertainty in Hawaii’s residential leasehold system. The leasehold study contains an analysis of the tax revenue effects of this legislation by allowing individual tax deductions for residential leasehold land. The analysis suggests that there are potential revenues to the Federal Government if this legislation is enacted into law.

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

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

S. 117

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

SECTION 1. MORTGAGE INTEREST DEDUCTION FOR QUALIFIED NON-REDEEMABLE GROUND LEASEHOLD LAND.

(a) IN GENERAL.—Section 163(c) of the Internal Revenue Code of 1986 is amended to read as follows:

"(c) Ground Leases.—For purposes of this subtitle, any annual or periodic rental under a redeemable ground rent (excluding amounts in redemption thereof) or a qualified non-redeemable ground rent shall be treated as interest on an indebtedness secured by a mortgage."

(b) TREATMENT OF QUALIFIED NON-REDEEMABLE GROUND LEASEHOLD LAND.

(1) IN GENERAL.—Subsection (a), (b), and (d) of section 1055 of the Internal Revenue Code of 1986 (relating to redeemable ground leases) are amended by inserting “or qualified non-redeemable” after “redeemable” each place it appears.

(2) DEFINITION.—Section 1055 of such Code is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Qualified Non-redeemable Ground Rent.—For purposes of this subtitle, the term ‘qualified non-redeemable ground rent’ means a ground rent with respect to which—

(1) there is a lease of land which is for a term of at least 1 year prior to such sale or exchange of land subject to ground rents with respect to which which is to convey to the lessee, by the lessor’s interest in the land is primarily a security interest to protect the rental payments to which the lessor is entitled under the lease, and which is for a term in excess of 15 years;

(2) no portion of any payment is allocable to the use of any property other than the land surface;

(3) the lessor’s interest in the land is primarily a security interest to protect the rental payments to which the lessor is entitled under the lease, and which is for a term in excess of 15 years;

(4) the leased property must be used as the taxpayer’s principal residence (within the meaning of section 1034); and

(5) CONFORMING AMENDMENTS.—

(A) The heading for section 1055 of such Code is amended by striking ‘‘redeemable’’.

(B) The item relating to section 1055 in the table of sections for part IV of chapter 1 of subtitle A of such Code is amended by inserting ‘‘Qualified non-redeemable’’ and inserting ‘‘Ground’’.

SEC. 2. CREDIT FOR TRANSACTION COSTS ON THE TRANSFER OF LAND SUBJECT TO CERTAIN GROUND RENTS.

(a) IN GENERAL.—Subpart B of part IV of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by inserting after section 30A the following new section:

"SEC. 30B. CREDIT FOR TRANSACTION COSTS.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—At the election of the transferee, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the transaction costs relating to any sale or exchange of land subject to ground rents with respect to which immediately after and for at least 1 year prior to such sale or exchange the credit is allowed to a taxpayer under subsection (a) for any taxable year shall not exceed the sum of—

"(A) $5,000 per dwelling unit, or

"(B) 10 percent of the sale price of the land.

"(2) LIMITATION BASED ON TAXABLE INCOME.—The amount of the credit allowed to a taxpayer under subsection (a) for any taxable year shall not exceed the sum of—

"(A) 20 percent of the regular tax for the taxable year reduced by the sum of the credit allowed to a taxpayer under part A and sections 27, 28, 29, 30, and 30A plus

"(B) the alternative minimum tax imposed by section 55.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) TRANSACTION COSTS.—

"(A) IN GENERAL.—The term ‘transaction costs’ means any expenditure directly associated with a transaction, the purpose of which is to convey to the lessee, by the lessor, land subject to ground rents.

(B) SPECIFIC EXPENDITURES.—Such term includes closing costs, attorney fees, surveys..."
and appraisals, and telephone, office, and travel expenses incurred in negotiations with respect to such transaction.

(3) The entire amount of the unused credit for the unused credit year shall be carried to each of the 5 succeeding taxable years.

(B) AMOUNT CARRIED TO OTHER 4 YEARS. The amount of unused credit for the unused credit year shall be carried to each of the 5 succeeding taxable years.

(2) AMOUNT CARRIED TO EACH YEAR. The entire amount of the unused credit year shall be carried to the earliest of the 5 taxable years to which (by reason of paragraph (1)) such credit may be carried.

(3) (A) Entire amount carried to first year. The entire amount of the unused credit year shall be carried to the earliest of the 5 taxable years to which (by reason of paragraph (1)) such credit may be carried.

(C) Carryover of Credit. (1) Carryover period. If the credit allowed to the taxpayer under subsection (a) for any taxable year exceeds the amount of the limitation imposed by subsection (b)(2) for such taxable year (hereafter in this subsection referred to as the 'unused credit year'), there shall be a carryover to each of the 5 succeeding taxable years.

(2) Amount carried to other years. The amount of unused credit for the unused credit year shall be carried to each of the remaining 4 taxable years to the extent that such unused credit may not be taken into account for a prior taxable year because of the limitation imposed by subsection (b)(2).

(3) Effective date. The amendments made by this section shall apply to expenditure incurred in taxable years beginning after December 31, 2001.

Mr. President, I ask unanimous consent that the bill text be printed in the Record. There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 118
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. COMPLETION OF THE NATURALIZATION PROCESS FOR CERTAIN NATIVES OF THE PHILIPPINES.

(a) In General. Section 405 of the Immigration and Nationality Act of 1990 (8 U.S.C. 1400 note) is amended by striking subparagraph (B) of subsection (a)(2) and inserting the following:

(2) Who. (i) is listed on the final roster prepared by the Recovered Personnel Division of the United States Army during the World War II occupation and liberation of the Philippines;

(ii) is listed on the final roster prepared by the Guerrilla Affairs Division of the United States Army during the World War II occupation and liberation of the Philippines;

(iii) served honorably in an active duty status within the Philippine Scouts or within any other component of the United States Armed Forces in the Far East (other than a component described in clause (i) or (ii)) at any time during the period beginning September 1, 1939, and ending December 31, 1946.

(b) Clerical Amendment. The table of sections for such subpart B is amended by inserting after the item relating to section 30A the following new item:

"Sec. 30B. Credit for transaction costs on the transfer of land subject to certain ground rents."

(c) Effective Date. The amendments made by this section shall apply to expenditures incurred in taxable years beginning after December 31, 1996.

By Mr. INOUYE:

S. 118. A bill to provide for the completion of the naturalization process for certain nationals of the Philippines; to the Committee on the Judiciary.

FILIPINO NATURALIZATION LEGISLATION

Mr. INOUYE. Mr. President, section 405 of the Immigration Act of 1990 was enacted to make naturalization under section 329 of the Immigration and Nationality Act available to those Filipino World War II veterans whose military service during the liberation of the Philippines makes them deserving of United States citizenship. The naturalization authority to allow the veterans to be naturalized in the Philippines was first granted under Section 113 of the fiscal year 1993 Departments of Commerce, Justice, State, Justice, Labor, and related agencies appropriations bill.

The original intent of Congress in providing the Immigration and Naturalization Service (INS) with the authority to naturalize applicants in the Philippines was to relieve the unnecessary hardships that section 405 applicants would encounter by having to travel to the United States for an interview and naturalization ceremony, since many are elderly and have no relatives in the United States. The initial period for filing an application under this provision was from November 29, 1990 to November 30, 1992. Section 113 further extended the filing period to February 3, 1995.

Unfortunately, the authority to naturalize applicants in the Philippines has now expired. The legislation I am introducing today would immediately restore, for a 5-year period, the authority for the U.S. Embassy in Manila to complete the naturalization process of approximately 12,000 remaining applicants who were properly filed under section 405 of the 1990 Act. The legislation does not extend the application period.

The legislation also makes clear that naturalization is available only to those applicants who were found by the Recovered Personnel Division of the U.S. Army and the Guerrilla Affairs Division of the U.S. Army to deserve benefits from the U.S. Government.

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

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

S. 118
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. COMPLETION OF THE NATURALIZATION PROCESS FOR CERTAIN NATIVES OF THE PHILIPPINES.

(a) In General. Section 405 of the Immigration and Nationality Act of 1990 (8 U.S.C. 1400 note) is amended—

(1) by striking subparagraph (B) of subsection (a)(2) and inserting the following:

(ii) is listed on the final roster prepared by the Recovered Personnel Division of the United States Army of those who received recognition as having served honorably in an active duty status within the Philippine Army during the World War II occupation and liberation of the Philippines;

(iii) is listed on the final roster prepared by the Guerrilla Affairs Division of the United States Army of those who received recognition as having served honorably in an active duty status within a recognized guerrilla unit during the World War II occupation and liberation of the Philippines;

(2) TERMINATION DATE. The authority provided pursuant to the section shall expire February 3, 2001.

(3) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT. The amendments made by subsection (a) shall apply to applications filed before February 3, 1995.

Mr. President, I request unanimous consent that the bill be referred to the Committee on the Judiciary.

By Mr. INOUYE:

S. 119. A bill to amend title VII of the Public Health Service Act to ensure that social work students or social work schools are eligible for grants authorized under the Health Careers Opportunity Program, the Minority Centers of Excellence Program, and programs of grants for training projects in geriatrics, and to establish a social work training program; to the Committee on Labor and Human Resources.

PUBLIC HEALTH SERVICE ACT AMENDMENTS

Mr. INOUYE. Mr. President, on behalf of our Nation's clinical social work schools, I am introducing legislation to amend the Public Health Service Act. This legislation will: First, establish a new social work training program; second, ensure that social work students are eligible for support under the Health Careers Opportunity Program and that social work schools are eligible for support under the Minority Centers for Excellence programs;
Third, permit schools offering degrees in social work to obtain grants for training projects in geriatrics; and fourth, ensure that social work is recognized as a profession under the Public Health Maintenance Organization (HMO) Act.

Despite the impressive range of services social workers provide to the people of this Nation, particularly our elderly, disadvantaged, and minority populations, few federal programs exist to provide opportunities for social work training in health and mental health care. This legislation builds on the health professions education legislation enacted by the 102d Congress enabling schools of social work to apply for AIDS training funding and resources to establish collaborative relationships with rural health care providers and schools of medicine or osteopathic medicine. This bill provides funding for traineeships and fellowships for individuals who plan to specialize in, practice, or teach social work, or for operating approved social work training programs; it assists disadvantaged students to earn graduate degrees in social work with concentrations in various health professions; and it encourages schools of social work to expand programs in geriatrics.

Finally, the recognition of social work as a valid and critical element of social work practice and the modifications made by the Medicare HMO legislation. I believe it is important to ensure that social work training and skills social workers possess continue to be available to the citizens of this Nation. This legislation, by providing financial assistance to schools of social work and social work students, recognizes the need and critical importance of the services provided by social work professionals. In addition since social workers have provided quality mental health services to our citizens for a long time and continue to be at the forefront of innovative programs to serve our disadvantaged populations, I believe that it is time to provide them with the proper recognition of their profession that they have clearly earned and deserve.

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

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

S. 119

BE IT ENacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SOCIAL WORK STUDENTS.

(a) Scholarships, Generally. Section 733a(a)(3) of the Public Health Service Act (42 U.S.C. 293a(a)(3)) and (b) Faculty Positions. Section 738a(a)(3) of the Public Health Service Act (42 U.S.C. 293a(a)(3)) are amended by striking "offering graduate programs in geriatrics; and inserting "offering graduate programs in clinical psychology" and "inserting "offering graduate programs in clinical psychology, graduate programs in social work, or programs in social work".

(b) Health Professions School. Section 739(h)(1)(A) of the Public Health Service Act (42 U.S.C. 293d(a)(1)) is amended by striking "or a school of pharmacy, or a school offering graduate programs in clinical psychology" and inserting "offer graduate programs in clinical psychology and graduate programs in clinical social work, or programs in social work".

(c) Health Professions School. Section 740(b)(1)(I) of the Public Health Service Act (42 U.S.C. 293d(a)(1)) is amended by striking "offering graduate programs in clinical psychology" and inserting "offering graduate programs in clinical psychology, graduate programs in social work, or programs in social work".

(d) Health Careers Opportunities Program. Section 740(a)(5) of the Public Health Service Act (42 U.S.C. 293d(a)(5)) is amended by striking "to provide financial assistance (in the form of traineeships and fellowships) to individuals who plan to specialize in, practice, or teach social work, or to or with a public or private non-profit entity which the Secretary has determined is capable of carrying out such grant" and inserting "to plan, develop, and operate a program for the training of individuals who plan to teach in social work training programs; and"

(e) Social Work Training Programs. Part E of title VII of the Public Health Service Act (42 U.S.C. 294o et seq.) is amended by adding a new section 775:

"Sec. 775. Social Work Training Programs.

"(1) in general. The Secretary may make grants to, or enter into contracts with, any public or nonprofit private hospital, a school of medicine, a school offering programs in social work, or to or with a public or private non-profit entity (which the Secretary has determined is capable of carrying out such grant) for the purpose of—";

"(A) to plan, develop, and operate, or participate in, an approved social work training program (including an approved residency or internship program) for students, interns, residents, or practicing physicians;

"(B) to provide financial assistance (in the form of traineeships and fellowships) to students, interns, residents, or practicing physicians;

"(2) to provide financial assistance (in the form of traineeships and fellowships) to individuals who are participants in any such program, and who plan to specialize or work in the practice of social work;

"(3) to plan, develop, and operate a program for the training of individuals who plan to teach in social work training programs; and

"(4) to provide financial assistance (in the form of traineeships and fellowships) to individuals who are participants in any such program and who plan to teach in a social work training program.

"(2) Academic Administrative Units. In general. The Secretary may make grants to or enter into contracts with schools offering programs in social work to meet the costs of projects to establish, maintain, or improve academic administrative units (which may be departments, divisions, or other units) to provide clinical instruction in social work.

"(3) Preference in Making Awards. In making awards of grants and contracts under paragraph (1), the Secretary shall give preference to any qualified applicant for such an award that agrees to expend the award for the purpose of—

"(A) establishing an academic administrative unit for programs in social work; or

"(B) substantially expanding the programs of such a unit.

"(4) Duration of Award. The period during which payments are made to an entity from an award or contract under subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary of the availability of appropriations for the fiscal year involved to make the payments.

"(5) Funding. (1) Authorization of appropriations. For the purpose of carrying out this section, there is authorized to be appropriated $50,000 for each of the fiscal years 1998 through 2000.

"(2) Allocation. Of the amounts appropriated under paragraph (1) for a fiscal year, (1) in paragraphs (1) and (2), by inserting "social worker," after "psychologist," each place it appears; and (2) in paragraph (4)(A), by striking "and psychologists."
It is important that a continued emphasis be placed on the needy populations of our nation and that continued support be provided for the training of individuals who are most likely to provide services in underserved areas.

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

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

S. 120

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

SECTION 1. PARTICIPATION IN VARIOUS HEALTH PROFESSIONS LOAN PROGRAMS.

(a) Loan Agreements. Ñ Section 721 of the Public Health Service Act (42 U.S.C. 292a) is amended—

(1) in subsection (a), by inserting Ò, or any public or nonprofit schools that offer graduate programs in clinical psychologyÓ after Òveterinary medicineÓ;

(2) in subsection (b), by striking Òor doctor of veterinary medicine or an equivalent degreeÓ and inserting Òdoctor of veterinary medicine or an equivalent degreeÓ; and

(3) in subsection (c)(3), by inserting Ò, or schools that offer graduate programs in clinical psychologyÓ after Òveterinary medicineÓ.

(b) Loan Provisions. Ñ Section 722 of the Public Health Service Act (42 U.S.C. 292b) is amended—

(1) in subsection (b)(1), by striking Òor doctor of veterinary medicine or an equivalent degreeÓ and inserting Òdoctor of veterinary medicine or an equivalent degree, or a graduate degree in clinical psychologyÓ; and

(2) in subsection (k) Òin the matter preceding paragraph (1), by striking Òor podiatryÓ and inserting Òpodiatry, or clinical psychologyÓ;Ó and

(2) in paragraph (4), by striking Òor podiatric medicineÓ and inserting Òpodiatric medicine, or clinical psychologyÓ.

By Mr. MOYNIHAN (for himself, Mr. CHAFEE, Mr. KENNEDY, and Ms. MOSELEY-BRAUN):

S. 121. A bill to amend the Internal Revenue Code of 1986 to provide for 501(c)(3) bond financing similar to governmental bonds, and for other purposes; to the Committee on Finance.

THE HIGHER EDUCATION BOND PARITY ACT

S. 122. A bill to amend the Internal Revenue Code of 1986 to correct the treatment of tax-exempt financing of professional sports facilities; to the Committee on Finance.

THE STOP TAX-EXEMPT ARENA DEBT ISSUANCE ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce two tax bills which I introduced together for the first time last summer. The two bills are both significant in their own rights. Yet, when taken together, they correct a serious misallocation of our limited resources under present law: a tax subsidy that injures largely to the benefit of wealthy sports franchise owners and their players would be replaced with increased for higher education and re-search.

The first bill, the Higher Education Bond Parity Act of 1997, has been introduced several times previously by this Senator, with several of my distinguished colleagues as cosponsors. It would undo what ought never have been done: the elimination of the Òprivate activityÓ label from the tax-exempt bonds of private, nonprofits higher education institutions and other organizations, and thereby eliminate the arbitrary $150 million cap on the amount of bond financing that such institutions may have ongoing.

The Tax Reform Act of 1986 imposed the Òprivate activityÓ label (and a $150 million cap) on bonds issued on behalf of nonprofit institutions, collectively known as section 501(c)(3) organizations. This was a serious error. The cap has relegated private, higher education institutions to a diminished, restricted status, relative to their public counterparts.

Already, this has caused observable, harmful effects on many of our Nationís leading colleges and universities.

Thirty-four of them presently are or will become less than $150 million in size, and unlike their public counterparts are precluded from using tax-exempt to finance classrooms, libraries, research laboratories, and the like. A few years ago, as the $150 million cap was growing in effect, a University of the University that ranked in the top 50 in research undertaking were private institutions.

Today, only 14 of those 19 private institutions remain in the top 50, and all but one are foreclosed form tax-exempt financing by the $150 million per institution limit.

We must act soon to restore the access of private colleges and universities to tax-exempt financing equal to that of their public counterparts. Otherwise, the vitality of our private institutions in higher education and research will be at risk. And we will lose a distinguishing feature of American society of inestimable value—the singular degree to which we have independent Òprivate universitiesÓ in the public service," to paraphrase the motto of New York University. This is no longer so in most of the democratic world; it never was so in the rest. It is a treasure and a phenomenon that has clearly produced excellence—indeed, the envy of the world—and it must be sustained.

The practical effect of the $150 million cap is to deny tax-exempt financing to large research-oriented educational institutions most in need of capital to carry out their research mission. This will have a predictable impact over a generation: the distribution of research institutions among the country will inevitably shift to public institutions. If I may use California as an example, we could look up one day and find Stanford to be still an institution of the greatest quality as an undergraduate teaching facility, but a fine law school and excellent liberal arts degree program—but with all the big science projects at Berkeley, the State institution.

By removing the Òprivate activityÓ label, this legislation will restore the parity of treatment of private nonprofit institutions and their public counterparts, and reinstate proper recognition in the tax code of the essential public purposes served by such private institutions.

The capital needs of private colleges and universities merit the close attention of this body. The cost of these changes is modest, given their importance. The staff of the Committee on Taxation has estimated the revenue loss previously at $308 million over 5 years. The Senate has twice passed legislation to remove the Òprivate activityÓ label and the $150 million bond cap—In the Family Tax Fairness, Economic Growth, and Health Care Access Act of 1992 (H.R. 4210) and the Revenue Act of 1992 (H.R. 11)—only to have both bills vetoed for other reasons by President Bush. We should correct this error before it is too late.

Mr. President, the second tax bill I introduce today—the Stop Tax-exempt Arena Debt Issuance Act (or STADIA for short)—was introduced by Senator Moynihan for the first time last summer. The bill has attracted the close scrutiny of bond counsel and their clients and has received much attention in the press almost all of which has been favorable.

Mr. Keith Olbermann, anchor of ESPNís Sportscenter program, even declared that the introduction of the bill was "paramount among all other sports stories last year. Mr. Olbermann's support for this legislation is so emphatic that he compared its author to Dr. J onas Salk. Passage of the bill, Mr. Olbermann says, is "the vaccine that * * * could conceivably at least towards the cure, if not cure immediately, almost all the ills of sports."

Mr. Olbermann is far too generous to this Senator, but he is right about the importance of this bill, both to sports fans and to taxpayers. This bill closes a big loophole, a loophole that ultimately injures State and local governments and other issuers of tax-exempt bonds, that provides an unneeded Federal subsidy (in fact, contravenes Congressional intent), that underwrites billion dollar buildings for professional sports franchises, and that contributes to the enrichment of persons who need no Federal assistance whatsoever.

A decade ago, I was much involved in the drafting of the Tax Reform Act of 1986. A major objective of that legislation was to simplify the Tax Code by eliminating a large number of loopholes that had come to be viewed as unfair because they primarily benefited certain groups of taxpayers. One of the loopholes we sought to close in 1986 was one that permitted builders of professional sports facilities to use tax-exempt bonds. Mind, we had nothing
against new stadium construction, but we made the judgment that scarce Federal resources could surely be used in ways that would better serve the public good. The increasing proliferation of tax-exempt bonds had driven up interest costs for their investment in schools, libraries, and other governmental purposes, led to mounting revenue losses to the U.S. Treasury, caused an inefficient allocation of capital, and allowed wealthy taxpayers to shield a growing amount of investment income from income tax by purchasing tax-exempt bonds. Thus, we expressly forbade use of “private activity” bonds for sports facilities, intending to eliminate tax-exempt financing of these facilities altogether.

Unfortunately, our effort in 1986 backfired. Team owners, with help from clever tax counsel, soon recognized that the change could work to their advantage. As columnist Nagi R. Pierce wrote recently, team owners “were not checked for long. They were soon exhibiting the gall to ask mayors to finance their stadiums with [governmental] bonds. . . . Congress did not anticipate this. After all, by law, governmental bonds used to build stadiums would be tax-exempt only if no more than 10 percent of the debt service is derived from stadium revenues. In other words, non-stadium governmental revenues (i.e., tax revenues, lottery proceeds, and the like) must be used to repay the bulk of the debt, freeing team owners to pocket stadium revenues. Who would have thought that local officials, in order to keep or get a team, would capitulate to team owners—granting concessionary stadium leases and committing limited government revenues to repay stadium debt, thereby hindering their own ability to provide schools, roads and other public investments?

The result has been a stadium construction boom unlike anything we have ever seen. In the last 6 years alone, 30 professional sports stadiums have been built or are in the planning stages. According to Prof. Robert Baade, an economist at Lake Forest College in Illinois and a stadium finance expert, the physical plants of the nation's 30 professional sports teams, or, would our scarce resources be put to better use for public needs, like higher education and research? To my mind, this is not a difficult choice. After all, these teams will invariably move to new stadiums in 30 metropolitan areas. He found no discernible positive impact on economic development in 27 of the areas, and a negative impact in the other 3. Any job growth that does result is extremely expensive.

The Congressional Research Service (CRS) points out, “Almost all stadium spending is spending that would have been made on other activities within the United States, which means that benefits to the nation as a whole are near zero.” After all, these teams will invariably locate somewhere in the United States, it is just a matter of where. And should the Federal taxpayers in the team’s current hometown be forced to pay for the team’s new stadium in the new city? The answer is unmistakably no.

The STADIA bill would save about $30 million a year now spent to subsidize professional sports. So I ask you once again this year, should we subsidize the commercial pursuits of wealthy team owners, encourage escalating player salaries, and underwrite bidding wars among cities seeking (or fighting to keep) professional sports teams, or, would our scarce resources be put to better use for public needs, like higher education and research? To my mind, this is not a difficult choice.

Finally, Federal taxpayers receive absolutely no economic benefit for providing this subsidy. As CRS points out, “The pride and presence of a professional football team is far more valuable than 30 libraries.” And I say that with all due respect to the learning process.”

Meanwhile, the City of Cleveland has agreed to construct a new, $225 million stadium to house an expansion football team. When Cleveland decided to move its team to Baltimore, the NFL agreed to create a new Cleveland football team with the same name: the Cleveland Browns. Most cities are not as fortunate when a team leaves.

We are even reaching a point at which stadiums are being abandoned before they have been used for 10 or 15 years. A recent article in Barron’s reports that this owner-perceived “economic obsolescence” has doomed even recently-built venues:

The eight-year-old Miami Arena is facing a future without its two major tenants, the Florida Panthers hockey team and the Miami Heat basketball franchise, because of inadequate seating capacity and a paucity of luxury suites. The Panthers have already cut a deal to move to a new facility that nearby Broward County is building for them at a cost of around $200 million. Plans call for Dade County to build a new $210 million arena before the end of the decade, despite the fact that the $200 million in local tax payers stuck with servicing the debt on two Miami arenas rather than just one.

How do taxpayers benefit from all this? They don’t. Ticket prices go way up—and stay up—after a new stadium opens. So while fans are asked to foot the bills through tax subsidies, many no longer can afford the price of admission. A study of sports ticket prices recently found that tickets prices rose by 32 percent in five new baseball stadiums, as compared to a major league average of 8 percent. Not to mention the refreshments and other concessions, which also cost more in new venues.

According to Barron’s, projects “cater largely to well-heeled fans, meaning the folks who can afford to pay for seats in glassed-in luxury boxes. While the suit-and-cell-phone crowd get all the best seats, the average taxpayer is consigned to ‘cheap seats’ in nosebleed land or, more often, for following his favorite team on television.”

Does stadium construction and sports teams create new jobs? It is just a matter of where. And should the Federal taxpayers in the team’s current home town be forced to pay for the team’s new stadium in the new city? The answer is unmistakably no.

The STADIA bill would save about $30 million a year now spent to subsidize professional sports. So I ask you once again this year, should we subsidize the commercial pursuits of wealthy team owners, encourage escalating player salaries, and underwrite bidding wars among cities seeking (or fighting to keep) professional sports teams, or, would our scarce resources be put to better use for public needs, like higher education and research? To my mind, this is not a difficult choice.

The Stadia bill would save about $30 million a year now spent to subsidize professional sports. So I ask you once again this year, should we subsidize the commercial pursuits of wealthy team owners, encourage escalating player salaries, and underwrite bidding wars among cities seeking (or fighting to keep) professional sports teams, or, would our scarce resources be put to better use for public needs, like higher education and research? To my mind, this is not a difficult choice.
in the Record following the bills and explanatory statements.

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

SEC. 2. TAX TREATMENT OF 501(c)(3) BONDS SIMILAR TO GOVERNMENTAL BONDS.

(a) IN GENERAL.—Section 150(a) of the Internal Revenue Code of 1986 (relating to definition and application of rules) is amended by striking paragraphs (2) and (4), by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively, and by inserting after paragraph (1) the following:

"(2) EXEMPT PERSON.—

"(A) IN GENERAL.—The term 'exempt person' means—

"(i) a governmental unit, or

"(ii) a 501(c)(3) organization, but only with respect to its activities which do not constitute unrelated trades or businesses as determined by paragraph (3) of section 513(a).

"(B) GOVERNMENTAL UNIT NOT TO INCLUDE FEDERAL GOVERNMENT.—The term 'governmental unit' does not include the United States or any agency or instrumentality thereof.

"(C) 501(c)(3) ORGANIZATION.—The term '501(c)(3) organization' means any organization described in section 501(c)(3) and exempt from tax under section 501(a).

(b) REPEAL OF QUALIFIED 501(c)(3) BOND DESIGNATION.—Section 145 of the Internal Revenue Code of 1986 (relating to qualified 501(c)(3) bonds) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) Section 145(b)(3) of the Internal Revenue Code of 1986 is amended—

(A) in subparagraphs (A)(i)(I) and (B)(i), by striking 'government use' and inserting 'exempt person use';

(B) in subparagraph (B), by striking 'a government use' and inserting 'an exempt person use';

(C) in subparagraphs (A)(ii)(I) and (B), by striking 'related business use' and inserting 'related private business use';

(D) in the heading of subparagraph (B), by striking 'government use' and inserting 'related private business use'; and

(E) in the heading thereof, by striking 'government use' and inserting 'exempt person use'.

(2) Section 141(b)(6)(A) of such Code is amended by striking 'a governmental unit' and inserting 'an exempt person'.

(3) Section 141(b)(7) of such Code is amended—

(A) in subparagraph (A), by striking 'government use' and inserting 'exempt person use';

(B) in subparagraph (B), by striking 'a governmental use' and inserting 'an exempt person use';

(C) by redesigning subsection (e) as subsection (f) and by inserting after subsection (d) the following:

"(e) CERTAIN ISSUES USED TO PROVIDE RESIDENTIAL RENTAL HOUSING FOR FAMILY UNITS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), in purposes of this title, the term 'private activity bond' includes any bond issued as part of an issue if any portion of the net proceeds of the issue are to be used (directly or indirectly) by an exempt person described in section 150(a)(2)(A)(ii) to provide residential rental property for family units.

"(2) EXCEPTION FOR BONDS USED TO PROVIDE QUALIFIED RESIDENTIAL RENTAL PROJECTS.—

(1) Paragraph (3) shall not apply to any bond issued as part of an issue if the portion of such proceeds which would be such a bond if issued in paragraph (1) is to be used to provide—

"(A) a residential rental property for family units if the use of such property is pursuant to such issue,

"(B) qualified residential rental projects (as defined in section 142(d)), or

"(C) property which is substantially rehabilitated in a rehabilitation beginning within the 2-year period ending 1 year after the date of the acquisition of such property.

"(3) SUBSTANTIAL REHABILITATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), rules similar to the rules of section 47(c)(1)(C) shall apply in determining for purposes of paragraph (2)(C) whether property is substantially rehabilitated.

"(B) EXCEPTION.—For purposes of subparagraph (A), clause (ii) of section 47(c)(1)(C) shall not apply, and paragraph (2)(C) may extend the 24-month period in section 47(c)(1)(C)(i) where appropriate due to circumstances not within the control of the owner.

"(4) CERTAIN PROPERTY TREATED AS NEW PROPERTY.—So long as purposes of determining under paragraph (2)(A) whether the 1st use of property is pursuant to tax-exempt financing—

"(i) the 1st use of property is pursuant to taxable financing,

"(ii) there was a reasonable expectation (at the time such taxable financing was provided) that such financing would be replaced by tax-exempt financing, and

"(iii) the taxable financing is in fact so replaced within a reasonable period after the taxable financing was provided, then the 1st use of such property shall be treated as being pursuant to the tax-exempt financing.

"(B) SPECIAL RULE WHERE NO OPERATING STATE OR LOCAL PROGRAM FOR TAX-EXEMPT FINANCING.—If, at the time of the 1st use of property, there is no operating state or local program for tax-exempt financing of the property, the 1st use of the property shall be treated as pursuant to the 1st tax-exempt financing of the property.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) TAX-EXEMPT FINANCING.—The term 'tax-exempt financing' means financing provided by tax-exempt bonds.

"(ii) TAXABLE FINANCING.—The term 'taxable financing' means financing which is not tax-exempt financing.

(7) Section 141(f) of such Code, as redesignated by paragraph (6), is amended—

(A) at the end of subparagraph (A), by adding 'or';

(B) at the end of subparagraph (F), by striking '' or '' and inserting a period; and

(C) by striking subparagraph (G).

(8) The last sentence of section 141(b)(1) of such Code is amended by striking ''determined' and all that follows to the period.

(9) Section 141(c)(2)(C)(ii) of such Code is amended by striking ''a governmental unit'' and inserting ''an exempt person''.

(10) Section 141(g) of such Code is amended—

(A) by striking paragraph (2);

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

(C) by striking ''Paragraph (4)'' and inserting ''Paragraph (3)''.

(11) The heading of section 146(k)(3) of such Code is amended by striking ''GOVERNMENTAL USE'' and inserting ''EXEMPT PERSON''.

(12) The heading of section 146(m) of such Code is amended by striking ''GOVERNMENT'' and inserting ''EXEMPT PERSON''.

(13) Section 146(b)(7)(A) of such Code is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(14) Section 147(h) of such Code is amended to read as follows:

"(h) CERTAIN RULES NOT TO APPLY TO MORTGAGE REVENUE BONDS AND QUALIFIED PRIVATE ACTIVITY BONDS.—(A) Section 1001(c)(3) bonds and such bonds issued by a governmental unit or a 501(c)(3) organization after paragraph (1) the following:

"(1) I N GENERAL.—Except as provided in subparagraph (B), rules similar to the rules of section 47(c)(1)(C) shall apply in determining for purposes of paragraph (2)(C) whether property is substantially rehabilitated.

"(B) EXCEPTION.—For purposes of subparagraph (A), clause (ii) of section 47(c)(1)(C) shall not apply, and paragraph (2)(C) may extend the 24-month period in section 47(c)(1)(C)(i) where appropriate due to circumstances not within the control of the owner.

"(12) The heading of section 146(k)(3) of such Code is amended by striking ''GOVERNMENTAL USE'' and inserting ''EXEMPT PERSON''.

"(13) Section 147(b) of such Code is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

"(14) Section 147(h) of such Code is amended to read as follows:

"(h) CERTAIN RULES NOT TO APPLY TO MORTGAGE REVENUE BONDS AND QUALIFIED PRIVATE ACTIVITY BONDS.—(A) Section 1001(c)(3) bonds and such bonds issued by a governmental unit or a 501(c)(3) organization after paragraph (1) the following:

"(1) I N GENERAL.—Except as provided in subparagraph (B), rules similar to the rules of section 47(c)(1)(C) shall apply in determining for purposes of paragraph (2)(C) whether property is substantially rehabilitated.

"(B) EXCEPTION.—For purposes of subparagraph (A), clause (ii) of section 47(c)(1)(C) shall not apply, and paragraph (2)(C) may extend the 24-month period in section 47(c)(1)(C)(i) where appropriate due to circumstances not within the control of the owner.

"(12) The heading of section 146(k)(3) of such Code is amended by striking ''GOVERNMENTAL USE'' and inserting ''EXEMPT PERSON''.

"(13) Section 147(b) of such Code is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

"(14) Section 147(h) of such Code is amended to read as follows:

"(h) CERTAIN RULES NOT TO APPLY TO MORTGAGE REVENUE BONDS AND QUALIFIED PRIVATE ACTIVITY BONDS.—(A) Section 1001(c)(3) bonds and such bonds issued by a governmental unit or a 501(c)(3) organization after paragraph (1) the following:

"(1) I N GENERAL.—Except as provided in subparagraph (B), rules similar to the rules of section 47(c)(1)(C) shall apply in determining for purposes of paragraph (2)(C) whether property is substantially rehabilitated.

"(B) EXCEPTION.—For purposes of subparagraph (A), clause (ii) of section 47(c)(1)(C) shall not apply, and paragraph (2)(C) may extend the 24-month period in section 47(c)(1)(C)(i) where appropriate due to circumstances not within the control of the owner.

"(12) The heading of section 146(k)(3) of such Code is amended by striking ''GOVERNMENTAL USE'' and inserting ''EXEMPT PERSON''.
thereof were not an exempt person" after "tax-exempt bond"; (C) by striking subparagraph (B) and inserting the following: "(B) CERTAIN BONDS NOT TREATED AS PRIVATE ACTIVITY BOND—if such bond meets the requirements of subparagraph (A) and if the bond is issued with respect to the acquisition of property to be used by such organizations, (ii) before such bond is issued, a demand survey was conducted which shows a demand for financing greater than an amount equal to 120 percent of the lendable proceeds of such issue; and (iii) before such bond is issued, the proceeds thereof were not an exempt person unless such bond satisfies the requirements of subsections (b) and (f) of section 147."

Footnotes at end of article.
The amendments made by this section shall not apply to bonds—

(A) the proceeds of which are used for—

(i) the construction or rehabilitation of a facility that is an indoor arena for professional athletes, and

(ii) the acquisition of a facility pursuant to a State or political subdivision thereof before June 14, 1996, and

(B) which are the subject of an official action taken by relevant government officials before June 14, 1996—

(i) approving the issuance of such bonds, or

(ii) approving the submission of the approval of such issuance to a voter referendum.

(3) EXEMPTION FROM CONSTRUCTION OR REHABILITATION ACT

The provision is generally effective for bonds issued before June 14, 1996. The provision does not apply to bonds the proceeds of which are used exclusively to refund a qualified bond (or a bond which is a part of a series of refundings of a qualified bond) if—

(A) the amount of the refunding bond does not exceed the outstanding principal amount of the refunded bond,

(B) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bond to be refunded (other than a series of refundings of a qualified bond) if—

(i) the net proceeds of the refunding bond are used to refund the refunded bond not later than 90 days after the date of the issuance of the refunding bond, and

For purposes of clause (ii), average maturity shall be determined in accordance with section 147(b)(2)(A) of the Internal Revenue Code of 1986.

(B) QUALIFIED BOND.—For purposes of subparagraph (A), the term "qualified bond" means any tax-exempt bond to finance a professional sports facility (as defined in section 141(e)(3) of such Code, as added by subsection (a)) issued before the first date of committee action.

THE STOP TAX-EXEMPT ARENA DEBT ISSUANCE ACT

Present Law

Interest on State and local governmental bonds generally is excluded from income if the proceeds of such bonds are used exclusively to finance activities of these governments (sec. 103). Interest on bonds issued by these governments to finance activities of other persons, e.g., private activity bonds, is taxable unless the bonds satisfy certain requirements. Private activity bonds must be within certain state-wide volume limitations, must not violate any of the applicable restrictions, and must finance activities within one of the categories specified in the Code. The
Tax Reform Act of 1986 repealed the private activity bond category for sports facilities; therefore no private activity bonds may be issued for this purpose.

Bond proceeds that are intended to finance public-use infrastructure improvements are tight everywhere, leaving schools and so-called "public" universities stuck with servicing the debt on facilities that are being scrapped is crazy. For the average taxpayer is consigned to a religious experience as they'll ever get. For some fans, cheering along with the masses to watch teams perform under the dome for San Francisco's Giants. For the average sales, advertising and sports facility revenues from parking fees, food and beverages, and ticket sales, private suites and club seats, and concessions.

Public use infrastructure improvements that connect to larger public-use systems, such as highway access ramps and sewer and water connections, are not intended to be subject to the bill. Thus, bonds issued to finance such improvements would not qualify for tax-exempt bond financing.

A professional sports facility is defined to include real property and related improvements which are used for professional sports exhibitions, games, or training, whether or not owned by a public or private entity. In addition, a facility that is used for a purpose other than professional sports will nevertheless be treated as being used for professional sports if the facility generates a direct or indirect monetary benefit (other than reimbursement for out-of-pocket expenses) for a person who uses the facility for professional sports. These benefits are intended to include interest in revenues from parking fees, food and beverage sales, advertising and sports facility naming rights, television rights, ticket sales, private suites and club seats, and concessions.

Public use infrastructure improvements that connect to larger public-use systems, such as highway access ramps and sewer and water connections, are not intended to be subject to the bill. Thus, bonds issued to finance such improvements would not qualify for tax-exempt bond financing. Improvements which generate a direct or indirect monetary benefit for a person who uses the facility for professional sports are meant to be covered by the bill if not otherwise subject to the bill. If a professional sports team owner receives revenues from the use of a parking garage, the garage is not eligible for tax-exempt financing under the bill.

The bill does not apply to bonds issued to finance professional sports facilities if actual construction or rehabilitation of the facility began prior to June 30, 1986, or if a State or political subdivision had entered into a binding contract prior to that date to construct, rehabilitate or acquire the facility. The bill does not apply to bonds issued to finance professional sports facilities if a State or political subdivision thereof has completed all necessary governmental approvals for the issuance of such bonds. The bill does not apply to bonds issued to finance professional sports facilities if a State or political subdivision thereof had entered into a binding contract prior to that date to construct, rehabilitate or acquire the facility. The bill does not apply to bonds issued to finance professional sports facilities if a State or political subdivision thereof had entered into a binding contract prior to that date to construct, rehabilitate or acquire the facility. The bill does not apply to bonds issued to finance professional sports facilities if a State or political subdivision thereof had entered into a binding contract prior to that date to construct, rehabilitate or acquire the facility.
January 21, 1997

The new stadiums befit the crass commer-
cialism and endless cross-marketing of the
current business era. The games themselves are
almost submerged in a sea of collateral activities,
cloud courts, sports bars, interactive game rooms,
private clubs and sports-merchandise stores. Inside
the arenas, there are intrusive Jumbotron video
systems and an entertainment show in skyboxes,
which run as high as $250,000 a year at Boston's
Fleet Arena, where the Celtics and Bruins now
play. No amount of going upscale. Corporations
like United Airlines, BancOne and Coors buy the
rights to put their names on stadium suites for
more than $2 million a year in some instances. The
senseless overload of advertising signage is
disturbing, to say the least. No area is sacrosanct,
including the wall in the interior of the Inter-
tional Basketball Association are now mint-
ing advertising revenues by selling ads that
silently scroll on computer-controlled sign-
boards at centercourt.

The Portland Trail Blazers, owned by
Microsoft billionaire Paul Allen, have taken
high-tech amenities to an as-yet-unsurpassed level.
A couple of the club seats feature fiber-optic wir-
ing allowing spectators to play music, order
food or punch up replays on their own video
screen. Plans to allow fans to type in requests
with online kiosks that will hawk computer hard-
ware and software.

Team owners say that enhanced reven-
es are essential for acquiring or retaining
top athletes in the high-stakes world of pro-
fessional sports. But there is another factor
at work. Unlike fees paid by television net-
works and general-admission revenues, a sta-
dium's income from premium seats, conces-
sions, stadium advertising, parking and the
like generally doesn't have to be shared with
other teams, or the public.

Yet both the NFL and NBA have attempted
to institute some controls on players' sala-
ries by establishing league-wide team salary caps.
And linkage has been established between
the size of team payrolls and performance
in baseball and hockey. Otherwise, the New York Yankees of the past two dec-
ades, with their bloated salary structure,
might have enjoyed the dominance of the
Yankee dynasties of yore.

Even within the league, the arms race
seems only to be intensifying. Even teams in
leagues with salary cap claims to need addi-
tional stadium revenues because the teams with the
highest television fees keep enjoying the
averages upon which the caps are based.

"This is certainly true in the NBA, where
top-grossing teams like the Bulls, the Knicks
and the Lakers are creating problems for the
best 45,000 seats. The $70 million or so in pro-
fessionalism and endless cross-marketing of the
herit a stadium already loaded with
live sports-merchandise stores. Inside the arenas,
the arena, changed the entire economics of in-
door venues following its opening in 1988.

A few obstacles could block this torrent of
promising stadium deals. Of greatest mo-
ment, perhaps, is a bill that was introduced two
months ago by Sen. Daniel Patrick Moyn-
ihan (D-N.Y.) that would outlaw tax-ex-
empt bond financing for professional sports
facilities. He argues that this tax exemption in
effect constitutes a subsidy by federal tax-
payers that largely enriches team owners and
has no legitimate public purpose.

Even Moynihan concedes that the proposal
has no chance of passing in the current ses-
sion of Congress. Nor are the bill's prospects
next year very bright. The U.S. Council of
Mayors and other lobbying organizations
have already mounted a jihad against the
measure. And it doesn't hurt that profes-
sional sports franchises are angling for a new
centre in the complex.

George Steinbrenner wants out of the
Bronx. One month he is rumored to be look-

The Ravens will be able to keep all sta-
dium revenues from the luxury suites, premi-
umphases of the facility.

Ravens' franchise value will appreciate some
first season in the new stadium (1998), the
"Maryland throws the bomb."

The total package of the stadium construc-
tion includes a theme park in the complex.
Ravens to sell team merchandise.

Carl Lebk不论是 the "{
\textit{plateau of the new facility.}

Nonetheless, the bill has temporarily cast
a pall over certain stadium plans that are
certain to make news in the next few months.
The bill might someday pass in its current form.
Particularly vulnerable would be new football

CONGRESSIONAL RECORD — SENATE
S505
and baseball stadiums. They almost always require some tax-exempt financing because of their high price tags—$200 million and up. John Gillespie, a managing director of Bear Stearns, notes that facility banks have realized that at current spreads, the cost of the typical stadium proposal would rise by 15% to 20% if public authorities were forced to switch to the taxable market. Says Gillespie: “Clearly, a number of stadium deals wouldn’t fly under these circumstances because even on a tax-exempt basis, they were pushed to the taxable public-debt market.”

Ironically, past attempts by Congress to curb the use of tax-exempt financing for sports stadiums have only exacerbated the problem. The Tax Reform Act of 1986, for example, declared that public financings of stadiums would lose their tax-exemption if more than 10% of the revenues earned by the facility were subsequently used to service the construction debt.

Rather than quashing such activity, the structure left municipalities even more at the mercy of team owners. To retain local franchises, public officials were compelled to tap revenue streams other than the stadium to back construction debt. As a result, bonds are backed by general revenue sources as diverse as state lotteries, sales taxes, hotel and motel occupancy impose, car-rental fees and alcohol and tobacco taxes.

The balance of power has shifted so dramatically in recent years that public stadium authorities consider themselves fortunate if pro sports teams pay enough rent to cover the operating costs of the facility, let alone contribute anything to debt service.

“The new structure is inequitable in that it forces broad categories of people in a given area to finance a facility that only benefits fans, team owners, and athletes,” asserted Dennis Zimmerman, an economist at the Library of Congress’ Congressional Research Service, whose study on the subject of tax-exempt stadium financing helped spur the Moynihan bill. “Certainly federal taxpayers receive no benefits for granting this subsidy.”

Cities try to make new stadiums more palatable to their electorates by offering up “economic impact” studies showing the gains in regional income and employment that the project will produce. The financial benefits trumpeted in such studies are so humongous that they dwarf the multi-million-dollar costs of the sport palaces seems almost trivial by comparison.

The University of Cincinnati Center for Economic Education concluded last January, for example, that the $540 million project to build a new football stadium and a new baseball stadium in Cincinnati would generate more than $3.1 billion in economic activity. In subsequent years, the study said the Cincinnati area could count on $73 million annually in added spending by local consumers, $4.3 million in payroll and $15.2 million per year in local spending by out-of-town fans.

But such impact studies are often flawed. Stanford University economist Roger Noll points out that the majority of fans attending games come from within a 20-mile radius of the venue. Any money they end up dropping at the stadium should likely be spent on other modes of local recreation or entertainment. Americans, after all, spend virtually all their income anyway. This “substitution effect” means that stadiums may actually represent very little, if any, net economic gain to local businesses.

The studies are rife with the multiplier or ripple effect of fan spending. They assert that all the munificence earned by the players, owners and concessionaires is then spread to the taxpaying public. Says Bear Stearns’ economist Robert Baade argues that the money frequently doesn’t stay put and that this “leakage” can actually have a negative impact on local economies. Incredulous, Baade’s economic models indicating that in some 36 instances new stadiums had a non-existent or even negative impact on local job and income growth.

Few stadium projects have been as projected at the Gateway Development in Cleveland. The site encompasses two new facilities, including the Indians’ Jacobs Field, with its retro charm, and the Cavaliers’ sleek Gund Arena. The two new venues draw sellout crowds totaling five million fans a year, and they are credited with having sparked a revival in the once-sagging fortunes of downtown Cleveland. But as the Indians streak toward their second straight division title, one might wonder that the halo effect of having a new stadium seems to be diminishing. Brian Mccough, a J.P. Morgan investment banker involved in stadium deals, reports that a reduction in attendance is likely, one of the five counties that will contribute tax revenues for the Milwaukee Brewers’ new stadium.

Nonetheless, new stadium projects seem to have a dynamic that is, in all consider- ations of economic prudence and taxpayer unrest. For when all else fails, public officials invariable justify their reflexive resort to the public purse by prattling on about pro sports’ positive impact on civic pride and quality of life.

Perhaps new stadium appeals to some deeply-rooted edifice complex—the plaque on the wall of the venue conferring a measure of immortality to the politicians who built it. Maybe it’s true that without a vibrant pro sports scene, many fans would continue to flock to the ballparks in their headquarters in certain cities. Or possibly the local citizenry walk just a little taller in burglars that are genuinely big league.

Whatever the case, the surge in popularity of pro sports is a worldwide phenomenon. So- cial scientists advance in all kinds of theories to explain the boom. Increasing job specialization is deemed to have robbed modern man of satisfaction in his workaday world, forcing him to turn to sports for tangibility of results. Others commentators claim that pro athletes have become proxies for acting out the aggressions of increasingly alienated populations around the globe.

Rand Araskog, chairman of ITT Corp., ob-viously believes in a bright future for pro sports and franchise values. ITT teamed up with Cablevision in 1994 to buy Madison Square Garden, the New York Knicks and the Rangers from Viacom for $1 billion. The operation’s cash flow has burgeoned since.

According to Araskog and ITT President Robert Bowman, a merger wave is certain to propel the pro sports boom. More and more media and entertainment companies are buying pro sport franchises because they af- ford relatively cheap and compellingly dra- matic programming. ComCast and Walt Dis- ney are merely the most recent corporate en- trants. Women are increasingly hooked on pro sports, as a result of federal laws that re- quire schools to spend equal amounts of men’s and women’s sports.

As for international interest, the National Basketball Association is the first professional pro league in the U.S. to catch the worldwide tidal wave. Others will follow. And finally, technology, with its proliferation of sports delivery mechanisms and promising promise of eventually bringing the playing field into the living room, will only enhance the appeal.

Bear Stearns’ Gillespie goes so far as to predict that pro sports franchises will double in value in the next five to six years. One can only hope he’s right. Maybe then team owners will stop hitting up taxpayers for new stadiums and pay the freight themselves.

Costly Building Boom

More than $4 billion has been spent on sports arenas, with $7 billion more expected.

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Picking up the Tab for Fields of Dreams: Taxpayers Build Stadiums; Owners Cash In

By Leslie Wayne

WASHINGTON.—In Baltimore, the Ravens, former owners of the Cleveland Browns, are contributing to a $200 million football stadium to be built on their behalf. Nashville has lured the Oilers from Houston with the promise of a sparkling new $389 million stadium. In New York, there is talk of a new ball-park for the Yankees, while discussion continues about replacing venerable Tiger Stadium in Detroit and Fenway Park in Boston, both now celebrating their 90th anniversaries.

But even as multimillion-dollar sports places are being proposed for assorted Bears, Bengals, Hawks, Vikings and other professional teams, a lot of people in Washington would like to clamp down on lucrative public subsidies that they contend do much more to help already-wealthy professional sports team owners than the communities that support the teams.

Senator Daniel Patrick Moynihan, a New York Democrat, has fired the opening shot by introducing legislation to end the use of tax-free dollars to build sports stadiums. But, reports that the ball is in the hands of the Senate, Mr. Moynihan admits his measure has no chance of being enacted this year. Still, that has not stopped him from vigorously arguing that Federal tax dollars would be better devoted to public needs like higher education, local governments have had to raise taxes, and the new Comiskey Park in Chicago is just a few of many. To pay off this debt, local governments have had to raise taxes, tap lottery proceeds or use other public revenues. And since the tax-exempt stadium revenues from being used to pay off any tax-free, stadium-related debt, a bizarre situation has developed. The municipality is often forced to cut back on city services. The team owner virtually alone gets the revenues from the stadium. Under the tax code, only a small portion of the stadium revenue and lease payments—less than 10 percent—can be drawn on by municipalities to repay tax-free stadium debt.

Some of the newest, and most stylish, stadiums rely exclusively on public debt: Camden Yards and Ravens Stadium in Baltimore and the new Comiskey Park in Chicago are just a few of many. To pay off this debt, local governments have had to raise taxes, tap lottery proceeds or use other public revenues. The new stadiums, like the indoor America West Arena in Phoenix, were built as public-private partnerships, with some construction costs footed by the team owner; it also guaranteed the team owner all debt payments, all $4 billion in public debt for stadiums has been issued since 1990.

Team owners, to bring their franchise to town or to be persuaded to stay put, are demanding not just new and bigger stadiums, but more ways to make money from them: luxury skyboxes that rent for $50,000 to $200,000 a year; personal seat licenses, which are options bought by ticket holders to insure season tickets in perpetuity; new tiers of “club seating,” the cost more than regular seats, and there are “pouring rights,” which are paid by beverage companies to peddle their beers and soda; more “tomtom” space to sell advertising, and bigger car-parking concessions.

“We thought we shut down public financing to private sports stadiums in 1986,” said Senator Byron L. Dorgan, a Democrat from North Dakota who is a supporter of the Moynihan measure. “Now a decade later, we see that the only remaining healthy public housing is made for teams by teams.”

Brian McCough, who specializes in stadium finance, explained the unintended consequences of the legislation; “Congress forced public officials back into the arms of team owners. It was a sea change difference.”

The effect of these changes has been to give team owners more financial leverage in bargaining with local governments. And experts say the new-found riches from stadium deals, television contracts and other sources have been an important factor in the escalating salaries in professional sports. When some team owners have more cash in hand, they bid up everyone’s prices for top players—witness the $98 million, seven-year contract for the basketball player J. W. Howard to join the Miami Heat or the $212 million, seven-year contract for Shaquille O’Neal to move to the Los Angeles Lakers.

“A lot of these financial benefits flow to the talent because talent is key, especially in basketball,” said Mr. Richard, the Chicago lawyer. “Look at the Chicago Bulls. You are seeing a $25 million raise for Michael Jordan and millions for others. They say that this is creating the necessity for a new stadium because they need the skybox revenues to pay for the players. When you see all these salaries, and the new stadiums, what is the cause and what is the effect?”

More troubling to critics is the evidence that the money spent on stadiums provides few economic benefits to the surrounding community. Indeed, several studies indicate that communities could benefit more if they left the money local tax-payers hundreds of millions of dollars a year, were spent on other forms of economic development.

“The economic research on whether these stadiums provide benefits for state and local taxpayers suggest that they do not,” said Dennis Zimmerman, author of a Congressional Research Service report on stadium financing. “There are a lot more productive things that state and local governments could have done with this money.”

Mr. Zimmerman, using data the State of Maryland offered in making the case for building the Ravens new stadium, found that more jobs could be created by investing the same $177 million in the state’s “Sunny Day” economic development fund. He also concluded that in investing the money in local governments saved by issuing tax-free municipal bonds to build these stadiums ended up costing Federal taxpayers more than the local benefit.

“It would be cheaper for the Federal Government to just give a subsidy for these stadiums,” Mr. Zimmerman concluded.

Robert Baade, an economist at Lake Forest College, is one of the strongest critics of
the present system. "The distribution of income and benefits is skewed: The owners and the players get the lion's share," Mr. Baade said, "if I've raised taxes to finance a stadium, I can't argue that every dollar of that stadium is a boon to the economy."

Opponents of Mr. Moynihan's measure argue that eliminating tax-free dollars for sports stadiums would take decision-making away from local officials and increase the costs to municipalities by forcing them to borrow in the taxable markets. Indeed, the only way some of these stadiums can be built, they say, is with lower-cost public debt. Football stadiums, in particular, could become endangered, since they often cost as much as $200 million, yet may be used for only eight to 10 games a year, making it hard to generate enough revenues to repay the debt.

"A stadium is not conceptually different from a lot of other public projects," said Micah Green, the Washington lobbyist for the Public Securities Association, a trade group representing the municipal bond industry. "If cities and states decide to raise taxes to pay for these stadiums, then that's O.K. That makes it a governmental bond. The local decision of the electorate is the best test."

Sometimes, however, local sentiment has to be disregarded. Stadium bonds can not be passed by only two votes amid controversy in the Maryland Senate. Cincinnati voters approved two new stadiums to replace Riverfront Stadium only after a hard-fought campaign by downtown boosters. In Nashville, opponents forced the city's first-ever bond referendum before the new Oilers stadium can be built.

Six local government organizations, including the United States Conference of Mayors and the National League of Cities, sent a letter to Mr. Moynihan arguing against his proposal. "It is simply not good public policy to constrain local flexibility in deciding what projects to undertake on a tax-exempt basis," the letter said.

Cathy Spain, the Washington lobbyist for the Government Finance Officers Association, said her group opposes the strict restrictions that preclude the use of stadium-related revenues from repaying municipal debt. Ms. Spain said the association's warnings to Congress about the problem went unheeded when the tax act was changed in 1986. Now, she said, her group would like to allow, say, 25 percent of stadium revenues to be diverted to municipalities instead of team owners.

Stadium financing experts say that regardless of the economics, the lure of professional sports is so strong that politicians and communities will still seek to attract and keep the limited number of sports teams available. And what about cities that just say no? They may be better off in purely economic terms, but still left with an empty feeling.

"St. Louis lost the football Cardinals to Phoenix, but they're still trying to build a new stadium," said James Gray, assistant director at the National Sports Law Institute in Milwaukee. "Now they are paying triple to keep out of this city."

The Brewers may be better off in purely economic terms. The current grade to Major General in the active, reserve and guard components of the military. This level of responsibility certainly supports the need to change the grade for the Chief Nurses which would insure that they have a seat at the corporate table of policy and decision making.

There has been much discussion about the so-called glass ceilings that unfairly impact the ability of women to achieve the same status as their male counterparts. We do not want to make this a gender-discrimination issue, the reality is that military nurses hit two glass ceilings: one as a nurse in a physician-dominated health care system and one as a woman in a male-dominated military system. The simple fact is that organizations are best served when the leadership is composed of a mix of specialty and gender groups—of equal rank—who bring their unique perspectives to the corporate executive table.

For military nurses, the two-star level of general officer Chief Nurse will insure that nurses indeed get to the corporate executive table. I strongly believe that it is very important, and past time, that we recognize the extensive scope and level of responsibility the military Chief Nurses have and make sure that future military health care organizations will recognize their expertise and unique contributions.

Mr. President, I request unanimous consent that the text of this bill be printed in the CONGRESSIONAL RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 123

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

SECTION 1. INCREASED GRADE FOR HEADS OF NURSE CORPS.

(a) ARMY.—Section 5150(b) of title 10, United States Code, is amended by striking out "brigadier general" in the second sentence and inserting in lieu thereof "major general".

(b) NAVY.—The first sentence of section 5150(c) of such title is amended by—

(1) by inserting "rear admiral (upper half)" in the case of an officer in the Nurse Corps or in the case of an officer in the Medical Service Corps after "rear admiral (lower half)";

(2) by inserting "in the case of an officer in the Medical Service Corps" after "rear admiral (lower half)";

(c) AIR FORCE.—Section 8093(b) of such title is amended by striking out "major general" in the second sentence and inserting in lieu thereof "major general".

[From ESPNET Sports Zone, ESPN Studios] YOUR TAX DOLLARS IN ACTION—FOR REAL

(Keith Olbermann)

The biggest sports story of the week got about as big as possible. Legislation has been introduced in the U.S. Senate that would cripple so-called "Fran-
January 21, 1997

CONGRESSIONAL RECORD – SENATE

S509

By Mr. Gramm (for himself, Mr. Mack and Mrs. Hutchinson):
S. 124. A bill to invest in the future of the United States by doubling the amount authorized for basic science and medical research; to the Committee on Labor and Human Resources.

Mr. Gramm. Mr. President, in 1965, 5.7 percent of the federal budget was spent on non-defense research and development. By 1997, two years after that figure dropped by two-thirds to 1.9 percent. In no year since 1970 has the United States spent as large a percentage of its GDP on non-defense research and development as Japan or Germany. Unfortunately, recent signs point to this situation becoming worse rather than better. From 1992 through 1995, for the first time in 25 years, real federal spending on research declined for 4 straight years. If we don’t restore the high priority once afforded science and technology in the federal budget and increase federal investment in research, it will be impossible to maintain the United States’ position as the technological leader of the world.

As a nation, we have an interest in the nation and the private sector. Investing in basic science and medical research can provide much needed help to all our technology companies without giving any single company a special advantage over its competitors. Our goal should be to raise all the boats in the harbor, not just the ones belonging to the politically well-connected.

The United States simply does not spend enough on basic research. This bill would double the amount spent by the federal government on non-defense research over ten years in a dozen agencies, programs, and activities, from $32.5 billion in FY 1997 to $65 billion in FY 2007, making sure that within the decade described in the National Institutes of Health would double from $12.75 billion to $25.5 billion. At the same time, in order to be sure the increase in funding is spent wisely, the bill gives priority to investments in basic science and medical research in order to develop new scientific knowledge which will be available in the public domain. The legislation does not allow funds to be used for the commercialization of technologies, and allocates funds using a peer review system. Expanding the nation’s commitment to basic research in science and medicine is a critically important investment in the future of our Nation.

Mr. Moynihan (for himself and Mr. D’Amato):
S. 125. A bill to provide that the Federal medical assistance percentage for any State or territory shall not be less than 60 percent; to the Committee on Finance.

FEDERAL MEDICAL ASSISTANCE LEGISLATION

Mr. Moynihan. Mr. President, I rise today to introduce a bill, cosponsored by Senator D’Amato, to revise the formula for determining the Federal Medical Assistance Percentage. Medicaid services and associated administrative costs are financed jointly by the Federal government and the States. The formula for the Federal share of Medicaid costs, known as the Federal Medical Assistance Percentage (FMAP), was established when Medicaid was created as part of the Social Security Amendments of 1965. The Federal share of administrative costs is 50 percent for all States, thus higher rates are applicable for specific items.

The FMAP is an exotic creature, derived from the Hill-Burton Hospital Survey and Construction Act of 1946, specifically designed to provide a higher Federal matching rate for States with lower per capita income. Rather than comparing per capita income directly, the HILL-BURTON formula is designed to exaggerate the differences between States’ per capita income. A State which has a Federal Medical Assistance Percentage of 50 percent will only receive $1 for every $2 the State spends. This inequity has existed for over 50 years. It is time for change.

The bill I introduce today would change the minimum FMAP from 50 percent to 60 percent. A modest proposal. As I mentioned before, there are 13 States and the District of Columbia which receive 50 percent. An additional 14 States have an FMAP between 50 and 60 percent. All other States get more.

The Finance Committee passed this measure as part of its Budget Reconciliation Recommendations in 1995 but it never became law.

This legislation gives high cost States such as New York the flexibility to realize savings without cost to the Federal government. It does not propose to change the amount of Federal funds such States receive. With an FMAP of 50 percent, a State receiving $1000 in Federal funds would be required to match it with $1000. With a 60 percent FMAP, the same State would still receive $1000 in Federal funds but would only be required to put up $667, a one-third reduction in the amount of State money required.

Allocation formulas are designed to target Federal funds to States according to need. The FMAP does not. The savings realized by a 60 percent minimum would provide some relief for States with low matching rates and would make the FMAP a bit less regressive. Adjusted for the cost-of-living, New York has the fifth highest poverty rate in the nation. Yet it has an FMAP of 50 percent. Arkansas has the 24th highest poverty rate, yet has an FMAP of 73.29. Our current formula is a regressive one that needs repair.

I urge my colleagues to support this measure. 

By Mr. Inouye:
S. 126. A bill to amend title VII of the Public Health Service Act to revise and extend certain programs relating to physical therapy and occupational education.

PHYSICAL THERAPY AND OCCUPATIONAL THERAPY EDUCATION ACT OF 1997

Mr. Inouye. Mr. President, today, I am introducing The Physical Therapy and Occupational Therapy Education Act of 1997. This legislation will assist in educating physical therapy and occupational therapy practitioners to meet the growing demand for the valuable services they provide in our communities.

In its most recent report, the Department of Labor projects that two industries will experience the highest rate of growth over the next decade. According
to the Bureau, between 1994 and 2005 the increase in demand will create a need for 81,000 additional physical therapists, an 80 percent increase over 1994 figures. Demand for physical therapist assistants is expected to grow at an even faster rate, experiencing an 83 percent increase over the same time period.

The Bureau also predicts increasing demand for practitioners in the field of occupational therapy. Between 1994 and 2005 the increase in demand will create a need for 39,000 occupational therapists, a 72 percent increase over 1994 figures. Demand for occupational therapist assistants is projected to experience an 82 percent increase over the same time period.

Several factors contribute to the present need for Federal support in this area. The rapid aging of our nation’s population, the demands of the AIDS crisis, increasing emphasis on health promotion and disease prevention, and the growing capacity of the health care system have outpaced our ability to educate an adequate number of physical therapy and occupational therapy practitioners. In addition, technological advances are allowing injured and disabled individuals to survive conditions that in the past would have proven fatal.

America’s inability to educate an adequate number of physical therapists and occupational therapists has led to an increased reliance on foreign-educated, non-immigrant temporary workers (H-1B visa holders). The U.S. Commission on Immigration Reform has identified the physical therapy and occupational therapy fields as having among the highest number of H-1B visa holders in the U.S., second only to computer specialists.

According to the Immigration and Naturalization Service (INS), we know that 1,369 H-1B visa holders sought employment in physical therapy in 1985. This number represents 5.9 percent of the 23,500 arrivals for which the INS can verify their known occupation. An additional 82,399 holders of H-1B visas were reported to have entered the U.S. in 1994 for which the INS does not have occupation data. If we assume that the same percentage of H-1B visa holders are seeking employment in physical therapy as in the known-occupation pool, we can calculate that an additional 82,399 aliens for grants or contracts under subsection (a) shall include not fewer than 2 physical therapists or occupational therapists.

“(d) PREFERENCE IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to qualified applicants that seek to educate physical therapists or occupational therapists in rural or medically underserved communities, or to expand post-professional programs for the advanced education of physical therapy or occupational therapy practitioners.

“(e) REPORT TO CONGRESS.—(1) IN GENERAL.—The Secretary shall prepare a report that—

“(A) summarizes the applications submitted to the Secretary for grants or contracts under subsection (a);

“(B) specifies the identity of entities receiving the grants or contracts; and

“(C) evaluates the effectiveness of the program based upon the objectives established by the entities receiving the grants or contracts.

“(2) DATE CERTAIN FOR SUBMISSION.—Not later than February 1, 2001, the Secretary shall submit the report prepared under paragraph (1) to the Committee on Commerce, Labor, and Human Resources and the Committee on Appropriations of the House of Representatives, the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate.

“(f) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this section, there is authorized to be appropriated $3,000,000 for each of the fiscal years 1997 through 2000.”
Section 127 is one of the most successful education programs that the Federal Government has ever undertaken. A million persons benefit from this provision every year. And they benefit in the most auspicious of circumstances. An employer recognizes that the worker is capable of doing work at higher levels and skills and says, "Will you go to school and get a degree so we can put you in a higher position than you have now—and with better pay?"

Many workers within the ambit of our job training programs that have depended on the hope that in the aftermath of the training there will be a job, here you have a situation where the worker already has a job and the employer agrees that the worker should enlarge his or her situation in a manner that is beneficial to all concerned.

This is a program that works. Yet, outside the organizations involved, not many people know of this program. It admits that it has no bureaucracy—there is no bureau in the Department of Education for employer-provided educational assistance, no titles, no confirmations, no assistant secretaries. There is nothing except individuals, executives, employer and employee, with a great value-added.

Since its inception in 1978, section 127 has enabled millions of workers to advance their education and improve their job skills without incurring additional taxes. It is a reduction in take-home pay. Without section 127, workers will find that the additional taxes or reduction in take-home pay impose a significant, even prohibitive, financial obstacle to further education. For example, an unmarried clerical worker pursuing a college diploma who has income of $21,000 in 1997 and who receives tuition reimbursement for two semesters of night courses—worth approximately $4,000—would owe additional Federal payroll taxes of $966 on this educational assistance. If the worker has children and was receiving the earned income tax credit, the worker would owe additional taxes—including loss of the EITC benefits—of up to $1,708.

Section 127 makes an important contribution to simplicity in the tax law. Absent section 127, a worker receiving educational benefits from an employer is taxed on the value of the education received. The educational assistance is directly related to the worker's current job. Permanent reinstatement of section 127 will allow workers to receive employer-provided educational assistance on a tax-free basis, without the need to consult a tax advisor to determine whether the education is directly related to their current job.

A well-trained and educated work force is a key to our Nation's competitiveness in the global economy of the 21st century. The pace of international competition and technological change require constant adjustment by our work force. Education and retraining will be necessary to maintain and strengthen American industry's competitive position. Section 127 has an important, perhaps vital, role to play in this regard. It permits employees to adapt and retrain without incurring additional tax liabilities and a reduction in their take-home pay. By removing the tax burden from workers seeking education and retraining, section 127 helps to maintain American workers as the most productive in the industrialized and developing world. Section 127 has helped to improve the quality of America's public education system, at a fraction of the cost of direct-aid programs. A survey by the National Education Association a few years ago found that almost half of all American public school systems provide tuition assistance to teachers seeking advanced training and degrees. This has enabled thousands of public school teachers to obtain advanced degrees or to enhance the quality of instruction in our schools.

Our most recent extension of section 127 last year excluded expenses of pursuing graduate level education for workers whose businesses begin after June 30, 1996. This was a serious mistake. Historically, one quarter of the individuals who have used section 127 went to graduate schools. Ask major employers about their training systems, and they will say that it is more important than being able to send a promising young person, or middle management person, to a graduate school to learn a new field that has developed since that person had his education. When workers are able to pursue graduate level education from section 127, we impose a tax increase on many citizens who work and go to graduate school at the same time. But not all of them. Only the ones whose education does not directly relate to their current jobs. For these unlucky persons, we have erected a barrier to their upward mobility. Who are these people? The engineer seeking a masters degree in geology to enter the field of environmental science. The production line worker seeking an MBA in finance or an MPA in accounting. The production line worker seeking an MBA in management.

Simple equity among taxpayers demands that section 127 be made permanent. Contrast each of the above examples with the following: The environmental geologist seeking a masters in geology, the bank accountant seeking an MFA, and the management trainee seeking an MBA. Each of these workers is a productive citizen. Each is working and paying taxes. Each wants to increase his or her skills. Each is likely to do so with the help of section 127. Each will prove the quality of America's public education system.

It is important to note that employer-provided educational assistance is not an extravagantly beneficial for highly paid executives. It largely benefits low- and moderate-income employees seeking access to higher education and further development. A survey by the National Association of Independent Colleges and Universities in December, 1995 found that 85 percent of section 127 recipients in the 1992-93 academic year earned less than $50,000, and that the average recipient earned less than $33,000. An earlier Coopers & Lybrand study indicated that over 70 percent of recipients of section 127 benefits in 1986 were earning less than $20,000, and that the recipients' contribution was a serious administrative nuisance: there have been 8 retroactive extensions of this provision since 1978. If section 127 is in force, then there is no need to withhold taxes on educational benefits provided; if not, the job-relatedness of the educational assistance must be ascertained, a value assigned, and withholding adjusted accordingly. Uncertainty about the tax law's continuance magnifies this burden, and discourages employers from providing educational benefits.

For example, section 127 expired for a time after 1994. During 1995, an employer did not know whether to withhold taxes or curtail their educational assistance programs. Workers did not know whether they would face large tax bills, and possible penalties and interest, for the previous year. It was all too risky to plan their education. Some of my constituents who called my office reported that they were taking fewer courses—or no courses—due to this uncertainty. And when we failed to extend the provision by the end of 1995, employers had to guess as to how to report their worker's incomes on the W-2 tax statements, and employees had to guess whether to pay tax on the benefits they received. In the Small Business Protection Act of 1996, enacted last August, we finally extended the provision retroactively to the beginning of 1995. As a result, we had to instruct the IRS to expeditiously issue guidance to employers and workers on how to deal with certain curtailment issues.

The provision expires after June 30, 1997. Will we subject our constituents, once again, to similar confusion? The legislation I introduce today would restructure the provision to extend it by the end of 1996—for graduate level education, and maintaining it on a permanent basis for all education.
CONGRESSIONAL RECORD — SENATE
January 21, 1997

Mr. INOUYE. Mr. President, I rise today to introduce the Rural Preventive Health Care Training Act of 1997, a bill that responds to the dire situation facing rural America in obtaining quality health care and disease prevention programs.

Almost one fourth of Americans live in rural areas and thus frequently lack access to adequate primary and mental health care. For example, approximately 1,700 rural communities in virtually every state of the union suffer critical shortages of health care providers. As many as 21 million of the 34 million people living in underserved rural areas are without access to a primary care provider. In areas where providers exist, there are numerous limits to access, such as geography and distance, lack of transportation, and lack of knowledge about available resources. In addition, due to the sparsity of rural populations, ranging from native Americans to migrant farm workers, language and cultural obstacles are often a factor.

Compound these problems with the financial resources and many of America's rural communities go without vital health care, especially preventive care. Children fail to receive immunizations and routine checkups. Preventable illnesses and injuries occur needlessly and lead to expensive hospitalizations. Early symptoms of emotional problems and substance abuse go undetected and often develop into full blown disorders.

An Institute of Medicine (IOM) report from their two-year study entitled, "Reducing Risks for Mental Disorders: Frontiers for Preventive Intervention Research" highlights the benefits of preventive care for all health problems. Rural health care providers face a lack of training in giving inpatient and outpatient care. Preventive care is crucial in order to meet the demand for care in underserved areas.

Beyond the scope of simple preventive training, interdisciplinary preventive training in rural health is important because of a growing array of evidence that links mental disorders to physical ailments. For example, it has been estimated that from fifty to seventy percent of visits to physicians for medical symptoms are in part or whole to psychosocial problems. By encouraging interdisciplinary training, rural communities can integrate the behavioral, biological, and psychological sciences to form the most effective preventive care possible.

The problems with quality, access, and understanding of health care in rural areas all suggest that promoting interdisciplinary training of psychologists, nurses, and social workers is essential. The committee has heard that considering that many of the behavior-related problems affecting rural communities are amenable to proven risk reduction strategies that are best provided by trained mental health care professionals.

Interdisciplinary team prevention training will facilitate both health and mental health clinics sharing single service sites and routine consultation between groups. Such nurses, psychologists, clinic psychiatrists, graduate nurses, specialists, and paraprofessionals play an important role in extending rural mental health services to those in need. Linkage of these services can provide better utilization of existing health care system, increase awareness and understanding of mental health services, and contribute to the overall health of rural communities.

The Rural Preventive Health Care Training Act of 1997, targeted specifically toward rural communities, would implement the risk-reduction model described in the IOM study. This model is based on the identification of risk factors for a certain disorder and the implementation of specific preventive interventions to target those risk factors. The IOM Committee aptly demonstrates that methods of risk reduction have proven highly successful in many health-related areas, such as cardiovascular disease, smoking reduction, and the numerous childhood diseases and conditions that are preventable by early prenatal care for pregnant women.

The cost of human suffering caused by poor health is immeasurable, but the huge financial burden placed on communities, families and individuals is evident. By implementing preventive measures, the potential for savings in psychological and financial realms is enormous. This savings is the goal of the Rural Preventive Health Care Training Act of 1997.

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

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

S. 127

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 "Employee Educational Assistance Act." SEC. 2. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) PERMANENT EXTENSION. Section 127 of the Internal Revenue Code of 1986 (relating to exclusion for educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) REPEAL OF LIMITATION ON GRADUATE EDUCATION. The last sentence of section 127(c)(1) of such Code is amended by striking "and such term also does not include any education provided through employer sponsored programs leading to a law, business, medical, or other advanced academic or professional degree".

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

(2) GRADUATE EDUCATION.—The amendment made by subsection (b) shall apply with respect to expenses relating to courses beginning after June 30, 1996.

(3) IMPLEMENTATION.—The Secretary of the Treasury shall establish expedited procedures for the refund of any overpayment of taxes imposed by the Internal Revenue Code of 1986 which is attributable to amounts excluded from gross income during 1996 or 1997 of 1986 which is attributable to amounts excluded from gross income during 1996 or 1997 of 1986.

SEC. 3. SECURITIES TRANSMISSION.

This Act may be cited as the "Rural Preventive Health Care Training Act of 1997".

SEC. 2. PREVENTIVE HEALTH CARE TRAINING.

Section 778 of the Public Health Service Act (42 U.S.C. 294p) is amended—

(1) by redesignating subsections (e) and (f) as subsections (j) and (k), respectively;

(2) by inserting after subsection (j) the following new subsection:

"(e) PREVENTIVE HEALTH CARE TRAINING.—

(1) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, eligible applicants to enable such applicants to provide preventive health care training, in accordance with paragraph (3), to health care practitioners practicing in rural areas. Such training shall, to the extent practicable, include training in health care to prevent both physical and mental disorders before the initial manifestation of such disorders. After carrying out this paragraph, the Secretary shall encourage, but may not require, the use of..."
interdisciplinary training project applications.

(2) LIMITATION.—To be eligible to receive training using assistance provided under paragraph (1), a care practitioner shall be determined by the eligible applicant involved to be practicing, or desiring to practice, in a rural area.

(3) USE OF ASSISTANCE.—Amounts received under a grant made or contract entered into under this subsection shall be used: 

(A) to provide student stipends to individuals attending rural community colleges or other institutions that service predominantly rural communities, for the purpose of enabling the individuals to receive preventive health care training; 

(B) to increase staff support at rural community colleges or other institutions that service predominantly rural communities, for the purpose of enabling the institutions to receive preventive health care training; 

(C) to provide training in appropriate research and program evaluation skills in rural communities; 

(D) to create and implement innovative programs and curricula with a specific prevention component; and

(E) for other purposes as the Secretary determines to be appropriate.

(4) APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, $5,000,000 for each of fiscal years 2000 through 2003.

(5) In accordance with subsection (g) (as so redesignated), by inserting “except subsection (e),” after “section.”

By Mr. INOUYE:
S. 129. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary and exchange stores; to the Committee on Armed Services.

FORMER PRISONERS OF WAR LEGISLATION

Mr. INOUYE. Mr. President, today I am introducing legislation to enable those former prisoners of war who have been separated honorably from their respective services and who have been rated to have a 30 percent or more.

Service-connected disability by the Secretary of Veterans Affairs at any time after December 31, 1996, to use in automobiles.

The term ‘service-connected’ has the meaning given the term in section 101(32) of title 38.

(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the income tax for the taxable year an amount equal to the costs incurred by the taxpayer during such taxable year in purchasing a qualified child restraint system for any child of the taxpayer.

(b) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED CHILD RESTRAINT SYSTEM.—The term ‘qualified child restraint system’ means any child restraint system which meets the requirements of section 1513 of title 49 of the Code of Federal Regulations.

(2) CHILD.—The term ‘child’ has the meaning given in section 151(c)(3).

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1996.

By Mr. MOYNIHAN (for himself, Mr. LIEBERMAN, and Mr. JEFFORDS):
S. 131. A bill to amend chapter 5 of title 13, United States Code, to require that any data relating to the incidence of poverty produced or published by the Secretary of Commerce for subnational areas is corrected for differences in the cost of living in those areas; to the Committee on Governmental Affairs.

THE POVERTY DATA CORRECTION ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise today to introduce the Poverty Data Correction Act of 1997, a bill to require that any data relating to the incidence of poverty in subnational areas be corrected for the differences in the cost of living in those areas. This legislation, cosponsored by Senators LIEBERMAN and JEFFORDS, would correct a long-standing inequity and would provide us with more accurate information on the number of Americans living in poverty.

Mr. President, residents of New York and Connecticut earn more than the residents of Mississippi or Alabama. But they also must spend more. The 1990 Census of Population and Housing, for instance, determined that home-}

owner costs with a mortgage averaged $976 per month in New York State—not city, $555 in Alabama, and $511 in Mississippi. The national average was $737.

Yet, we have a national poverty threshold adjusted only by family size and composition, not by where the family lives. A family of four just above the poverty threshold in New York City is demonstrably worse off than a family of four just below the threshold in, say, rural Arkansas. And yet the family in New York City might be ineligible for aid, and will not count in the poverty population tallies used to allocate funds while the Arkansas family will receive aid, and will be counted.

An August 7, 1994 New York Times editorial endorsing a version of this bill introduced in the 104th Congress sums it up nicely:

The cost of food, rent and other consumer goods can be twice as high in Manhattan as
in Little Rock, Ark. Yet the income cutoff for poverty programs is the same in both places, $14,769 for a family of four. That produces the ridiculous and unfair result that a Manhattan family earning $15,000 does not qualify for Federal nutrition or education programs while an Arkansas family earning $14,500—the equivalent of $29,000 in Manhattan—does.

** Federal poverty levels are supposed to identify families that cannot buy minimally decent food, clothes and shelter. To act as if living costs do not matter, or if financially strapped states will pick up where Washington leaves off, amounts to a vicious attack on the poor who happen to live in high-cost states.

Professor Herman B. “Dutch” Leonard and Senior Research Associate Monica Friar of the Taubman Center for State and local government at Harvard have devised an index of poverty statistics that reflects the differences in the cost of living between States. If we look at the “Friar-Leonard State Cost-of-Living index,” as it has come to be known, we find that New York has a cost-adjusted poverty rate of 20.4 percent, the fifth highest in the Nation. Washington leaves off, amounts to a vicious attack on the poor who happen to live in high-cost states.

In 1995, a National Academy of Sciences (NAS) panel of experts released a study on redifining poverty. Our poverty index dates back to the early 1960s, hit upon the idea of a nutritional standard, not unlike the “penny loaf” of bread of the 18th century. Our poverty standard would be three times the cost of the Department of Agriculture-defined minimally adequate “food basket.” During consideration of the Family Support Act of 1988, I included a provision in the National Academy of Sciences to determine if our poverty measure is outdated and how it might be improved. The study, edited by Constance F. Citro and Robert T. Michael, is entitled Measuring Poverty: A New Approach. A Congressional Research Service review of the report states:

The NAS panel ** concludes that if fully adopted, could dramatically alter the way poverty in the U.S. is measured, how federal funds are allotted to the States, and how eligibility for many Federal programs is determined. The recommended poverty measure would be based on more items in the family budget, would take major noncash benefits and taxes into account, and would be adjusted for regional differences in living costs.

Mr. President, our current poverty data are inaccurate. And these substandard data are used in allocation formulas used to distribute millions of Federal dollars. As a result, States with high costs of living—States like New York, Connecticut, Vermont, Hawaii, and California, just to name a few—are not getting their fair share of Federal dollars because differences in the cost of living are ignored. And the poor of these States are penalized because they happen to live there. It is time to correct this inequity.

I ask unanimous consent that the New York Times editorial be inserted into the RECORD.

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

POVERTY IS UNFAIRLY DEFINED

The cost of food, rent and other consumer goods can be twice as high in Manhattan as in Little Rock, Ark. Yet the income cutoff for poverty programs is the same in both places, $14,764 for a family of four. That produces the ridiculous and unfair result that a Manhattan family earning $15,000 does not qualify for Federal nutrition or education programs while an Arkansas family earning $14,500—the equivalent of $29,000 in Manhattan—does.

The Federal definition of poverty is blind to the real costs paid by people struggling to purchase the necessities of life. That is why Senator Joseph Lieberman, Democrat of Connecticut, and Representative Deanne Gallo, Republican of New Jersey, have proposed bills that would adjust poverty levels for state differences in the cost of living. That way poor families in Los Angeles and Philadelphia will get their fair share of the $20 billion or more that Congress spends on need-based programs. Senator Daniel Patrick Moynihan of New York, an expert on poverty, says that adjusting poverty levels for real costs may cost the wealthy states less and may cost the States, and how eligibility for many Federal programs is determined. The recommended poverty measure would be based on more items in the family budget, would take major noncash benefits and taxes into account, and would be adjusted for regional differences in living costs.

Mr. MOYNIHAN: Mr. President, I introduce two measures to help fight the epidemic of bullet-related violence in America: the Real Cost of Destructive Ammunition Act and the Destructive Ammunition Prohibition Act of 1997. The purpose of these bills is to prevent from reaching the marketplace some of the most deadly rounds of ammunition ever produced.

Some of my colleagues may remember the Black Talon. It is a hollow-tipped bullet, singular among handgun ammunition in its capacity for destruction. Upon impact with human tissue, the bullet produces radial petals that produce a devastating wound. It is the very same bullet that a crazed gunman fired at unsuspecting passengers on a Long Island Railroad train in December 1993, killing the husband of now Congresswoman Carolyn McCarthy and injuring her son. That same month, it was also used in the shooting of Officer Jason E. White of the District of Columbia Metropolitan Police Department, just 15 blocks from the Capitol.

I first learned of the Black Talon in a letter I received from Dr. E.J. Gallagher, director of Emergency Medicine at Albert Einstein College of Medicine at the Municipal Hospital Trauma Center in the Bronx, who wrote that he has never seen a more lethal projectile. On November 3, 1993, I introduced a bill to tax the Black Talon at 10,000 percent. Nineteen days later, Olin Corp., the manufacturer of the Black Talon, announced that it would withdraw sale of the bullet to the general public. Unfortunately, the 103rd Congress came to a close without the bill having won passage.

As a result, there is nothing in law to prevent the reintroduction of this pernicious bullet, nor is there any existing impediment to the sale of similar rounds that might be produced by another manufacturer. So today I reintroduce the bill to tax the Black Talon as well as a bill to prohibit the sale of the Black Talon to the public. Both bills would apply to any bullet with the same physical characteristics as the Black Talon. These bullets have no place in the armory of criminals.

It has been estimated that the cost of hospital services for treating bullet-related injuries is $1 billion per year, with the total cost to the economy of such injuries approximately $14 billion.
We can ill afford further increases in this number, but this would surely be the result if bullets with the destructive capacity of the Black Talon are allowed onto the streets.

Mr. President, despite the fact that the murder rate has decreased in recent months, the number of deaths and injuries caused by bullet wounds is still at an unconscionable level. It is time we took meaningful steps to put an end to the massacres that occur daily as a result of gunshots. However, a beginning than to go after the most insidious culprits of this violence? I urge my colleagues to support these measures and to prevent these bullets from appearing on the market.

By Mr. MOYNIHAN:
S. 134. A bill to amend title 18, United States Code, with respect to the licensing of ammunition manufacturers, and for other purposes; to the Committee on the Judiciary.

THE HANDBOARD AMMUNITION CONTROL ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise today to introduce a measure to improve law enforcement on the illegal manufacture and criminal use of ammunition and to prevent the irresponsible production of ammunition. This bill has three components. First, it would require importers and manufacturers of ammunition to keep records and submit an annual report to the Bureau of Alcohol, Tobacco and Firearms (BATF) on the disposition of ammunition, including the amount, caliber and type of ammunition imported or manufactured. Second, it would require the Secretary of the Treasury, in consultation with the National Academy of Sciences, to conduct a study of ammunition use and make recommendations on the efficacy of reducing crime by restricting access to ammunition. Finally, it would amend title 18 of the United States Code to raise the application fee for a license to manufacture certain calibers of ammunition.

While there are enough handguns in circulation to well into the 22d century, there is perhaps only a 4-year supply of ammunition. But how much of what kind of ammunition? Where does it come from? Where does it go? There are currently no reporting requirements for manufacturers or importers of ammunition; earlier reporting requirements were repealed in 1986. The Federal Bureau of Investigation's annual Uniform Crime Reports, based on information provided by local law enforcement agencies, does not record the caliber, type, or quantity of ammunition used in crime. In short, our database is woefully inadequate.

I supported the Brady law, which required a 5-day waiting period before the purchase of a handgun, and the recent ban on semi-automatic weapons. But while the debate over gun control continues, I offer another alternative: Ammunition Control. After all, as I have said before, guns do not kill people; bullets do.

Ammunition control is not a new idea. In 1982 Phil Caruso of the New York City Police Department's Benevolent Association asked me to do something about armor-piercing bullets. Jacketed in tungsten or other materials, these rounds could penetrate four police flack jackets and five Los Angeles County Sheriff's Department helmets, and, ultimately, allatarcing value. I introduced legislation, the Law Enforcement Officers Protection Act, to ban the cop-killer bullets in the 9th, 98th, and 9th Congresses. It enjoyed the overwhelming support of law enforcement agencies, which, ultimately, resulted in the Natonal Rifle Association. It was finally signed into law by President Reagan on August 28, 1986.

The bill enacted in 1994 contained may amendment to broaden the 1986 ban to cover new thick steel-jacketed armor-piercing rounds.

Cities are becoming more aware of the benefits to be gained from ammunition control. The District of Columbia and some other cities prohibit a person from possessing ammunition without a valid license for a firearm of the same caliber or gauge as the ammunition. Beginning in 1990, the city of Los Angeles banned ammunition 1-week prior to Independence Day and New Year's Day in an effort to reduce injuries and deaths caused by the firing of guns into the air. And in September 1994, the city of Chicago became the first in America to ban the sale of all handgun ammunition.

Such efforts are laudable. But they are isolated attempts to cure what is in truth a national disease. We need to do more, but to do so, we need information to guide policymaking. This bill would fulfill that need by requiring annual reports to BATF by manufacturers and importers and by directing a study by the National Academy of Sciences. We also need to encourage firearm manufacturers to be more responsible. By substantially increasing application fees for licenses to manufacture .25 caliber, .32 caliber, and 9-mm ammunition, this bill would discourage the reckless production of unsafe ammunition or ammunition which causes excess damage.

I urge my colleagues to support this measure.

By Mr. MOYNIHAN:
S. 136. A bill to provide for the collection and dissemination of information on injuries, death, and family dissolution due to bullet-related violence, to require the keeping of records with respect to dispositions of ammunition and to increase taxes on certain bullets; to the Committee on Finance.

VIOLENT CRIME CONTROL ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill that comprehensively seeks to control the epidemic proportions of violence in America. This legislation, the Violent Crime Control Act of 1997, combines most of the provisions of two of the other crime-related bills I am introducing today as well.

By including two different crime-related provisions, my bill attacks the crime epidemic on more than just one front. If we are truly serious about confronting our Nation's crime problem, we must learn more about the nature of the epidemic of bullet-related violence and ways to control it. To do this, we must support the comprehensive study that requires and manufacturers of ammunition to keep records and submit an annual report to the Bureau of Alcohol, Tobacco, and Firearms (BATF) on the disposition of ammunition. Currently, importers and manufacturers of ammunition are not required to do so.

Clearly, it will take intense effort on all of our parts to reduce violent crime in America. We must confront this epidemic from several different range, recognizing that there is no simple solution.

By Mr. MOYNIHAN:
S. 137. A bill to tax 9 millimeter, .25 caliber, and .32 caliber bullets; to the Committee on Finance.

REAL COST OF HANDGUN AMMUNITION ACT OF 1997

Mr. MOYNIHAN. Mr. President, I introduce two bills: the Violent Crime Reduction Act of 1997 and the Real Cost of Handgun Ammunition Act of 1997. Their purposes are to ban or heavily tax .25 caliber, .32 caliber, and 9-mm ammunition. The number of bullets is used disproportionately in crime. They are not sporting or hunting rounds, but instead are the bullets of
choice for drug dealers and violent felons. Every year they contribute overwhelmingly to the pervasive loss of life caused by bullet wounds.

Today marks the fourth time in as many Congresses that I have introduced legislation to ban or tax these pernicious bullets. As the terrible gunshot death toll in the United States continues unabated, so too does the need for these bills, which, by keeping these bullets out of the hands of criminals, would save a significant number of lives.

The number of Americans killed or wounded each year by bullets demonstrates their true cost to American society. Just look at the data:

- In 1995, 13,673 people—68.2 percent of all people murdered—were murdered by gunshot. In addition, others lost their lives to bullets by shooting themselves, either purposely or accidentally. And although no national statistics are kept on bullet-related injuries, studies suggest that two to five times more frequently than do deaths.

- The lifetime risk of death from homicide in U.S. males is 1 in 164, about the same as the risk of death in battle faced by U.S. servicemen in the Vietnam War. In males, the relative risk of death from homicide is 1 in 28, twice the risk of death in battle faced by Marines in Vietnam.

As noted by Susan Baker and her colleagues in the book "Epidemiology and Health," first edited by Sol Levine and Abraham Lilienfeld:

- There is a correlation between rates of private ownership of guns and gun-related death rates; guns cause two-thirds of family homicides, and easily concealed weapons comprise the majority of guns used for homicides, suicides and unintentional death.

Baker states that:

**...** these facts of the epidemiology of firearm-related deaths and injuries have importance. Combined with their lethality, the widespread availability of easily concealed handguns for impetuous use by people who are angry, drunk, or frightened apparently determines the high firearm death rate in the United States. Each contributing factor has implications for prevention. Unfortunately, issues related to gun control have evoked such strong sentiments that epidemiologic data are rarely employed to good advantage.

Strongly held views on both sides of the gun control issue have made the subject difficult for epidemiologists. I would argue that a good deal of energy is wasted in this never-ending debate, for gun control as we know it misses the point. We ought to focus on the bullets and not the guns.

I would remind the Senate of our experience in controlling epidemics. Although the science of epidemiology traces its roots to antiquity—Hippocrates stressed the importance of considering environmental influences on human diseases—the first modern epidemiologic study was conducted by James Lind in 1747. His efforts led to the eventual control of scurvy. It wasn't until 1795 that the British Navy accepted his analysis and required limes in shipboard diets. Most solutions are not perfect. Disease is rarely eliminated. But might epidemiology be applied in the case of bullets to reduce suffering? I believe so.

In 1854 John Snow and William Farr collaborated and clearly showed cholera was caused by contaminated drinking water. Snow removed the handle of the Broad Street pump in London to prevent people from drawing water from this contaminated water source and the disease stopped in that population. This led to a legislative mandate that all London water companies filter their water by 1857. Cholera epidemics subsided. Now treatment of sewage prevents cholera from entering our rivers and lakes, and the disinfection of drinking water makes water distribution systems uninhabitable for cholera vibrio, identified by Robert Koch as the causative agent 26 years after Snow's study.

In 1900, Walter Reed identified mosquitoes as the vector for yellow fever. Subsequent mosquito control efforts by another U.S. Army doctor, William Gorgas, enabled the United States to complete the Panama Canal. The French failed because their workers were too sick from yellow fever to work. Now that it is known that yellow fever is caused by a virus, vaccines are used to eliminate the spread of the disease.

These pioneering epidemiology success stories showed the world that epidemics require an interaction between three things: the host—the person who becomes sick or, in the case of bullets, the shooting victim; the agent—the cause of sickness, or the bullet; and the environment—the setting in which the sickness occurs or, in the case of bullets, violent behavior. Interrupt this epidemiological triad and you reduce or eliminate disease and injury.

How might this approach apply to the control of bullet-related injury and death? Again, we are contemplating something different from gun control. There is a precedent here. In the middle of this century it was recognized that epidemiology could be applied to automobile death and injury. From a governmental perspective, this hypothesis was first adopted in 1959, late in the administration of Gov. Averell Harriman of New York State. In the 1960 Presidential campaign, I drafted a statement on the subject which was reissued by Senator John F. Kennedy as part of a general response to enquiries from the American Automobile Association. Then Senator Kennedy stated:

Traffic accidents constitute one of the greatest, perhaps the greatest of the nation's public health problems. They waste as much as 2 percent of our gross national product every year and bring endless suffering. The report of the Highway Loss Data Institute shows a 30 percent increase in the number of drivers, vehicles, and miles driven. Driver behavior is changing, too. National seatbelt usage is up dramatically, 60 percent now compared to 14 percent in 1954. These efforts have resulted in some 15,000 lives saved and 100,000 injuries avoided each year.

We can apply that experience to the epidemic of murder and injury from bullets. The environment in which these deaths and injuries occur is complex. Many factors likely contribute to the rise in bullet-related injury. Here is an important similarity with the situation we faced regarding automobile safety. We found we could not easily alter the behavior of millions of drivers, but we could—easily—
change the behavior of three or four automobile manufacturers. Likewise, we simply cannot do much to change the environment—violent behavior—in which gun-related injury occurs, nor do we know how. We can, however, do something about the agent causing the injury: bullets. Ban them. At least the rounds used disproportionately to cause death and injury; that is, the .25 caliber, .32 caliber, and 9 millimeter bullets. These three rounds account for the majority of gun-related deaths, for instance, reduce it. A 30-percent reduction in dangerous rounds would not end the problem, but we need to start with achievable measures to break the deadly interactions between people, bullets, and violent behavior.

The bills I introduce today would begin the process. They would begin to control the problem by banning or taxing those rounds used disproportionately in crime—the .25-caliber, .32-caliber, and 9-millimeter rounds. The bills recognize the epidemic nature of the problem, building on findings contained in the June 10, 1992 issue of the Journal of the American Medical Association which was devoted entirely to the subject of violence, principally violence associated with firearms.

Mr. President, it is time to confront the epidemic of bullet-related violence. I urge my colleagues to support these bills.

By Mr. DACSHLE (for himself, Mr. HOLLINGS, Mr. KENNEDY, Ms. MIKULSKI, Mr. LEVIN, Ms. MOSELEY-BRAUN, Mrs. BOXER, Mrs. FEINSTEIN, Mr. INOUYE, Ms. MURRAY, Mr. JOHNSON, Mr. BRYAN, Mr. SARBADES, Mr. FORD, and Mr. LAUTENBERG):

S. 143. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for a minimum amount of inpatient hospital stay for mastectomies and lymph node dissections performed for the treatment of breast cancer; to the Committee on Labor and Human Resources.

THE BREAST CANCER PATIENT PROTECTION ACT OF 1997

Mr. DACSHLE. Mr. President, today Senator HOLLINGS and I are introducing the Breast Cancer Patient Protection Act of 1997. I want to thank Senators KENNEDY, MIKULSKI, MOSELEY-BRAUN, BOXER, FEINSTEIN, LEVIN, INOUYE, MURRAY, JOHNSON, BRYAN, SARBADES, FORD and LANDRIEU, for joining us as original cosponsors. We welcome the support of all of our colleagues, on both sides of the aisle, for this important legislation. Our bill is a companion to H.R. 135, which was introduced in the House of Representatives by Representatives DELAURIO, DINGELL, and ROUKEMA on January 7, 1997.

I bring this bill to the Senate both to put an end to the relatively new practice of forcing women to have mastectomies on an outpatient basis and to begin a discussion on how to develop and maintain policies that protect patients and ensure continued access to affordable high quality medical care.

Every 3 minutes another woman is diagnosed with breast cancer. This year alone, more than 180,000 women will find out they have breast cancer. This disease strikes at the core of American families, taking our mothers, wives, sisters, and daughters on an often terrifying tour of our health care system.

The Breast Cancer Patient Protection Act seeks to make the journey less worrisome by requiring insurance companies to provide at least a minimum amount of inpatient hospital care for patients undergoing mastectomies or lymph node dissections for the treatment of breast cancer. The language is modeled after last year's carefully drafted and unanimously supported compromise agreement that established the practice of drive-through deliveries.

The bill was designed in part to counter a consulting firm's recommendation to its insurance company clients that both mastectomies and lymph node dissections be performed on an outpatients basis. As a result, some surgeons have been forced to send patients home still groggy from anesthesia and with drainage tubes in Y-retract no fewer than four police flak jackets and an additional five Los Angeles County phonebooks at one time.

In 1982, the New York Police Benevolent Association came to me and asked me to do something about the availability of these bullets. The result was the Law Enforcement Officers Protection Act, which we introduced in 1982, 1983, and for the last time during the 99th Congress. In the end, with the tacit support of the National Rifle Association, the measure passed the Congress and was signed by the President as Public Law 99-408 on August 28, 1986.

In the 1994 crime bill, we enacted my amendment to broaden the ban to include new thick steel-jacketed armor-piercing rounds.

There are some 220 million firearms in circulation in the United States today. They are, in essence, simple machines, and with minimal care, remain working for centuries. However, estimates suggest that we have only a 4-year supply of bullets. Some 2 billion cartridges are used each year. At any given time there are some 7.5 billion rounds in factory, commercial, or household inventories. At any time supply of bullets. Some 2 billion rounds are used each year. At any time.

In all cases, with the exception of pistol whipping, gun-related injuries are caused not by the gun, but by the agents involved in the second collision: the bullets. Eliminating the most dangerous rounds would not end the problem of handgun killings. But it would reduce it. A 30-percent reduction in bullet-related deaths, for instance, would save over 10,000 lives each year and prevent up to 50,000 wounds.

War efforts to reduce typhoid fever in the United States took about 60 years. Slow sand filters were installed in certain cities in the 1880's, and water chlorination treatment began in the 1910's. The death rate from typhoid in Albany, NY, prior to 1889, when the municipal water supply was treated by sand filtration, was about 100 fatalities per 100,000 people each year. The rate dropped to about 25 typhoid deaths per year after 1889, and to about 10 typhoid deaths per year after 1915, when chlorination was introduced. By 1950, the death rate from typhoid fever had dropped to zero. It will likely take longer than 60 years to eliminate bullet-related activity but we need to start with achievable measures to break the deadly interactions between people, bullets, and violent behavior.

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There are some 220 million firearms in circulation in the United States today. They are, in essence, simple machines, and with minimal care, remain working for centuries. However, estimates suggest that we have only a 4-year supply of bullets. Some 2 billion cartridges are used each year. At any given time there are some 7.5 billion rounds in factory, commercial, or household inventories. At any time.
breast cancer should not have to undergo additional hardship while simply seeking to make physically whole again. Senator KENNEDY’s bill, which I will cosponsor, will address this important issue.

While these bills respond to ill-conceived policies that we believe have dangerous implications for women with breast cancer, let them serve as reminders of our broken health care system. Addressing health insurance problems relating to quality of care and patient protection issues on a piecemeal basis may be our only way to accomplish meaningful reforms in this increasingly important area.

With one in eight women likely to develop breast cancer, it is increasingly likely that all of our families will be in some way affected by this devastating disease. Let us take this small step to ensure the experience is not aggravated by unnecessarily difficult encounters with the companies that have agreed under contract to stand by us not only in health but also in sickness.

This bill is strongly supported by the National Breast Cancer Coalition, the National Alliance of Breast Cancer Organizations, the American College of Surgeons, the American Society of Plastic and Reconstructive Surgeons, the Y-Me National Breast Cancer Organization, the American Cancer Society, Families USA, and the Women’s Legal Defense Fund.

Together, I am hopeful that we can put critical health care decisions back in the hands of breast cancer patients and their physicians.

Mr. President, thank that the full text of the Breast Cancer Patient Protection Act be inserted following may remarks.

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

S. 143

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Breast Cancer Patient Protection Act of 1997”.

SEC. 2. COVERAGE OF MINIMUM HOSPITAL STAY FOR CERTAIN BREAST CANCER TREATMENT.

(a) Group Health Plans.—

(1) Public Health Service Act Amendments.—

(A) In general.—(Subpart of part A of title XXVII of the Public Health Service Act, as amended by section 702(a) of Public Law 104-204, as added by adding at the end the following new section:

“SEC. 2706. STANDARDS RELATING TO BENEFITS FOR CERTAIN BREAST CANCER TREATMENT.

“(a) Requirements for Minimum Hospital Stay Following Mastectomy or Lymph Node Dissection.

“(1) In general.—A group health plan, and a health insurance issuer offering group health insurance coverage, may not—

“(i) restrict benefits for any hospital length of stay in connection with a mastectomy for the treatment of breast cancer to less than a 24-hour hospital length of stay following a mastectomy for treatment of breast cancer;

“(ii) restrict benefits for any hospital length of stay in connection with a lymph node dissection for the treatment of breast cancer to less than 48 hours, or

“(B) require that a provider obtain authorization from the plan or the issuer for prescribing any length of stay required under subparagraph (A) (without regard to paragraph (2)).

“(2) Exception.—Paragraph (1)(A) shall not apply in connection with any group health plan or health insurance issuer in any case in which the decision to discharge the woman involved prior to the expiration of the minimum length of stay otherwise required under paragraph (1)(A) is made by an attending provider in consultation with the woman.

“(b) Prohibitions.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

“(1) deny to a woman eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

“(2) provide monetary payments or rebates to women to encourage such women to accept less than the minimum protections available under this section;

“(3) penalize or otherwise reduce or limit reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

“(4) provide incentives (monetary or otherwise) to attempt to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

“(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits available under any proceeding portion of such stay.

“SEC. 713. STANDARDS RELATING TO BENEFITS FOR CERTAIN BREAST CANCER TREATMENT.

“(a) Requirements for Minimum Hospital Stay Following Mastectomy or Lymph Node Dissection.

“(1) In general.—A group health plan, and a health insurance issuer offering group health insurance coverage, may not—

“(A) except as provided in paragraph (2) and (3), restrict benefits for hospital lengths of stay in connection with a mastectomy for the treatment of breast cancer to less than 48 hours, or

“(B) restrict benefits for any hospital length of stay in connection with a lymph node dissection for treatment of breast cancer to less than 24 hours, or

“(c) Rules of Construction.—

“(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary—

“(A) to undergo a mastectomy or lymph node dissection in a hospital; or

“(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

“(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide for at least a 24-hour hospital length of stay for such care.

“(3) Nothing in this section shall be construed as preventing a group health plan or health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

“(j) Exception; Exception for Health Insurance Coverage in Certain States.—

“(1) In general.—The requirements of this section shall not apply with respect to health insurance coverage in connection with a mastectomy or lymph node dissection for treatment of breast cancer under a State law (as defined in section 2723(d)(1)(A) for a State that regulates such coverage that is described in any of the following subparagraphs:

“(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer, and at least a 24-hour hospital length of stay following a lymph node dissection for treatment of breast cancer;

“(B) Such State law requires, in connection with such coverage for surgical treatment of breast cancer, that the hospital length of stay for such care is left to the discretion of (or required to be made by) the attending provider in consultation with the woman involved.

“(2) Construction.—Section 2723(a)(1) shall not be construed as superseding a State law described in paragraph (1)."

“(B) Conforming Amendment.—Section 2723(c) of such Act (42 U.S.C. 300gg-23(c), as amended by section 703(a) of Public Law 104-204, as amended by striking “section 2704” and inserting “sections 2704 and 2706”.

“(2) ERISA Amendments.—In general.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as amended by section 702(a) of Public Law 104-204, is amended by adding at the end the following new section:

“SEC. 713. STANDARDS RELATING TO BENEFITS FOR CERTAIN BREAST CANCER TREATMENT.

“(a) Requirements for Minimum Hospital Stay Following Mastectomy or Lymph Node Dissection.

“(1) In general.—A group health plan, and a health insurance issuer offering group health insurance coverage, may not—

“(A) except as provided in paragraph (2) and (3), restrict benefits for hospital lengths of stay in connection with a mastectomy for the treatment of breast cancer to less than 48 hours, or

“(B) restrict benefits for any hospital length of stay in connection with a lymph node dissection for treatment of breast cancer to less than 24 hours, or

“(c) Rules of Construction.—

“(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary—

“(A) to undergo a mastectomy or lymph node dissection in a hospital; or

“(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

“(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide for at least a 24-hour hospital length of stay for such care.

“(3) Nothing in this section shall be construed as preventing a group health plan or health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

“(j) Exception; Exception for Health Insurance Coverage in Certain States.—

“(1) In general.—The requirements of this section shall not apply with respect to health insurance coverage in connection with a mastectomy or lymph node dissection for treatment of breast cancer under a State law (as defined in section 2723(d)(1)(A) for a State that regulates such coverage that is described in any of the following subparagraphs:

“(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer, and at least a 24-hour hospital length of stay following a lymph node dissection for treatment of breast cancer;

“(B) Such State law requires, in connection with such coverage for surgical treatment of breast cancer, that the hospital length of stay for such care is left to the discretion of (or required to be made by) the attending provider in consultation with the woman involved.

“(2) Construction.—Section 2723(a)(1) shall not be construed as superseding a State law described in paragraph (1)."

“(B) Conforming Amendment.—Section 2723(c) of such Act (42 U.S.C. 300gg-23(c), as amended by section 703(a) of Public Law 104-204, as amended by striking “section 2704” and inserting “sections 2704 and 2706”.

“(2) ERISA Amendments.—In general.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as amended by section 702(a) of Public Law 104-204, is amended by adding at the end the following new section:
"(3) penalize or otherwise reduce or limit
the reimbursement of an attending provider
because such provider provided care to an
individual participant or beneficiary in accor-
dance with this section in a manner inconsis-
tent with this section; or

"(4) provide incentives (monetary or other-
wise) to an attending provider to induce such
provider to provide care to an individual par-

cipant or beneficiary in a manner consistent
with this section; or

"(5) subject to subsection (c)(3), restrict
benefits for any portion of a period within a
hospital length of stay required under sub-
section (a) in a manner which is less favor-
able than the benefits provided for any pre-
ceding portion of such stay.

"(c) CONSTRUCTION.—

1. Nothing in this section shall be con-

sidered to require a woman who is a partici-
pant or beneficiary—

(A) to undergo a mastectomy or lymph
node dissection in a hospital; or

(B) to stay in the hospital for a fixed pe-

riod of time following a mastectomy or
lymph node dissection.

2. This section shall not apply with re-
tect to any group health plan, or any group
health insurance coverage offered by a health

ingurant, which does not pro-

ide benefits for hospital lengths of stay in con-
nection with a mastectomy or lymph node

dissection for the treatment of breast cancer.

3. Nothing in this section shall be con-
strued as preventing a group health plan or

health insurance coverage from negotiating the

reimbursement of an attending provider

because such provider provided care to an in-

dividual participant or beneficiary in consult-

ation with the particular health plan.

"(d) NOTICE UNDER GROUP HEALTH PLAN.—

The imposition of the requirements of this
section shall be treated as a material modi-

fication of (or required to be made by) the at-

Iending provider in consultation with the

woman involved.

"(2) CONSTRUCTION.—Section 731(a)(1) shall

not be construed as superseding a State law
described in paragraph (1)."

"(b) CONFORMING AMENDMENTS.—

(1) Section 731(c) of such Act (29 U.S.C.

1101(c)), as amended by section 603(b)(1) of

Public Law 104-204, is amended by striking

"section 711" and inserting "sections 711 and

717."

(ii) Section 732(a) of such Act (29 U.S.C.

1191a(a)), as amended by section 603(b)(2) of

Public Law 104-204, is amended by striking

"section 711" and inserting "sections 711 and

713."

(iii) The table of contents in section 1 of such

Act is amended by inserting after the item

relating to section 712 the following new item:

"Sec. 713. Standards relating to benefits for
certain breast cancer treat-

ment.

(b) INDIVIDUAL HEALTH INSURANCE.—

(1) IN GENERAL.—Part B of title XXVII of

the Public Health Service Act, as amended

by section 603(b) of Public Law 104-204, is

amended by inserting after section 2751 the

following new section:

"Sec. 2752. STANDARDS RELATING TO BENEFITS
FOR CERTAIN BREAST CANCER TREATMENT.

(1) IN GENERAL.—The provisions of sec-

tion 731(d)(2) and (e)(2) shall apply to health

insurance coverage offered by a health

ingurant in the individual market in the same

manner as it applies to health insurance

coverage offered by a health

insurance issuer in connection with a

group health plan in the small or large group

market.

(2) NOTICE.—A health insurance issuer

under this part shall comply with the notice

requirement under section 713(d) of the Em-

ployee Retirement Income Security Act of

1974 with respect to the requirements re-

ferred to in subsection (a) as if such section

applied to such issuer and such issuer were a

group health plan.

"(c) PREEMPTION; EXCEPTION FOR HEALTH

INSURANCE COVERAGE IN CERTAIN STATES.—

(1) IN GENERAL.—The requirements of this

section shall not apply with respect to

health insurance coverage if there is a State

law that regulates such coverage that is

described in any of the following para-

graphs:

(A) Such State law requires such coverage

to provide for at least a 48-hour hospital

length of stay following a mastectomy per-

formed for treatment of breast cancer and

at least a 24-hour hospital length of stay fol-

lowing a lymph node dissection for treat-

ment of breast cancer.

(B) Such State law requires, in connec-


tion with such coverage for surgical treat-

ment of breast cancer, that the hospital

length of stay for such care is left to the de-

cision of (or required to be made by) the at-

tending provider in consultation with the

woman involved.

"(2) CONSTRUCTION.—Section 2762(a) shall

not be construed as superseding a State law
described in paragraph (1)."

"(c) EFFECTIVE DATES.—

(1) GROUP MARKET.—The amendments made

by subsection (b) shall apply with respect to


group health plans for plan years beginning

on or after January 1, 1998.

I have given careful consideration to the issues involved and believe that this act will ensure that American women receive the health care treatment and coverage that they are entitled to. I strongly encourage all of my colleagues to endorse this effort.

Mr. FORD. Mr. President, I rise in support of the Breast Cancer Protection Act that I introduced earlier today by my friend the Democratic Leader, Senator Daschle. I am pleased to be an original cosponsor of this important legislation to protect women with breast cancer the best care and health coverage available.

I come here not as an authority on this subject, but as one of the many Americans who have been touched by this disease. My own daughter is a breast cancer survivor, as is a former staff member. Unfortunately, another member of my staff for 48 years, Tha Moloney, was not so lucky. After a long battle with breast cancer, she died in November 1995.

It is for these women, and the thousands of others affected by this disease that I lend my support to this effort to ensure all women with breast cancer are treated with dignity and respect.

Rather than being rushed out the door hours after a breast cancer surgery, women deserve to consult with their physician to determine the appropriate hospital stay. That is why I am supporting the Breast Cancer Protection Act to provide a minimum hospital stay of 48 hours for mastectomies and 24 hours for lymph node removals.

Over the past 10 years, the length of hospitalization for patients undergoing breast cancer surgery has decreased significantly. Today, hospitalization time for patients undergoing mastectomies has dwindled to a mere 2-3 days, down from 4-6 days, 10 years ago.

Under pressure to cut costs, surgeons have been instructed by managed care companies to perform lymph node dissections and even mastectomies as outpatient surgery. I have heard stories about companies that require patients to be sent home a few hours after their surgery, even though they may be in severe pain, groggy from anesthesia, and have surgical tubes still in place.

Some companies have even denied payment for outpatient hospitalization on the day of their surgery. These situations place doctors in the difficult position of having to choose between delivering the quality care their patients deserve and a penalty for failing to follow an insurer’s guidelines.

Mr. President, women with breast cancer suffer not only from physical pain but also emotional and psychological trauma. They should not have to worry whether their physician is struggling to comply with an arbitrary length of stay guideline or their own best health interests. The Breast Cancer Protection Act will help ease their anxiety by ensuring that crucial health decisions are left in the hands of doctors and patients, not accountants. I am pleased to support this important effort to provide women with breast cancer the thorough health care coverage they deserve.

Mr. Johnson. Mr. President, I am proud and grateful to be here today as a co-sponsor of The Breast Cancer Patient Protection Act of 1997. I am proud because this bill is the right thing to do. It is a common sense measure that protects women undergoing breast cancer treatments. And I am grateful because, as the husband of a woman who has suffered from breast cancer, I know that every step makes a difference in preserving and protecting the quality of life for those afflicted with this disease.

As health care costs spiral out of control, more and more decisions are being made based on the bottom-line rather than on the needs of the patient. And it is always long enough for a mother and newborn child. And a twenty-four hour stay is often not long enough for a woman who has undergone surgical treatment for breast cancer.

I know this not just from literature or fact sheets or discussions with health care professionals. I know that twenty-four hours isn't long enough for everyone because I helped my wife home from the hospital after her cancer surgery. With tubes running everywhere, we brought her into our home twenty-two hours after her surgery. Many families aren't equipped to give the care needed. And many women aren't well enough to give themselves the care needed. An additional twenty-four hours in the hospital can decrease the risk of infection, allow women to rest more comfortably, and ensure that any crucial health care decision is being made in the best possible environment.

My wife and I are not alone. Nearly one out of every eight women will develop breast cancer. Approximately, 185,000 women will be diagnosed with the disease this year. Sadly, more than 44,000 women will also die from this disease in the next 365 days. The numbers of those afflicted with this disease must decrease, but the options must increase.

These are our grandmothers, our mothers, our daughters, our sisters, our wives. They deserve the best that we can give.

This bill does not do it all, but, as we look for a cure and other innovative treatments, it is part of a package to ease the pain of this invasive disease. I will do all that I can to make sure this bill becomes law.

Mr. Hollings. Mr. President, first I want to thank my colleague, Senator Daschle, for introducing this legislation. It has been a common sense measure that has been supported by Members of this Congress—members of both parties—and it represents a more subtle affect of insurance payment rules.

Today, one in eight American women develop breast cancer, and they and their families will thank you when the bipartisan members of this Congress act to ensure that medical decisions for mastectomy patients are made by the doctors and patients involved, not insurance companies, and it represents a more subtle affect of insurance payment rules on medicine which this Congress should consider.

Mr. President, I will also join my colleagues and speakers, including Senator Snowe, in introducing slightly broader legislation. I am heartened that so many Senators of both parties are anxious to pass legislation in this area and
I commend their bipartisanship. I initiate all of my colleagues to join these efforts to make sure in this Congress that doctors and breast cancer patients, rather than insurers, determine the best length of stay in the hospital for each case.

Mr. KENNEDY. Mr. President, I join Senator DASCHLE in introducing legislation to ban the abusive practice of "drive-by" mastectomies. This legislation will respond to the concerns of women throughout the country who fear that, dealing with the cruel disease of breast cancer, their health plan’s bottom line will take precedence over their health needs. This legislation will require health insurers to provide coverage for a minimum hospital stay for mastectomies and lymph node dissections performed for the treatment of breast cancer. The legislation allows outpatient surgery when the patient and the doctor decide that a hospital stay is not necessary, but it prohibits health plans from forcing patients to go home on the same day that they have these major surgical procedures.

The Daschle bill is a companion to bipartisan legislation (H.R.136) introduced by Representative R. A. DELAUNO in the House of Representatives. It will ban an abusive practice that even the health plans themselves have recognized should not be tolerated.

This legislation is of major importance to millions of women. Breast cancer is the most common solid tissue cancer among women. In 1996, approximately 184,000 new cases of invasive breast cancer were diagnosed. It is now the leading cause of death in women between the ages of 40 and 55.

This legislation is supported by the National Breast Cancer Coalition, the National Association of Breast Care Organizations, the Family Services USA Foundation, the Women’s Legal Defense Fund, and the American Society of Plastic and Reconstructive Surgeons. It prohibits plans from requiring hospital stays shorter than 48 hours for patients after mastectomy and 24 hours after lymph node dissection.

Decisions about the need for hospital care after such surgery should be made by a woman and her doctor. The social, medical, and health issues unique to each patient must be considered in deciding the required amount of in-hospital care. In certain circumstances and with proper support, it may be possible for some women to undergo these procedures with a shorter hospital stay, given these different outpatient. Each circumstance is unique.

This bill preserves every woman’s ability to avail herself of needed services without fear of penalty or prejudice. It does not require a stay in the hospital for any fixed period of time.

Rather, it guarantees that hospital care will be provided when it is needed.

Last year, Congress voted overwhelmingly to ban the practice of health plans forcing excessively short stays after delivery of a baby. This legislation is a further needed step to protect consumers against a particularly abusive practice, and I look forward to its early bipartisan approval by Congress.

Mr. MOYNIHAN (for himself and Mr. KERRY)

S. 144. A bill to establish the Commission to Study the Federal Statistical System, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL STATISTICAL SYSTEM LEGISLATION

Mr. MOYNIHAN. Mr. President, I rise today to reintroduce, along with Senator KERREY of Nebraska, legislation to establish a commission to study the Federal Statistical System.

Statistics are part of our constitutional arrangement, which provides for the government’s right to possess and collect other information for purposes, is the basis for apportionment of membership in the House of Representatives. I quote from Article I, Section 2: "...enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct."

But, while the Constitution directed that there be a census, there was, initially, no Census Bureau. The earliest censuses were conducted by U.S. marshals. Later on, statistical bureaus in State governments collected the data, with a Superintendent of the Census Bureau in Washington.

It was not until 1902 that a permanent Bureau of the Census was created by the Congress, housed initially in the Interior Department. In 1903 the Bureau was transferred to the newly established Department of Commerce and Labor.

In 1912, the Statistical Division of the Internal Revenue Service, which was originally an independent body, began collecting data in 1866. It too was transferred to the new Department of Commerce and Labor in 1903, but then was put in the Treasury Department in 1913 following ratification of the 16th amendment, which gave Congress the power to impose an income tax.

A Bureau of Labor, created in 1894, was also initially in the Interior Department. The first Commissioner, appointed in 1885, was Colonel Carroll D. Wright, a distinguished Civil War veteran of the New Hampshire Volunteers. A self-trained social scientist, Colonel Wright pioneered techniques for collecting and analyzing survey data on income, prices, and wages. He had previously served as chief of the Massachusetts Bureau of Statistics, a post he held for 15 years, and in that capacity had supervised the 1880 Federal census in Massachusetts.

In 1888, the Bureau of Labor became an independent agency. In 1903 it was once again made a Bureau, joining other statistical agencies in the Department of Commerce and Labor. When a new Department of Labor was formed in 1913, giving labor an independent voice—as labor was “removed” from the Department of Commerce and Labor—what we now know as the Bureau of Labor Statistics was transferred to it.

And so it went. Statistical agencies sprung up as needed. And they moved back and forth as new executive departments were formed. Today, some 89 different organizations in the Federal Government comprise parts of our national statistical infrastructure. Eleven of these organizations have as their primary function the generation of data. These 11 organizations are:

**Table: National Statistical Organizations**

<table>
<thead>
<tr>
<th>Agency</th>
<th>Department</th>
<th>Date Established</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bureau of the Census</td>
<td>Commerce</td>
<td>1902</td>
</tr>
<tr>
<td>Bureau of Economic Analysis</td>
<td>Commerce</td>
<td>1968</td>
</tr>
<tr>
<td>Bureau of Justice Statistics</td>
<td>Justice</td>
<td>1968</td>
</tr>
<tr>
<td>Bureau of Labor Statistics</td>
<td>Labor</td>
<td>1913</td>
</tr>
<tr>
<td>Bureau of Transportation Statistics</td>
<td>Transportation</td>
<td>1991</td>
</tr>
<tr>
<td>Census Bureau</td>
<td>Commerce</td>
<td>1874</td>
</tr>
<tr>
<td>Economic Research Service</td>
<td>Agriculture</td>
<td>1867</td>
</tr>
<tr>
<td>Energy Information Administration</td>
<td>Energy</td>
<td>1974</td>
</tr>
<tr>
<td>National Agricultural Statistical Service</td>
<td>Agriculture</td>
<td>1863</td>
</tr>
<tr>
<td>National Center for Education Statistics</td>
<td>Education</td>
<td>1867</td>
</tr>
<tr>
<td>National Center for Health Statistics</td>
<td>Health and Human Services</td>
<td>1992</td>
</tr>
<tr>
<td>National Oceanic and Atmospheric Administration</td>
<td>Commerce</td>
<td>1902</td>
</tr>
<tr>
<td>National Institute of Science and Technology</td>
<td>Commerce</td>
<td>1902</td>
</tr>
<tr>
<td>National Institute of Standards and Technology</td>
<td>Commerce</td>
<td>1867</td>
</tr>
</tbody>
</table>

NEED FOR LEGISLATION

President Kennedy once said: "Democracy is a difficult kind of government. It requires that people have the highest qualities of self-discipline, restraint, a willingness to make commitments and sacrifices for the general interest, and also it requires knowledge." That knowledge often comes from accurate statistics. You cannot begin to solve a problem until you can measure it.

This legislation would require the new commission to conduct a comprehensive examination of our current statistical system and focus particularly on the agencies that produce data as their primary product—agencies such as the Bureau of Economic Analysis (BEA) and the Bureau of Labor Statistics (BLS).

In September 1996, prior to the first introduction of this bill, I received a letter from nine former chairmen of the Council of Economic Advisers (CEA) endorsing this legislation. Excluding the two most recent chairs, who were still serving in the Clinton administration, the signatories include virtually every living chair of the CEA. While acknowledging that the United States "possesses a first-class statistical system," these former chairmen remind us that “problems periodically arise under the current system of widely scattered responsibilities.” They conclude as follows:

Without at all prejudging the appropriate measures to deal with the difficult problems, we believe that a thoroughgoing review by a highly qualified and bipartisan Commission as provided in your Bill has great promise in showing the way to major improvements.

The letter is signed by: Michael J. Boskin, Martin Feldstein, Alan Greenspan, Paul W. McCracken, Raymond J. and...
CONGRESSIONAL RECORD – SENATE
JANUARY 21, 1997

Saulnier, Charles L.; Schultze, Beryl W.; Sprinkel, Herbert Stein, and Murray Weidenbaum.

I ask unanimous consent that the full text of this letter be printed in the Record following my statement.

In this Senate’s association with the statistical system in the executive branch began over three decades ago. I was Assistant Secretary of Labor for Policy and Planning in the administration of President John F. Kennedy. I then held a new position to which I was nominally responsible for, inter alia, the Bureau of Labor Statistics. I say nominally out of respect for the independence of that venerable institution, which as I noted earlier long predated the Department of Labor itself. The then-Commissioner of the BLS, Ewan Clague, could not have been more friendly and supportive. And so were the statisticians, who undertook to teach me to the extent I was teachable. They even shared professional confidence. And so it was that I came to have some familiarity with the field.

For example, we had just received a report on price indexes from a committee led by George J. Stigler, who later won a Nobel prize in economics. I say nominally out of respect for the independence of that venerable institution, which I was nominally responsible for, the President with no more than 3 from the same political party; and study groups have convened on the extent to which changes in the American economy’s changing composition.

In this era of government downsizing and budget cutting it is unlikely that Congress will appropriate more funds for statistical agencies. It is clear that to preserve and improve the statistical system we must consider reforming it, not simply digitizing, but in fact reforming the system until we have heard from experts in the field. It is also clear there is a need for a comprehensive review of the Federal statistical infrastructure.

For if the public loses confidence in our statistics, they are likely to lose confidence in our policies as well.

DESCRIPTION OF LEGISLATION

The legislation established the Commission to Study the Federal Statistical System. The Commission would consist of 13 members: 5 appointed by the President with no more than 3 from the same political party, 4 appointed by the President pro tempore of the Senate with no more than 2 from the same political party, and 4 appointed by the Speaker of the House with no more than 2 from the same political party. Members shall be selected by the President from the appointed members. The members must have expertise in statistical policy with a background in disciplines such as actuarial science, demography, economics, finance, and management.

The Commission will conduct a comprehensive study of all matters relating to the Federal statistical infrastructure, including: and examination of multipurpose statistical agencies such as the Bureau of Labor Statistics (BLS); a review and evaluation of the mission and organizational structure of statistical agencies, including activities that should be expanded or eliminated and the advantages and disadvantages of a centralized statistical agency; an examination of the methodology involved in producing data and the accuracy of the data itself; a review of interagency coordination and standardization of collection procedures; a review of information technology and data collection and assessment of how data affects decisions; and a review of the identification and examination of issues regarding individual privacy in the context of statistical data; a comparison of our system with the systems of other nations; and recommendations for a strategy to maintain a modern and efficient statistical infrastructure. All of these objectives will be addressed in an interim report due no later than June 30, 1997. A final report due January 15, 1999.

The Commission is expected to spend $10 million: $2.5 million in 1997, $5 million in 1998, and $2.5 million in 1999. The Commission will cease to exist 90 days after the final report is submitted.

This legislation is only a first step, but an essential one. The Commission will provide Congress with a blueprint for reform. It will be up to us to finally take action after nearly a century of inattention to this very important issue.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the Record immediately after my statement.

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

SEC. 2. FINDINGS.

The Congress, recognizing the importance of statistical information in the development and administration of policies for the private and public sector, finds that—

(1) accurate Federal statistics are required to develop, implement, and evaluate government policies and laws;

(2) Federal spending consistent with legislative intent requires accurate and appropriate statistical information;

(3) business and individual economic decisions are influenced by Federal statistics and contracts are often based on such statistics;

(4) statistical information on the manufacturing and agricultural sectors is more complete than statistical information regarding the service sector which employs more than half the Nation’s workforce;

(5) experts in the private and public sector have long-standing concerns about the accuracy and adequacy of Federal statistics, including the Consumer Price Index, gross domestic product, trade data, wage data, and the poverty rate;

(6) Federal statistical data should be accurate, consistent, continuous, and be designed to best serve explicitly stated purposes;

(7) the Federal statistical infrastructure should be modernized to accommodate the increasingly complex and ever changing American economy;

(8) Federal statistical agencies should utilize all practical technologies and data;

(9) the Federal statistical infrastructure should maintain the privacy of individuals; and

(10) the Federal statistical system should be designed to limit redundancy of activities while achieving the maximum practical level of knowledge, expertise, and management

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission to Study the Federal Statistical System (hereinafter in this Act referred to as the “Commission”).
SEC. 4. FUNCTIONS OF THE COMMISSION.

(a) STUDY.—(1) In general.—The Commission shall conduct a comprehensive study of all matters relating to the Federal statistical infrastructure, including longitudinal surveys conducted by private agencies and partially funded by the Federal Government, for the purpose of identifying opportunities to improve the quality of statistics in the United States.

(b) STUDY AND RECOMMENDATIONS.—(1) In general.—The matters studied by and recommendations of the Commission shall include—

(A) an examination of multipurpose statistical agencies that collect and analyze data of broad interest across department and functional areas, such as the Bureau of Economic Analysis and the Bureau of Labor Statistics of the Department of Commerce, and the Bureau of Labor Statistics of the Department of Labor, for the purpose of understanding the interrelationship and flow of data among agencies;

(B) a review and evaluation of the collection of data for purposes of administering such programs as Old-Age, Survivors and Disability Insurance and Unemployment Insurance under the Social Security Act;

(C) a review and evaluation of the mission and organization of various statistical agencies, including—

(i) recommendations with respect to statistical activities that should be expanded or eliminated;

(ii) the order of priority such activities should be carried out;

(iii) a review of the advantages and disadvantages of consolidating statistical agencies or a partial consolidation of the agencies for the Federal Government;

(iv) an assessment of which agencies could be consolidated; and

(D) a review of interagency coordination of statistical data and recommendations of appropriate methods for disseminating statistical data that, in the view of the Commission, will provide the public with the most current and cost-effective information.

(2) In general.—The Commission shall undertake a review of information technology and recommendations for technical changes to improve statistical operations.

(3) In general.—The Commission shall be allowed travel expenses in the performance of services for the Commission, such travel may include travel outside the United States.

(4) In general.—The Commission may procure temporary and intermittent services under section 310(b) of title 5, United States Code, at rates for individuals which do not exceed the daily rate of basic pay prescribed for level V of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(5) In general.—The Commission may procure temporary and intermittent services under section 310(b) of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

S 7. TERMINATION OF THE COMMISSION.

(a) In general.—The Commission shall terminate 18 months after the date on which the final report of the Commission is submitted to the President and the Congress.

(b) In general.—The Commission shall not be authorized to perform any functions after the date of termination of the Commission.

(c) In general.—The Commission shall not be authorized to perform any functions after the date of termination of the Commission.
SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $2,500,000 for fiscal year 1997, $5,000,000 for fiscal year 1998, and $2,500,000 for fiscal year 1999 to the Commission to carry out the purposes of this Act.

S. 145. A bill to repeal the prohibition against government restrictions on communications between government agencies and the INS; to the Committee on the Judiciary.

GOVERNMENT AGENCIES LEGISLATION

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation to repeal section 434 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and subsections (a) and (b) of section 642 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996. Section 434 of the first act provides that:

Notwithstanding any other provision of Federal, State, or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service (INS) information regarding the immigration status, lawful or unlaw-ful, of an alien in the United States.

This provision, along with portions of section 642 of the aforementioned illegal immigration law, conflicts with an executive order issued by the mayor of New York in 1985, prohibiting city employees from reporting suspected illegal aliens to the Immigration and Naturalization Service unless the alien has been charged with a crime. The executive order, which is similar to local laws in other States and cities, was intended to ensure that fear of deportation does not deter illegal aliens from seeking emergency medical attention, reporting crimes, and so forth.

On September 8, 1995, during Senate consideration of the Work Opportunity Act of 1995, Senators Santorum and Nickles offered this provision as an amendment. The amendment was adopted by a vote of 91 to 6. The Senators who voted “no” were: Akaka, Campbell, Inouye, Moseley-Braun, Moynihan, and Simon.

Four of these six—Senators Akaka, Moseley-Braun, Simon, and the Senator from New York—were also among the 11 Democrats who voted against H.R. 4 when it passed the Senate 11 days later on September 23, 1995. The provision remained in H.R. 3734, the welfare bill recently signed by President Clinton.

Mayor Rudolph W. Giuliani of New York City filed suit last year to challenge section 434 of the new welfare law and section 642 of the illegal immigration law in U.S. District Court and I introduced a similar bill at the time. The mayor’s lawsuit deserves to succeed for the same reason this legislation deserves to pass: the provisions at issue are onerous and represent bad public policy.

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

S. 145.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,...
proposals which merely required the standards. In this way, our approach ready use, of meeting the solvency standards. It also recognizes a variety of arrangeements are structured within the National Association of Insurers...solvency standards that were developed by the Medicare program. Our legislation is very specific on the criteria for PSOs to enter the market. Our bill retains all of the consumer protections in current law that apply to health plans that serve Medicare beneficiaries. Beneficiaries would continue to be protected from incurring any financial liability if a health care plan became insolvent. In addition, rules on open enrollment and arranging for continuing Medigap coverage—without any pre-existing condition limitations—would apply as they do under current Medicare law. Our legislation would also require Medicare to contract with local agencies for ongoing monitoring of PSO performance and beneficiary access to services. Specifically on solvency, our legislation builds on fiscal soundness and solvency standards that were developed by the National Association of Insurance Commissioners [NAIC]. Our bill slightly modifies the HMO Model Act to take into account how affiliation arrangeements are structured within PSOs. It also recognizes a variety of alternatrive means, that many States already of certificating the solvency standards. In this way, our approach goes beyond earlier PSO legislative proposals which merely required the Secretary to develop specific solvency standards. I believe this approach will address concerns raised by some that complete secretarial discretion on fiscal soundness and solvency would somehow result in weakened solvency standards. In 1972, a proxy measure for quality was enacted by Congress which required health plans to meet an arbitrary standard of plan enrollment. Under the so-called “50-50 rule,” a health plan's Medicare enrollment or Medicaid enrollees cannot exceed 50 percent of its total enrollment. The underlying premise of the 50-50 rule is that if a plan has a significant enrollment of private or commercial enrollees its quality will be higher than a health plan strictly serving Medicaid or Medicare beneficiaries. This is an issue that is especially important in rural States like West Virginia. Many rural provider networks—which this bill seeks to encourage—would be unable to meet the 50-50 rule because a disproportionate share of the elderly reside in rural areas. Also, since adoption of the 50-50 rule, there have been significant advances made in measuring and assuring quality. More perfect, I believe that we have gained sufficient knowledge to adopt an approach that relies on specific quality standards, rather than a rough proxy based on a plan’s enrollment mix. Quality assurance will continue to be a work in progress, but our bill begins to lay the groundwork for explicitly setting and measuring the quality of health care received by Medicare beneficiaries. Under our bill, the 50-50 rule would be waived for any health plan that contracts with the Medicare Program if the plan meets the enhanced quality requirements in our bill and also has experience in providing managed or coordinated care. PSOs would go further in their quality efforts. For example, our bill requires PSOs to adopt an approach that reduces medical necessity intrusions into the doctor patient relationship, as well as how physicians participate in PSO networks.
Mr. President, last year Congress debate a variety of ways to improve quality and to put an end to medical decision-making driven by a desire to earn hefty profits for a company’s stockholders. Our bill gives health care providers the opportunity to get back in the driver’s seat. In addition, by cutting out the insurance company middleman, more money could be spent on providing patient care instead of on processing claims and realizing profits. I look forward to discussing this issue and pursuing the goal of this new bill later this year with my colleagues in the Finance Committee as we look at a variety of ways to improve and strengthen the Medicare program.
Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.
There being no objection, the bill was ordered to be printed in the Record, as follows:
fiscal years exceed 115 percent of its income for such fiscal year; and

"(IV) make arrangements with physicians or other health professionals, health care institutions, or other entities to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or health professionals or through the institutions; and

"(v) has made adequate provision against the risk of insolvency, which provision is satisfactory to the Secretary.

"(B) Subparagraph (A)(i)(II) shall not apply to an entity that has contracted with a single State agency administering a State plan approved under title XIX for the provision of services (other than inpatient hospital services) to individuals eligible for such services under such State plan on a prepaid risk basis prior to 1970.

"(4) An entity is described in this paragraph if the entity is a qualified provider-sponsored organization (as defined in subsection (l)(1)(A))."

SEC. 3. PARTIAL RISK ARRANGEMENTS.

Section 1876 (42 U.S.C. 1395mm) is amended—

(1) by redesignating subsections (i) and (j) as subsections (i) and (k), respectively; and

(2) by inserting after subsection (h) the following:

"(i) The Secretary may enter into a partial risk contract with an eligible organization under which—

"(I) notwithstanding subsection (b)(3)(A)(iv), the organization and the program established under this title share the financial risk associated with the services the organization provides to individuals entitled to benefits under part A and enrolled under part B or enrolled under part B only;

"(II) the payments that would otherwise be made to such organization under a risk-sharing contract under subsection (g) and (h)(2), payment is based on—

(A) a blend of—

(i) the payments that would otherwise be made to such organization under a risk-sharing contract under subsection (g) and (h)(2), payment is based on—

(ii) the payments that would otherwise be made to such organization under a risk-sharing contract under subsection (g) and (h)(2), payment is based on—

(iii) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986; or

(iv) both providers are part of a affiliated service group under section 414 of such Code,

(E) For purposes of subparagraph (D), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote not less than 51 percent of the voting rights or governance rights of another.

(2)(A) Subject to subparagraph (B), subsection (b)(3) (relating to State licensure) shall not apply to a qualified provider-sponsored organization.

"(B) Beginning on January 1, 2002, subsection (b)(3)(A) shall only apply (and subparagraph (A) of this paragraph shall no longer apply) to a qualified provider-sponsored organization in a State if—

(i) the financial solvency and capital adequacy standards for licensure of the organization under the laws of the State are identical to the regulations established under subsection (b)(3)(A)(iv); and

(ii) the standards for licensure of the organization under the laws of the State (other than the standards referred to in clause (i)) are substantially equivalent to the standards established by regulations under section 1889.

(C)(i) A provider-sponsored organization, to which subsection (b)(3)(A) applies by reason of subparagraph (B), that seeks to operate in a State under a full risk contract under subsection (b)(3)(A)(iv) shall apply for a waiver of the requirement of subsection (b)(3)(A)(iv) for that organization operating in that State.

(ii) The Secretary shall act on such a waiver application within 60 days after the date it is filed and shall grant a waiver for an organization with respect to a State if the Secretary determines that—

"(I) the State did not act upon a licensure application within 90 days after the date it was filed; or

"(II)(aa) the State denied a licensure application; and

bb any application for renewal (other than one made on the basis described in clause (ii)(I)) may be made only on the basis described in clause (ii)(I) and (ii)(II); or

cc the waiver shall cease to be effective on the expiration of the license (or approval of the organization from providing coverage pursuant to a contract under this title shall be superseded during the period for which such waiver is effective.

(2) Nothing in this paragraph shall be construed as—

(i) limiting the number of times such a waiver may be renewed under subparagraph (C)(ii)(I); or


(3) The requirement of subsection (b)(3)(A)(iii) (relating to delivery of physicians' services) shall apply to a qualified provider-sponsored organization except that the Secretary shall by regulation specify alternative delivery models or arrangements that may be used by such organizations in lieu of the models or arrangements specified in such subsection.

(4) The requirement of subsection (b)(3)(A)(iv) (relating to risk assumption) shall apply to a qualified provider-sponsored organization, except that such organization with a full risk contract under subsection (g) may (with the approval of the Secretary) obtain insurance or make other arrangements for covering costs in excess of those permitted to be covered by such insurance and any arrangements under subsection (b)(3)(A)(ii) (relating to risk sharing).

(6) A qualified provider-sponsored organization shall be treated as meeting the requirements of subsection (b)(3)(A)(iv) (relating to fiscally sound standard) if the organization is fiscally sound.

(7) A qualified provider-sponsored organization shall be treated as fiscally sound for purposes of subparagraph (A) if the organization—

"(C) has a net worth that is not less than the required net worth (as defined in subparagraph (C)); and
of subparagraphs (B) and (C).

(3) A quality assurance program meets the requirements of this subparagraph if the program—

(i) stresses health outcomes;

(ii) provides opportunities for input by physicians and other health care professionals;

(iii) monitors and evaluates high volume and high risk claims, care of acute and chronic conditions;

(iv) evaluates the continuity and coordination of care that enrollees receive;

(v) establishes and detects both underutilization and overutilization of services;

(vi) after identifying areas for improvement, establishes or alters practice parameters;

(vii) takes action to improve quality and assess the effectiveness of such action through systematic followup;

(viii) makes available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate); and

(ix) is evaluated on an ongoing basis as to its effectiveness.

(C) If a qualified provider-sponsored organization utilizes case-by-case utilization review, the organization shall—

(i) base such review on written protocols developed on the basis of current standards of medical practice; and

(ii) implement a plan under which—

(A) such review is coordinated with the quality assurance program of the organization; and

(B) a transition is made from relying predominantly on case-by-case review to review focusing on patterns of care.

(D) A qualified provider-sponsored organization shall be treated as meeting the requirements of subsections (A) and (B) and the requirements of subsection (C)(g) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization meets standards that are no less stringent than the standards established under section 1889 to carry out this paragraph and subsection (C)."


to the end the following:

(1) A qualified provider-sponsored organization, the adjusted community rate under subsection (e)(3) and paragraph (2) may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a product."

SEC. 7. PROCEDURES RELATING TO PARTICIPATION OF A PHYSICIAN IN A QUALIFIED PROVIDER-SPONSORED ORGANIZATION.

Section 1876(g) (42 U.S.C. 1395mm(g)) is amended by adding at the end the following:

"(n) A qualified provider-sponsored organization shall not be treated as meeting the requirements of this section unless the organization—

(1) establishes reasonable procedures, as determined by the Secretary, for access to the participation (under an agreement between a physician or group of physicians and the organization) of physicians under contracts entered into this section, including procedures to provide—

(A) notice of the rules regarding participation;

(B) written notice of a participation decision that is adverse to a physician; and

(C) a process within the organization for appealing an adverse decision, including the presentation of information and views of the physician regarding such decision; and

(2) consults with physicians who have entered into participation agreements with the organization regarding the organization’s medical policy, quality, and medical management procedures.

Paragraph (1)(C) shall not be construed to require a live evidentiary hearing, a verbatim record, or representation of the appealing party by legal counsel."

SEC. 8. ESTABLISHMENT OF REGULATIONS; CERTIFICATION PROCEDURES.

Part C of title XVIII (42 U.S.C. 1395x et seq.) is amended by inserting after section 1395vv (42 U.S.C. 1395vv) the following:

"ESTABLISHMENT OF REGULATIONS FOR QUALIFIED PROVIDER-SPONSORED ORGANIZATIONS

"Sec. 1899. (a) Interim Regulations.—"
"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations to implement the requirements for qualified provider-sponsored organizations as described in section 1876(m)(3)(A). Such regulations shall be issued on an interim basis, but shall become effective upon publication and shall remain in effect until December 30, 2001.

"(2) CONSULTATION.—In developing regulations under this subsection, the Secretary shall consult with the National Association of Insurance Professionals, the American Academy of Actuaries, State health departments, associations representing provider-sponsored organizations, quality experts (including patient advocacy organizations), and Medicare beneficiaries.

"(3) CONTRACTS WITH STATE AGENCIES.—The Secretary shall enter into contracts with appropriate State agencies to monitor performance and beneficiary access to services provided under this title during the period in which interim regulations are in effect under this subsection.

"(b) PERMANENT REGULATIONS.—

"(1) IN GENERAL.—Not later than July 1, 2001, the Secretary shall issue permanent regulations implementing the requirements for qualified provider-sponsored organizations under section 1876.

"(2) C ONSULTATION.—In developing regulations under this subsection, the Secretary shall consult with the organizations and individuals listed in subsection (a)(2).

"(3) THE PROCESS FOR CERTIFICATION.—The temporary regulations under this subsection shall be effective on and after January 1, 2002.

"CERTIFICATION OF PROVIDER-SUPPORTED ORGANIZATIONS

"SEC. 1890. (a) IN GENERAL.—

"(1) PROCESS FOR CERTIFICATION.—The Secretary shall establish a process for the certification of provider-sponsored organizations as defined in section 1876(m)(3)(A). In general, such process shall provide that an application for certification under this section, the organization shall notify the Secretary that it is applying for certification and shall provide the Secretary with all of the information that the Secretary deems necessary to make a decision on the application. A letter from the Secretary shall notify the organization of its status under such process.

"(b) FEES.—The Secretary may impose user fees on entities seeking certification under this section. The fees shall be paid in accordance with such regulations as the Secretary deems sufficient to pay the costs to administer the certification process.

"SEC. 9. DEMONSTRATION OF COORDINATED ACUTE AND LONG-TERM CARE BENEFITS

"(a) DEMONSTRATION OF COORDINATED ACUTE AND LONG-TERM CARE BENEFITS.—The Secretary of Health and Human Services shall provide, in not less than 10 States, for demonstration projects permit State Medicaid programs under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to be used as eligible organizations under section 1876. Such process shall provide that an application for certification shall be approved or denied not later than 60 days after receipt of a complete application.

"(b) USE OF INTERIM FINAL REGULATIONS.—

"(1) EFFECTIVE DATES.—

"(A) IN GENERAL.—Except as provided in paragraph (2), this Act and the amendments made by this Act in a timely manner for eligible organizations under such section shall be issued by the date of enactment of this Act.

"(B) AMENDMENTS.—

"(i) The Secretary shall, in a timely manner for eligible organizations under section 1876, permanently amend the interim final regulations issued by the Secretary under section 1876(m)(3)(A) to reflect such amendments.

"(ii) The interim final regulations issued by the Secretary under section 1876(m)(3)(A) shall be deemed to include such amendments.

"SEC. 10. REPORT ON MEDICARE CONTRACTS INVOLVING PARTIAL RISK.

"(a) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall submit a report to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate.

"(b) CONTENTS OF REPORT.—The report described in subsection (a) shall include—

"(1) the number and type of partial-risk contracts entered into by the Secretary under section 1876(m)(3)(A) of the Social Security Act (42 U.S.C. 1396m(i)), and

"(2) a recommendation as to whether the Secretary should continue to enter into partial-risk contracts under section 1876(m)(3)(A) of that Act (42 U.S.C. 1395mm(i)).

"SEC. 11. EFFECTIVE DATES; INTERIM FINAL REGULATIONS.

"(a) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this Act and the amendments made by this Act in a timely manner for eligible organizations under such section shall be issued by the date of enactment of this Act.

"(b) USE OF INTERIM FINAL REGULATIONS.—In order to carry out the amendments made by this Act in a timely manner for eligible organizations under such section the Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and opportunity for public comment.

"Mr. FRIEDMAN. Mr. President, earlier today the President of the United States announced that in his budget, which will be released on February 6, that he would aim to achieve approximately $138 billion in savings. The structural reform I think should include looking at some of the payment methodology, another element that relates to this choice in the structural reform. We have to accomplish this structural reform if we are going to truly strengthen the Medicare program and not just play with numbers.

"Again, we will be looking at a lot of numbers over the next several weeks. I, as a physician, will keep coming back to the importance of having true structural reform built into the program. I think both part A and part B of the overall Medicare program so that we truly will strengthen the system and make sure it is there for not only the 38 million Americans today, senior citizens and individuals with disabilities, but is there 5 years from now, 10 years from now, 20 years from now on into the future.

"I say all that to preface my reason for rising today, and that is to introduce a bill, the Provider Sponsored Organizations Act of 1997, introduced along with my distinguished colleague from West Virginia, Mr. ROCKEFELLER. This bill, I believe, offers one of those very important structural components which does expand choice for our senior citizens, which will help to keep the Medicare system today will do something very important, and that is inject quality into the considerations of options and choices among Medicare recipients. I will explain this shortly.

"Provider sponsored organizations, or PSOs, are integrated health care delivery systems that are sponsored by local health care providers, physicians in hospitals at the local level. Their purpose is to deliver a full spectrum of health services. Very specifically, this bill establishes the Federal solvency requirements, the licensing requirements and those quality standards that PSOs, provider sponsored organizations, must meet in order to come to the Medicare benefit table and participate in the Medicare Program.

"It was more than 20 years ago that Congress really stepped up to the plate and, I think, quite innovatively provided Federal guidance for the entry of a brand-new phenomenon, and that was of HMOs, health maintenance organizations. HMOs were established with the primary purpose of coordinating health care delivery in such a way that there could be competition and in some way control those skyrocketing costs that had previously been associated with the fee-for-service programs. What it did, it allowed a combining of the financing delivery system to the health care delivery system. Today Senator ROCKEFELLER and I are proposing to level the playing field once again with our bill to allow PSOs, for the first time, to have access to the Medicare market. Our bill sets the national rules by which these locally-based networks of providers may compete head to head with the traditional managed care organizations. All of that is done with the hope that the providers, the physicians, the hospitals,
the frontline people who are taking care of patients, will be able to more actively participate in coordinating the overall health care for Medicare beneficiaries. We trust that free and fair competition will give Medicare beneficiaries choices and ultimately improve the cost, access, and quality of the services they receive.

All of us know that today's health care market in its broadest sense is in the midst of a significant change. The market of care does continue to rise rapidly. There are a growing number of Americans all across this country who are shifting from a traditional fee-for-service model to a managed-care model. Today's paper, the Washington Post, released new figures that show that 75 percent, three-quarters of all working Americans today, receive their health insurance benefits through some type of managed care. Unfortunately, I think, in many ways, the accompanying pressure of this shift in managed care, although it is not always fair, has been that managed care companies focus almost entirely on cutting costs, and then only after costs are cut is the quality issue discussed.

In order to help those physicians who have to clear practice decisions through managed care organizations, and I can recall before coming to the U.S. Senate 3 years ago picking up the telephone and calling a bureaucrat or someone sitting 200, 300, 400 miles away, to ask if I could discharge my patient, or if my patient met criteria for discharge, whether the hematic or blood count was appropriate, this intrusion is really resented by physicians, that health care delivery which really is in this country a pact, a relationship between a doctor and a patient.

The mother-may-I mentality that has emerged has frustrated both parties and providers and led them to question this whole charge. Is it the physician, working with the patient, taking care, who knows that patient, who has been trained to take care of that patient, or is it a bureaucrat or somebody hundreds of miles away?

On the other side of the coin, it is very clear that managed care has been very successful in forcing an out-of-date delivery system to be more accountable. This has had very important benefits for patients. That leads me to think that sometimes, when we talk about HMOs, and about managed care, we are talking about the HMOs of a few years ago, and about a delivery system that was not sustainable. Today, we are seeing a number of providers who are coordinating care, clinical decisions, and at the Federal level. That includes the ban on the gag rule clauses and various length-of-stay proposals after various procedures that are done in the hospital.

America's largest health care payer today is the Federal Medicare Program. It has had difficulty, interestingly enough, in attracting seniors to managed care. The figure that I just mentioned, that 25 percent of all people today being in managed care, contrasts with those senior citizens, all of whom are in Medicare. Only 11 percent, only 11 percent compared to 75 percent of Medicare beneficiaries are signed up to managed care. It is very clear that our senior citizens have a great fear today of being herded into the traditional managed care plans where they have a fear they will not include the physician they choose or the hospital that they might want to use.

I think that the outmoded blank check mentality, on the other hand, of fee-for-service system is not sustainable over time. It can be one of the choices, but it cannot be and will not be the only option. Given that Medicare's own trustees have reported that the program is going to be bankrupt in 4 to 5 years, Medicare clearly has to find a way to have its growth slowed.

Managed care beneficiaries who fear managed care have become more secure knowing that they have the choice of a health care plan that is actually run by providers-doctors working with hospitals, and not just a business, not just a traditional insurance company.

PSOs will help push the market to elevate the level of quality at all levels of plans of negotiation and delivery because of the direct involvement of physicians with hospitals, of the people who are actually delivering the care. Every time the process, Quality, all of a sudden, becomes the primary goal. Once at the negotiating table, you bring physicians into the room.

Many see all of this as an "us-versus-them" scenario. In fact, neither group acts alone when funds are limited, whether care is paid for by a Government plan, an employer, an insurer, an individual. Medicare providers and plan administrators simply must work together to increase the value of dollars spent.

Before coming to the U.S. Senate, as one who used to negotiate, as a transplant surgeon and running a large transplant center I negotiated with managed care plans. Based on that negotiation, all too often quality was not the issue, really, at the table. People would come in and say, "I need a discount of 10 percent, of 15 percent or 20 percent." What was missing at that table was the perception of providers, physicians with hospitals, working together-who would ask those questions about quality. Why do they ask the questions about quality? Because they are on the frontline. At the table they are discussing the patient, who is delivering care to individuals. That to me is one of the most exciting things about this bill. It injects quality back into the marketplace. Is there any evidence today that senior citizens will respond to this alternative? This year the Health Care Financing Administration established the demonstration project called Medicare Choices.

This pilot project is examining ways of expanding the choice of health care plan options available to Medicare beneficiaries. Included in this demonstration are a number of PSO's. Senator MACK recently shared with me his experience in Florida with this new PSO demonstration project. We are responding to this, to the seminars, and as a result of those home visits, they are enrolling seven to nine individuals a day. The Orlando PSO has already enrolled another 400 beneficiaries just for February. So, yes, I think our senior citizen beneficiaries will respond to this new option, this new option that expands choice, when we bring physicians and hospitals through a PSO entity to the table.

Clearly, we can make managed care options more attractive to America's seniors by allowing PSO's to participate in the Medicare program. What are the other advantages that provider-sponsored organizations offer? These groups offer many advantages.

First, one-stop shopping for a coordinated package of health care services really saves time and the expense of negotiating with individual provider contracts.

Second, because it is the providers who are coordinating care, clinical decisions and utilization are conducted by the providers themselves and not by a faceless third party charged with conducting these reviews.

Third, incentives to control costs are borne by the only group that can truly deliver systemic, systematic improvement and cost efficiency over the long run. Why? Because it is the providers who are monitoring that quality. It is
the physicians and hospitals who are actually providing that care and, thus, they are in a position to best monitor that quality.

Finally, PSO's simply tend to have much lower startup and administrative costs. In fact, it is easier for them to enter the market in those key areas that we need to look at, and that is the rural areas. These rural areas have a real risk of being underserved without this new entity, a PSO.

What are the advantages of the PSO's—provider-sponsored organizations—for the country as a whole? The managed care industry has been able to change our paradigms about health care tremendously over the last 10 years. Health care is becoming less costly and more efficient. But now we have to come back to quality and inspect quality back into the system and the effectiveness of that health care delivery. By bringing providers, the people delivering that care every day, to the table for the first time in Medicare, PSO's will create that opportunity.

The PSO's are really in the health care business day in and day out. Remember, it is a group of physicians who are taking care of patients who we are bringing to the table for the first time. PSO's are in the health care business, not in the insurance business, and they are currently excluded from fair participation in the market because of their market segmentation. PSO's will enter the market in those key areas that we need to look at, and that is the rural areas. These rural areas have a real risk of being underserved without this new entity, a PSO.

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about how to appropriately diagnose and counsel women who are pregnant or are considering pregnancy.

Recent estimates indicate that up to 12,000 children are born each year in the United States with FAS. Thousands with FAE are estimated that the incidence of FAS may be as high as one per 100 in some Native American communities.

The costs associated with caring for individuals with FAS are staggering. The Centers for Disease Control and Prevention estimates that the lifetime cost of treating an individual with FAS is almost $1.4 million. The total cost in terms of health care and social services to treat all Americans with FAS was estimated to be $2.7 billion in 1995. This is an extraordinary and unnecessary expense, especially when one considers that all alcohol-related birth defects are 100 percent preventable.

The first step toward illuminating this disease is raising the public's consciousness about FAS/FAE. Although great strides have been made in this regard, much more work remains to be done. The Comprehensive Fetal Alcohol Syndrome Prevention Act of 1997, which is in the process of being introduced in our current FAS/FAE prevention system. It contains four major components, representing the provisions of the original legislation that have not yet been enacted. These provisions include the creation of a national coordination and public awareness campaign; increased support for basic and applied epidemiologic research into the causes, treatment and prevention of FAS/FAE; widespread dissemination of FAS/FAE diagnostic criteria; and the establishment of an interagency task force to coordinate the wide range of Federal efforts in combating FAS/FAE.

A prevention strategy cannot succeed in the absence of increased access to comprehensive treatment programs for pregnant women. Many pregnant substance abusers are denied treatment because facilities refuse to accept them, or the women cannot accept treatment because they lack adequate child care for their existing children while they receive treatment. In fact, many treatment programs specifically exclude pregnant women or women with children. To make matters worse, while Medicaid covers some services associated with substance abuse treatment, some facilities refuse to cover detoxification, it rails to cover nonhospital based residential treatment, which is considered by most health care professionals to be the most effective method of overcoming addiction.

The Medicaid Substance Abuse Treatment Act would permit coverage of residential alcohol and drug treatment for pregnant women and certain family members under the Medicaid program, thereby assuring a stable source of funds to states throughout the nation to establish these programs. The bill has three primary objectives. First, it would facilitate the participation of pregnant women who are substance abusers in alcohol and drug treatment programs. Second, by increasing the availability of comprehensive and effective treatment programs for pregnant women and, thus, improving a woman's chances of bearing healthy children, it would help combat the serious and ever-growing problem of drug-impaired infants and children, many of whom are born with FAS and FAE. Third, it would address the unique situation of pregnant addicted Native American and Alaska Native women in Indian Health Service areas.

Mr. President, the cost of prevention is substantially less than the downstream costs in money and human capital of caring of children and adults who have been imprisoned due to pre-natal exposure to alcohol and drugs. These prevention and treatment services are an investment that yields substantial long-term dividends—both on a societal level, as costs and efforts associated with taking care of children born with alcohol-related birth defects decline, and on an individual level, as mothers plagued by alcohol and drug addiction are given the means to heal themselves and give their unborn children a better chance at life.

FAS and FAE represent a national tragedy that reaches across economic and social boundaries. With researchers from Columbia University reporting that at least one in ten of pregnant women uses alcohol and/or other drugs during pregnancy, the demand for a comprehensive and determined response to this devastating problem is clear. I welcome the support of my colleagues on this issue.

Mr. President, I ask unanimous consent that the text of the bills be printed in the Record.

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

S. 147
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 ‘‘Medicaid Substance Abuse Treatment Act of 1997’’

SEC. 2. FINDINGS AND PURPOSE.
(a) FINDINGS.—The Congress finds that—
(1) a woman’s ability to bear healthy children is threatened by the consequences of alcoholism and drug addiction; and particularly by the use of alcohol and drugs during pregnancy;
(2) hundreds of thousands of infants each year are born to women who are drug dependent during pregnancy; approximately 12,000 infants are born each year with fetal alcohol syndrome, and thousands more are born each year with fetal alcohol effects, a less severe version of fetal alcohol syndrome;
(3) drug use during pregnancy can result in low birthweight, physical deformities, mental retardation, learning disabilities, and heightened nervousness and irritability in newborns;
(4) fetal alcohol syndrome is the leading identifiable cause of mental retardation in the United States; and the only cause that is 100 percent preventable;
(5) drug-impaired individuals pose extraordinary societal costs in terms of medical, educational, foster care, residential, and support services over the lifetimes of such individuals;
(b) PURPOSE.—The purposes of this Act are—
(1) to increase the ability of pregnant women who are substance abusers to participate in alcohol and drug treatment;
(2) to ensure the availability of comprehensive and effective treatment programs for pregnant women, thus promoting a woman’s ability to bear healthy children;
(3) to ensure that nonhospital residential treatment is available to those low-income pregnant addicted women who need long-term, intensive habilitation to recover from their addiction;
(4) to create a new optional Medicaid residential treatment service for alcoholism and drug dependency treatment for pregnant women;
(5) to define the core services that must be provided by treatment providers to ensure that needed services will be available and appropriate.

SEC. 3. MEDICAID COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES FOR PREGNANT WOMEN, CARETAKER PARENTS, AND THEIR CHILDREN.
(a) COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES.—
(1) optional coverage.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—
(A) in subsection (a)—
(i) in paragraph (24), by striking ‘‘and’’ at the end of paragraph (24) and substituting ‘‘and’’ for ‘‘;’’
(ii) by redesignating paragraph (25) as paragraph (26); and
(iii) by inserting after paragraph (24) the following new paragraph:
‘‘(25) alcoholism and drug dependency residential treatment services (to the extent allowed and as defined in section 1915);’’
(B) in the sentence following paragraph (26), as so redesignated—

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(i) in subparagraph (A), by striking "or" at the end;
(ii) in subparagraph (B), by striking the period and inserting "; or"; and
(iii) by inserting after subparagraph (B) the following:
''(C) Any such payments with respect to alcoholism and drug dependency residential treatment services' means all the required services described in subsection (b) which are provided--
''(1) in a coordinated manner by a residential treatment program that meets the requirements of subsection (c) either directly or through arrangements with--
''(A) public and nonprofit private entities;
''(B) Indian Health Facilities, such a facility designated by a tribal or Indian organization that has entered into a contract with the Secretary under section 1902(a)(5) of title I of the Social Security Act (42 U.S.C. 1396 et seq.) to the single State agency under section 1902(a)(5) that the facility is located in an Indian country not be a hospital, if the Secretary finds that such facility is the only or one of the only facilities available in such area to provide services under this section.
''(2) REQUIREMENT FOR CERTAIN SERVICES.--Services (as defined in section 1905(r)).
''(3) LIMITATIONS ON COVERAGE.--
''(A) In general.--Subject to subparagraph (B), services described in paragraph (1) shall be provided to a pregnant woman, during the term of her pregnancy.
''(B) RESTRICTIONS ON LIMITING COVERAGE.--A State plan shall not limit coverage of alcoholism and drug dependency residential treatment services for any period of less than 12 months per individual, except in those instances where a finding is made that such services are no longer therapeutically necessary for an individual.
''(C) FACILITY REQUIREMENTS.--The requirements of this subsection with respect to a facility are as follows:
''(1) The agency designated by the chief executive officer of the State to administer the State's alcohol and drug abuse prevention and treatment activities and programs has certified to the single State agency under section 1902(a)(3) that the facility that the facility--
''(A) is able to provide all the services described in subsection (b) either directly or through arrangements with--
''(i) public or private entities;
''(ii) licensed practitioners or federally qualified health centers with respect to medical services; or
''(iii) the Indian Health Service or with a tribal or Indian organization that has entered into a contract with the Secretary under section 1902(a)(5) of the Indian Self-Determination Act (25 U.S.C. 1652) with respect to such services provided to women eligible to receive services in Indian Health Facilities; and
''(ii) the facility can provide quality care in the delivery of each of the services identified in section 1932(a)(2) to the single State agency under section 1902(a)(5) that the facility--
''(iii) is periodically reviewed and (as appropriate) revised by the staff of the facility in consideration with the individual to provide services under this section.
''(4) REIMBURSEMENT.--Services provided under this section shall be available for their preschool children;
SEC. 2. FINDINGS.

(a) Congress finds that—

(1) Fetal Alcohol Syndrome is the leading known cause of mental retardation, and it is 100 percent preventable.

(2) Each year, up to 1,000 infants are born in the United States with Fetal Alcohol Syndrome, suffering irreversible physical and mental damage;

(3) Thousands more infants are born each year with Fetal Alcohol Effects, which are lesser, though still serious, alcohol-related birth defects;

(4) Children of women who use alcohol while pregnant have a significantly higher infant mortality rate (13.3 per 1000) than children of those women who do not use alcohol (8.6 per 1000).

(5) Fetal Alcohol Syndrome and Fetal Alcohol Effects are national problems which can impact any child, family, or community;

(6) Their threat to all American Indians and Alaska Natives is especially alarming;

(7) In addition to the immeasurable toll on children and their families, Fetal Alcohol Syndrome and Fetal Alcohol Effects pose extraordinary financial costs to the Nation, including the costs of health care, education, foster care, job training, and general support services for affected individuals;

(8) The total cost to the economy of Fetal Alcohol Syndrome was approximately $2,500,000,000 in 1995, and over a lifetime, health care costs for one Fetal Alcohol Syndrome child are estimated to be at least $1,400,000;

(9) Researchers have determined that the possibility of giving birth to a baby with Fetal Alcohol Syndrome or Fetal Alcohol Effects increases in proportion to the amount and frequency of alcohol consumed by a pregnant woman, and that stopping alcohol consumption at any time prior to pregnancy reduces the emotional, physical, and mental consequences of alcohol exposure to the baby;

(10) Though approximately 1 out of every 5 pregnant women drink alcohol during their pregnancy, we know of no safe dosage of alcohol during pregnancy, or of any safe time to drink during pregnancy, thus, it is in the best interest of the Nation for the Federal Government to take an active role in encouraging all women to abstain from alcohol consumption during pregnancy.

SEC. 3. PURPOSE.

It is the purpose of this Act to establish, within the Department of Health and Human Services, a comprehensive program to help prevent Fetal Alcohol Syndrome and Fetal Alcohol Effects nationwide. Such program shall—

(1) coordinate, support, and conduct basic and applied epidemiologic research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects;

(2) coordinate, support, and conduct national, State, and community-based public health, research, and education programs on Fetal Alcohol Syndrome and Fetal Alcohol Effects;
(3) foster coordination among all Federal agencies that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effects research, programs, and surveillance and otherwise address the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effects.

SEC. 4. ESTABLISHMENT OF PROGRAM.

Title V—Fetal Alcohol Syndrome and Fetal Alcohol Effects Research, Prevention, and Intervention Act of 2001

PART O—FETAL ALCOHOL SYNDROME AND FETAL ALCOHOL EFFECTS PREVENTION PROGRAM

SEC. 399g. ESTABLISHMENT OF FETAL ALCOHOL SYNDROME PREVENTION PROGRAM.

(a) Fetal Alcohol Syndrome Prevention Program—(A) and (B) of section 705 of the ADAMHA Reorganization Act of 1986 (42 U.S.C. 241 et seq.) is amended by adding at the end thereof:

"PART O—FETAL ALCOHOL SYNDROME AND FETAL ALCOHOL EFFECTS PREVENTION PROGRAM.

"SEC. 399g. ESTABLISHMENT OF FETAL ALCOHOL SYNDROME PREVENTION PROGRAM.

"(a) Fetal Alcohol Syndrome Prevention Program—

"(A) and (B) of section 705 of the ADAMHA Reorganization Act of 1986 (42 U.S.C. 241 et seq.) is amended by adding at the end thereof:

"(A) the establishment of a comprehensive Fetal Alcohol Syndrome and Fetal Alcohol Effects prevention program that shall include—

("i) an education and public awareness program;

("ii) training programs concerning the prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

("iii) research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects, including programs for school-age children, concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

("iv) community awareness programs concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(B) provide technical and consultative assistance to States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations concerning the programs referred to in subparagraph (A); and

"(C) award grants to, and enter into cooperative agreements and contracts with, States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations for the purposes of—

("i) evaluating the effectiveness of, with particular emphasis on the cultural competency and age-appropriateness, of programs referred to in subparagraph (A); and

("ii) providing training in the prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and Fetal Alcohol Effects, with priority given to programs that are part of a sequential, comprehensive school health education program; and

("iii) increasing public and community awareness concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects through culturally competent programs, projects, and campaigns, and improving the understanding of the general public and targeted groups concerning the most effective intervention methods to prevent fetal alcohol exposure to alcohol;

"(2) an applied epidemiologic research and prevention program to—

"(A) support and conduct research on the causes, mechanisms, diagnostic methods, treatment, and prevention of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(B) provide technical and consultative assistance and training to States, Tribal governments, local governments, scientific and academic institutions, and nonprofit organizations engaged in the conduct of—

"(i) Fetal Alcohol Syndrome prevention and early intervention programs; and

"(ii) research relating to the causes, mechanisms, diagnostic methods, treatment, and prevention of Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

"(C) award grants to, and enter into cooperative agreements and contracts with, States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations for the purposes of—

"(i) conducting innovative demonstration and evaluation projects designed to determine the effectiveness of community-based prevention programs and multicultural education campaigns, for preventing and intervening in fetal exposure to alcohol; and

"(ii) improving and coordinating the surveillance and ongoing assessment methods implemented by such entities and the Federal Government with respect to Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

"(ii) developing and evaluating effective age-appropriate and culturally competent prevention programs for children, adolescents, and adults identified as being at-risk of becoming chemically dependent on alcohol and associated with or developing Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

"(iv) facilitating coordination and collaboration among Federal, State, local government, Indian tribal, and community-based Fetal Alcohol Syndrome prevention programs;

"(3) a basic research program to support and conduct basic research on services and treatments that are effective in reducing interventions for pregnant alcohol-dependent women and individuals with Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(4) a procedure for disseminating the Fetal Alcohol Syndrome and Fetal Alcohol Effects diagnostic criteria developed pursuant to section 705 of the ADAMHA Reorganization Act to health care providers, educators, social workers, child welfare workers, and other individuals; and

"(5) the establishment, in accordance with subsection (b), of an interagency task force on Fetal Alcohol Syndrome and Fetal Alcohol Effects to foster coordination among all Federal agencies that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effects research, programs, and surveillance, and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effects.

"(B) INTERAGENCY TASK FORCE—

"(1) MEMBERSHIP—(A) The interagency task force established pursuant to paragraph (5) of subsection (a) shall—

"(A) be chaired by the Secretary or a designee of the Secretary, and staffed by the Administration; and

"(B) include representatives from all relevant agencies and offices within the Department of Health and Human Services, the Department of Agriculture, the Department of Education, the Department of Defense, the Department of Interior, the Department of Justice, the Departments of Health and Human Services, the Environmental Protection Agency, the Bureau of Alcohol, Tobacco and Firearms, the Federal Trade Commission, and any other relevant Federal agency.

"(2) FUNCTIONS.—The Task Force shall—

"(A) coordinate all Federal programs and research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects, including programs that—

"(i) target individuals, families, and populations identified as being at risk of acquiring Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

"(ii) provide education, health, treatment, and social services to infants, children, and adults with Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(B) coordinate its efforts with other Federal agencies that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effects research, programs, and surveillance, and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

"(C) report on a biennial basis to the Secretary and relevant committees of Congress, and planned activities of the participating agencies.

"(C) SCIENTIFIC RESEARCH AND TRAINING.—The Director of the National Institute on Alcohol Abuse and Alcoholism shall establish a science-based interagency task force to provide the conduct and support of research, training, and dissemination of information to researchers, clinicians, health professionals, and the public to the cause, prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and the related condition known as Fetal Alcohol Effects.

"SEC. 399h. ELIGIBILITY.

"To be eligible to receive a grant, or enter into a cooperative agreement or contract under this part, an entity shall—

"(1) be a State, Indian tribal government, local government, scientific or academic institution, or nonprofit organization; and

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may prescribe, including a description of the activities that the entity intends to carry out using amounts received under this part.

"SEC. 399i. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part, such sums as are necessary for each of the fiscal years 1997 through 2001:"

Mr. DASCHLE. Mr. President, today I am reintroducing two bipartisan bills to help prevent the tragic occurrence of alcohol-related birth defects, including both fetal alcohol syndrome [FAS] and fetal alcohol effects [FAE]. I speak on behalf of all cosponsors when I say we are hopeful we can move these two simple, but important pieces of legislation this year.

Recent estimates indicate that up to 12,000 children are born each year in the United States with FAS. Thousands more are born with FAE. It is estimated that the incidence of FAS and FAE may be as high as one per 100 in some Native American communities.

FAS and FAE are devastating, complex birth defects. Many people fail to realize that FAS is the leading cause of mental retardation. Too many women remain uninformed about the real dangers of alcohol consumption during pregnancy. In fact, at least one recently published popular pregnancy book actually recommends a drink or two relax and relax after that. And unfortunately, misconceptions about the impact of alcohol intake during pregnancy are not limited to the general public. For many years it was widely, though mistakenly, believed in this medical community that moderate alcohol consumption during pregnancy was beneficial. These misperceptions are not only frightening, but life threatening. Children born to women who drink alcohol during pregnancy have a 50 percent higher chance of infant mortality than the children of women who abstain. Fortunately, several medical and nursing schools have begun offering a course specifically on FAS and
The Anti-Drug Abuse Act of 1988, which has been amended and expanded since then, was the first comprehensive national strategy to combat drug abuse. It created the Office of National Drug Control Policy and established the Anti-Drug Abuse Act of 1988 as the principal national vehicule for demand reduction, supply reduction, and treatment. The 1988 Act also established a national inter-agency working group to coordinate the efforts of all interested federal agencies and programs.

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill, cosponsored by Senator Charles E. Grassley, to amend the Anti-Drug Abuse Act of 1988 to establish qualification standards for individuals nominated to be the Deputy Director of Demand Reduction in the Office of National Drug Control Policy; to the Committee on Labor and Human Resources.

The Deputy Director of Demand Reduction would be responsible for overseeing the demand reduction programs and activities of the Office of National Drug Control Policy.

The Deputy Director would be appointed by the President, with the advice and consent of the Senate, from a list of nominees submitted by the President. The Deputy Director would serve a term of four years, and could be reappointed for an unlimited number of terms.

The Deputy Director would be responsible for overseeing the demand reduction programs and activities of the Office of National Drug Control Policy, including the development and implementation of demand reduction strategies, the coordination of demand reduction efforts with other federal agencies and programs, and the evaluation of the effectiveness of demand reduction programs.

The bill also includes provisions to ensure the independence of the Deputy Director from the political process, and to provide for the professional development of the Deputy Director.

I am confident that this bill will be an important step in the ongoing effort to combat drug abuse in our country. I urge my colleagues to support this important legislation.
when we created the Drug Czar's office and the position of Deputy Director for Demand Reduction. Today, we are introducing legislation that will spell out more clearly this intent. Last year, Congress increased funding to the Drug Czar's office and local level, and the end of the year, this year we will be reviewing the reauthorization of the office. Congress remains deeply interested in ONDCP and I and others will be working to ensure that it is meeting the expectations that we have in it.

As we work during this Congress to ensure a drug-free future for our children, we must have an individual in charge of our national demand reduction efforts who can command the respect of parents, doctors, treatment and prevention specialist, and the public. I am pleased to join Senator MOYNIHAN in this effort. Our legislation will ensure that we will see candidates for this important post who command universal support. I welcome the support of our colleagues. I look forward to having someone of outstanding capabilities with whom we can work and in whom the public can have confidence.

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, and Mr. DODD):

S. 150. A bill to amend section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), to provide for disclosure of information relating to individuals who committed Nazi war crimes, and for other purposes; to the Committee on the Judiciary.

TWO CRIMES DISCLOSURE ACT

Mr. MOYNIHAN. Mr. President, today I am joined by Senators D'AMATO and DODD in introducing the War Crime Disclosure Act. This legislation is a companion to a measure introduced today I am joined by Senators D'AMATO and DODD in introducing the War Crime Disclosure Act. This legislation is a companion to a measure introduced today I am joined by Senators D'AMATO and DODD in introducing the War Crime Disclosure Act. This legislation is a companion to a measure introduced today I am joined by Senators D'AMATO and DODD in introducing the War Crime Disclosure Act. This legislation is a companion to a measure introduced today I am joined by Senators D'AMATO and DODD in introducing the War Crime Disclosure Act. This legislation is a companion to a measure introduced today I am joined by Senators D'AMATO and DODD in introducing the War Crime Disclosure Act. 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January 21, 1997

He was able to return in 1972, whereupon he began his most outspoken criticism of the Soviet regime.

On September 13, 1973, in response to a government orchestrated-public smear campaign against Andrei Sakharov, Dr. Orlov, who spent 7 years in a labor camp and two years in Siberian exile, never ceased protesting against oppression. Despite deteriorating health and the harsh conditions of the camp, Dr. Orlov smuggled out messages in support of basic rights and nuclear arms control. His bravery and that of his dissident colleagues played no small role in the dissolution of the Soviet Union. I am sure many would agree that we owe them a tremendous debt. This then is a call to all those who agree with that proposition. Dr. Orlov now in need; please join our endeavor.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO).

S. 152. A bill to provide for the relief and payment of an equitable claim to the estate of Dr. Beatrice Braude of New York, New York; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill, cosponsored by Senator D'AMATO, to provide for the relief and payment of an equitable claim to the estate of Dr. Beatrice Braude.

Mr. President, this is a measure of justice which brings back memories of an old and awful time. Dr. Braude, a linguist fluent in several languages, was dismissed from her position at the United States Information Agency (USIA) in 1953 as a result of allegations of disloyalty to the United States. The accusations were old; two years earlier, the State Department's Loyalty Security Board had investigated and unanimously voted to dismiss them. The Board sent a letter to Dr. Braude stating "there is no reasonable doubt as to your loyalty to the United States Government or as to your security risk to the Department of State."

Dr. Braude was terminated one day after being praised for her work and informed that she probably would be promoted. USIA officials told her that the termination was due to budgetary constraints. Congress had funded the USIA at a level 27 percent below the President's budget cut. Fair enough. As Dr. Braude remarked years later, "I never felt that I had a lien on a government job." But what Dr. Braude did not know is that she was selected for termination because of the old—and answered—charges against her. And because she did not know the real reason for her dismissal, she was denied certain procedural rights (the right to a hearing for instance).

The true reason for her dismissal was kept hidden from her. When she was unable, over the next several years, to secure employment anywhere else within the Federal Government—even in a typing pool despite a perfect score on the typing test—she became convinced that she had been blacklisted.

She spent the next 30 years fighting to regain employment and restore her reputation. Though she succeeded in 1982 (at the age of 69) in securing a position in the CIA as a language instructor, she still had not been able to clear herself by the time of her death in 1988. The irony of the charges against Dr. Braude is that she was an anti-communist, having witnessed first-hand communist-sponsored terrorism in Europe while she was an assistant cultural affairs officer in Paris and, for months, a government intelligence officer in Bonn during the late 1940s and early 1950s.

Mr. President, I would like to review the charges against Dr. Braude because they are illustrative of that dark era and instructive to us even today. There were a total of four. First, she was briefly a member of the Washington Book Shop at Farragut Square that the Attorney General later labeled subversive. Second, she had been in contact with the Communist Party activist employed at the United Nations. Third, she had been a member of the State Department unit of the Communist-dominated Federal Workers' Union. Fourth, she was an active member of the Communist Party.

With regard to the first charge, Dr. Braude had indeed joined the Book Shop shortly after her arrival in Washington in 1943. She was eager to meet congenial new people and a friend recommended the Book Shop, which hosted music recitals in the evenings. I must express some sensitivity here: my F.B.I. records report that I was observed several times at a "leftist musical review" in suburban Hampstead while I was attending the London School of Economics on a Fulbright Fellowship.

Dr. Braude was aware of the underground sympathy with the Russian cause at the Book Shop, but her membership parallels a parallel U.S.-Soviet collaboration. She drifted away from the Book Shop in 1944 because of her distaste for the internal politics of other active members. Her membership at the Book Shop was only discovered when her name appeared on a list of de-inquent dues. It appears that her most sinister crime while a member of the book shop was her failure to return a book on time.

Dr. Braude met Mary Jane Keeney on bookshop. Mrs. Keeney was, a true worker for the actively aided Nazi victims after the war and was anxious to send clothing to another woman in occupied Germany. Dr. Braude knew nothing of Keeney's political orientation and characterized the meeting as a transitory experience.

With regard to the third charge, Dr. Braude, in response to an interrogatory from the State Department's Loyalty Security Board, argued that she belonged to an anti-Communist faction of the State Department unit of the Federal Workers' Union.

Remember that the Loyalty Security Board invested these charges and exonerated her. 
The fourth charge, which Dr. Braude certainly did not—or could not—deny, was her friendship with Judith Coplon. Braude met Coplon in the summer of 1945 when both women attended a class Herber Marcuse taught at American University. Marcuse was not, however, the only person Braude stayed with. In May 1948, Coplon wrote to Braude, then stationed in Paris and living in a hotel on the Left Bank, to announce that she would be visiting shortly and needed a place to stay. Braude changed his hotel to accommodate Coplon’s stay at the hotel. Coplon stayed for 6 weeks, during which time Dr. Braude found her behavior very trying. The two parted on unfriendly terms. The friendship they had prior to parting was purely social.

Mr. President, Judith Coplon was a spy. She worked in the Justice Department’s Foreign Agents Registration Division, an office integral to the FBI’s counterintelligence efforts. She was arrested early in 1949 while handing over notes to counterintelligence operations to Soviet citizen Valentine Gubitchev, a United Nations employee. Coplon was tried and convicted—there was no doubt of her guilt—but the conviction was overturned on a technicality. The Court, however, dismissed her case on the grounds that the statute of limitations had expired. On March 5, 1979, Senator Javits and I to-doubtedly after consultation with the Department of Justice—introduced a bill, S. 546, to compensate her for the time she was prevented from working for the Federal Government. The Court of Claims issued its decision in which compensation is due. Forty-three years after her dismissal from the USIA and 8 years after her death, the Court found in favor of the estate of Dr. Braude.

Senator D’Amato and I wish to express profound admiration for Judge Andewelt’s decision in which he absolved Dr. Beatrice Braude of the surreptitious charges of disloyalty with which she was never actually confronted. The Court declared that Dr. Braude “cared about others deeply and was loyal to her friends, family, and country.”

We are equally grateful to Christopher N. Sipes and William Livingstone, J.R. of Covington & Burling, two of the many lawyers who have handled Dr. Braude’s case against the U.S. Government over the years. Mr. Sipes quite properly remarked that the decision represents an important page in the annals of U.S. history: “The Court of the United States has said it recognizes her conduct is out of bounds. It tells the government it must acknowledge its wrongs and pay for them.”

Justice Department attorneys have reached a settlement with lawyers representing the estate of Dr. Beatrice Braude concerning monetary damages, equitable due for the wrongful dismissal of Dr. Braude from her Federal job in 1953 and subsequent blacklisting. The estate will receive $200,000 in damages. Family members have announced that the funds—which Congress must now appropriate—will be donated to Hunter College, the institution from which Dr. Braude received her bachelor’s degree.

Now that the parties to the Braude case have reached an agreement on the monetary damages equitably due to Dr. Braude’s estate, Senator D’Amato and I are offering legislation to release the $200,000 to her estate. I hope that we will have the unqualified and unambiguous support of our colleagues.

What happened to Dr. Braude was a personal tragedy. But it was also part of a national tragedy, too. This Nation lost, prematurely and unnecessarily, the exceptional services of a gifted and dedicated public servant. Stanley I. Kutler, a professor of constitutional history at the University of Wisconsin, estimates that Dr. Braude was one of about 1,500 Federal employees who were dismissed as security risks between 1953 and 1956. Another 6,000 were resigned under the pressure of security and loyalty inquiries, according to Professor Kutler, who testified as an expert witness on Dr. Braude’s behalf. It was, as I said earlier, an awful time. The nation had settled “as on a darkling plain, Sweeny style, in the struggle for flight and flight, Where ignorant armies clash by night.” It must not happen again.
to mitigate the impact of an uncapped retirement age for tenured faculty. Specifically, the NAS report stated: “The committee recommends that Congress, the Internal Revenue Service, and the Equal Employment Opportunity Commission require colleges and universities to offer faculty voluntary-retirement incentive programs that are not classified as an employee benefit, include an upper age limit for participants and limit participation on the basis of institutional needs.” The retirement incentives are not taken although the exemption was allowed to run out. Instead, passage of the Older Workers Benefit Protection Act of 1990 (OWBPA) further confused the issue. OWBPA made early-retirement incentives permissible in the context of defined-benefit retirement plans, but did not address the status of such incentives in the context of defined-contribution retirement plans. Defined-contribution retirement plans are more popular with tenure faculty due to their pension portability. The OWBPA did not preclude defined-contribution retirement plans, but by not addressing the issue at all, it added to the ambiguity surrounding the matter. Functionally, early-retirement incentives operate in the same manner for both types of plans. There is continued uncertainty, however, whether early-retirement incentives with an upper-age limit that are offered to tenured faculty conflict with the purpose of ADEA of prohibiting arbitrary age discrimination.

I am troubled by the continued uncertainty created by these bills, and I hope that the Faculty Retirement Incentive Act will provide a “safe harbor” for colleges and universities by clarifying that the early retirement incentives are permitted by the ADEA. Universities must ensure that older faculty members retire at an appropriate age, not simply to “make room” for younger faculty, but to maintain a contemporary, innovative, and creative atmosphere at our nation’s colleges and universities.

By Mr. MOYNIHAN (for himself and Mr. D’AMATO):
S. 154. A bill to improve Orchard Beach, New York; to the Committee on Environment and Public Works.

THE ORCHARD BEACH, NEW YORK IMPROVEMENT ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise today to introduce a most important piece of legislation for the State of New York, and to ask my Senate colleagues for their support. This bill directs the Army Corps of Engineers to repair a section of waterfront parkland in the Bronx, New York, known as Orchard Beach. My colleague in New York City, Bronx Borough President Fernando Ferrer, has worked hard for many years to get this beach—so beloved by the citizens of the Bronx—restored to its former glory. Orchard Beach is a splendid natural sanctuary and recreational spot within the Bronx, which is one of New York City’s most urbanized areas. Orchard Beach provides a welcome respite from urban living and is particularly valued by low-income families with children who cannot afford summer homes or trips to the tonier beach resorts on Long Island or on the Jersey Shore. Over two million people visit Orchard Beach annually. For many of New York’s working families, it offers the only affordable and convenient place for their children to play in the sea and sand.

In addition, the beach and surrounding wetlands and salt marshes provide a vital habitat for many marine creatures, including crabs, lobsters, striped bass and winter flounder, as well as numerous species of overwintering waterfowl.

But today, the beach is in urgent need of repair—there is widespread erosion due to repeated storm damage, threatening both the recreational utility of the beach and the stability of the animals authorized to study and then conduct an Orchard Beach shoreline protection project to address storm damage prevention, recreation, and environmental restoration. The bill I introduce today would help to ensure that this important project for New York goes forward.

By Mr. MOYNIHAN (for himself and Mr. D’AMATO):
S. 155. A bill to redesignate General Grant National Memorial as Grant’s Tomb National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill to appropriate $5.6 million in a study of President Grant’s tomb, and the National Park Service to conduct an Orchard Beach shoreline protection project to address storm damage prevention, recreation, and environmental restoration. This bill introduces new interpretive programs, restoration, and security and maintenance.

This bill addresses the needs at Grant’s Tomb. It can again become a leading attraction in New York. More important, the bill does what is right for the memory of our eighteenth President.

By Mr. DASCHLE (for himself and Mr. JOHNSON):
S. 156. A bill to provide certain benefits of the Pick-Sloan Missouri River Basin program to the Lower Brule Sioux Tribe, and for other purposes; to the Committee on Energy and Natural Resources.

THE LOWER BRULE SIOUX TRIBE INFRASTRUCTURE DEVELOPMENT TRUST FUND ACT OF 1997

Mr. DASCHLE. Mr. President, I am pleased to introduce the Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act of 1997. This legislation is intended to start that process for the Lower Brule Sioux Tribe. I intend to introduce similar legislation for the Cheyenne River Sioux Tribe later in this session.

Mr. MOYNIHAN. Mr. President, I rise today to introduce a most important piece of legislation for the State of New York, and to ask my Senate colleagues for their support. This bill directs the Army Corps of Engineers to repair a section of waterfront parkland in the Bronx, New York, known as Orchard Beach. My colleague in New York City, Bronx Borough President Fernando Ferrer, has worked hard for many years to get this beach—so beloved by the citizens of the Bronx—restored to its former glory. Orchard Beach is a splendid natural sanctuary and recreational spot within the Bronx, which is one of New York City’s most urbanized areas. Orchard Beach provides a welcome respite from urban living and is particularly valued by low-income families with children who cannot afford summer homes or trips to the tonier beach resorts on Long Island or on the Jersey Shore. Over two million people visit Orchard Beach annually. For many of New York’s working families, it offers the only affordable and convenient place for their children to play in the sea and sand.

In addition, the beach and surrounding wetlands and salt marshes provide a vital habitat for many marine creatures, including crabs, lobsters, striped bass and winter flounder, as well as numerous species of overwintering waterfowl.

But today, the beach is in urgent need of repair—there is widespread erosion due to repeated storm damage, threatening both the recreational utility of the beach and the stability of the animals authorized to study and then conduct an Orchard Beach shoreline protection project to address storm damage prevention, recreation, and environmental restoration. The bill I introduce today would help to ensure that this important project for New York goes forward.

The bill would make Grant’s Tomb a National Monument and require the Secretary of the Interior to “administer, repair, restore, preserve, maintain, and promote” the tomb in accordance with the law applicable to all National Monuments. It requires the Secretary to build a visitors center. It also provides $5.6 million in study funds to conduct an Orchard Beach shoreline protection project to address storm damage prevention, recreation, and environmental restoration. This bill introduces new interpretive programs, restoration, and security and maintenance.

This bill addresses the needs at Grant’s Tomb. It can again become a leading attraction in New York. More important, the bill does what is right for the memory of our eighteenth President.

By Mr. DASCHLE (for himself and Mr. JOHNSON):
S. 156. A bill to provide certain benefits of the Pick-Sloan Missouri River Basin program to the Lower Brule Sioux Tribe, and for other purposes; to the Committee on Energy and Natural Resources.
Pick-Sloan Project has been instrumental in providing the region with irrigation, hydropower and flood control capabilities, its construction took a serious toll on many Native American tribes, who were forced to cede land to the project and suffer the turmoil associated with relocating entire communities.

Like many of the tribes along the Missouri River, the Lower Brule Sioux Tribe shouldered a disproportionate amount of the cost to implement the Pick-Sloan project. Three decades ago, the Big Bend and Fort Randall dams flooded more than 22,000 acres of the Lower Brule Sioux land. Over 70 percent of the tribe’s residents were forced to settle elsewhere. The tribe suffered the loss of fertile and productive land along the river that provided many of the tribe’s basic staples, including wood for fuel and construction, edible plants, and wildlife habitat that supported the game on which the tribe relied for food. This land, which played such an important role in the day-to-day lives of the tribal members, now lies underneath the Missouri River reservoirs. The tribe was never adequately compensated for this extraordinary loss.

It was not until 1992 that Congress formally acknowledged the federal government’s failure to provide the tribes with adequate compensation. The passage of the Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act, which I cosponsored, established a recovery fund to compensate these tribes. This fund is financed entirely from Pick-Sloan power revenues, and payments to the fund are structured in such a way that they will not result in rate increases to power customers. This is appropriate and fair. As with any well-run business, the revenues from the project should be used to pay its costs.

With the legislation that I am introducing today, we have an opportunity to finally compensate the Lower Brule Sioux Tribe for the sacrifices it has had to bear since being relocated forcibly decades ago. We have an opportunity to mitigate the effects of disconnecting the tribal communities and inundating the natural resources that the tribe depended upon for its survival. This legislation will help the Lower Brule Sioux Tribe build new facilities and improve existing infrastructure. Hopefully, by doing so, it will improve the lives of tribal residents in a meaningful and lasting way and promote greater economic self-sufficiency.

Under this legislation, a fund similar to the Crow Creek Sioux Infrastructure Development Trust Fund will be established for the Lower Brule Sioux Tribe. The trust fund will be capitalized from hydropower revenues until the fund accumulates $39.3 million—a figure well documented by Michael Law in his study of the history of this issue entitled An Analysis of the Impact of Pick-Sloan Dam Projects on the Lower Brule Sioux Tribe. The tribe will be able to use the interest generated from the fund to finance its own economic development priorities according to a plan prepared in conjunction with the Bureau of Indian Affairs and the Indian Health Service.

Mr. President, in conclusion I want to emphasize the broad support this legislation enjoys in South Dakota. Senator Tim Johnson is a cosponsor and Governor Bill Janklow has endorsed this bill. Establishing this fund will help the Lower Brule Sioux Tribe compensate these tribes. This fund will be capitalized from Pick-Sloan Missouri River Basin program—

**SECTION 1. SHORT TITLE.**
This Act may be cited as the “Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act”.

**SEC. 2. FINDINGS.**
Congress finds that—
(A) to promote the general economic development of the United States;
(B) to provide for irrigation above Sioux City, Iowa;
(C) to protect urban and rural areas from devastating floods of the Missouri River; and
(D) for other purposes;
(2) the Fort Randall and Big Bend projects are major components of the Pick-Sloan Missouri River Basin program and contribute to the national economy by generating a substantial amount of hydropower and impounding a substantial quantity of water;
(3) the Fort Randall and Big Bend projects overlaid the western boundary of the Lower Brule Reservation, having inundated the fertile, wooded bottom lands of the Tribe along the Missouri River; and
(4) public Law 85-923 and Public Law 87-734 (76 Stat. 696 et seq.) authorized the acquisition of 7,997 acres of Indian land on the Lower Brule Indian Reservation for the Fort Randall project and provided for the mitigation of the effects of the Fort Randall and Big Bend projects on the Lower Brule Reservation. Effective January 21, 1997,"
The Nursing School Clinics Act of 1997, a bill that has two main purposes. First, it builds on our previous efforts to provide access to quality health care for all Americans. Second, it reinforces the principle for nurses of joining schooling with the actual practice of health care.

To accomplish these objectives, title XIX of the Social Security Act is amended to designate that the services provided in these nursing school clinics are reimbursable under Medicaid. The combination of grants and the provision of Medicaid reimbursement furnishes the incentives and operational resources to start the clinics and to keep them going.

To meet the increasing challenges of bringing cost-effective and quality health care to all Americans, we are going to have to think about and debate a variety of proposals, both large and small. Most important, however, we must approach the issue of health care with creativity and determination, ensuring that all reasonable avenues are pursued. Nurses have always been an integral part of health care delivery. The Nursing School Clinics Act of 1997 recognizes the central role they can play in reforming the medically underserved.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Record.
There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. MEDICAID COVERAGE OF SERVICES PROVIDED BY NURSING SCHOOL CLINICS:

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) in paragraph (24), by striking "and" at the end;

(2) by redesigning paragraph (25) as paragraph (26); and

(3) by inserting after paragraph (24), the following:

"(25) nursing school clinic services (as defined in subsection (f)) furnished by or under the supervision of a nurse practitioner or a clinical nurse specialist (as defined in section 1861(aa)(5)), whether or not the nurse practitioner or clinical nurse specialist is under the supervision of, or associated with, a physician or other health care provider; and"

(b) NURSING SCHOOL CLINIC SERVICES DEFINED.—Section 1805 of such Act (42 U.S.C. 1396d) is amended by adding at the end the following:

"(t) The term 'nursing school clinic services' means services provided by a health care facility operated by an accredited school of nursing which provides primary care, long-term care, mental health counseling, hospice, home health care, or other health care services which are within the scope of practice of a registered nurse.

(c) CONFORMING AMENDMENTS.—Section 1902 of such Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(10)(C)(iv), by striking "through (24)" and inserting "through (25)";

and

(2) in subsection (j), by striking "through (25)" and inserting "through (26)".

(d) EFFECTIVE DATE.—The amendments made by this Act shall be effective with respect to payments made under a State plan under title XIX of the Social Security Act for calendar quarters commencing with the first calendar quarter beginning after the date of enactment of this Act.

By Mr. INOUYE:

S. 158 A bill to amend title XVII of the Social Security Act to provide improved reimbursement for clinical social worker services under the medicare program, and for other purposes; to the Committee on Finance.

THE CLINICAL SOCIAL WORKER SERVICES ACT OF 1997

Mr. INOUYE. Mr. President, today I am introducing legislation to amend Title XVII of the Social Security Act to correct discrepancies in the reimbursement of clinical social workers covered through Medicare, Part B. The three proposed changes that are contained in this legislation are necessary to clarify and correct payment practices for clinical social workers and to establish a reimbursement methodology for the profession that is similar to other health care professionals reimbursed through the Medicare program.

First, this legislation would set payment for clinical social worker services according to a fee schedule established by the Secretary. Currently, the methodology for reimbursing clinical social worker services is set at a percentage of the fee for another nonphysician provider group, creating a greater differential in charges than that which exists in the marketplace. I am aware of no other provision in the Medicare statute where one nonphysician's reimbursement rate is tied to that of another nonphysician provider. This is a precedent that clinical social workers understandably wish to change. I also wish to see that clinical social workers' services are valued on their own merit.

Second, this legislation makes it clear that services and supplies furnished to a clinical social worker's services are a covered Medicare expense, just as these services are currently covered for other mental health professionals in Medicare. Third, the bill would allow a clinical social worker to be reimbursed for services provided to a client who is hospitalized.

Clinical social workers are valued members of our health care provider team. They are legally regulated in every state of our nation and are recognized as independent providers of mental health care throughout the health care system. Clinical social worker services were made available to Medicare beneficiaries through the Omnibus Budget Reconciliation Act of 1996. I believe that it is time now to correct the reimbursement problems that this profession has experienced through Medicare.

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

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

S. 158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. PROVISIONS REIMBURSEMENT FOR CLINICAL SOCIAL WORKER SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 1833(a)(2)(F)(ii) of the Social Security Act (42 U.S.C. 1395f(a)(2)(F)(ii)) is amended to read as follows: "(ii) the amount determined by a fee schedule established by the Secretary;"

(b) DEFINITION OF CLINICAL SOCIAL WORKER SERVICES EXPANDED.—Section 1861(hh)(2) of such Act (42 U.S.C. 1395x(hh)(2)) is amended by striking "services performed by a clinical social worker (as defined in paragraph (1))" and inserting "such services and such services furnished as an incident to such services performed by a clinical social worker (as defined in paragraph (1))"

(c) CLINICAL SOCIAL WORKER SERVICES NOT TO BE INCLUDED IN INPATIENT HOSPITAL SERVICES.—Section 1861(b)(4) of such Act (42 U.S.C. 1395x(b)(4)) is amended by striking "and services" and inserting "clinical social worker services, and services".

(d) TREATMENT OF SERVICES FURNISHED IN INPATIENT SETTINGS.—Section 1833(a)(2)(B)(ii)(II) of such Act (42 U.S.C. 1395f(a)(2)(B)(ii)(II)) is amended by striking "and services" and inserting "clinical social worker services, and services"

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to payments made for clinical social worker services furnished on or after January 1, 1998.

By Mr. INOUYE:

S. 159 A bill to amend title XVIII of the Social Security Act to remove the restriction that a clinical psychologist or clinical social worker provide services in a comprehensive outpatient rehabilitation facility to a patient only under the care of a physician, and for other purposes; to the Committee on Finance.

MEDICARE LEGISLATION

Mr. INOUYE. Mr. President, today I am introducing legislation to authorize the autonomous functioning of clinical psychologists and clinical social workers within the Medicare comprehensive outpatient rehabilitation facility program.

In my judgment, it is truly unfortunate that programs such as this currently require clinical supervision of the services provided by certain health professionals and do not allow each of the various health professions to truly function to the extent of their state practice acts. In my judgment, it is especially appropriate that those who need the services of outpatient rehabilitation facilities have access to a wide range of social and behavioral science expertise. Clinical psychologists and clinical social workers are recognized as independent providers of mental health care services through the Federal Employee Health Benefits Program, the Civilian Health and Medical Program of the Uniformed Services, the Medicare (Part B) Program, and numerous private insurance plans.

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

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

S. 159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. REMOVAL OF RESTRICTION THAT A CLINICAL PSYCHOLOGIST OR CLINICAL SOCIAL WORKER PROVIDE SERVICES IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY TO A PATIENT ONLY UNDER THE CARE OF A PHYSICIAN.

(a) IN GENERAL.—Section 1861(cc)(2)(E) of the Social Security Act (42 U.S.C. 1395x(cc)(2)(E)) is amended by inserting before the semicolon "(except with respect to services provided by a clinical psychologist or a clinical social worker)"

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to services provided on or after January 1, 1998.

By Mr. INOUYE:

S. 160 A bill to amend title 5, United States Code, to require the issuance of a prisoner-of-war medal to civilian employees of the Federal Government who are forcibly detained by an enemy government or a hostile force under wartime conditions; to the Committee on Governmental Affairs.
Mr. INOUYE. Mr. President, all too often we find that our nation's civilians who have been captured by a hostile government do not receive the recognition they deserve. My bill would correct this and provide for a prisoner-of-war medal for civilian employees of the federal government.

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

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

**SECTION 1. PRISONER-OF-WAR MEDAL FOR CIVILIAN EMPLOYEES OF THE FEDERAL GOVERNMENT.**

(a) Authority To Issue Prisoner-of-War Medal.—(1) Subpart A of part III of title 5, United States Code, is amended by inserting after chapter 23 the following new chapter:

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

S. 161

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

SECTION 1. REVISION OF AUTHORITY RELATING TO APPOINTMENT OF CLINICAL AND COUNSELING PSYCHOLOGISTS IN THE VETERANS HEALTH ADMINISTRATION.

(a) IN GENERAL.—Section 7401(3) of title 38, United States Code, is amended by striking out "who hold diplomas as diplomats in psychology from an accrediting authority approved by the Secretary" and inserting in lieu thereof "Clinical or counseling psychologists, certified or".

(b) APPOINTMENT REQUIREMENT.—Section 7401(a) of such title is amended—

(1) in paragraph (1)(B), by striking out "Certified or" and inserting in lieu thereof "Clinical or counseling psychologists, certified or"; and

(2) in paragraph (2)(B), by striking out "Certified or" and inserting in lieu thereof "Clinical or counseling psychologists, certified or".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of enactment of this Act.

S. 162

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

SECTION 1. TRAVEL ON MILITARY AIRCRAFT OF CERTAIN FORMER MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—Chapter 53 of title 38, United States Code, is amended by adding after section 1065b the following new section:

§1065b. Travel on military aircraft: certain disabled former members of the armed forces

"The Secretary of Defense shall permit any former member of the armed forces who is entitled to compensation under the laws administered by the Secretary of Veterans Affairs for a service-connected disability rated at 100 percent on a space-available basis and to the same extent as retired members of the armed forces, on scheduled overseas flights operated by the Military Airlift Command and on scheduled overseas flights operated by the Military Airlift Command. The Secretary of Defense shall permit such travel on a space-available basis.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1065b the following new item:

"1065b. Travel on military aircraft: certain disabled former members of the armed forces."

S. 163

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

SECTION 1. CHARTER.

The National Academies of Practice organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a Federal charter.

SEC. 2. CORPORATE POWERS.

The National Academies of Practice (hereafter referred to in this Act as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the District of Columbia, is hereby recognized as such and is granted a Federal charter.

SEC. 3. PURPOSES OF CORPORATION.

The purposes of the corporation shall be to honor persons who have made significant contributions to the practice of applied psychology, dentistry, medicine, nursing, optometry, osteopathy, podiatry, social work, veterinary medicine, and other health care professions, and to improve the practices in such professions by disseminating information about new techniques and procedures.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the State in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

SEC. 6. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.

The composition and the responsibilities of the board of directors of the corporation shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 7. OFFICERS OF THE CORPORATION.

The officers of the corporation and the election of such officers shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 8. RESTRICTIONS.

(a) USE OF INCOME AND ASSETS.—No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or to any such member, officer, or director, person, or entity during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation for services in any capacity to the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) POLITICAL ACTIVITIES.—The corporation, any officer, any director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.—The corporation shall not issue any shares of stock nor declare or pay any dividends.

(e) CLAIMS OF FEDERAL APPROVAL.—The corporation shall not claim congressional approval from congressional action for any of its activities.

SEC. 9. LIABILITY.

The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.
I feel that the time has come to allow our nation's judicial system to have access to a wide range of behavioral science and mental health expertise. I am confident that the enactment of this legislation would be very much in our nation's interest.

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

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

S. 164

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

SECTION 1. EXAMINATIONS BY CLINICAL SOCIAL WORKERS.

Section 4247(b) of title 18, United States Code, is amended in the first sentence by—

(1) striking out "or" after "certified psychi-

(2) inserting after "psychiatrist" the fol-

(3) inserting after "psychologist," the fol-

(4) adding at the end the following: "(75) National Academy of Practice.".

By Mr. INOUYE:

S. 165

A bill for the relief of Donald C. Pence; to the Committee on the JUDICIARY.

PRIVATE RELIEF LEGISLATION

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

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

S. 166

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

SECTION 1. RELIEF OF DONALD C. PENCE.

(a) RELIEF.—The Secretary of the Treasury shall pay, out of any moneys in the Treasury not otherwise appropriated, to Donald C. Pence, of Sanford, North Carolina, the sum of $31,128 in compensation for the failure of the Department of Veterans Affairs to pay dependency and indemnity compensation to Kathryn E. Box, the deceased mother of Donald C. Pence, for the period beginning on July 1, 1990, and ending on the date ended for purposes of this Act referred to in section 11 of this Act. The report shall not be printed as a public document.

S. 167

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

SECTION 1. RELIEF OF DONALD C. PENCE.

(a) RELIEF.—The Secretary of the Treasury shall pay, out of any moneys in the Treasury not otherwise appropriated, to Donald C. Pence, of Sanford, North Carolina, the sum of $31,128 in compensation for the failure of the Department of Veterans Affairs to pay dependency and indemnity compensation to Kathryn E. Box, the deceased mother of Donald C. Pence, for the period beginning on July 1, 1990, and ending on the date ended for purposes of this Act referred to in section 11 of this Act. The report shall not be printed as a public document.

S. 168

A bill to amend section 1096 of title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the contrary notwithstanding. Any person who violates this subsection shall be fined not more than $1,000.

By Mr. INOUYE:

S. 169

A bill to amend section 1096 of title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the contrary notwithstanding. Any person who violates this subsection shall be fined not more than $1,000.

By Mr. INOUYE:

S. 170

A bill to amend section 1096 of title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the contrary notwithstanding. Any person who violates this subsection shall be fined not more than $1,000.

By Mr. INOUYE:

S. 171

A bill to amend section 1096 of title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the contrary notwithstanding. Any person who violates this subsection shall be fined not more than $1,000.

By Mr. INOUYE:

S. 172

A bill to amend section 1096 of title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the contrary notwithstanding. Any person who violates this subsection shall be fined not more than $1,000.
(2) by redesignating subsection (h) as subsection (g).

SEC. 2. CONFORMING AMENDMENT.

Section 1713(d) of title 38, United States Code, is amended by striking out "section 1086(d)(1) of title 10 or"

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to health care items or services provided and after the date of enactment of this Act.

By Mr. INOUYE:

S. 167. A bill for the relief of Alfredo Tolentino of Honolulu, Hawaii; to the Committee on Governmental Affairs.

PRIVATE RELIEF LEGISLATION

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

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

S. 167

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

That, notwithstanding the provisions of section 833(b) of title 5, United States Code, Alfredo Tolentino of Honolulu, Hawaii may file an application no later than 60 days after the date of the enactment of this Act with the Office of Personnel Management for a claim of disability retirement under the provisions of such section.

By Mr. DeWINE:

S. 168. A bill to reform criminal procedure, and for other purposes; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mr. DeWINE. Mr. President, there are two truly fundamental issues we need to address in the area of crime. First, what is the proper role of the Federal Government in fighting crime in this country? Second, despite all the rhetoric, what really works in law enforcement?

What matters? What doesn’t matter?

Today, I would like to discuss one issue that I believe really matters: How do we protect America from armed career criminals?

I am talking about repeat violent criminals who use a gun while committing a crime.

In this area, too, we need to be asking: What works? And what level of Government should do it?

In the area of gun crimes, we have a pretty good answer.

We all know that there is some controversy over whether general restrictions on the ownership of guns would help to reduce crime. But there is no controversy over whether taking guns away from felons would reduce crime.

There is legitimate disagreement over whether the Brady bill would reduce crime. Similarly, reasonable people can disagree on the question of whether a ban on assault weapons would reduce crime. I happen to support both those measures—but I recognize that some people think they are not effective.

But what I am talking about today is something on which there is absolutely no controversy. There’s simply no question that taking the guns away from armed career criminals will reduce crime.

No question, Mr. President. When it comes to felons, unilateral disarmament of the thugs is the best policy. Let’s disarm the people who hurt people.

We have actually tried it—and we know it works. One of the most successful crime-fighting initiatives of recent years was known as Project Triggerlock. This project was wildly successful because it addresses a problem squarely—and places the resources where they are most needed.

Let me tell you a little about project Triggerlock. The U.S. Justice Department began Project Triggerlock in May 1991. The program targeted for prosecution—in Federal court—armed and violent repeat offenders.

Under Triggerlock, U.S. Attorneys throughout the country said to State and local prosecutors: If you catch a felon with a gun, and if you want us to, we—the Federal prosecutors—will take over the prosecution.

We will prosecute him. We will convict him. We will hit him with a stiff Federal mandatory sentence. And we will lock him up in a Federal prison at no cost to the State or local community.

That’s what Triggerlock did. Triggerlock was an assault on the very worst criminals in America. And it worked.

This program took 15,000 criminals off the streets in an 18-month period. Incredibly, the Clinton Justice Department abandoned Project Triggerlock. It was the most effective Federal program in recent history for targeting and removing armed career criminals. But the Justice Department stopped Triggerlock dead in its tracks.

What I am proposing in this bill is that we resurrect Project Triggerlock. My bill requires the Attorney General to make a monthly report to the Attorney General in Washington on the number of arrests, prosecutions, and convictions they have gotten on gun-related crimes. The Attorney General should then report, semi-annually, to the Congress on the work of these prosecutors.

Like all prosecutors, U.S. attorneys have limited resources. So—like all prosecutors—U.S. attorneys have to exercise discretion about whom to prosecute. We recognize the Congress can’t dictate to prosecutors whom they should prosecute—but it’s clear that we should go on record with the following proposition: There’s nothing more important than getting armed career criminals off the streets.

Mr. President, I think Project Triggerlock is a very important way to keep the focus on the prosecution of gun crimes. Getting gun criminals off the streets is a major national priority—and we ought to be behaving accordingly.

MANDATORY MINIMUMS

Mr. President, the second thing we need to do is change the law. We need to toughen the law against those who use a gun to commit a crime. My bill would say to career criminals—if you possess a gun after being convicted for gun crimes, you will get a mandatory 15-year sentence.

Under current law, a first-time felon gets a 5-year mandatory minimum sentence. A third-time felon gets a mandatory minimum of 15 years. But there is a gap—there’s no mandatory minimum for a second-time felon.

I believe the legislation should fix that. It would provide a mandatory minimum of 10 years for a second-time felon.

That would make it a lot easier for police to get gun criminals off our streets.

BAIL REFORM

A third thing we have to do is reform the bail system.

Under current law—the Bail Reform Act—certain dangerous accused criminals can be denied bail detention if they have been charged with crimes of violence. But it’s unclear under current law whether possession of firearms should be considered a crime of violence.

Mr. President, let us do a reality check on this. If someone who is a known convicted felon is walking around with a gun, what’s the likelihood that person is carrying the gun for law-abiding purposes?

I think it is perfectly reasonable to consider that person prima facie dangerous. We should deny bail and keep that convicted felon off the streets while awaiting trial on the new charge.

My legislation would eliminate the ambiguity in current law. My bill would define a ‘crime of violence’ specifically to include possession of a firearm by a convicted felon.

If you are a convicted felon, and you’re walking around with a gun—you’re dangerous. You need to be kept off the streets. We need to give prosecutors the legal right to protect the community from these people while they are awaiting trial.

CRACK DOWN ON ILLEGAL GUN SUPPLIERS

A fourth way we can crack down on gun crimes is to go after those who knowingly provide the guns to felons. Under current law, you can be prosecuted for providing a gun only if you know for certain that it will be used in a crime.

The revision I propose would make it illegal to provide a firearm if you have reasonable cause to believe that it’s going to be used in a crime.

The is the best way to go after the illegal gun trade—those who provide guns to the predators on society. We will no longer allow these gun suppliers to pretend ignorance. They are helping felons—and they need to be stopped.

All of these proposals are motivated by a single purpose: I—along with the police officers of this country—believe that we have to get the guns away from the gun criminals.

Project Triggerlock is one major initiative we can pursue at the Federal
level to help make this happen. Imposing stiff mandatory minimums and cracking down on illegal gun providers are also important measures.

All of the gun proposals contained in my crime legislation have the same goal. But in the end, we will hurt the very American families who are living in crime-threatened communities that we’re going to do what it takes to get guns off your streets.

We are going to go after the armed career criminals. If we don’t convict them. We are going to keep them off the streets.

This is why we have a government in the first place—to protect the innocent, to keep ordinary citizens safe from violent, predatory criminals. I think Government needs to do a much better job at this fundamental task—and that’s why targeting the armed career criminals is such a major component of this bill.

By Mr. CRAIG: S. 169. A bill to amend the Immigration and Nationality Act with respect to the admission of temporary H-2A workers; to the Committee on the Judiciary.

THE AGRICULTURAL WORK FORCE STABILITY AND PROTECTION ACT

Mr. CRAIG. Mr. President, I rise to introduce the Agricultural Work Force Stability and Protection Act. This bill would make needed reforms to the so-called “H-2A Program,” the program intended by Congress in the Immigration and Nationality Act to allow for a reliable supply of legal, temporary, immigrant workers in the agricultural sector, under terms that also provide reasonable worker protections, when there is a shortage of domestic labor in this sector.

Last year, Senator Alan Simpson, then the Chairman of the Judiciary Committee on Immigration, and then this body as a whole, acknowledged the importance of this issue by agreeing to include in the Illegal Immigration Reform conference report some compromise language regarding the Sense of the Congress on the H-2A Program and requiring the General Accounting Office to review the effectiveness of the program.

The language included in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 was essentially the same as language agreed to in the conference report on fiscal year 1997 Agriculture Appropriations. With these provisions, the Congress went on record twice on the importance of having a program that helps ensure an adequate workforce for agricultural producers.

This is an issue that is of the utmost importance to this country’s farmers and ranchers, especially in light of the impact that immigration reforms will have on the supply of agricultural labor. There is very real concern among Idaho farmers and throughout the country that these reforms will reduce the availability of agricultural workers.

Farmers need access to an adequate supply of workers and want to have certainty that they are hiring a legal work force. In 1995, the total agricultural labor force was 5 million people. That equals 67 percent of our labor force, which is directly involved in production agriculture and food processing.

Hired labor is one of the most important inputs in farming. U.S. farmers spent more than $15 billion on hired labor expenses in 1992—one of every eight dollars of farm production expenses. For the labor-intensive fruit, vegetable and horticultural sector, labor accounts for 35 to 45 percent of production costs.

The competitiveness of U.S. agriculture, especially in the fruit, vegetable and horticultural specialty sectors, depends on the continued availability of hired labor at a reasonable cost. U.S. farmers increasingly send many of their labor-intensive perishable commodities, compete directly with producers in other countries for market share in both U.S. and foreign commodity markets.

Wages. U.S. farmworkers will not be forced upon the labor market by eliminating alien labor, because growers’ production costs are capped by world market commodity prices. Instead, a reduction in the work force available to agriculture will force U.S. producers to reduce production to the level that can be sustained by a smaller work force.

Over time, wages for these farm workers have actually risen faster than non-farm worker wages. Between 1986-1994, there was a 34.6 percent increase in average hourly earnings for farm workers, while non-farm workers only saw a 27.1 percent increase.

Even with this increase in on-farm wages, this country has historically been unable to provide a sufficient number of domestic workers. To complete the difficult manual labor required in the production of many agricultural commodities. In Idaho, this is especially true for producers of fruit, sugar beets, onions and other specialty crops.

The difficulty in obtaining sufficient domestic workers is primarily due to the fact that domestic workers prefer the security of full-time employment in year round positions. As a result the labor market now tends to prefer the long term positions, leaving the seasonal jobs unfilled. In addition, many of the seasonal jobs unfilled. In addition, many of the seasonal agricultural jobs are located in areas where it is necessary for workers to migrate into the area and live temporarily to do the work. Experience has shown that foreign workers are more likely to migrate than domestic workers. As a result of domestic short supply, farm workers and ranchers in the area have had to rely upon the assistance of foreign workers.

The only current mechanism available to admit foreign workers for agricultural employment is the H-2A program. The H-2A program is intended to serve as a safety valve for times when domestic labor is unavailable. Unfortunately, the H-2A program isn’t working.

Despite efforts to streamline the temporary worker program in 1986, it now functions so poorly that few in agriculture use it without risking an inadequate work force, burdensome regulations, and potential litigation expense. In fact, usage of the program has actually decreased from 25,000 workers in 1986 to only 17,000 in 1995.

The bill I am introducing would provide some much-needed reforms to the H-2A program. I urge my colleagues to consider the following reasonable modifications of the H-2A program.

First, the bill would reduce the advance filing deadline from 60 to 40 days before workers are needed. In many agricultural operations, 60 days is too far in advance to be able to predict labor needs, and the program has proven to be the basis for denying foreign workers.

Second, in lieu of the present certification letter, the Department of Labor [DOL] would issue the employer a domestic recruitment report indicating that the employer’s job offer meets the statutory criteria and lists the number of U.S. workers referred. The employer would then file a petition with INS for admission of aliens, including a copy of DOL’s domestic recruitment report and any countervailing evidence concerning the adequacy of the job offer and/or the availability of U.S. workers. The Attorney General would make the admission decision. The purpose is to restore the role of the Labor Department to that of giving advice to the Attorney General on labor availability, and leave decision making to the Attorney General.

Third, the Department of Labor would be required to provide the employer with a domestic recruitment report not later than 20 days before the date of need. The report either states that sufficient domestic workers are not available or gives the names and Social Security numbers of the able, willing and qualified workers who have been referred to the employer. The Department of Labor would also identify the number of days the employer would be required to provide the employer with the list of domestic workers referred.

Fourth, the Immigration and Naturalization Service INS would provide expedited processing of employer’s petitions and, if it determines that the visa is not available, that it will notify the employer of the visa is not available within 15 calendar days. This would ensure timely admission decisions.

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Fourth, the Immigration and Naturalization Service INS would provide expedited processing of employer’s petitions and, if it determines that the visa is not available, that it will notify the employer of the visa is not available within 15 calendar days. This would ensure timely admission decisions.
Fifth, INS would provide expedited procedures for amending petitions to increase the number of workers admitted on 5 days before the date of need. This method is needed to allow the employer at a date certain to complete his hiring, and to operate without having the operation disrupted by having to displace existing workers with new workers.

Sixth, DOL would continue to recruit domestic workers and make referrals to employers until 5 days before the date of need. This method is needed to increase the timeliness of obtaining needed workers very close to or after the work has started.

Seventh, DOL would enumerate the specific obligations of employers in occupations in which H-2A workers are employed. The proposed definition would define jobs that meet the following criteria as not adversely affecting U.S. workers:

1. The employer offers a competitive wage for the position.
2. The employer would provide approved housing, or a reasonable housing allowance, to workers whose permanent place of residence is beyond normal commuting distance.
3. The employer would be required to ensure current transportation reimbursement requirements.
4. A guarantee of employment is provided for at least three-quarters of the anticipated hours of work during the actual period of employment.
5. The employer would provide workers’ compensation or equivalent coverage.
6. Employer must comply with all applicable Federal, State, and local labor laws with respect to both United States and alien workers.

This combination of employment requirements would eliminate the discretion of the Department of Labor to specify terms and conditions of employment on a case-by-case basis. In addition, the scope for litigation would be reduced since employers (and the courts) would know with particularity the required terms and conditions of employment.

Eighth, the bill would provide that workers must exhaust administrative remedies before engaging their employers in litigation.

Ninth, certainty would be given to employers who comply with the terms of an approved order by providing employers with the true gatekeeper role to the Department of Labor. Under the current system, employment at a date certain to complete hiring is strung and delayed by litigation.

Rationale: To assure timely admission decisions.

COMMONWEALTH RECORD Ð SENATE
January 21, 1997

STABILITY AND PROTECTION ACT

SUMMARY OF THE AGRICULTURAL WORK FORCE

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applicability of the three-quarters guarantee to the actual period of employment.
8. Provide that workers must exhaust administrative remedies before engaging their employers in litigation.

Rationale: To reduce litigation costs.
9. Provide that if an employer complies with the requirements of this job order, and DOL or a court later orders a provision to be changed, the employer would be required to comply with the new provision only prospectively.

Rationale: To reduce the exposure of employers to litigation seeking to overturn DOL's approval of job orders, and to retroactively impose liability if an approved order is changed.

By Mr. DeWINE:
S. 170. A bill to provide for a process to authorize the use of clone pagers, and for other purposes; to the Committee on the Judiciary.

THE CLONE PAGER AUTHORIZATION ACT OF 1996
Mr. DeWINE. Mr. President, I believe that, to stop crime, we have to do more. That doesn't mean another flash ten-point program. Rather, we have to do more of the little things that—when you put them all together—make a big difference.

The most important of these is giving law enforcement officials the tools they need to do their jobs. Today, I am introducing legislation that will help us do that.

The bill I am introducing today would simply rectify an imbalance in current Federal law which makes it more difficult for law enforcement officials to fight drug trafficking. Today, drug traffickers have taken advantage of technological advances to advance their own criminal interests.

Drug traffickers—on a regular basis—use digital display paging devices, better known as beepers—in transacting their business. They do this because it gives them the freedom to run their criminal enterprise out of any available phone booth, and to avoid police surveillance. If law enforcement officials knew from whom they were receiving the calls to their beepers it would certainly aid efforts in tracking down drug traffickers.

The technology now exists to allow law enforcement to receive the digital display message, without intercepting the content of any conversation or message. It is called a "clone pager." This clone pager is programmed identically to the phone and law enforcement to receive the digital displays at the same time as the suspect.

This device functions identically to a pen register. Mr. President, as you may know, a pen register is a device which law enforcement attaches to a phone line to decode the numbers which have called a specific telephone. Like a clone pager, the pen register only intercepts phone numbers, not the content of any communication or message.

Since both devices serve the same purpose, a reasonable person would conclude that both the system for receiving authorization to use these devices, and the procedures mandated by the courts once the authorization was granted would be the same. However, in both cases it is not.

Under current law, the requirements for obtaining authorization to use a pen register are less stringent than they are for using a pen register. I would like to briefly outline the differences.

In order to obtain authorization to use a pen register, the district attorney must certify to a district court judge the phone number to which the pen register will be attached, the phone company that delivers service to that number, and that the pen register serves a legitimate law enforcement purpose. In other words, the prosecutor must show only that the use of the pen register is based on an ongoing investigation. The district court judge may then grant the authorization on a mere finding that the prosecutor has made the required certification. The pen register can then be used for a period of 60 days—with no requirement that law enforcement report pen register activity to the court.

In contrast, the U.S. Attorney for a particular district must sign off on a request for clone pager authorization. Once this occurs, a prosecutor may then go before a district court judge where he must show that there is probable cause to believe that an individual has committed a crime—a much higher standard than what is required for a pen register authorization. He must also detail what other investigative techniques have been used, why they have not been successful, and why they will continue to be unsuccessful. Moreover, the prosecutor must disclose other available investigative techniques and why they are unlikely to be successful. Only after all of this is done can authorization to use a clone pager be granted.

But these are not the only differences in treatment. After the authorization is granted, it can only be used for 30 days. During the prosecutor must report activity from the clone pager to the issuing judge at least once every 2 weeks.

I do not believe that the authorization disparity in authorization for these two devices is warranted.

The legislation that I am introducing today would simply amend the Federal Code to end this disparity. This bill would give law enforcement agents ready access with warranted limitations, to the tools they need to do their jobs. This bill will bring Federal law enforcement into the 21st century. The drug traffickers are already there. It's time for law and order to catch up with them.

By Mr. DeWINE:
S. 171. A bill to amend title 18, United States Code, to insert a general attempt provision applicable to all Federal offenses. It is an ad hoc approach to attempt statutes is causing problems for law enforcement officials. At what point is it OK for law enforcement officials to step in to prevent the completion of a crime? If someone is seriously dedicated to committing a crime, law enforcement must be able to intervene and prevent it—without having to worry whether doing so would cause a criminal to walk. In the absence of a statutory definition of an attempt, the courts have been called upon to decide whether specific actions fit within existing statutory language.

When a criminal is attempting to commit a crime where attempt is not an offense, then law enforcement must find the crime is completed, or find some other charge to fit the criminal's actions. Law enforcement should never be placed in either of these positions.

The bill that I am introducing today will solve these problems in the current law. As I mentioned earlier, this legislation will add a general attempt provision to the U.S. Criminal Code. It provides congressional direction in defining what constitutes an attempt in all circumstances. And, it will serve to fill the irrational gaps in attempt coverage.

In my view, it's time for the American people—acting through the Congress—to clarify their intention when it comes to this area of the law. Ten millions of Americans work hard every day to make ends meet and raise their families and provide a better life for their children.

But, there are some people who choose a different approach to life—a life of crime. We as Americans need to leave no doubt where we stand on that choice. If you even try to commit a crime, we're going to prosecute you
and convict you. This bill will make it easier for our law enforcement officers to protect our families and our communities.

By Mr. DeWINE:
S. 172. A bill to amend title 18, United States Code, to set forth the civil jurisdiction of the United States for crimes committed by persons accompanying the Armed Forces outside of the United States, and for other purposes; to the Committee on the Judiciary.

THE MILITARY AND CIVILIAN JUSTICE ACT

Mr. DeWINE. Mr. President, there are shortcomings in the Code of Military Law that have terrible repercussions in the streets of civilian America. These failures of the military judicial system too often result in military criminals being pushed out of the service and into our civilian streets—where these criminals continue to behave as lawless predators. This bill closes two such gaps in the Military Code and ensures that the enlisted criminal is not pushed out on decent citizens. This bill protects civilians from military personnel who have committed crimes, just as the Military protects itself from those same people.

My bill addresses an important gap in the law. Under current law, many illegal acts committed abroad by U.S. soldiers or accompanying civilians go unpunished by the military courts. The prosecution of these crimes is left to the discretion of a military court, which either chooses to do no more than hand down a dishonorable discharge or lacks jurisdiction over the civilian defendant. This should not be the case.

This bill guarantees that a soldier or accompanying civilian abroad, committing an illegal act punishable under the United States Code by more than a year’s imprisonment, will be handed over to civilian authorities for prosecution under the United States Code.

There is another aspect of this bill intended to protect civilian Americans from the actions of those who commit crimes while in the military. This bill also mandates that when an enlisted criminal is discharged from the service, the military Secretary will turn over to the FBI all the criminal records of that soldier for inclusion in the FBI criminal records system. Again, Mr. President, this is another way to protect the tax-paying, law-abiding American from dishonorably discharged criminals. Under current law, the criminal histories of these military personnel do not become part of the National Crime Information Center database. This bill will ensure that they do.

By Mr. DeWINE:
S. 173. A bill to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes; to the Committee on the Judiciary.

THE PRIVATE SECURITY OFFICERS QUALITY ASSURANCE ACT

Mr. DeWINE. Mr. President, I rise today to introduce the Private Security Officer Assurance Act of 1997. This bill establishes a procedure for State regulators or private security officers to obtain criminal records background checks through the FBI prior to issuing state permits to security officers. Currently, it frequently takes between 18 months to complete such checks.

My bill would authorize the Attorney General to designate an association of employers of security officers to solicit signature cards from applicants and forward them to the FBI for a comparison against the Federal criminal history records on file. The records would then be forwarded to the appropriate State regulators who would decide the qualification of the applicants for permits based on State laws. Under this bill, the applicant would pay fees to compensate for the cost of the background checks. No criminal history information would go to the employer.

I would note that Congress has established similar procedures for banks, the parimutuel industry and the financial securities industry. The process that I described takes about 3 weeks for these industries.

Mr. President, I believe this bill will help improve public safety by ensuring the integrity of those hired as security officers.

By Mr. DeWINE:
S. 174. A bill to establish the Fallen Timbers Battlefield, Fort Meigs, and Fort Miamis National Historical Site in the State of Ohio; to the Committee on Energy and Natural Resources.

THE FALLEN TIMBERS ACT

Mr. DeWINE. Mr. President, I rise today to introduce legislation that will designate the Fallen Timbers Battlefield, Fort Meigs, and Fort Miamis as National Historic Sites.

Mr. President, the people of northwestern Ohio are committed to preserving the historic heritage of the United States and the State of Ohio, as well as that of their own community.

The truly national significance of the Battle of Fallen Timbers and Fort Meigs have been acknowledged already. In 1960, Fallen Timbers was designated as a National Historic Landmark. In 1969, Fort Meigs received this designation.

The Battle of Fallen Timbers is acknowledged by the National Park Service as a culminating event in the history of the struggle for dominance in the old Northwest Territory.

Fort Miamis, recognized by the National Park Service as “the zenith of the British advance in the west as well as the maximum effort by Native forces under the Shawnee, Tecumseh, during the War of 1812.”

Fort Miamis, which was attacked twice without success by British troops, led by General Henry Proctor, in the spring of 1813, is listed on the National Register of Historic Places.

Recently, the National Park Service completed a special resource study examining the proposed National Historic Site designation and the suitability of these sites for inclusion in the National Park System.

The National Park Service concluded that these sites were suitable for inclusion in the National Park System—with non-Federal management and National Park Service assistance. The bill I am introducing today would act on that recommendation.

My legislation will accomplish the following:

Recognize and preserve the 185-acre Fallen Timbers Battlefield site;

Formalize the linkage between the Fallen Timbers Battlefield and Monument to Fort Meigs and Fort Miamis;

Preserve and interpret U.S. military history and Native American culture during the period from 1794 through 1813.

Provide technical assistance to the State of Ohio as well as interested community and historical groups in the development and implementation of programming and interpretation of the three sites.

However, my legislation will not require the Federal Government to provide direct funding to these three sites. That responsibility remains with—and is welcomed by—the many individuals, community groups, elected officials, and others who deserve recognition for their many hours of hard work dedicated to this issue.

Mr. President, we have entered an era where the responsibility and the drive behind the management, programming, and—in many cases—the funding for historic preservation is the responsibility of local community groups, local elected officials, and local business communities.

This legislation to designate the Fallen Timbers Battlefield, Fort Meigs, and Fort Miamis as National Historic Sites represents just such an effort. In my opinion, it is long overdue.

Mr. President, it is time to grant these truly historic areas the measure of respect and recognition they deserve. I agree with the National Park Service—and the people of Ohio—on this issue. That is why I am proposing this important legislation today.

By Mr. INOUYE:
S. 175. A bill to amend chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental illnesses; to the Committee on Governmental Affairs.

THE CLINICAL SOCIAL WORKERS’ RECOGNITION ACT OF 1997

Mr. INOUYE. Mr. President, I rise today to introduce the Clinical Social Workers’ Recognition Act of 1997 to correct an outstanding problem in the Federal Employees Compensation Act. This bill will also provide clinical social workers the recognition they deserve as independent providers of quality mental health care services.
Clinical social workers are authorized to independently diagnose and treat mental illnesses through public and private health insurance plans across the Nation. However, title V, United States Code, does not permit the mental health evaluations conducted by clinical social workers for use as evidence in determining workers' compensation claims brought about by Federal employees. The bill I am introducing corrects this problem.

All States and the District of Columbia have enacted laws that mandate reimbursement for clinical social workers by insurance plans that offer mental health care coverage. All Federal insurance programs that authorize the provision of mental health care services, including Medicare, the Federal Employee Health Benefits Program [FEHBP], and the Civilian Health and Medical Program of the Uniformed Services [CHAMPUS] recognize the ability of clinical social workers to provide mental health services.

It is a sad irony that Federal employees may select a clinical social worker through their health plans to provide mental health services but may not go to this professional for a workers' compensation evaluation. Studies show that as much as 65 percent of all mental health services are provided by clinical social workers and clinical social workers are often the only providers of mental health service in rural areas of the country. The failure to recognize the validity of evaluations provided by clinical social workers unnecessarily limits the choice of Federal employees in selecting a provider to conduct the mental health evaluation and may well impose an undue burden for Federal employees in certain areas where clinical social workers are the only available providers for mental health care. This legislation will correct this anomaly.

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

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

S. 176. A bill for the relief of Susan Rebola Cardenas; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

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

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

S. 176

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 "Clinical Social Workers' Recognition Act of 1997." 

SEC. 2. EXAMINATIONS BY CLINICAL SOCIAL WORKERS FOR FEDERAL WORKER COMPENSATION CLAIMS.

Section 3316 of title 5, United States Code, is amended—

(1) in paragraph (2) by striking "and osteopathic practitioners" and inserting "osteopathic practitioners, and clinical social workers"; and

(2) in paragraph (3) by striking "and osteopathic practitioners" and inserting "osteopathic practitioners, and clinical social workers".

By Mr. INOUYE:

S. 178. A bill to amend the Social Security Act to provide in the adoption assistance and child welfare services approved by the Secretary of Health and Human Services.

FOSTER CARE LEGISLATION

Mr. DeWINE. Mr. President, in 1980, Congress passed the Adoption Assistance and Child Welfare Act, known as "AA/Child Welfare Act," which was enacted to provide financial support to people to encourage them to adopt children with special needs.

But while the law has done a great deal of good, many experts and I are coming to believe that this law has actually had some bad unintended consequences.

Under the 1980 Act, for a state to be eligible for Federal matching funds for foster care expenditures, the state must develop a plan which includes the provision of child welfare services approved by the Secretary of Health and Human Services and this State plan must provide, and I quote:

"that, in each case, reasonable efforts will be made (A) prior to the placement of a child in foster care to prevent or eliminate the need for removal of the child from his home, and (B) to make it possible for the child to return to his home."

In other words, Mr. President, no matter what the particular circumstances of a household may be, the state must make reasonable efforts to keep it together, and to put it back together if it falls apart.

"What constitutes reasonable efforts? How far does the State have to go?"

This has not been defined by Congress. Nor has it been defined by HHS. This failure to define what constitutes "reasonable efforts" has had a very important—and very damaging—practical result. There is evidence to suggest that in the absence of a definition, reasonable efforts have become in some cases extraordinary efforts. Efforts to keep families together at all costs.

Mr. President, during the past year, I have traveled throughout the state of Ohio, talking to social work professionals. In these discussions I have found that there is great disparity in how the law is being interpreted by judges and social workers. Let me give you an example. I posed this hypothetical to representatives of children's services in both rural and urban counties.

Mary is a 28-year-old crack-addicted mother who has seven children. Steve, the 29-year-old father of the children, is an abusive alcoholic, and all seven of the children have been taken away—permanently—by the county. 

Now, Mary gives birth to an eighth child, little Peggy. The newborn Peggy tests positive for crack. Therefore, it is obvious that her mother is still addicted to crack. Steve, the father, is still an alcoholic.

"Pretend for a moment that you work for the county children's services department. Does the law allow you to get the new baby out of the household? And if you do, should you file for permanent custody so that the baby can be adopted?"

The answer will surprise you. In fact, I was surprised by the answer I got when I asked a number of Ohio social work professionals that very same question. The answer varied from county to county, but I heard too much
"no" in the answers I got. Some officials said they could apply for emergency custody of the baby and take her away on a temporary basis, but they would have to make a continued effort to send the baby back to her mother. Other social workers said that if they went to court to get custody of the baby, they probably wouldn't be able to get even temporary custody of her. In one county, I was told it would be two years before the baby could be made available for adoption. Another county said it would be five years.

One social worker—just one, out of all the ones I asked—told me that her department would move immediately for permanent custody of the baby. But she said that their success would still depend on the judge assigned to the case.

Should our Federal law really push the envelope, so that extraordinary efforts are made to keep that family together—efforts that any of us would not consider reasonable?

It is clear after 17 years of experience with this law that there is a great deal of confusion as to how the act applies.

My legislation would clarify, once and for all, the intent of Congress in the 1980 Act. My legislation would amend that language in the following way: "In determining reasonable efforts, the best interests of the child, including the child's health and safety, shall be of primary concern."

The 1980 Act was a good bill. There are some families that need a little help if they are going to stay together, and it's right for us to help them. That's what the Child Welfare Act did.

But by now it should be equally clear that the framers of the 1980 Act did not intend for extraordinary efforts to be made to reunite children with their abusers. As Peter Digre, the director of the Los Angeles County Department of Children and Family Services, testified at a hearing last year before the House Ways and Means Subcommittee on Human Resources: "We cannot ignore the fact that at least 22% of the time infants who are reunified with their families are subjected to new episodes of abuse, neglect, or endangerment."

That was not the intention of Congress in the 1980 law. But too often, that law is being misinterpreted in a way that is trapping these children in abusive households.

I believe we should leave no doubt about the will of the American people on this issue affecting the lives of America's children. The legislation I am proposing today would put the children first.

By Mr. HATCH (for himself, Mr. LOTT, Mr. THURMOND, Mr. CRAIG, Mr. NICKLES, Mr. DOMENICI, Mr. STEVENS, Mr. ROTH, Mr. BRYAN, Mr. KOHL, Mr. GRASSLEY, Mr. SPECTER, Mr. BAUCUS, Mr. THOMPSON, Mr. BREAUX, Mr. KYL, Ms. M OSELEY-BRAUN, Mr. DEWINE, Mr. ROBB, Mr. ABRAHAM, Mr. ASHCROFT, Mr. SESSIONS, Mr. D'AMATO, Mr. HELMS, Mr. LUGAR, Mr. CHAFFEE, Mr. MCGAIN, Mr. JEFFORDS, Mr. WARNER, Mr. COVERDELL, Mr. COCHRAN, Mrs. HUTCHISON, Mr. MURkowski, Mr. GRAMS, Mr. ASSISTANT CHIEF JUDICIAE, Mr. ALLARD, Mr. BROWNBACK, Ms. COLLINS, Mr. ENZI, Mr. HAGEL, Mr. HUTCHISON, Mr. ROBERTS, Mr. GORDON H. SMITH, Mr. BENNETT, Mr. BOND, Mr. BURNS, Mr. CAMPBELL, Mr. CORDY, Mr. FRIST, Mr. GORTON, Mr. GRAMS, Mr. GREGG, Mr. INHOFE, Mr. KEMPTHORNE, Mr. MCCONNELL, Mr. MURkowski, Mr. SANTORUM, Mr. SHELBY, Mr. SMITH, and Mr. THOMAS):

S. J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget; to the Committee on the Judiciary:

The CONSTITUTIONAL BALANCED BUDGET ACT

Mr. HATCH. Mr. President, let me just say I compliment my colleagues for the excellent job they have done in coming up with the first 10 bills of this session. I think they are bills that the American people are very interested in. There is no question that each and every one is essential for the future of our country. I am very appreciative that so many colleagues are willing to cosponsor and to push these particular bills.

Having said that, the No. 1 issue on our agenda is, as it has always been for Republicans and I think some very courageous Democrats as well, S.J. Res. 1, the balanced budget constitutional amendment.

Mr. President, this is an amendment that literally could change the future of our country. We are now approaching a $6 trillion deficit. It has been largely accumulated over the last 15 years. In a period of almost 60 years of unbalanced budgets, except on very rare occasions. The Senate and the House seem to be institutionally incapable of reaching balanced budget appropriations and budget acts. And I might add, the President is incapable, as well. If you look at the last budgets that the President has submitted, even the one that he called the balanced budget, it was heavily loaded in the rear end of the budget. We will pass another budget, knowing that there is no way in the world that we will ever reach 2001 and 2002 that we can actually balance the budget.

It has been a phony game. It is time to end that game. It is time to literally strike out for the people of this country and for our children and grandchildren of future generations by getting our fiscal house in order. The only way that many of the now 62 cosponsors, and another 6 who have said to their constituents that they will vote for this amendment, it is the only way we can bring about a fiscal sanity that will reduce taxes, reduce the interest rates of our society, keep the stock market going, protect social security, Medicaid, Medicare, veterans pensions and other matters, by having a strong fiscal economy through the balanced budget amendment. Everybody knows this game. Everybody knows there will be some killer amendments trying to defeat this amendment. In the end, everybody knows what the amendment is. It is precisely the same as that found in the House and that which will be brought up in the House. If we are ever going to get this fiscal house in order, this is the way to do it. It is only the first step.

Even if both Houses of Congress do pass the balanced budget amendment by the requisite two-thirds vote, the amendment still has to be submitted to the States, and three-quarters of them, or 38 States, have to ratify the amendment. It is a very, very difficult process.

I just believe this is the year to do it. I hope that everybody will live up to the commitments they have made to their constituents at home. If they do, we will have set this country on a fiscal path that will be beneficial for all of our children and grandchildren and future generations.

Mr. President. I rise to speak on the Balanced Budget Amendment, which I have just introduced. Last Congress, when the Amendment fell a mere one vote short of passage here in the Senate, I vowed that we would be back to try to pass this amendment and put America back on the course of fiscal responsibility. We are back again and I have brought sixty-six cosponsors with me. Every one of the 55 Republicans in the Senate are original co-sponsors, and we are joined by seven strong Democrats. The Balanced Budget Amendment has sixty-two original cosponsors. If only five other Senators join us we will have the votes America needs to see the Senate pass the Balanced Budget Amendment. If everyone votes as they said they would before the November election and keeps their promise to their constituents, the Senate will pass the balanced budget amendment.

The Balanced Budget Amendment will again be S.J. Res. 1. It is right that it should be, because it is the single most important piece of legislation that will be voted on this Congress. It is that important because if enacted it will change forever the way business is done in Washington.

The idea of a Balanced Budget Amendment is not new. Unfortunately, neither is the problem it is designed to solve. About thirty years ago, we got off track and ran a deficit. It was not the first deficit we had ever run, and it
was only a small one, nothing to get too worried about. But we never got back on track: we ran another deficit the next year, and again the next year after that, and never got back into balance. In fact, we have run a deficit every year since 1969. And that budget in 1969 was the only balanced budget since 1960.

Today, the national debt is estimated to be $5.311 trillion. Last Friday, when we began hearings on S.J. Res 1, the debt had increased to $5.312 trillion. In other words, the debt has already increased by more than $1 billion since the Senate began consideration of the measure last week. Portioned out equally, every man, woman, and child in America owes about $20,000. If the debt were piled into a single stack of pennies, that pile could reach past the Moon, past Mars, and all the way to Jupiter! It is enough money to buy every single automobile ever sold in the United States AND every plane ticket ever sold for travel in the United States.

And, Mr. President, the debt continues to grow. If you spent a dollar a second, it would take you over 150,000 years to spend $20,000. That is the same as the total national debt. But we have managed to accumulate our national debt much faster. This year, we will increase the debt by about $4,500 per second. At this rate it won't be long before we're all going to have to come up with a trillion dollars. Or more. The reality is that the bridge we are building to the 21st century is awash in debt.

I read recently that this year the European Union will be deciding which nations quality to join the new single currency in the first tier. In order to join, nations must satisfy several criteria. One of those criteria is that the nation's total debt must be no greater than sixty percent of that nation's GDP. Well, Mr. President, our debt is about sixty percent of our gross domestic product. Which means if we tried to join the European Union's new currency now, the United States would not qualify. By international standards, we are too far in debt to be trusted financially. This nation faces a future with higher taxes, lower wages, and dramatically reduced world influence if we do not get our spending habits under control. As well, failure to get our national debt under control could prove catastrophic to current and future older Americans.

Over the next few weeks, opponents of the balanced budget amendment are going to try to change the subject to a discussion of social security and Medicare. For example, Treasury Secretary Rubin testified before the Auditors' Committee on Friday in opposition to the balanced budget amendment and suggested—no less than eight times during a six page statement—that passage of the balanced budget amendment would threaten the retirement security of older Americans. What they ignore is that Congress simply never will allow social security or Medicare checks to stop. It simply will not happen. Furthermore, you will fail to mention—the positive effect the balanced budget amendment would have on the long term stability of social security as well as the retirement investments for most every American. To do so would be disingenuous. As well, the balanced budget amendment would one think that Americans are counting exclusively on social security for their economic security during retirement. In fact, more and more Americans are relying on Wall Street. A recent PBS Frontline documentary, "Betting on the Market," explains how Americans are increasingly entrusting their long-term retirement savings in Wall Street. There are 34 million households that have invested in the stock market in some form. As financial expert and the best-selling author of "Smart Money," Jim Cramer, points out, if you have a pension, it's likely that it's invested in stocks. If you have a 401K plan, it's probably invested in stocks. Worth magazine's Ken Kurson points out that in 1996, 34 percent of households headed by someone under 25 had some sort of mutual fund. Stock mutual funds represent the biggest chunk of money in the American Treasury. At the same time Americans carry record credit card debt. As financial historian Peter Bernstein points out, the money that people used to put in the stock market was money that they hoped to get rich on. Today, we are investing our blood money—our savings; our nest eggs. America's affection for the market is demonstrated by Paine Webber's recent announcement that it achieved a fifty percent increase in earnings last quarter. This is all well and good while the Dow Jones Industrials keep setting new highs—it closed yesterday at 6,843. NASDAQ also reached record levels benefiting from a boost in technology stocks.

With more and more Americans relying on mutual funds and stocks—whether they know it or not—for their retirement, what happens to our retirement security if we experience an economic downturn precipitated by our failure to address our nation's growing debt problem? Congress once again demonstrates an unwillingness to pass the balanced budget amendment and take this necessary step towards balancing the budget? With the fortunes of Wall Street effecting the quality of life for more and more future retirees, Congress needs to concern itself with how our growing debt and our willingness to make tough choices will affect Wall Street. Nothing the Congress can do would have a more positive effect on Wall Street and, in turn, the stability of our retirement savings than passing the balanced budget amendment and balancing the budget. More than 250 economists share this view. If my colleagues are concerned with the financial security of current and future older Americans, they will refrain from the wedge politics of Medicare and social security cuts and, instead, support the balanced budget amendment. It is not that expensive an incentive in this town is to spend now and let the next guy worry about paying the bill. Fiscal accountability is the enemy of big government. There is only one way to break Washington's habit of spending other people's money and borrowing from our children to do so: the pressure of a constitutional amendment for a balanced budget.

I look forward to the debate on this important measure, and I look forward to more fully explaining why I think that only a structural change in our basic charter can restore the fiscal responsibility we seem to have lost over the three or so decades.

Mr. President, I ask unanimous consent that the text of the Joint Resolution be printed in the Record. There being no objection, the Joint Resolution was ordered to be printed in the Record, as follows:

\[\text{Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of each House concurring therein, That the following article is proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:}\]

\[\text{ARTICLE I.} \]

\[\text{SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.}\]

\[\text{SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.}\]

\[\text{SECTION 3. Prior to the beginning of each fiscal year, the President shall transmit to Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.}\]

\[\text{SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.}\]

\[\text{SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.}\]

\[\text{SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.}\]

\[\text{SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all disbursements of the United States Government except for repayment of debt principal.}\]
Mr. HATCH. I am delighted to yield to my colleague from Idaho who I think has played not only a singularly important role in the Senate, but long has played a very important role when he was in the House of Representatives, as well, and has been a great partner in fighting this battle. I yield to the distinguished Senator from Idaho.

Mr. CRAIG. Mr. President, let me thank the senior Senator from Utah for yielding but for a moment, to add to the comments that he has made as we have introduced S.J. Res. 1, or Senate Joint Resolution 1, the balanced budget constitutional amendment. The Senator from Utah has outlined, as chairman of the Judicary Committee, what we bring to the floor and the very critical nature of this debate. For a moment, let me humanize it, if I can, as to what it means to us, to me, to our children, and to the future of this country.

Without a fiscally responsible Government that begins to rein in the growth of the Federal debt, already at $3.3 trillion dollars, and the ongoing year-after-year multibillion-dollar deficit that we have seen for decades, the financial future of our country and its citizens is in doubt. There is no question today that the Congress and our President mouth the words of a balanced budget. We even work toward that by the very actions undertaken in writing the annual budgets.

To guarantee it, to assure that when it gets to the time of making the tough votes to truly create a balanced budget, can we do it? Will we have the will of the people behind us and the support to accomplish that? I think that, absent a balanced budget amendment, the strength is there. I say that having watched this institution for many decades, and recognize that in the end when it really comes to the business of sorting out Government, the decisions become very tough.

If we pass a balanced budget amendment to our Constitution this year, and if the States ratify it within the next 2 years, we will offer to the young people born today a unique opportunity. What is that opportunity? That they will pay in the $3.3 trillion less than their forebears did, compared to what they would pay under the trends of the status quo, because of the rate at which our Government currently grows.

We will offer to the average American family an opportunity unprecedented, and that is a better standard of living and actually more take-home pay and more dollars to spend, on an annualized basis, of more than $1,500 a year, in addition to their current income. We will give our senior citizens the economic security we have promised them, by protecting Social Security and Medicare from the ravages of a massive debt and interest payments that crowd out all our other priorities. Let us remember, the debt is the threat to Social Security and to our seniors.

When the Senator from Utah and the Senator from Idaho began to work to convince the Congress and the American people of the need to pass a constitutional amendment to require a balanced budget was necessary in the early 1980's, if it had passed at that time, if it had become part of the Constitution, the Concord Coalition and others have estimated that the average income per family would be $15,000 more than it currently is. I think, from that kind of fact, you begin to recognize the power and the importance of what we offer up today. You begin to recognize the very critical nature of what a $3.3 trillion debt really is, and how it is growing by $800 million a day and more than $9,000 a second. If this Senate is to stand in the shadow of today's work a decade from now and say that we did for our country what we thought we could do for the American dream to our children, to be able to say to Americans that you will have the same unique opportunity that your forebears had, then we must make sure that we have produced, and locked in the Constitution that is fiscally responsible.

What we offer today and what we will be debating in the coming weeks is a balanced budget amendment to our Constitution which assures that this body and the other, as well as the President and his budget office, must operate in a fiscally sound and responsible way. It is what the American people say is their No. 1 issue. It must be our No. 1 issue. I am pleased today to join as a co-sponsor in this critical amendment and look forward to the debate in the coming weeks as we say to the American people, "We have heard your message and we will fight to be fiscally responsible in the building and the maintaining of a federal budget." I yield back to the Senator from Utah.

Mr. HATCH. I thank my colleague from Idaho for his excellent remarks and for his ardent fight for this amendment through the years.

Mr. President, there are 13 Democrats who have promised to vote for this amendment. If we add all 55 Republicans and the 13 heroic Democrats in the House, and the even more heroic Democrats in the Senate, that will give us 68 votes, 1 more than we need. We know the President is going to put on a full-court press. We also know that the minority leader and others will do the same. It is important that these people live up to the commitments they made to the constituents at home, and we are counting on them to do it. I believe they will.

Thus far, only seven have co-sponsored, and I believe the others will be on board when the debate comes to the floor. I hope, with all my heart, they realize how important this is. I hope they also realize how very deeply I feel about their courageous stand on this issue.

Mr. ABRAHAM. Mr. President, 2 years ago, the Senate failed by one vote to support a constitutional amendment requiring a balanced budget, and that was the Constitution that the Senate that balancing the budget didn't require amending the Constitution. All we needed, they told us, was to make the tough choices and cast the hard votes. Two budgets, hundreds of tough votes, and one Government shutdown in that budget deficit, and the case for a constitutional balanced budget amendment is stronger than ever.

That's not to say we haven't made progress in the past 2 years. We have. Since the 1994 elections, Congress has worked hard to hold the line on discretionary spending while just last fall we passed historic reforms to the 60-year-old welfare state. Perhaps just as importantly, we have witnessed a dramatic shift in the budget. Two years ago, President Clinton submitted a budget that never reached balance. Today all sides have agreed—at least in principle—to the goal of balancing the budget by the year 2002.

That's the good news.

The bad news is that while we have all seemingly agreed on the goal of balancing the budget, we are miles apart on the details. It's one thing to say you support a balanced budget—it's quite another to make the tough decisions necessary to make it happen.

Mr. President, that's where Senator Hatch's amendment to the Constitution comes in. As an original cosponsor of this amendment, I believe it will force the hand of an unwilling Congress to set its fiscal house in order. Where Congress has failed, I am confident the Constitution will succeed. How would it work?

Section 1 of the amendment requires the total outlays of the Government not exceed receipts unless three-fifths of the whole number of both Houses waives the requirement. Once this amendment is passed, a three-fifths vote of both the House and the Senate will be necessary in order to increase the deficit.

Section 2 prohibits Congress from raising the debt ceiling unless three-fifths of the whole number of both Houses of Congress waives the requirement.

And, finally, section 4 requires that there be no revenue increases unless approved by a majority of the whole number of each House in Congress. If this proposal becomes the 28th amendment to the Constitution, then in order to increase taxes, you would need first, a recorded vote and, second, the support of at least 51 U.S. Senators and 218 Members of the House.

Quite simply, Mr. President, the balanced budget amendment raises the procedural bar necessary for Congress to incur debt and raise taxes. Given Congress' historic predilection toward doing both, I believe this amendment is
possibly the most important measure we will consider in the 105th Congress.

Having focused on what the balanced budget amendment does, it is just as important to focus on what it doesn’t do. The first thing it doesn’t do is endanger Social Security. Social Security currently operates with a surplus, and some Members have argued that sound fiscal policy demands that we should exclude that surplus from the amendment and our deficit calculations.

I share the opinion that this argument is more of a diversion than anything else. It has been raised to confuse the issue and provide some Members with a smokescreen to cover their opposition to a measure that is supported by an overwhelming majority of Americans. Balancing the budget will strengthen, not weaken, the Social Security System.

The second thing this amendment does not do is endanger our national economy. Some—including the President—argue the balanced budget amendment will prevent Congress from responding to shifting economic recessions and booms.

Mr. President, the amendment being discussed today does not prohibit running a deficit or borrowing money. It requires a three-fifths vote in order to do those things. Under the circumstances generally described in support of an economic exception, I think it is incumbent upon the amendment’s advocates to explain why they could not get the necessary votes. Furthermore, I am interested to hear why the higher standards established by the balanced budget amendment would be more restrictive than the prospect of continued annual deficits, higher debt and debt payments, and less real discretionary spending under Congress’ control.

Finally, this amendment does not transfer undue power to the judiciary. One concern raised about the balanced budget amendment is the role the courts will play in enforcing its provisions. In the past, some have argued that the courts will involve themselves in the Federal budget process in order to enforce the balanced budget amendment. As someone with deep concerns about judicial activism, I have inspected this issue closely, and I am confident that adoption of this amendment will not authorize courts to insert themselves into the budget process.

As I mentioned previously, the balanced budget amendment establishes new procedures that encourage Congress to move toward and adopt a balanced budget. It does not, however, create a “right” to a balanced budget. It does not disturb the powers of Congress under Article I of the Constitution, it does not confer those powers on the courts, and it does not give to the courts the authority to interfere in those powers.

Mr. President, in conclusion, let me say the greatest danger facing our economy, our senior citizens, and future generations is not an amendment to the Constitution restricting Congress’ ability to borrow money or raise taxes, but rather the endless stream of deficits and huge mountains of debt that our predecessors have imposed upon us and future generations.

It is unfair, irresponsible, and immoral to pass this burden on to our children, and I applaud you and the Republican leadership for making passage of the No. 1 priority of the 105th Congress.

Mr. CAMPBELL. Mr. President, for many years I have spoken out in favor of a Balanced Budget Amendment to the Constitution, and have supported and voted for this measure each time I have had the opportunity to do so. Now, once again, I join many of my colleagues as an original cosponsor of S. J. Res. 2. A joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections; to the Committee on the Judiciary.

THE CAMPAIGN FINANCE REFORM CONSTITUTIONAL AMENDMENT

Mr. HOLLINGS. Mr. President, I rise today, with my colleague and co-sponsor Senator SPECTER, to introduce for the sixth time a constitutional amendment to limit campaign spending. Although I commend the efforts of the Minority Leader and others seeking statutory limits on campaign expenditures, which is being introduced today, and I applaud Senator ORRIN HATCH, Majority Leader TRENT LOTT, and the leadership for making this particular item a top priority for the 105th Congress.

It would be very up on the idea of passing the Balanced Budget Amendment. For a number of years, despite the hard work of many individuals, this measure has failed to pass through Congress and move on to the states for ratification where it belongs. However, I believe passage of this Amendment is in the best interest of the future of this country. It will force us to make the tough choices that need to be made to balance the budget and eventually eliminate the staggering debt.

There are those that believe there is no need for the Balanced Budget Amendment, that Congress can continue to run deficits as mandated by the Constitution to do so. However, I have been a member of this institution for ten years now, and I have yet to see Congress and the administration bite the bullet, balance the budget, and pay down the debt. If we do not address this important issue, the amount of the federal budget devoted toward paying off the interest on the debt and the entitlement programs will increase to the point that there will be barely any money left for those programs which deserve and require federal funding such as education, law enforcement, national security, or even our national parks and monuments. I think we owe more to the American people and to future generations.

For those of us who remain committed to this effort, this piece of legislation is a vital tool for tackling the difficult problems that beset our budget. I would like to see an increase not only in our standard of living and national savings rate but also in the amount of money the Federal Government devotes to worthwhile and beneficial programs—programs which could suffer due to our financial troubles.

Congress came within one vote last session of passing the Balanced Budget Amendment. I am optimistic that this year we can pass this legislation and send the measure on to the states for their deliberation. It is time to allow the American people and the State legislatures the opportunity to debate the merits of the Balanced Budget Amendment, and I hope they will see fit to entrust this measure to those who must ratify or reject it.

By Mr. HOLLINGS (for himself, Mr. SPECTER, Mr. DASCHLE, Mr. DORGAN, Mr. SHELBY, Mr. REID, Mr. FORD, and Mr. REED): S. J. Res. 2. A joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections; to the Committee on the Judiciary.

January 21, 1997

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money spent is astonishing and serves only to cement the commonly held belief that our elections are nothing more than auctions and that our politicians are up for sale. It is time to put a limit on the amount of money sloshing around our campaigns. It is time to adopt a constitutional amendment to limit campaign spending—a simple, straightforward, nonpartisan solution.

As Prof. Gerald G. Ashdown has written in the Fordham Law Review, amending the Constitution to allow Congress to regulate campaign expenditures is “the most theoretically attractive of the approaches-to-reform since, from a broad free speech perspective, the decision in Buckley is misguided and has worsened the campaign finance atmosphere.” Adds Professor Ashdown: “If Congress could constitutionally limit the campaign expenditures of individuals, candidates, and committees, along with contributions, most of the troubles * * * would be eliminated.”

Right to the point, back in 1974, Congress responded to the public’s outrage over the Watergate scandals by passing, on a bipartisan basis, a comprehensive reform bill that attempted to reduce the influence of money in campaigns. The centerpiece of this reform was a limitation on campaign expenditures. Congress recognized that spending limits were the only rational alternative to a system that essentially awarded office to the highest bidder or wealthiest candidate.

Unfortunately, the Supreme Court overturned these spending limits in its infamous Buckley versus Valeo decision of 1976. The Court mistakenly equated a candidate’s right to spend unlimited sums of money with his right to free speech. In the face of spirited dissent, the Court came to the conclusion that limits on campaign contributions but not spending further the governmental interest in preventing corruption and the appearance of corruption” and that this interest “outweighs considerations of free speech.”

I have never been able to fathom why that same test—the governmental interest in preventing corruption and the appearance of corruption—does not overwhelmingly justify limits on campaign spending. The Court made a huge mistake. The fact is, spending limits in Federal campaigns would act to restore the fairness that has been eroded by the Buckley decision.

After all, as a practical reality, what Buckley says is: Yes, if you have a fundraising advantage or personal wealth, then you have access to television, radio, and other media and you have freedom of speech. But if you do not have a fundraising advantage or personal wealth, then you are denied access. Instead of freedom of speech, you have only the freedom to say nothing.

So let us be done with this phony charge that spending limits are somehow an attack on freedom of speech. As Justice Byron White points out, clear as a bell, in his dissent, both contribution limits and spending limits are neutral as to the content of speech and are not motivated by fear of the consequences of the political speech in general.

Mr. President, every Senator realizes that television advertising is the name of the game in modern American politics. In warfare, if you control the air, you control the battlefield. In politics, if you control the airwaves, you control the outcome of a campaign. Probably 80 percent of campaign communications take place through the medium of television. And most of that TV airtime comes at a dear price. In South Carolina, you’re talking between $1,000 and $2,000 for 30 seconds of primetime advertising. In New York City, it’s anywhere from $30,000 to $40,000 for the same 30 seconds.

The hard fact of life for a candidate is that if you’re not on TV, you’re not truly in the race. Wealthy challengers as well as incumbents flushed with money go directly to the TV studio. Those without a fundraising advantage or personal wealth are sidetracked to the time-consuming pursuit of cash.

The Buckley decision created a double bind. It upheld restrictions on campaign contributions, but struck down restrictions on how much candidates with deep pockets can spend. The Court ignored the practical reality that if my opponent has $50,000 to spend in a race and I have $1 million, then I can effectively deprive him of his speech. By failing to respond to my advertising, my cash-poor opponent will appear unwilling to speak up in his own defense.

Justice Thurgood Marshall zeroed in on this disparity in his dissent to Buckley. By striking down the limit on what a candidate can spend, Justice Marshall said, “It would appear to follow that one man, however wealthy, could dominate the expenditure of funds in a legislative race. A legislative race is distinguished from a judicial race primarily by the greater interest in preventing corruption and the appearance of corruption” and that this interest “outweighs considerations of free speech.”

Indeed, Justice Marshall went further: He argued that by upholding the limitations on contributions but striking down limits on overall spending, the Court put an additional premium on a candidate’s personal wealth.

Justice Marshall was dead right and Ross Perot and Steve Forbes have proved it. Massive spending of their own money immediately made them contenders. Our urgent task is to right the injustice of Buckley versus Valeo by empowering Congress to place caps on Federal campaign spending. We are all painfully aware of the uncontrollable escalation of campaign spending. The average cost of a winning Senate race was $1.2 million in 1980, rising to $2.9 million in 1984, and skyrocketing to $3.1 million in 1986, $3.7 million in 1988, and up to $4.3 in 1996. To raise that kind of money, the average Senator spent $13,800 a week, every week of his or her 6-year term. Overall spending in congressional races increased from $446 million in 1990 to more than $724 million in 1994—a 70 percent increase in 4 short years. I predict that when the final FEC reports are compiled for 1996, that figure will go even higher.

This obsession with money distracts us from the people’s business. It corrupts and degrades the entire political process. Fundraisers used to be arranged so they didn’t conflict with the Senate schedule; nowadays, the Senate schedule is regularly shifted to accommodate fundraisers.

I have run for statewide office 16 times in South Carolina. You establish a certain campaign routine, say, shaking hands at a mill shift in Greer, visiting a big country store outside of Belton, and so on. Over the years, they look for you and expect you to come around. But in recent years, those mill visits and dropping by the country stores have become a casualty of the system. There is very little time for them. We’re out chasing dollars.

During my 1992 reelection campaign, I found myself raising money to get on TV to raise money to get on TV to raise money to get on TV. It’s a vicious cycle.

I remember Senator Richard Russell saying: “They give you a 6-year term in this U.S. Senate: 2 years to be a statesman, the next 2 years to be a politician, and the last 2 years to be a demagogue.” Regrettably, we are no longer afforded even 2 years as statesmen. We proceed straight to politics and demagoguery right after the election because of the imperatives of raising money.

My proposed constitutional amendment would change all this. It would empower Congress to impose reasonable spending limits on Federal campaigns. I will argue that any advantages of incumbency are well over 50 percent of the House membership and roughly the same amount in 1992. And bear in mind that direct expenditures were supplemented by hundreds of thousands of dollars in expenditures by independent organizations and by the State and local Republican Party. When you total up spending from all sources, my challenger and I spent roughly the same amount in 1992.

And incidentally, Mr. President, let’s be done with the canard that spending limits would be hobbling freshmen. Those freshmen who supposedly already have name recognition and standing with the public and therefore begin with a built-in advantage over challengers. Nonsense. I hardly need to remind my Senate colleagues of the high rate of mortality in upper chamber elections. And as to the alleged invulnerability of incumbents in the House, I would simply note that well over 50 percent of the House membership has been replaced since the 1990 elections and just 3 weeks ago we swore in 15 new Senators.

I can tell you from experience that any advantages of incumbency are
more than counterbalanced by the obvious disadvantages of incumbency, specifically the disadvantage of defending hundreds of controversial votes in Congress.

Moreover, Mr. President, I submit that we have overall spending limits, it will matter little whether a candidate gets money from industry groups, or from PAC’s, or from individuals. It is still a reasonable amount any way you cut it. Spending will be under control, and we will be able to account for it much better. Let me say that I have never believed that PAC’s per se are an evil in the current system. On the contrary, PAC’s are a very healthy instrumentality of politics. PAC’s have brought people into the political process: nurses, educators, small business people, senior citizens, unionists, you name it. They permit people of modest means and limited individual influence to band together of mutual interest so that their message is heard and known.

For years we have encouraged these people to get involved, to participate. Yet now that they are participating, we turn around and say, ‘Oh, no; your influence is not duplicitous, your money is tainted’. This is wrong. The evil to be corrected is not the abundance of participation but the superabundance of money. The culprit is runaway campaign spending.

To a greater or lesser degree, elections are determined not in the political marketplace but in the financial marketplace. Our elections are supposed to be contests of ideas, but too often they degenerate into megadollar derbies, paper chases through the board rooms of corporations and special interests.

Mr. President, I repeat, campaign spending must be brought under control. The constitutional amendment Senator SPECTER and I have proposed would institute reasonable, workable limits on Federal campaign expenditures and allow States to do the same with regard to State and local elections.

Such a reform would have four important impacts. First, it would end the mindless pursuits of ever-fatter campaign war chests. Second, it would free candidates from their current obsession with fundraising and allow them to focus more on issues and ideas; once in office, we wouldn’t have to spend 20 percent of our time raising money to keep our seats. Third, it would curb the influence of special interests. And fourth, it would create a more level playing field for our Federal campaigns—a competitive environment where a petitioned office does not give candidates an insurmountable advantage.

Finally, Mr. President, a word about the advantages of the amend-the-Constitution approach that I propose. Recent history amply demonstrates the practicality and viability of this constitutional route. Certainly, it is not coincidental that five of the last seven amendments to the Constitution have dealt with Federal election issues. In elections, the process drives and shapes the end result. Election laws can skew election results, whether you’re talking about a poll tax depriving minorities the right to vote, the absence of campaign spending limits giving an unfair advantage to wealthy candidates. These are profound issues which go to the heart of our democracy, and it is entirely appropriate that they be addressed through a constitutional amendment.

And let’s not be distracted by the argument that the amend-the-Constitution approach will take too long. Take too long? We have been dithering on this campaign finance issue since the early 1970’s, and we haven’t advanced the ball a single yard. All-the-while the Supreme Court continues to strike down campaign limit after campaign limit. It has been a quarter of a century, and no legislative solution has been found.

Except for the 27th amendment, the last five constitutional amendments took an average of 17 months to be adopted. There is no reason why we cannot pass this joint resolution, submit it to the States for ratification, and ratify the amendment in time for it to govern the 1998 election. Once passed by the Congress, the Joint Resolution goes directly to the States for ratification. Once ratified, it becomes the law of the land, and it is a Supreme Court challenge.

And, by the way, I reject the argument that if we were to pass and ratify this amendment, Democrats and Republicans would be unable to hammer out a mutually acceptable formula of campaign expenditure limits. A Democratic Congress and Republican President did exactly that in 1974, and we can certainly do it again.

Mr. President, this amendment will address the issue of campaign financial excess, directly, decisively, and with finality. The Supreme Court has chosen to ignore the overwhelming importance of media advertising in today’s campaigns. In the Buckley decision, it prescribed a bogus if-you-have-the-money-you-can-talk version of free speech. In its place, I urge the Congress to move beyond these acrobatic attempts at legislating around the Buckley decision. As we have all seen, no matter how sincere, these plans are doomed to fail. The solution rests in fixing the Buckley decision. It is my hope that as the campaign financing debate unfolds, the Majority Leader will provide us with an opportunity to vote on this resolution—it is the only solution.

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

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

S. J. Res. 2.

Resolved by the Senate and House of Representes of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within 7 years after the date of final passage of this joint resolution:

ARTICLE—

"SECTION 1. Congress shall have power to set reasonable limits on the amount of contributions that may be accepted by, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for election to, Federal office.

"SECTION 2. A State shall have power to set reasonable limits on the amount of contributions that may be accepted by, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for election to, State or local office.

"SECTION 3. Congress shall have power to implement and enforce this article by appropriate legislation."

Mr. SPECTER. Mr. President, I have sought recognition today to join with Senator HOLLINGS in introducing a joint resolution providing for an amendment to the United States Constitution which would provide authority to the Congress to regulate Federal campaign expenditures and allow the States to regulate spending in State and local elections.

This joint resolution is very similar to S. J. Res. 48, which I introduced in the 104th Congress on January 26, 1996.

Before the history of the Supreme Court’s decision in Buckley versus Valeo. It is also very similar to constitutional amendments which Senator HOLLINGS and I have proposed since 1989.

Now, more than ever, the time has come for meaningful election law reform—reform which necessitates over-turning the Buckley decision.

The unprecedented spending levels during 1996 Presidential and Congressional campaigns serve as the impetus for approving this constitutional amendment. Presidential candidates spent a total of $237 million in the 1996 primary campaigns, of which $56 million represented publicly funded matching payments. Public financing of the general election added $153 million to the total. One primary candidate decided not to take Federal matching funds and used $37 million of his own resources to fund a campaign in which he was not restricted from the same total, and overall limits as other candidates.

The 1996 Congressional campaign cycle was similarly grim for all but television station advertising managers and political consultants. There were record levels of spending, including $220.8 million by Senate candidates and $405.6 million by House candidates. This spending, much of which went to negative television commercials, did little to restore the public’s confidence that democracy may be the electoral process, much less our institution.

The Supreme Court has made this proposed amendment even more urgent
through its June, 1996 decision in Colorado Republicans Federal Campaign Committee versus Federal Election Commission. In that case, the Court cut an enormous hole in the remaining Federal campaign spending limits by striking down a restriction on spending when the parties are acting independently of the candidates they support. Justice Breyer's plurality opinion stated that the "independent expression of a political party's views is core 1st Amendment activity entitled to full protection. Until the Colorado decision, Federal election law limited how much the parties themselves could spend on House and Senate races. Now, it's a multi-million dollar free-for-all, with a prospect of subsequent litigation over the "independence" of such expenditures and a rash of complaints filed against candidates in future election cycles.

If nothing else, the vast sums of money spent in this recent election, coupled with the June Supreme Court decision, have raised the profile of the Buckley decision even further. I am pleased to note that the view that Buckley should be overturned is shared by a group of prominent constitutional scholars, legal scholars, when coupled with Constitutional Law School), and Robert Aronson (University of California at Los Angeles Law School), and Robert Aronson (University of Washington Law School). Such a concerted effort by legal scholars, when coupled with Congressional efforts and the public's revulsion at the amount of money in politics, should lead to a new day for campaign finance in which rational, reasonable limits bring sanity back into the political process.

Overturning the Buckley decision has long been a priority of mine. In fact, the Buckley decision had a very significant impact on this Senator, because at that time in 1976, I was running for the U.S. Senate. I had announced my candidacy on November 17, 1975, for the seat being vacated by a distinguished American who later became a U.S. Senator, John Heinz, who had more financial resources than I did. I should note that after my eventual election in 1980, he and I formed a very close working partnership and very close friendship. That decision was made an indelible impression upon me, so much so that when the decision came down on January 29, 1976, I petitioned for leave to intervene as amicus and filed a set of legal appeals, all of which were denied. John Heinz subsequently won the primary and general elections and served with great distinction until his tragic death.

As I noted at the outset, this is not a new issue for me to bring before my colleagues. I have sponsored and co-sponsored legislation and, during the 101st Congress, testified in support of such a Constitutional amendment before the Senate Subcommittee on the Constitution on February 28, 1990.

I gained significant new insight, however, on the subject of campaign spending from my experiences as a candidate for the Republican nomination for the Presidency during 1994 and 1995. During my travels to 30 States as a Presidential candidate, I was once again impressed with how important fundraising is and how disproportionate it is to the undertaking of a political candidacy. The concept of running for elective office, Mr. President, is a matter of issues, a matter of tenacity, a matter of integrity, and how you conduct a campaign. However, money has become the dominant issue in the Presidential campaign. And the media focus on it to the exclusion of many issues of substantive matters which are really involved in a campaign for the Presidency.

It has seemed to me since my experiences in 1976, as I have watched enormous expenditures in campaign financing by individuals, that the Buckley decision was based on un sound constitutional interpretation and certainly created unsound public policy. There is nothing in the Constitution, in my judgment, which guarantees freedom of speech on any reasonable, realistic, logical constitutional interpretation which says you ought to be able to spend as much money as you have to win an elective office. I think it is high time for the Congress of the United States and the 50 States to reexamine that in a constitutional amendment, which is the purpose of the joint resolution we are introducing today.

Simply put, Congress should have the authority to establish a spending limit in Federal elections without regard to the first amendment limitation which was applied by the Supreme Court in Buckley. In approaching this matter, Mr. President, I am very concerned about amending the first amendment to the U.S. Constitution, which covers the freedoms of speech, religion, press, and assembly. But, the constitutional amendment values do not go to any of these core first amendment values. This is not a matter affecting religion. It is not a matter really affecting speech.

I think it was a very far stretch when a divided U.S. Supreme Court said that a campaign contribution from an individual was not a matter of freedom of speech, but spending one's own money in a campaign is protected speech. At that time, the Supreme Court did not affect the limitation on spending where an individual could contribute only $1,000 in the primary and $1,000 in the general, except for contributions by political action committees, which could receive $5,000.

I would note that in 1976, my brother had considerably more financial means than I did and would have been very much interested in helping his younger brother, but the limitation on my brother in that primary was $1,000. It seems to me that to me now that if a candidate has the right to spend as much of his or her money as he or she chooses, then why should not any other citizen have the same right under the first amendment to express himself or herself by political contributions. That distinction by the Buckley court still seems unfounded 20 years later.

There have been many, many examples of multimillion-dollar expenditures in this body, the U.S. Senate, the U.S. House of Representatives, and in State government, and in 1992 and 1996 we have witnessed such expenditures by two men running for President of the United States. The fact of life is, if you advertise enough on television, if you advertise enough, then the sky is the limit. Even the White House of the United States of America, the Office of the President, may be, in fact, up for sale if someone is willing to spend $25 million. If you have $400 million, $25 million is not an enormous sum; you still have $375 million left after your campaign. As I have said before, most people can get by on $375 million. Given some of the personal fouls out there, it is conceivable that someone could spend $50 million or even $75 million to promote a candidacy, both to articulate a positive view and then, perhaps even more effectively, to fund negative television advertisements aimed at opponents.

A constitutional amendment is also a direct way to deal with campaign finance reform without having a further burden on the Treasury of the United States. We have debated campaign finance reform repeatedly, a number of contexts. Most proposals come down to a proposition to have Federal subsidies for candidates and then to call upon the candidates to relinquish their
The legal scholars are also speaking out. In an article in a recent issue of The New York Review of Books, Professor Dworkin said: "The case for overruling Buckley is a strong one, according to him, in declaring the decision a mistake. The decision misunderstood not only what free speech really is, but what it really means for free people to have a voice in selecting their leaders. Among the scholars signing the statement are Bruce Ackerman, a professor at Yale Law School; Peter Arendel, a professor at the law school of the University of California at Los Angeles; John Rawls, a professor emeritus of law at Harvard University; Milton S. Glitzman, a member of the senior faculty of the University of Pennsylvania; F. Kennedy School of Government at Harvard, and Robert Aronson, a professor of the University of Washington law school."

Professor Erwin Chemerinsky of the University of Southern California law school, who is among the signers, said: "My hope is that if I and other scholars speak long enough and are persuasive enough, it might swing the Court. Having experts in constitutional law speak out might make a difference. I believe the Court was wrong." Yet, even these scholars believe their efforts may be a long shot, given a recent Court decision and many lower-court decisions that have limited the opposite direction of overturning Buckley and have, instead, allowed money to be spent even more freely on behalf of candidates for federal office. Congress passed legislation in 1974 to curb the excesses of the Watergate scandal, limiting both the amount of money that could be raised and the amount that could be spent in a political campaign.

The Buckley decision had, as its central element that Congress had imposed on campaign spending but, in what critics say was odd, it left in place restrictions on contributions. This, over time, had the effect of allowing candidates to spend as much money as they want—something the Court said was protected by the First Amendment guarantee of free speech. But it forced candidates to come up with creative funding strategies to skirt restrictions that capped campaign donations at $1,000 from individuals and $5,000 from political action committees. "The Court struck down one-half of the 1974 law and left the other half in effect, and we ended up with a law that was the worst of both," said Professor Neubeorne, a law professor at New York University. "This created a schizophrenic market where the supply of money was limited, but the demand for it was not." "The worst part of all," Professor Neubeorne added, "is that as a result of Buckley, the campaign finance laws are shot with an excess of money in politics. This year's biggest development is the growth in the use of "soft money"—funds that can be raised by political parties in unlimited amounts and spent by them in behalf of candidates for federal office. Donations to the parties avoid the tight $1,000 cap on Buckley."

Moreover, in a subsequent ruling handed down last June, the Court upheld a decision in a Colorado case that allows political parties to spend unlimited amounts of "independent ads"—advertisements that are on behalf of candidates but are not designed in coordination with them. That decision was bitterly opposed by political critics as eliminating the last barrier against any restrictions on spending by political parties and promoting the back-door financing of Federal campaigns.

"It's not only Buckley v. Valeo, but how it is being interpreted by the Court," said Professor Neubeorne, executive director of the Brennan Center for Constitutional Politics, "recently sponsored by the American Enterprise Institute who opposes the Buckley decision but did not sign the statement. The Colorado decision had the bizarre conclusion that political parties can act independent of their own candidates. And that's what really helped open the floodgates even more this year."

In addition, the Buckley decision has been continually cited by lower courts in finding off efforts to regulate "issue advocacy" advertising. "This has been paid for by activist groups like the Christian Coalition or environmental groups; they may not say "vote for" or "vote against" specific candidates, but they still clearly support one candidate or another."

In nearly a dozen lower-court decisions, these advertisements have been ruled to be protected by the First Amendment guarantee of free speech, as outlined in the Buckley decision, and cannot be regulated by the Government. That means such spending cannot be restricted. Kenneth Gross, an election law specialist in Washington, said it was highly doubtful that the scholars' group would be successful. "Overturning Buckley is wishful thinking," he said. "Every time the Supreme Court gets hold of a case that involves the idea in Buckley, it will reaffirm the Court hasn't shown any inclination in turning away from Buckley."

Still, the group hopes that its persistence will pay off. "There are many examples in past history of the Supreme Court reconsidering landmark cases after sustained public outcry and scholarly criticism," said E. Joshua Rosenkantz, a law professor at the Brennan Center. "That is what we are trying to generate. Buckley has got to be one of the most unpopular opinions existing today, and it is viewed by reformers of campaign finance as the big oak tree that occupies the field, forcing everyone to play around it."

By Mr. THURMOND:

S.J. Res. 3. A joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

VOLUNTARY SCHOOL PRAYER CONSTITUTIONAL AMENDMENT

Mr. THURMOND. Mr. President, today, I am introducing the voluntary school prayer constitutional amendment. This bill is identical to Senate Joint Resolution 73 which I introduced in the 98th Congress at the request of then President Reagan and reintroduced every Congress since. The bill received strong support from our colleagues on both sides of the aisle and is of vital importance to our Nation. It would restore the right to pray voluntarily in public schools—a right which was freely exercised under our Constitution until the 1960s, when the Supreme Court ruled to the contrary.

Also, in 1985, the Supreme Court ruled an Alabama statute unconstitutional which authorized teachers in public schools to conduct a period of silence *** for "meditation or voluntary prayer" at the beginning of each school day. As I stated when that opinion was issued and repeated again—the
Supreme Court has too broadly interpreted the establishment clause of the first amendment and, in doing so, has incorrectly infringed on the rights of those children—and their parents—who wish to observe a moment of silence for religious purposes.

Until the Supreme Court ruled in the Engel and Abington School District decisions, the establishment clause of the first amendment was generally understood to prohibit the Federal Government, from officially holding in special favor, any particular religious faith or denomination. In crafting that clause, our Founding Fathers sought to prevent what has originally caused many colonial Americans to emigrate to this country—an official, State religion. At the same time, they sought, through the free exercise clause, to guarantee to all Americans the freedom to worship God without government interference or restraint.

In their wisdom, they recognized that true religious liberty precludes the government from both forcing and preventing worship.

As Supreme Court Justice William O. Douglas once stated: "We are a religious people whose institutions pre-suppose a Supreme Being." Nearly every President since George Washington has proclaimed a day of public prayer. Moreover, we, as a nation, continue to kneel in the Pledge of Allegiance by affirming that we are a Nation "under God." Our currency is inscribed with the motto, "In God We Trust". In this body, we open our workday with the omens of the morning's prayer—group prayers—such a practice has been recently upheld as constitutional by the Supreme Court. It is unreasonable that the opportunity for the same beneficial experience is denied to the boys and girls who attend public schools. This situation simply does not comport with the intentions of the Framers of the Constitution and is, in fact, antithetical to the rights of our youngest citizens to freely exercise their respective religions. It should be changed, without further delay.

The Congress should swiftly pass this resolution and send it to the States for ratification. This amendment to the Constitution would clarify that it is not prohibited, voluntary, prayer in the public school and other public institutions. It emphatically states that no person may be required to participate in any prayer. The government would be precluded from drafting school prayers. This well-crafted amendment enjoys the support of an overwhelming number of Americans.

I strongly urge my colleagues to support prompt consideration and approval of this bill during this Congress.

By Mr. ROTH (for himself and Mr. MOYNIHAN): S.J. Res. 6. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims; to the Committee on the Judiciary.

The Victims' Rights Constitutional Amendment.

Mr. KYL. Mr. President, to ensure that crime victims are treated with fairness, dignity, and respect, I rise to introduce, along with Senator FEINSTEIN, a resolution proposing a constitutional amendment to establish and protect the rights of crime victims. This resolution is the product of extensive discussions with Chairman HYDE, Senators HATCH and BIDEN, the Department of Justice, the White House, interest groups, the experts, major victims’ rights groups, and such diverse scholars as Professors Larry Tribe and Paul Cassell. As a result of these discussions, the core values in the original amendment remain unchanged, but the language has been refined to better protect the interest of all parties.

Each year, about 40 million Americans are victimized, first by criminals, and secondly by the government, that affords them no constitutional rights. The Victims' Rights Amendment is a constitutional amendment that will bring balance to the system by giving crime victims the rights to be informed, to be heard, and to be protected at critical stages throughout their ordeal—the least the system owes to those it failed to protect.

Need to Protect Crime Victims’ Rights—Scales of Justice Imbalanced

Last Congress, this amendment was censored by 29 Senators. Both the Republican and Democratic Party platforms called for a victims’ rights amendment, as did Senator Dole and President Clinton in a Rose Garden ceremony in June 1996 and in his acceptance speech at the Democratic convention.

This strong bipartisan support makes clear that the Victims’ Rights Amendment is not a partisan issue, or some far off year out which has no connection to the events from a 1982 President’s Task Force on Victims of Crime, which concluded that “the criminal justice system has lost its essential balance,” and that constitutional protection of victims’ rights was the only way to guarantee fair treatment of crime victims. Since then, grass-roots citizens’ organizations around the country have pushed for amendments to their State constitutions. A majority of States have responded to the unjust treatment of crime victims face, and have enacted constitutional amendments. But this patchwork of State constitutional amendments is inadequate. A Federal amendment would establish a basic floor of crime victims’ rights—a floor below which States could not fall.

Victims of serious crimes need a constitutional amendment to protect their rights and restore balance to our justice system. Those accused of crime have many constitutionally protected rights: They have the right to due process; right to confront witnesses; right against self-incrimination; right to a jury trial; right to a speedy trial; right to a public trial; right to counsel; right to be free from unreasonable searches and seizures.

Yet, despite rights for the accused, the U.S. Constitution, our highest law, has no protection for crime victims. The recognized symbol of justice is a figure holding a balanced set of scales, but in reality the scales are heavily weighted on the side of the accused. Our proposal will not deny or infringe any constitutional right of any person accused or convicted of a crime. But it will add to the body of rights we all enjoy as Americans.

Crime victims have no constitutional rights. They are often treated as mere inconveniences, forced to view the process from the sidelines. Defendants...
can be present through their entire trial because they have a constitutional right to be there. But in many trials, crime victims are ordered to leave the courtroom. Victims often are not informed of critical proceedings, such as when the court considers releasing a defendant on bail or allowing him to plea bargain to a reduced charge. Even when crime victims find out about these proceedings, they frequently have no opportunity to speak.

**RIGHTS IN THE AMENDMENT**

The amendment gives crime victims the rights:

To be notified of the proceedings;

To be heard at certain crucial stages in the process;

To be notified of the offender’s release or escape;

To proceedings free from unreasonable delay;

To an order of restitution;

To have the safety of the victim considered in determining a release from custody; and

To be notified of these rights.

**STATISTICS**

As I noted earlier, each year about 40 million Americans are victims of serious crime. During 1995 there were 9.9 million crimes of violence, 6.4 million simple assaults, 2.0 million aggravated assaults, 1.3 million robberies, and 335,000 rapes or other types of sexual assault, according to the most recent statistics from the Department of J ustice.

The breakdown of social order and the crisis of crime which accompany it have swelled the ranks of criminals, and those who suffer at their hands, to proportions that astonish us, that break our hearts, and that demand collective action. And the process of detecting, prosecuting, and punishing criminals, in too many places in America, ignores the rights of crime victims to fundamental justice.

**STRONG PUBLIC SUPPORT—TWENTY-NINE STATES HAVE CONSTITUTIONAL AMENDMENTS**

Since 1982 when the need for a constitutional amendment was first recognized by a President’s Task Force on Victims of Crime, 29 states have passed similar measures—by an average popular vote of almost 80 percent.


**AMENDING THE CONSTITUTION IS A BIG STEP, BUT A NECESSARY ONE**

Amending the constitution is, of course, a big step—one which I do not take lightly—but, on this issue, it is a necessary one. As Thomas Jefferson once said, I see no other avenue for frequent changes in laws and constitutions, but laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and options change, with the change of circumstances, institutions must advance also to keep pace with the times.

Who would dare today to be now if the right to free speech, or a free press, or to peaceably assemble, or any of our other rights were subject to the whims of changing legislative or court majorities? When the rights to vote were extended to all regardless of race, and to women, were they simply put into a statute? Who would dare stand before a crowd of people anywhere in our country and say that a defendant’s rights to a lawyer, a speedy public trial, due process, to be informed of the charges, to confront witnesses, to remain silent, or any of the other constitutional protections are important, but don’t need to be in the Constitution?

Such a position would not stand. Yet that is precisely what critics of the Victims’ Bill of Rights would tell crime victims. Victims of crime will never be treated fairly by a system that permits the defendant’s constitutional rights to trump the protections given to victims. Such a system forever would make victims second-class citizens. It is precisely because the Constitution is hard to change that basic rights for victims need to be protected in it.

**SUPPORT**

The amendment is supported by major national victims’ rights groups: Parents of Murdered Children, Mothers Against Drunk Driving (MADD), the National Organization for Victim Assistance, the National Victim Center, and the National Victims’ Constitutional Amendment Network, the Victim Assistance Legal Organization, the Doris Tate Crime Victims Bureau, Citizens for Change, the National Coalition Against Sexual Assault, and the Law Enforcement Alliance of America.

**CONCLUSION**

In closing, I would like to thank Senator DIANNE FEINSTEIN for her hard work on this amendment and for her tireless efforts on behalf of crime victims.

Mr. President, for far too long, the criminal justice system has ignored crime victims who deserve to be treated with fairness, dignity, and respect. Our criminal justice system will never be truly just as long as criminals have rights and victims have none. We need a new definition of justice—one that includes the victim.

Mr. President, I ask unanimous consent that the text of the resolution be printed in the Record at the end of my statement.

THE PRESIDING OFFICER. Without objection, it is so ordered. (See Exhibit 1)

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

S.J. Res. 6

Resolved by the Senate and House of Representatatives of the United States of America in Congress assembled, two-thirds of each House concurring therein, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

**ARTICLE**

**SECTION 1.** Each victim of a crime of violence, and other crimes that Congress may define by law, shall have the rights to notice and to be heard, to have the right to a speedy and public trial, to confront witnesses, to remain silent, and to have the right to counsel, to be informed of the charges, and to have the right to a trial by jury.

**SECTION 2.** The rights established by this article shall not be construed to deny or abridge the rights of citizens of the United States to be tried by a jury of his peers and of the State wherein the crime shall have been committed.

**SECTION 3.** The Congress and the States shall have the power to enforce this article by appropriate legislation, including the power to enact exceptions when required for compelling reasons of public safety or for judicial efficiency.

By Mr. KYL:

S.J. Res. 8 A joint resolution proposing an amendment to the Constitution of the United States to provide that expenditures for a fiscal year shall exceed neither revenues for such fiscal year nor 19 per centum of the Nation’s gross domestic product for the last calendar year ending before the beginning of such fiscal year; to the Committee on the Judiciary.
Mr. KYL. Mr. President, I rise today to introduce the Balanced Budget/Spending Limitation Amendment, a resolution to amend the Constitution of the United States to require a balanced federal budget and to limit spending to 19 percent of Gross Domestic Product (GDP).

Mr. President, few people realize it, but for the last 40 years, revenues to the U.S. Treasury have remained relatively steady as a share of national income. No matter whether economic times were good or bad, whether the nation was at peace or engaged in military conflict, or whether income tax rates were as high as 90 percent or as low as 28 percent, the total amount of revenue flowing to the U.S. Treasury has always amounted to about 19 percent of the nation’s income.

That is really quite remarkable. With history as a guide, it means that higher tax rates will not produce more revenue for the government proportionate to the size of the economy. Such rate increases merely slow down the rate of economic growth, and that is why tax increases never produce as much revenue as anticipated.

At the family level, it means some people will work fewer hours to avoid being pushed into a higher tax bracket. Others will invest less, or invest in less productive ventures, in order to minimize taxes. Still others, when hit by higher taxes, cut back on the goods or services they buy, and that means less work—and less taxable income—for someone else.

In other words, changes in the tax code affect people’s behavior. Lower tax rates stimulate the economy, resulting in more taxable income and transactions, and, in turn, more revenue to the Treasury. Higher taxes discourage work, production, savings, and investment. Tax revenues are always less than initially projected. Although tax cuts and tax rate increases may create temporary declines and surges in revenue, history proves that revenues always adjust at roughly the same percentage of GDP as people adjust their behavior to the new tax code.

It is important for us to understand this phenomenon because it means that Congress cannot balance the federal budget by raising tax rates. If the goal is to balance the budget—and that is what a balanced budget amendment will require—the only way to succeed is to limit federal spending to the level of revenue that the economy is willing to bear. That happens to be 19 percent of GDP. That is what the Balanced Budget/Spending Limitation Act seeks to do in a very explicit way.

Other versions of the balanced budget amendment would achieve the same objective, including the version of the amendment that is most likely to pass in the House. The problem is, without explicitly limiting spending and precluding tax rate increases, Congress might try to balance the budget by raising taxes. And as I have illustrated in prior remarks, that would not only be ineffective, it would be harmful to the economy.

Higher taxes would mean that fewer jobs would be created; some people would work fewer hours. Wages would not grow as fast. Output would fall, or would grow only slowly. And in the end, spending would probably still outpace revenue, requiring another round of deficit reduction to meet the requirements of the balanced budget amendment. If that were actually achieved, it could probably not be sustained for very long because high tax rates would slow the economy, resulting in lower revenues in future years.

The advantage of the Balanced Budget/Spending Limitation Amendment is that it keeps our eye on the ball. It tells Congress to limit spending. And by linking spending to economic growth, it gives Congress a positive incentive to enact pro-growth economic policies. Only a healthy and growing economy—measured by GDP—would increase the dollar amount that Congress is allowed to spend, although always proportionate to the size of the economy.

In other words, 19 percent of a larger GDP represents more revenue to the Treasury than 19 percent of a smaller GDP.

I urge my colleagues to consider the advantages of the Balanced Budget/Spending Limitation Amendment and to join me as cosponsors of the initiative. In the event that a different version of the balanced budget amendment passes, I suggest we will have to consider a free-standing spending limitation amendment in the future if we are interested in promoting both fiscal responsibility and economic growth and opportunity for all Americans.

Mr. President, I ask that the text of the amendment be reprinted in the RECORD. There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE—

"SEC. 1. Except as provided in this article, outlays of the United States Government for any fiscal year may not exceed its receipts for such fiscal year. Only actual receipts and actual outlays shall be included in the computation of the deficit or surplus for the last calendar year ending before the beginning of such fiscal year.

"SEC. 2. Except as provided in this article, the outlays of the United States Government for a fiscal year may not exceed 19 per centum of the Gross Domestic Product for the last calendar year ending before the beginning of such fiscal year.

"SEC. 3. The Congress may, by law, provide for suspension of the provisions of sections 1 or 2 of this article for any fiscal year for which three-fifths of the whole number of each House shall provide, by a roll call vote, for a specific excess of outlays over receipts or over 19 per centum of the Nation’s gross domestic product for the last calendar year ending before the beginning of such fiscal year.

"SEC. 4. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except those for the repayment of debt principal.

"SEC. 5. This article shall apply to the second fiscal year beginning after its ratification and to subsequent fiscal years, but not to fiscal years beginning before October 1, 2001."

By Mr. KYL (for himself, Mr. ABRAHAM, Mr. BROWNSACK, Mr. COVERDELL, Mr. CRAIG, Mr. FAIRCLOTH, Mr. GRAMS, Mr. HAGEL, Mr. HELMS, Mrs. HUTCHISON, Mr. HUTCHISON, Mr. INHOFE, Mr. MCCAIN, Mr. SULLIVAN, Mr. SHELBY, Mr. SMITH, and Mr. THOMPSON):

S.J. Res. 9. A joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for lifting excess federal taxes; to the Committee on the Judiciary.

THE TAX LIMITATION CONSTITUTIONAL AMENDMENT

Mr. KYL. Mr. President, I rise today on behalf of myself and 17 of my Senate colleagues to introduce the Tax Limitation Amendment, a proposed amendment to the Constitution to require a two-thirds vote of the House and Senate to increase taxes.

Mr. President, on Election Day last year, by overwhelming majorities, voters from Florida to California approved initiatives aimed at limiting government’s ability to raise taxes. Florida’s Question One, which would require a two-thirds vote of the legislature to enact or raise any state taxes or fees, passed with 68.2 percent of the vote.

Seventy percent of Nevada voters approved the Gibbons amendment, requiring a two-thirds vote of the state legislature to pass new taxes or tax hikes. South Dakotans easily approved an amendment requiring either a vote of the people or a two-thirds vote of the legislature for any state tax increase.

And California voters tightened the restrictions in the most famous tax limitation of all, Proposition 13, so that now all taxes at the local level must be approved by a vote of the people. Of course, voters in my home state of Arizona overwhelmingly approved a state tax limit of their own in 1992.

The Tax Limitation Amendment I am introducing would impose similar constraints on federal tax-raising authority. It would require a two-thirds majority vote of each house of Congress to pass any bill levying a new tax or increasing the rate or base of any existing tax. In short, any measure taking more out of the taxpayers’ pockets would require a supermajority vote to pass.

Congress could vote to waive the requirement in times of war, or when the...
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United States is engaged in military conflict which causes an imminent and serious threat to national security. But any new taxes imposed under such a waiver could only remain in effect for a maximum of two years.

Most Americans believe the federal government is already taxing them far too much. In 1990, the average family paid one dollar in taxes to the federal government out of every 50 dollars earned. Today, it pays almost one dollar out of every three dollars earned. Add state and local taxes to the mix, and the tax bite is closer to one out of every two-and-a-half dollars earned.

I believe the Tax Limitation Amendment would not affect Congress' ability to cut taxes. That could still be achieved by simple majority vote. It would, however, make it much harder to raise taxes, particularly if there is no broad-based, bipartisan support for the proposition in Congress or around the country. It would, for example, have prevented enactment of the tax hikes in 1990. It is the largest tax victory, and one which even a majority of Senators did not support. Vice President Gore broke a 50 to 50 vote tie to secure its passage. The TLA would have prevented enactment of the Bush tax cuts.

Raising sufficient revenue to pay for government's essential operations is obviously a necessary part of governing. Lower tax rates is not necessarily the best way to raise revenue. And in any event, voters around the country seem to believe that raising taxes should only be done when there is broad support for the proposition. The TLA would ensure that no tax can be raised in the future without such consensus.

I invite my colleagues to cosponsor the initiative, and I ask unanimous consent that the text of the amendment be reprinted in the RECORD.

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

ARTICLE

"SECTION 1. Any bill to levy a new tax or increase the rate or base of any tax may pass only with a majority of the whole number of each House of Congress."

SEC. 2. The Congress may waive section 1 when the Congress is in effect. The Congress may also waive section 1 when the United States is engaged in military conflict which causes an imminent and serious threat to national security as so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law. Any provision of law which would otherwise be standing, alone, be subject to section 1 but for this section and which becomes law pursuant to such a waiver shall be effective for not more than five years.

SEC. 3. All votes taken by the House of Representatives or the Senate under this article shall be determined by yeas and nays and the names of persons voting for and against shall be entered on the Journal of each House respectively:—

SENATE RESOLUTION 15—RELATIVE TO BIOMEDICAL RESEARCH

Mr. MACK (for himself, Mr. Frist, Mr. D'Amato, Mr. Specter, and Mr. Gramm) submitted the following resolution; which was referred to the Committee on Appropriations:

S. Res. 15

Whereas heart disease was the leading cause of death for both men and women in every year from 1970 to 1993.

Whereas mortality rates for individuals suffering from prostate cancer, skin cancer, and kidney cancer continue to rise.

Whereas the mortality rate for African American women suffering from diabetes is 134 percent higher than the mortality rate for Caucasian women suffering from diabetics.

Whereas asthma rates for children increased 38 percent from 1980 to 1992.

Whereas the number of all American women between the ages of 65 and 75 reported having arthritis.

Whereas AIDS is the leading cause of death for Americans between the ages of 24 and 44.

Whereas the Institute of Medicine has described United States clinical research to be in a state of crisis.

Whereas mortality rates in academic and minority research is over 2/3.

Whereas the proposed program will ensure that no tax can be levied for biomedical research.

The current Federal policy on Parkinson's disease is said to be a quadrupling, the result of an injury during an ice hockey game. Part of his testimony was that he dreams in essence for the day when he can hug his mother again.

Now, if that statement had been made before a hearing of the Congress 20, 25, 30 years ago, the response pretty much would have been that we all certainly could understand the hurt that this individual and this family has experienced. Most of us probably would have concluded, well, but there is nothing that we can do. To put more money into research of a problem we all know, we can remember those stories about spinal cord injuries years ago—there is no way to find a cure.

The reality is in America today, this Nation happens to believe that in all areas, or in so many different areas of diseases we are on the verge of discovering many cures, that we can no longer take this attitude of business as usual, and that if we make the investment in research we can in fact find ways to solve these problems, and to find cures, and, most importantly, to offer hope to our loved ones.

I remember vividly the testimony of Travis Roy, a young man who today is a quadriplegic, the result of an injury during an ice hockey game. Part of his testimony was that he dreams in essence for the day when he can hug his mother again.

Now, if that statement had been made before a hearing of the Congress 20, 25, 30 years ago, the response pretty much would have been that we all certainly could understand the hurt that this individual and this family has experienced. Most of us probably would have concluded, well, but there is nothing that we can do. To put more money into research of a problem we all know, we can remember those stories about spinal cord injuries years ago—there is no way to find a cure.

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So I have introduced S. 15. I know there will be people, for example, who will say, "Well, Senator, you are taking about spending more money." Yes, I am talking about spending more money, but it is an area in which I believe the Federal Government should
be more active, and I believe it is an area where we will get a major return for it. In response to a question just recently about budget matters, my reaction was stop and calculate what we have saved as a Nation as a result of finding the cure for AIDS. In my view, there is no reason why we cannot operate from the perspective that there are cures out there if we could just provide the resources to our research scientists around this Nation. I am confident we can succeed, and I must say, Mr. President, I am filled with joy, with the recognition that so many of my colleagues feel the same as I. I am confident again, if we make this investment, we can offer great hope to so many millions of Americans. I thank the Chair.

SENATE RESOLUTION 16—RELATIVE TO ABOLISHING THE INCOME TAX

Mr. LUGAR submitted the following resolution; which was referred to the Committee on Finance.

S. Res. 16

Whereas the savings level in the United States has steadily declined over the past twenty-five years, and lagged behind our industrialized trading partners;

Whereas our economy cannot achieve strong, sustained growth without adequate levels of savings to fuel productive activity;

Whereas the income tax, the accompanying capital gains tax, and the estate & gift tax discourage savings and investment;

Whereas the methods necessary to enforce the income tax infringe on the privacy of our citizens and divert an estimated $157 billion of taxpayer resources to comply with its rules and regulations;

Whereas the Internal Revenue Service estimates that each year it fails to collect 17 percent, or $227 billion, of the income tax owed to the federal government;

Whereas the income tax system employs a withholding mechanism that limits the transparency of federal taxes;

Whereas the most effective tax system is one that promotes savings, fairness, simplicity, privacy, border adjustability, and transparency;

Whereas it is estimated that the replacement tax system with a national sales tax would cause our savings rate to substantially increase;

Whereas the national sales tax would achieve fairness by employing a single tax rate, taxing the underground economy, and closing loopholes and deductions;

Whereas the national sales tax would achieve revenue neutrality by eliminating record keeping for most taxpayers and greatly reducing the number of collection points;

Whereas the national sales tax would be the least intrusive tax system because most taxpayers would not be required to file returns or face audits from the Internal Revenue Service;

Whereas the national sales tax is border adjustable and would place United States exporting on a level playing field with our foreign competitors;

Whereas a national sales tax is a transparent tax system that would raise Americans' awareness of the cost of the federal government;

Whereas a national sales tax would best achieve the goals of an effective tax system: Now, therefore, be it

Resolved, That it is the sense of the Senate that:

(1) the income tax system, both personal and corporate, the estate and gift tax, and the accompanying capital gains tax be replaced with a broad-based, single-rate national sales tax on goods and services;

(2) the sales tax rate be set at a level that raises an equivalent level of revenue as the income taxes replaced;

(3) the federal government work with the states to develop a system to administer the national sales tax and that states be adequately compensated for their efforts;

(4) the House and states work together in an effort to repeal the sixteenth amendment.

Mr. LUGAR. Mr. President, I am pleased to submit a Senate Resolution expressing the sense of the Senate that the income tax system be abolished and replaced with a broad-based consumption tax on goods and services.

Despite a booming stock market and several years of economic growth, I have found that many citizens—particularly the anxious about their future and have diminishing hope for better economic opportunities.

Long-term economic trends justify these apprehensions. From 1950 through 1973, hourly compensation—including both wages and benefits—increased an average of 3 percent per year. Since 1973, the average wage increase has been less than one half of one percent. During the past two decades, economic growth has sputtered in half, averaging only 2.5 percent annually. If this isn't discouraging enough, limiting growth to 2.5 percent appears to be the economic course of the Federal Reserve Board.

Much of this economic underachievement can be attributed to our national savings rate, which has fallen to alarmedly low levels. After averaging 13.3 percent in the 1960's, our Nation's savings rate has sunk to 5.5 percent in the last two decades. This low rate of savings, capital to fuel our economy, has become increasingly scarce. As a result, productivity gains have averaged just 11 percent from 1974 to 1994. The Concord Coalition estimates that had our productivity held its pre-1974 annual growth rate of 2.9 percent, the median family income would now be $50,000 annually, instead of the current level of $35,000.

Although several other factors have contributed to this slowing of savings and prosperity, including continuing Federal budget deficits and the ensuing debt, our income tax system remains a significant drag on our long-term economic expansion. I propose that Congress should work toward the elimination of the income tax, the accompanying capital gains tax, and the estate and gift tax and replace them with a broad-based, single-rate national sales tax on goods and services.

The Federal income tax system is inherently flawed. By taxing savings and investment at least twice, it has become the biggest impediment to economic growth in the country. Each year it costs Americans more than 5 billion hours of time to comply with it. That is equal to the total worker output of my State of Indiana. It is unfair and riddled with loopholes. It has been changed 31 times in the past 41 years. And finally, it doesn't work. By its own admission, the Internal Revenue Service fails to collect from nearly 10 million taxpayers, with an estimated $127 billion in uncollected taxes annually. Anything this broken should be ended decisively.

And finally, one can evaluate a tax system using several criteria. It must be: (1) simple, (2) the least intrusive, (3) fair, (4) transparent, (5) border adjustable, and (6) friendly to savings and investment. I have studied recent tax reform proposals with these six factors in mind. Many are better than the current income tax. But if we are going to overhaul our tax system, we should choose the one that meets these criteria. I have concluded that a national sales tax is the best alternative.

The first factor in choosing an effective tax system is its simplicity. Under a national sales tax, the burden of complying with the income tax code would be lifted. There would be no records to keep, no audits to worry about. What a person made would be his or her own. You may decide if you want to save it, invest it, or give it to your children. It is only when you buy something that you pay a tax.

The national sales tax is the least intrusive of the tax proposals. The IRS would be substantially dismantled. The IRS would no longer look over the shoulders of every taxpayer. Americans would not waste time and effort worrying about record keeping, deductions, or exemptions that are part of the current tax code.

The national sales tax is the fairest. Everyone pays the tax including criminals, illegal aliens, and others who currently avoid taxes altogether. Americans with lavish spending habits would pay substantial amounts of taxes under the national sales tax. Individuals who save and invest their money will pay less. Gone are the loopholes and deductions that provide advantages to those with the resources to shelter their income.

The national sales tax would also tax the underground economy. When criminals consume the proceeds of their activities, they will pay a tax. Foreign tourists and illegal aliens will pay the tax. Tax systems that rely on income reporting will never collect any of this potential revenue.

Of course, the fairness test must like wise consider those with limited means to pay taxes. Like the income tax system, a national sales tax can and should be constructed to lessen the tax burden on those individuals with the least ability to pay. One strategy for addressing this problem is to exempt a threshold level of goods and services consumed by each American from the Federal sales tax. Another strategy is to exempt items such as housing, food
Economist Laurence Kotlikoff of Boston University has concluded that the United States would have experienced one trillion dollars in additional economic growth if it had adopted a consumption tax like the national sales tax in 1986 instead of the current system.

As I have outlined here today, I believe the national sales tax is the best tax system to replace the income tax. If we enact a tax system that encourages investment and savings, billons of dollars will flow into our country. This makes sense—America has the most stable political system, the best infrastructure, a highly educated workforce and the largest consumer market in the world. Our economic growth and prosperity would be unsurpassed. I am committed to bringing this message of hope to all Americans, and I look forward to working with my colleagues on advancing this important endeavor.

SENATE RESOLUTION 17—RELATIVE TO THE CHEMICAL WEAPONS CONVENTION

Mr. LUGAR submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 17

Resolved, That the Senate hereby expresses its intention to give its advice and consent to the ratification of the Chemical Weapons Convention at the appropriate time after the Senate has processed to the consideration of the Convention, subject to the conditions of subsection (b) and the declarations of subsection (c).

(1) AMENDMENT CONFERENCES.—The United States shall, if it determines, submit any and all amendments in accordance with its Constitutional processes; and

(2) no amendment to the Convention enters into force without the approval of the United States.

(3) PRESIDENTIAL CERTIFICATION ON THE BILATERAL DESTRUCTION AGREEMENT.

Before the deposit of the United States instrument of ratification of the Convention, the President shall certify to the Senate that—

(A) the United States-Russian agreement on implementation of the Bilateral Destruction Agreement has been concluded, and that the verification procedures under that agreement will meet or exceed those mandated by the Convention, or

(B) if the President determines that a party to the Convention is in violation of the Convention and that the actions of such party threaten the national security interests of the United States, the President shall—

(A) consult with, and promptly submit a report to, the Senate detailing the effect of such actions on the Convention; (B) seek on an urgent basis a meeting at the highest diplomatic level with the Organization for the Prohibition of Chemical Weapons; and (C) in the event that a party to the Convention determined not to be in compliance with the Convention, request consultations with the Organization on whether to—

(i) restrict or suspend the noncompliant party’s rights and privileges under the Convention until the party complies with its obligations; (ii) recommend collective measures in conformity with international law; or (iii) bring the issue to the attention of the United Nations General Assembly and Security Council; and

(D) in the event that noncompliance continues, determine whether or not continued adherence to the Convention is in the national security interest of the United States and so inform the Senate.

(4) FINANCING IMPLEMENTATION.—The United States understands that in order to ensure the commitment of the United States to its chemical stockpiles, in the event that Russia ratifies the Convention, Russia must maintain a substantial state in financing the implementation of the Convention. The costs of implementing the Convention should be shared between the United States and Russia.

(5) P RESIDENTIAL CERTIFICATION ON DATA DECLARATIONS.—(A) the United States has an opportunity to consider any and all amendments in accordance with its Constitutional processes; and

(B) no amendment to the Convention enters into force without the approval of the United States.

(6) IMPLEMENTATION ARRANGEMENTS.—If the Convention does not enter into force or if the Convention comes into force with the United States having ratified the Convention but with Russia having taken no action to ratify or accede to the Convention, then the President shall, if he plans to implement reduction of Russia’s chemical stockpiles, in the event that Russia has not taken action to ratify or accede to the Convention, take no action to reduce the United States chemical stockpile at a pace faster than currently consistent with the Convention until the President submits to the Senate his determination that
such reductions are in the national security interests of the United States.

(7) PRESIDENTIAL CERTIFICATION AND REPORT ON NATIONAL TECHNICAL MEANS.—Not later than 90 days after the deposit of the United States instrument of ratification of the Convention, the President shall certify that the United States National Technical Means, in compliance with the Convention, are adequate and complete to ensure effective verification of compliance with the provisions of the Convention, and that, when viewed together, are sufficient to ensure effective verification of compliance with the provisions of the Convention. This certification shall be accompanied by a report, which may be supplemented by a classified annex, indicating how the United States National Technical Means are being applied, and any additional means, including the use of intelligence, will be marshalled, together with the Convention’s verification provisions, to ensure effective verification of compliance. Such certification and report shall be submitted to the Committee on Foreign Relations, the Committee on Appropriations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate.

(c) DECLARATIONS.—It is the sense of the Senate that the advice and consent of the Senate to ratification of the Convention should be conditioned on the following conditions, which would express the intent of the Senate:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the Resolution of Ratification with respect to the INF Treaty, approved by the Senate on May 27, 1988. For purposes of this declaration, the term “INF Treaty” refers to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter Range Missiles, together with the memorandum of understanding and protocols, approved by the Senate on May 27, 1988.

(2) FURTHER ARMS REDUCTION OBLIGATIONS.—The Senate declares its intention to consider for approval international agreements that would obligate the United States to reduce or limit the Armed Forces or armaments in a manner consistent with the national security interests of the United States in a significant manner only pursuant to the treaty power set forth in Article II, Section 2, Clause 2 of the Constitution.

(3) POLICY.—The Senate declares that the United States should strongly reiterate its retaliatory policy that the use of chemical weapons against United States or civilian targets is not the result in an overwhelming and devastating response, which may include the entire range of available weaponry.

(4) CHEMICAL DEFENSE PROGRAM.—The Senate declares that ratification of the Convention will not obviate the need for a robust, adequately funded chemical defense program, nor will it impair national intelligence capabilities in the nonproliferation area, maintenance of an effective deterrent through capable conventional forces, tradeable export controls, and other capabilities. In giving its advice and consent to ratification of the Convention, the Senate does so with full appreciation that the entry into force of the Convention enhances the national security interests of the Senate to ensure that the United States continues an effective and adequately funded chemical defense program. The Senate reiterates that the United States should continue to develop theater missile defense to intercept ballistic missiles that might carry chemical weapons and should reorient the United States Armed Forces against the use of chemical weapons in the field.

(5) ENFORCEMENT POLICY.—The Senate urges the President to pursue compliance questions under the Convention vigorously and to seek international sanctions if a party to the Convention does not comply with the Convention, including the “obligation to make every reasonable effort to demonstrate its compliance with this Convention.” It “is in the national security interests of the United States to continue as a party to the Convention.”

(6) APPROVAL OF INSPECTORS.—The Senate expects that the United States will exercise its right to reject a proposed inspector or inspection assistant when the facts indicate that this inspector is likely to seek information to which the inspection team is not entitled or to mishandle information that the team obtains.

(7) ASSISTANCE TO RUSSIA.—The Senate declares that, if the United States provides limited financial assistance for the destruction of Russian chemical weapons, the United States should, in exchange for such assistance, require that the Russian chemical weapons stocks at a proportional rate to the destruction of United States chemical weapons stocks, and to take the action before the INF Treaty, so that the Senate can make its advice and consent to the INF Treaty, approved by the Senate on May 27, 1988.

(8) EXPANDING CHEMICAL ARSENALS IN COUNTRIES NOT PARTY TO THE CHEMICAL WEAPONS CONVENTION.—It is the sense of the Senate that, if during the time the Convention remains in force, the President certifies that there has been an expansion of the chemical weapons arsenals of any country not a party to the Convention so as to jeopardize the supreme national interests of the United States, then the President should consult on an urgent basis with the Senate to determine whether adherence to the Convention remains in the national interest of the United States.

(9) COMPLIANCE.—Concerned by the clear pattern of such arms control agreements and continued cases of noncompliance by Russia, the Senate declares the following:

(A) The President is in the interest of the United States only if the both the United States and Russia, among others, are in strict compliance with the terms of the Convention, and the Senate, for its advice and consent to ratification, such compliance being measured by performance and not by efforts, intentions, or commitments to comply.

(B)(i) Given its concern about compliance issues, the Senate expects the President to offer regular briefings, but not less than several times a year, to the Committees on Foreign Relations and Armed Services and the Select Committee on Intelligence of the Senate on compliance issues related to the Convention. Such briefings shall include a description of all United States efforts in diplomatic channels and bilateral as well as the multilateral Organization for to resolve the compliance issue. The Senate reiterates that, the United States will not be necessary to be limited to a description of—

(i) any compliance issues, other than those requiring the United States to take action under the Convention; and

(ii) any compliance issues raised at the Organization, within 30 days.

(iii) Any Presidential determination that Russia is in compliance with the Convention, or any other country, under the Convention, including the time frame for implementation of the Convention, should be submitted to the Senate for its advice and consent to ratification.

(11) RIOT CONTROL AGENTS.—(A) The Senate, recognizing that the Convention’s prohibition on the use of riot control agents as a “method of warfare” precludes the use of such agents against combatants, including United States humanitarian and noncombatants and combatants and noncombatants intermingled, urges the President—

(i) to give high priority to continuing efforts to develop effective nonchemical, non-lethal alternatives to riot control agents for use in situations as the rescue of drowned air crews and passengers and escaping prisoners or in situations in which civilians are being used to mask or screen attacks; and

(B)(i) Any Presidential determination that chemical stockpile be apportioned according to the interests of the United States to continue as a party to the Convention.

(ii) Any Presidential determination that the chemical stockpile be apportioned according to the interests of the United States to continue as a party to the Convention.

(iii) Any Presidential determination that the chemical stockpile be apportioned according to the interests of the United States to continue as a party to the Convention.

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(3) The Annex on the Protection of Confidential Information (also known as the “Confidentiality Annex”).


Mr. LUGAR. Mr. President, On April 29, 1997 the multilateral Chemical Weapons Convention [CWC] that bans the development, production, acquisition, stockpiling, use, and direct or indirect transfer of chemical weapons to anyone will enter into force whether or not the Senate acts and the President ratifies the Convention.

Thus over the next three months it will be necessary for the Senate to consider the Convention and to fashion a
corresponding resolution of ratification if the United States is to benefit from the provisions of the agreement and the U.S. chemical industry is not to suffer from the disadvantages imposed on chemical firms of non-Parties. The Senate will act at the verge of taking up the CWC on the floor through consideration of a resolution of ratification that I co-authored and which was reported out of the Senate Committee on Foreign Relations by a vote of 13-5 on April 30, 1996.

Given the resignation of new members to the Senate and the need for all members to inform themselves in the near term on the benefits and costs to the United States of full participation in the Convention, I am submitting in the form of a Sense of the Senate resolution the resolution of ratification that was to have served as the vehicle for debate in the Senate during the 104th Congress.

It is my hope that this will be helpful to all Senators and can serve as an important benchmark for a more constructive exchange during the 105th Congress on the subject of ratification of the Chemical Weapons Convention.

SENATE RESOLUTION 18—RELATIVE TO THE NATIONAL DEBT

Mr. FAIRCLOTH submitted the following resolution; which was referred to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977 with instructions that if one committee reports, the other committee has thirty days to report or be discharged:

S. Res. 18

Whereas the United States national debt is approximately $4.9 trillion;

Whereas the Congress has authorized the national debt by law to reach $5.5 trillion;

Whereas it is likely that the 105th Congress and the President will both present plans to reduce the budget by the year 2001, by which time our national debt will be approximately $6.5 trillion;

Whereas this accumulated debt represents a significant financial burden that will require excessive taxation and lost economic opportunity for future generations of the United States;

Resolved, That it is the sense of the Senate that any comprehensive legislative that balances the budget by a certain date and that is agreed to by the Congress and the President, should be subject to a strategy for reducing the national debt of the United States.

SENATE RESOLUTION 19—RELATIVE TO GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

Mr. MOYNIHAN (for himself, Mr. HELMS, Mr. LEAHY, Mr. JEFFORDS, Mr. DODD, Mr. FEINGOLD, and Mr. WELLSTONE) submitted the following resolution: which was referred to the Committee on Foreign Relations:

S. Res. 19

Whereas the Chinese Government sentenced Ngawang Choephel to an 18 year prison term plus four years subsequent deprivations of his political rights on December 26, 1996, following a secret trial;

Whereas Mr. Choephel is a Tibetan national whose family fled Chinese oppression to live in exile in India in 1962;

Whereas Mr. Choephel, studied ethnomusicology at Middlebury College in Vermont as a Fulbright Scholar, and at the Tibetan Institute of Performing Arts in Dharamsala, India;

Whereas Mr. Choephel returned to Tibet in July, 1995 to prepare a documentary film about traditional Tibetan performing arts;

Whereas Mr. Choephel was detained in August, 1995 by the Chinese authorities and held incriminating evidence for over a year before the Government of the People's Republic of China admitted to holding him, and finally charged him with espionage in October, 1996;

Whereas there is no evidence that Mr. Choephel's activities in Tibet involved anything other than purely academic research;

Whereas the Government of the People's Republic of China denies Tibetans their fundamental human rights, as reported in the State Department's Country Reports on Human Rights Practices, and by human rights organizations and international organizations, including Amnesty International, the International Human Rights Watch, Asia;

Whereas the Government of the People's Republic of China is responsible for the destruction of Tibetan civilization since its invasion of Tibet in 1949;

Whereas the arrest of Tibetan scholar, such as Mr. Choephel who worked to preserve Tibetan culture, reflects the systematic attempt by the Government of the People's Republic of China to repress cultural expression in Tibet;

Whereas the Government of the People's Republic of China, through direct and indirect incentives, has established discriminatory development programs which have resulted in an overwhelming flow of Chinese immigrants into Tibet, including those areas incorporated into the Chines provinces of Sichuan, Yunnan, Gansu, and Qinghai, and have excluded Tibetans from participation in important policy decisions, which further threatens traditional Tibetan life;

Whereas the Government of the People's Republic of China withholds meaningful participation in the governance of Tibet from Tibetans and has failed to abide by its own constitutional guarantee of autonomy of Tibetans;

Whereas the Dalai Lama of Tibet has stated his willingness to enter into negotiations with the Chinese Government to achieve a power sharing in Tibet, and has been excluded from participation in important policy decisions, which further threatens traditional Tibetan life;

Whereas the United States Government has not developed an effective plan to win support in international fora, such as the United Nations Commission on Human Rights, to bring international pressure to bear on the Chinese Government to improve human rights and to negotiate with the Dalai Lama;

Whereas the United States has delayed provocative disregard for American concerns by arresting and sentencing prominent dissidents around the time that senior United States Government officials have visited China;

Whereas United States Government policy seeks to foster negotiations between the Government of the People's Republic of China and the Dalai Lama, and presses China to respect Tibet's unique religious, linguistic and cultural traditions. Now, therefore, be it

Resolved by the Senate that, it is the sense of the Senate that—

(1) Ngawang Choephel and other prisoners of conscience in China, should be released immediately and unconditionally;

(2) to underscore the gravity of this matter, in all official meetings with representatives of the Government of the People's Republic of China, U.S. officials should request Mr. Choephel's immediate and unconditional release;

(3) the United States Government should take immediate action to promote a resolution at the United Nations Commission on Human Rights regarding China and Tibet which specifically addresses political prisoners and negotiations with the Dalai Lama;

(4) an exchange program should be established in honor on Ngawang Choephel, including students of the Tibetan Institute of Performing Arts and appropriate educational institutions in the United States; and,

(5) the United States Government should seek access for internationally recognized human rights groups to monitor human rights in Tibet.

Mr. MOYNIHAN. Mr. President, I rise to submit a resolution in response to the egregious prison sentence which was recently imposed by the Chinese Government on Ngawang Choephel.

Mr. Choephel is a Tibetan whose family fled Chinese oppression to live in exile in India in 1962. He studied ethnomusicology at Middlebury College in Vermont as a Fulbright Scholar in 1992 and 1993, after having studied at the Tibetan Institute of Performing Arts in Dharamsala, India. The Tibetan Institute of Performing Arts was formed by the Dalai Lama to preserve the Tibetan performing arts while in exile.

Mr. Choephel returned to Tibet in July, 1995 to prepare a documentary film about traditional Tibetan performing arts. He was detained in August, 1995 by the Chinese authorities and held incriminating evidence for over a year before the Government of the People's Republic of China admitted to holding him, and finally charged him with espionage in October, 1996.

On December 26, 1996, the Chinese Government sentenced Ngawang Choephel to a 18 year prison term plus four years subsequent deprivation of his political rights following a secret trial. This is the most severe sentence of a Tibetan by the Chinese Government in seven years. There is no evidence that Mr. Choephel's activities in Tibet involved anything other than purely academic research. His arrest and the long sentence subsequently imposed appear to stem from his collecting information regarding the Chinese Government on Ngawang Choephel. It is my hope that this will be helpful to all Senators and can serve as an important benchmark for a more constructive exchange during the 105th Congress on the subject of ratification of the Chemical Weapons Convention.
The New York Times echoed just such sentiments in its January 2 editorial on Ngawang Choephel’s arrest:

The basis of Ngawang Choepel’s conviction is unclear, but even taping Tibetan culture for export could qualify as espionage under Chinese law. Since its invasion of Tibet in 1950, Beijing has gradually increased its efforts to erase Tibet’s identity. China has arrested those who protested the takeover and tried to eradicate the people’s affection for the leader of Tibetan Buddhism, the Dalai Lama.

Ngawang Choephel is a symbol of the Chinese Government’s continued pursuit of Maoist policies when what it seeks is political control. Whether or not Beijing intended Ngawang to lead a Pro-Tibetan movement, his conviction is wrong both morally and politically. By smothering Tibetans’ ability to speak, worship freely, or express their culture, China risks driving them to violence. Last week, a powerful, sophisticated bomb blew up outside a Government building in Lhasa. Although the Dalai Lama has never wavered in his commitment to nonviolence and denies any link to the bomb, he Government quickly blamed the bomb on “the Dalai clique” and has vowed to retaliate.

The Chinese Government went out of its way to link Ngawang Choephel to the United States, charging that Americans underwrote his effort to gather information for a foreign agency. Indeed, Chinese officials seem to delight in taunting the United States over human rights issues. During a visit by Secretary of State Warren Christopher in 1994, Beijing arrested China’s leading democracy campaigner, Wei Jingsheng. In May of that year, Washington ended the ban on Chinese students who wanted to study human rights and its preferential trading status. Only two months later, hard-liners at a Communist Party meeting pushed through a policy that increased Chinese control of Tibet.

To be sure, American officials have scolded Beijing about human rights abuses in Tibet, Hong Kong, and China itself. But the Chinese know they can safely ignore such talk. The Clinton Administration, unwilling to damage its relations with Beijing, has failed to impose any real cost on Chinese repression. Whether or not Beijing intended Ngawang Choepel’s sentence as a specific message to Washington, Washington should read it as an indication that Chinese government is ramping up its efforts to assert control in Tibet.

Mr. LEAHY, Mr. President, I want to thank Senator M OYNIHAN for submitting this resolution on the first legislative day of the 105th Congress in support of Ngawang Choephel and other prisoners of conscience in Tibet.

I first learned about the detention of Tibetan music and dance scholar and former Middlebury College student Ngawang Choephel about a year ago. Students and faculty at Middlebury were leading a letter-writing campaign to urge Chinese authorities to release information about their friend and colleague, who had traveled to Tibet in 1995 to make a documentary film of traditional Tibetan dance and music. After spending several months as a Fulbright scholar at Middlebury, he returned to Tibet. No one had seen or heard from Mr. Choephel, until an exiled Tibetan reported seeing him in a Tibetan prison.

I wrote to the leader of the Chinese Communist Party to find out what I could about Mr. Choephel’s whereabouts, his health, the evidence against him, and whether he had access to a lawyer. I received no reply. I inquired further. Finally, in October, more than a year after his detention, Chinese authorities reported that Mr. Choephel was charged with violating the State Security Law. He was accused of espionage, and it was insinuated that he was a spy financed by the United States Government. No evidence to support such a claim has ever been produced.

The State Department issued a statement calling for Mr. Choephel’s release.

There is no evidence that Mr. Choephel was engaged in any improper activity or even any political activity whatsoever during his trip to Tibet. The 16 hours of film Mr. Choephel sent to India during the first weeks of his project contain the traditional music and dance that he intended to document. Like the State Department, I believe that the Chinese have made a terrible mistake in this case.

In November, I accompanied Senator DASCHLE on a trip to China. In meetings with President Jiang Zemin and other officials, I raised Ngawang Choephel’s case and urged the President to look into it personally. I have received no response to those inquiries. Only weeks after returning from Beijing, I learned that Mr. Choephel had been sentenced to 18 years in prison, and I immediately wrote again to President Jiang Zemin, urging that Mr. Choephel be released.

Mr. Choephel’s reported confession, secret trial, and unusually long prison sentence underscore the longstanding disregard for the rule of law and the lack of respect for political and cultural rights in Tibet and China. Mr. Choephel is one of thousands who have been persecuted for attempting to preserve what remains of Tibetan culture.

The resolution introduced by Senator MOYNIHAN calls on the Chinese Government to release Mr. Choephel unconditionally. It also calls on United States officials to raise his case in all meetings with Chinese authorities, to support a resolution on human rights in Tibet and China in the United Nations Commission on Human Rights, to urge the Chinese to allow international human rights groups to monitor human rights in Tibet, and to support an exchange program for Tibetan students.

These are measures that will emphasize the importance of the United States Senate places on improving respect for human rights in China and Tibet. It is particularly important that the administration takes a stronger position in support of the resolution on China and Tibet in the U.N. Human Rights Commission this year.

Mr. President, I want to thank Senator MOYNIHAN again for his concern and his leadership on Tibet over the years. I urge all Senators to support this resolution.
AMENDMENTS SUBMITTED

THE SUPERFUND CLEANUP ACCELERATION ACT OF 1997

SMITH (AND OTHERS)

AMENDMENT NO. 1

(Ordered referred to the Committee on Environment and Public Works)

Mr. SMITH of New Hampshire (for himself, Mr. CHAFFEE, and Mr. LOTT) submitted an amendment intended to be proposed by them to the bill (S. 8) to reauthorize and amend the Comprehensive Environmental Response, Liability, and Compensation Act of 1980, and for other purposes; as follows:

At the end of title IX, add the following:

Subtitle B—Amendments to the Internal Revenue Code of 1986

SEC. 911. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND.

(a) EXTENSION OF TAXES.—

(1) EXPIRATION.—Section 461(e)(1) of the Internal Revenue Code of 1986 is amended by striking ‘‘, and after the date of the enactment of the Superfund Cleanup Acceleration Act of 1997, and before January 1, 2003’’ after ‘‘January 1, 1996’’.

(2) INCOME TAX.—Section 59A(e)(1) of such Code is amended by inserting ‘‘, and’’ before ‘‘1994’’ each place it appears.

(b) INCREASE IN AGGREGATE TAX WHICH MAY BE COLLECTED.—

(2) by striking ‘‘December 31, 1996’’ and inserting ‘‘December 31, 1997’’;

(3) CONFORMING AMENDMENTS.—

(2) of section 461(e) of such Code is amended—

(A) by striking ‘‘1993’’ and inserting ‘‘2000’’;

(B) by striking ‘‘1994’’ each place it appears and inserting ‘‘2001’’;

(C) by striking ‘‘1995’’ each place it appears and inserting ‘‘2002’’;

(b) INCREASE IN AGGREGATE TAX WHICH MAY BE COLLECTED.—

(2) of section 461(e) of such Code is amended—

(1) by striking ‘‘$11,970,000,000’’ each place it appears and inserting ‘‘$22,000,000,000’’;

(2) by striking December 31, 1996, as a reference to a subparagraph (A) and inserting ‘‘December 31, 2000’’;

(c) EXTENSION OF SUPERFUND BORROWING.—

Subparagraph (B) of section 9507(d)(3) of such Code is amended by striking ‘‘December 31, 1995’’ and inserting ‘‘December 31, 2000’’;

(d) EXTENSION OF FUND PURPOSES.—

Subparagraph (A) of section 9507(c)(1) of such Code is amended—

(1) by striking clause (i) and the following:

‘‘(i) paragraphs (1), (2), (5), (6), (7), and (8) of section 111(a) of CERCLA as in effect on the date of the enactment of the Superfund Cleanup Acceleration Act of 1997,’’; and

(2) by striking clause (iii) and inserting the following:

‘‘(iii) subsections (m), (n), (r), (s), (t), and (u) of section 111 of CERCLA (as so in effect),’’;

(e) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS TO TRUST FUND.—

Subsection (b) of section 517 of the Superfund Revenue Act of 1986 (26 U.S.C. 9507 note) is amended by striking ‘‘and at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting a comma, and by adding at the end the following new paragraphs:

‘‘(10) 1998, $250,000,000;

‘‘(11) 1999, $250,000,000;

‘‘(12) 2000, $250,000,000;

‘‘(13) 2001, $250,000,000, and

‘‘(14) 2002, $250,000,000.’’

(f) COORDINATION WITH OTHER PROVISIONS.—

(2) of section 9507(e) of the Internal Revenue Code of 1986 is amended by striking ‘‘CERCLA’’ and all that follows through ‘‘Acts’’ and inserting ‘‘CERCLA, the Superfund Amendments and Reauthorization Act of 1986, and the Superfund Cleanup Acceleration Act of 1997 (in any amendment made by any of such Acts)’’.

NOTICE OF HEARING

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a business meeting on Wednesday, January 22, 1997 at 9:30 a.m. in SR-328A. The purpose of the meeting will be to approve subcommittee assignments, committee rules, and committee budget.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MARTIN LUTHER KING, JR. DAY

Mr. ABRAHAM. Mr. President, I rise today in recognition of a great man who did much to change our Nation for the better. Before he was struck down by an assassin’s bullet, the Reverend Dr. Martin Luther King, J. R., awakened the conscience of a nation. His campaign on behalf of human rights brought to light the injustices of a racially segregated society and played a major role in fostering the legislation necessary to do away with many forms of official discrimination.

Our Nation remains far from perfect, particularly in regard to relations between the races. But America is more just and honest because of the efforts of this man of God. And, in confronting our problems now before us, we still can look to Dr. King for guidance.

Clearly we have more work ahead of us in order to achieve justice in our racial relations. But our greatest challenge in my view is that of restoring hope and opportunity to those of us living in our impoverished inner cities. Reverend King knew of this tragedy. And the spoke out forcefully against it. I myself have seen the poverty and isolation of many of our inner-city neighbors. These are the people from the rest of the city, and suffer from a lack of economic hope and the breakdown of the institutions of community on which people everywhere must rely. America must address these pockets of hopelessness, to bring to them the economic growth and social change necessary for a functioning community life.

Through his speeches and grassroots activism, Dr. King addressed the problem of poverty and the loss of community. He also gave us advice on how to face our problems. The key word, I submit, is “action.” As Reverend King put it:

We must come to see that human progress never rolls in on wheels of inevitability. It comes through the tireless efforts and persistent work of men willing to be coworkers with God, and without this hard work time itself becomes an ally of the forces of social stagnation. We must use time creatively, and forever realize that the time is always ripe to do right.

Mr. President, I am proud to say that many people in my State of Michigan are carrying on Dr. King’s work even as we speak. They know that the time is ripe for doing right. In Detroit’s Martin Luther King, Jr. High School, for example, students are participating in the DECA Program. These students have dedicated themselves to helping their community. They have adopted a local senior center to see to it that the resident senior citizens have the comfort and community provided by regular visitors. They have participated in walks for the homeless, put together a silent auction with proceeds going to the homeless, and given up a recent Sunday to assist with the Special Gift Holiday Party for Homeless Children held just before Christmas.

Mr. President, I commend participants in the DECA Program at Martin Luther King, J. R., High School in Detroit. I strongly believe that the kinds of positive local community action in which they are engaged do credit to the memory and legacy of Reverend King, and that their efforts can be part of a larger effort to rebuild our inner cities.

Now that we have celebrated the life of Dr. King in our homes, let us celebrate his life by building on his legacy in our communities.

CONSTITUTIONAL CHALLENGE TO THE LINE-ITEM VETO ACT

Mr. MOYNIHAN. Mr. President, on Thursday, January 2, the first day of the 105th Congress, I rise as one of the plaintiffs...
in the suit to inform the Senate that this action has commenced—as specifically provided for in the Line-Item Veto Act. Section 3(a) of the act provides that:

Any Member of Congress or any individual adversary may bring an action in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this part violates the Constitution.

Six Members of Congress, led by our distinguished colleague from West Virginia, Senator Robert C. Byrd, have joined together to bring this suit, which is captioned

joined together to bring this suit,

power by authorizing him to approve a

tutionally expands the President's

return it. . . .

approve he shall sign it, but if not he shall

shall, before it becomes a Law, be presented

presentment clause of article I, section

wrought and exhaustively considered proce-
exercised in accord with a single finely

represents the Framers' decision that the legis-

law.

that the President has just signed into

limited tax benefit contained in a bill

cancel any specific appropriation, any

gives the President the authority to

took effect on January 1 of this year,

shift the balance of power. A balance the Framers deemed fragile, and nec-

part of the bill disapproved by the

parts of the bill disapproved by the

President do not have the force and ef-

law. The act also violates the

parts of the bill disapproved by the

of the scheduled.

sovereignty, or as granting him a unilat-

bills that have been presented for his

signature, or as granting him a unilat-

power to repeal portions of duly

enacted laws, the act grants powers to

the President that contravene the con-

stitution, which requires that a bill be

in the suit to inform the Senate that

permit of law. The act also violates the

findings contained in a bill

that the President has just signed into

limited tax benefit contained in a bill

cancel and thus repeal provisions of

Presentment by granting to the Presi-

ators are the Senator from New

York, the Senator from Michigan, Mr. Le-

the former Senator from Or-

egov, Mr. Hatfield; Representative

WAXMAN of California and Representa-

t will simply restate for the RECORD

what I said during our debates on this

 legislation during the last Congress. The Line-Item Veto Act effectuated an unprecedented and unconstitutional al-
location of power from the legislative branch to the executive.

The law—Public Law 104-130—which took effect on January 1 of this year, gives the President the authority to cancel any specific appropriation, any item of new direct spending, or any limited tax benefit contained in a bill that the President has just signed into law.

Senators Byrd, Hatfield, Levin, and Congressmen Waxman and Skaggs and I have filed this suit because we believe the act violates article I of the Consti-
tution, which requires that a bill be passed by a majority vote in both houses of Congress and either approved or vetoed in its entirety by the Presi-
dent. The Line-Item Veto Act gives the President the power to unilaterally re-
peal, without congressional approval, portions of laws which he has already signed.

In 1983, the Supreme Court declared in INS v. Chadha [462 U.S. 919, 954] that, and I quote:

It emerges clearly that the prescription for legislative action in Article I, Section 7, represents the Framers' decision that the legis-
lation of the Federal government be exercised in accord with a single finely wrought and exhaustively considered proce-
dure.

The Line-Item Veto Act departs dra-

amatically from that “single finely wrought and exhaustively considered procedure” for making or changing Federal law. The Constitution could not be more clear on this point. The presentment clause of article I, section 7 states:

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; if he approves he shall sign it, but if not he shall return it.

The Line-Item Veto Act unconsti-
tutionally expands the President's power by authorizing him to approve a

bill and sign it into law and, from an instant up to 5 days later, disapprove and return parts of the bill, so that the parts of the bill disapproved by the President do not have the force and ef-

effect of law. The act also violates the requirements of bicameral passage and presentment of bills to the President. Acting alone, the authority to cancel and thus repeal provisions of law

Even if, as some have argued, the President will exercise this power sparingly, his ability will forever shift the balance of power. A balance the Framers deemed fragile, and nec-

essential for the proper functioning of the American Government. The Framers gave the power of the purse to Congress and Congress alone; Madison made the reason abundantly clear in Federalist No. 58:

This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Whether the Line-Item Veto Act is viewed as granting the President a unilat-
eral power of line-item revision of bills that have been presented for his signature, or as granting him a unilat-
eral power to repeal portions of duly enacted laws, the act grants powers to the President that contravene the con-
stitutional process for making Federal law. I might understand if the Presi-
dent were trying to seize this power. But why have we given it to him? The lawsuit filed earlier this month will allow the judiciary to review this issue under an expedited schedule. We hope to have a decision in the case by the Supreme Court in the next October term, and I will provide periodic up-
dates on the progress of the case for the RECORD.

CONGRESS-BUNDESTAG EXCHANGE

Mr. LIEBERMAN. Mr. President, since 1983, the United States Congress and the German Parliament, the Bun-
destag, have conducted an annual ex-
change program for staff members from both countries. The program gives professional staff the opportunity to observe and learn about each other's political institutions and convey Mem-
bers' views on issues of mutual con-
cern.

A staff delegation from the United States Congress will be chosen to visit Germany April 32 to April 26 of this year. During the 2-week exchange, the delegation will attend meetings with Bundestag members, Bundestag party staff members, and representatives of numerous political, business, aca-
demia, and media agencies. Cultural activities and a weekend visit in a Bun-
destag member's district will complete the schedule.

A comparable delegation of German staff members will visit the United States for 3 weeks this summer. They

will attend similar meetings here in Washington and visit the districts of congressional Members.

The Congress-Bundestag exchange is highly regarded in Germany, and is one of several exchange programs spon-
sored by public and private institutions in the United States and Germany to foster better understanding of the poli-
tics and policies of both countries.

The U.S. delegation should consist of experienced and active Hill staff members who can contribute to the success of the exchange on both sides of the Atlantic. The Bundestag sends senior staff professionals to the United States. The United States endeavors to reciprocate.

Applicants should have a demonstrable interest in events in Europe. Applicants need not be working in the field of foreign affairs, although such a background can be helpful. The com-

Senators and Representatives who would like a member of their staff to apply for participation in this year's program should direct them to submit a résumé and cover letter in which they state why they believe they are qualified, and some assurances of their ability to participate during the time stated. Applications may be sent to Kathie Scarrah, in my office at 316 Hart Senate Building, by Friday, Feb-

uary 14.

RETIREDJ OF PROCTOR JONES

Mr. HOLLINGS. Mr. President, on the Appropriations Committee we have always prided ourselves for having the best and most professional staff in the Senate. We maintain a team of staff who are experts on budget and finance and a group of professionals who know these agency programs inside and out.

In the next few days we will complete one of our very best staff members to have ever served this body. Proctor Jones, the minority staff director for the Energy and Water Development Subcommittee, will be retiring from the State to take a position in the private sector.

Proctor Jones hails from Twin City, GA. He came to the Senate way back in
1960 as a special assistant to one of the greatest legislators to ever serve this institution, Senator Richard B. Russell. At that time Senator Russell was chairman of the Armed Services Committee and Proctor served as a special assistant working on military issues. From 1966 to 1968, Proctor took a leave of absence and served on active duty with the U.S. Marine Corps. In 1968, Proctor returned to the Senate and was assigned by Chairman Russell to work on the Appropriations Committee. In 1971, he was assigned to what was then known as the Subcommittee on Labor—Health, Education and Welfare. So, Proctor Jones and I have something in common. We both were close to Senator Richard B. Russell and considered him to be our mentor, and, like Proctor, Senator Russell also advised me that the only committee to be on is the Appropriations Committee.

In 1973, Proctor took over as staff director of the Subcommittee on Public Works for Water and Power Development, and Atomic Energy Commission and Related Agencies. In 1978, this subcommittee was given its current name, Energy and Water Development. Since that time, Proctor has served as staff director or minority staff director of that subcommittee. Simply put, Proctor Jones has been the Senate's go-to man on issues regarding Army Corps of Engineers' civil works, defense nuclear weapons development and environmental cleanup, scientific research, power marketing administrations, and other energy issues. Whether it was the Appalachian Regional Commission or biomedical research, the Members of the Senate could trust Proctor Jones to understand the impact that the energy and water development bill had in their States. Proctor understood that these programs affected real people, communities, and institutions.

Of course, we have to speak about Proctor Jones without also referring to Senator J. Bennett Johnston. In 1978, Senator Johnston took over as chairman of the Energy and Water Development Subcommittee. I am an original member of that subcommittee. I can tell you that Senator Johnston and Proctor Jones have made an unbeat- able team. They really mastered that bill and have run it in a straightforward and fair manner.

Mr. President, we do not acknowledge often enough the staff people who make this institution run day in and day out. In Proctor Jones we have had a superb individual who has dedicated over three decades to this Senate. I, for one, would like to express my appreciation for his hard work and his outstanding record. I wish him well and thank him for a job well done.

SECOND ANNUAL PLAN TO BALANCE THE BUDGET

Mr. MOYNIHAN. Mr. President, last January, I outlined a brief two-step plan to balance the budget by the year 2002. I proposed that we correct for overindexation of Government programs resulting from using the Consumer Price Index [CPI], and that we postpone tax cuts. Starting with the President's budget proposals, and using CBO scoring, these two steps would have produced a balanced budget by 2002.

I now present my second, and if we act quickly my last, annual plan to balance the budget. As under the first plan, balancing the budget is relatively easy if we correct for overindexation and forgo tax cuts.

The Congressional Budget Office is expected to estimate the baseline deficit in 2002 at about $200 billion. If Congress acts now to balance the budget by 2002, interest rates will fall, economic growth will increase, and CBO will declare a fiscal dividend in 2002 of about $50 billion. So Congress need only find $150 billion in 2002.

Here is how to get that $150 billion:

[In billions of dollars]

Correct Indexation of Government Programs and Tax Laws by 11.1 Percentages Points (The Boskin Commission Estimate) ............................................ 55
Reduce Growth in Medicare and Medicaid by at least amount in President's FY 1997 budget ............................................. 45
Slow Annual Growth in Discretionary (both defense and non-defense) by about 1.0 to 1.5 percentage points .............................................. 50
Total Savings in 2002 ............................................. 150

These steps can be modified; for example, revenues from reinstating expired excise taxes can be used to finance high priority investments or avoid reductions in important domestic discretionary programs. But the point remains. With the correction for overindexation a balanced budget is within sight. Without the correction, we will have a protracted fiscal crisis.
\[\begin{array}{l|l|l|l|l|l|l}
\text{Name and country} & \text{Name of currency} & \text{Foreign currency} & \text{U.S. dollar equivalent or U.S. currency} & \text{Foreign currency} & \text{U.S. dollar equivalent or U.S. currency} & \text{Foreign currency} & \text{U.S. dollar equivalent or U.S. currency} \\
\hline
\text{Senator William S. Cohen:} & \text{Malaysia} & \text{Ringgit} & 2,021.73 & 808.00 & \text{---} & \text{---} & 2,021.73 & 808.00 \\
\text{James M. Bizner} & \text{Malaysia} & \text{Ringgit} & 1,984.60 & 796.71 & \text{---} & \text{---} & 1,984.60 & 796.71 \\
\hline
\text{Total} & & & 3,006.33 & 1,594.54 & \text{---} & \text{---} & 3,006.33 & 1,594.54 \\
\hline
\text{Michael E. Korens:} & \text{United States} & \text{Dollar} & 251.11 & 389.09 & \text{---} & \text{---} & 251.11 & 389.09 \\
\text{United Kingdom} & \text{Pound} & \text{---} & \text{---} & \text{---} & \text{---} & \text{---} & \text{---} & \text{---} \\
\hline
\text{Total} & & & 251.11 & 389.09 & \text{---} & \text{---} & 251.11 & 389.09 \\
\hline
\text{Linda Rotblatt:} & \text{United States} & \text{Dollar} & 4,867.95 & 3,358.85 & \text{---} & \text{---} & 4,867.95 & 3,358.85 \\
\text{United Kingdom} & \text{Pound} & 251.11 & 389.09 & \text{---} & \text{---} & 251.11 & 389.09 \\
\text{Total} & & & 5,119.06 & 3,358.85 & \text{---} & \text{---} & 5,119.06 & 3,358.85 \\
\hline
\text{Nancy Stetson:} & \text{Vietnam} & \text{Dollar} & 915.00 & 1,635.90 & \text{---} & \text{---} & 915.00 & 1,635.90 \\
\text{United States} & \text{Dollar} & 2,905.95 & 1,844.35 & \text{---} & \text{---} & 2,905.95 & 1,844.35 \\
\text{Total} & & & 3,820.95 & 2,480.25 & \text{---} & \text{---} & 3,820.95 & 2,480.25 \\
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### CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1996—Continued

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UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Madam President, as in executive session, I ask unanimous consent that at 12 noon on Wednesday, January 22, the Senate proceed into executive session to consider the nomination of Madeleine Albright to be Secretary of State; further, that there be 2 hours of debate equally divided in the usual form on the nomination with an additional 10 minutes under the control of Senator Specter; that immediately following the expiration or yielding back of time, the Senate proceed to a vote on the nomination; and, finally, that following the conclusion of the vote, the President be notified of the Senate’s action and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PRINT CERTAIN MEASURES

Mr. LOTT. Madam President, I ask unanimous consent that the following bills or resolutions that were introduced today be printed in the Congressional Record: Senate Joint Resolution 1, S. 1 through S. 20, Senate Resolution 15, S. 26, and S. 71.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE MINORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the minority leader, pursuant to Senate Resolution 105, adopted April 13, 1989, as amended by Senate Resolution 250, adopted October 8, 1994, announces the appointment of the following Senators as members of the Senate Arms Control Observer Group:

- The Senator from Nebraska [Mr. Kerrey]
- The Senator from Michigan [Mr. Levin], designated to serve as cochairman for the minority;
- The Senator from New York [Mr. Moynihan]; and
- The Senator from Maryland [Mr. Sarbanes].

Mr. LOTT. Madam President, I yield the floor at this time.

The PRESIDING OFFICER. Senator Enzi, the Senator from Michigan.

The remarks of Mr. Levin pertaining to the introduction of S. 11 are located in today’s Record under “Statements on Introduced Bills and Joint Resolutions.”

MAKING TECHNICAL CORRECTIONS TO THE OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of House Joint Resolution 25, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 25) making technical corrections to the Omnibus Consolidated Appropriations Act, 1997, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. GRAMS. Mr. President, I ask unanimous consent the joint resolution be deemed read a third time and passed. The motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 25) was deemed read the third time and passed.

ORDERS FOR WEDNESDAY, JANUARY 22, 1997

Mr. GRAMS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 a.m. on Wednesday, January 22; further, immediately following the prayer, the Journal of proceedings be deemed approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until the hour of 12 noon, with Senators to speak for up to 5 minutes each, except for the following: Senator Grassley, 60 minutes; Senator Feinstein, 30 minutes; Senator Daschle, for 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GRAMS. Tomorrow morning there will be a period of morning business to accommodate several Senators who have requested time. Under a previous order, at 12 noon, the Senate will enter executive session in order to consider the nomination of Madeleine Albright to be Secretary of State. A roll call vote is expected on that nomination at the conclusion or yielding back of the debate time, with that vote expected at approximately 2 p.m. tomorrow, if most of that time is used.

ORDER FOR ADJOURNMENT

Mr. GRAMS. Mr. President, if there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order, following the remarks of Senator Murray of Washington.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE EDUCATION FOR THE 21ST CENTURY ACT

Mrs. MURRAY. Mr. President, I rise today to thank Senator Daschle and all of my colleagues for the opportunity to discuss a topic frequently in

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*Delegation expenses include direct payments and reimbursements to the Department of State under authority of Section 503(b) of the Mutual Security Act of 1954, as amended by Section 22 of Public Law 95-384.*
the thoughts of most Americans, and that is education. There have been other opportunities in the past, and they will come again I know, but on this day, at the beginning of the 105th Congress of the United States, I want the Congress of the United States to know that education is one of those topics that is a day-to-day concern of most Americans.

We spend a lot of our time here talking about issues that are far too important to the American people than education. When Americans vote, education is important to them. When they answer polls, education is always a top concern. When they face obstacles in their lives, they see education as a way around those obstacles. And when they search for ways to make life for their children better than they have had it themselves, education is often the single best answer they will find.

Before us today a bill was introduced, the Education for the 21st Century Act. For much of my career in education and policymaking, I have seen bills and acts and programs with “21st century” in the title. President Clinton was inaugurated this week, and 4 years from now there will be another inaugural ceremony and a new President will be sworn in, and he or she will become the first President who has a term in the 21st century. I trust that he or she will be gazing into a new millennium of American progress.

The bill that was introduced today makes several concrete investments in the 21st century. It begins by taking advantage of the tax deduction for interest paid on their student education expenses. No matter which school expenses, which allows them to take advantage of the tax deduction for their education, and the bill does it in a way that is educationally sound. It does it in a way that is educationally sound.

The fourth investment in this bill is made in helping people pay for their education, and the bill does it in three ways. The Hope scholarship allows people a $1,500-per-year refundable tax credit for the first 2 years of college, and allows half-time students a $750-per-year tax credit.

Students can instead choose to take advantage of the tax deduction for school expenses, which allows them to deduct $1,000 a year for their education expenses. No matter which option students choose, they can also take advantage of the restored deduction for interest paid on their student loans.

These three opportunities aim to help good students of modest means attend that first day of class in their local community college. Based on everything we know about our economy, and what economic factors. We should not rule out construction funding due to local economic factors. We should not rule out construction funding due to local economic factors. We should not rule out construction funding due to local economic factors.

The third investment in this bill is the reading ability of young children. America Reads will fund 30,000 reading specialists and volunteer coordinators, with this funding for 4 years from now. The first investment in helping people pay for their education, and the bill does it in three ways. The Hope scholarship allows people a $1,500-per-year refundable tax credit for the first 2 years of college, and allows half-time students a $750-per-year tax credit.

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them available to educational institutions through the GSA.

We also passed the Murray amendment to the fiscal year 1997 legislative branch appropriations bill which set up the same process for the Congress itself.

I want you to know that progress so far is very good. The letters I sent to heads of Federal agencies have brought in some very good responses, and Government computers are now going to schools.

The bill before us does, in a systemic fashion, what I have been setting up at the grassroots level in my State—education technology clearinghouses—a place where people can donate equipment and software, a place where schools can get this technology, and a place where a third party can reject technology that does not meet minimum requirements so it does not enter into our schools or libraries.

Several issues have come up in recent months regarding surplus technology. Many are addressed in this bill. If we are using surplus equipment side by side with new equipment, we have to assure that the surplus equipment meets the needs of the school or library that is receiving it. To send them with castoffs with no value sends the wrong message, and we should not be doing it.

Schools in my State are using surplus computers as file servers for networked new computers, and they are using them for processing and data processing. They have students doing the upgrades in some of our schools, and when the technology is still current generation, these uses are appropriate. When the technology is too old to be useful, we must recycle the components in other ways and not burden our schools and libraries with a gift that is going to cost much more than it is worth. Equity is another concern, and this bill addresses it. It requires clearinghouses to ensure equitable distribution of surplus technology.

Technology, a concentrated effort to build reading skills, school construction funding, and tuition assistance—our investments are prudent. The goals are very clear. People from both parties will support these kinds of efforts. With this sort of plan in place, Americans can feel proud of their Government’s efforts to help them improve educational opportunities for their children.

Let’s look out ahead. In just 4 short years, people will be finishing up in the community college programs that they just picked up a brochure for today. They will be finishing the 4-year degree programs they started this fall. They will be graduating from high schools; they are just entering this fall or next, depending on their grade, and they will be third graders in the elementary schools that they started on the first day of kindergarten this September.

How will these be the first 4 years from now? Will they hail this bill as a success, like the Pell grant or GI bill? Will they thank us for working together across party lines to show support for teaching and learning in this country? We simply have to do the work ahead of us, and we must praise for our efforts, and we will all be thankful that we took steps today to assure a brighter future for our country.

**UNIVERSAL CHILDREN’S HEALTH COVERAGE ACT**

Mrs. MURRAY. Mr. President, I also would like to address a bill introduced today called the Universal Children’s Health Coverage Act, and I commend the Democratic leader for his commitment to this critical issue. I also thank Senators KENNEDY, KERRY, and DODD for their work on behalf of millions of children who lack access to basic health care.

As one of the newest members of the Labor and Human Resources Committee, I have been proud to work with them on the Children’s Health Coverage Act, and I look forward to working with my colleagues, both Democrat and Republican, to address the urgent issues we face as we look at the forthcoming months on this very important legislation. Since first being elected to the U.S. Senate in 1992, I have heard time and time again the phrase, “children are our most valuable resource.” Sometimes, however, the actions of this body are not always as loud as the words we hear on the floor. If we all truly believe as strongly as I do that children are our most precious and valuable resource, why have we allowed so many children to go without basic health care coverage and why have we not worked harder to help families provide necessary health coverage for their children? We now have the opportunity to go beyond our rhetoric and work toward solutions.

The United States has one of the highest rates of uninsured children in the industrial world. Currently, one out of seven children lack health insurance. In this country. And if that trend continues, only half of our children will have health insurance by the year 2000. Today, 10 million children lack health insurance coverage, which means that 10 million children have less than 50 percent of the necessary quality health care coverage. One child loses private coverage approximately every minute. Children are the fastest-growing segment of society with no health insurance.

It is easy to look at this problem solely in terms of numbers. But we also have to look at the faces of those children and their parents. We need to think of what it must be like to know that your child is suffering from an ear infection or strep throat and it is like not to be able to afford to take them to a doctor or pay for the necessary antibiotic to treat the infection. There is no greater fear for a parent than not being able to take care of their sick child.

These are parents who work 40 or more hours a week, sometimes working two and three jobs to meet the basic needs of their family, like food and rent; and they are not asking for a handout. They are asking for relief. They work hard and they pay their taxes, but they simply have little or no discretionary income.

Many do not have access to employer-sponsored health plans or cannot afford the premium costs for a family, which can be as high as $200 or $300 a month.

As I travel around my home State of Washington, I have talked to many of these parents who feel vulnerable, and they are deeply concerned about the lack of health insurance for their children. They know that they are only one major illness away from financial disaster. They also know that their children are not receiving the kind of preventive health care so important to their development.

We can all talk about the cost of the Children’s Health Insurance Coverage Act or the financial mechanism, but we have to go beyond the simple calculations. We have to look at the impact of not acting on this issue. Who pays for emergency room visits when a child is brought in with rheumatic fever? What is the cost of treating rheumatic fever as opposed to strep throat? What is the cost to the public health threat posed by a child that has not been vaccinated? What is the impact in the classroom of a child who is severely ill? What impact does this have on my child, the teacher, and the community? What is the cost to society for raising 10 million unhealthy children?

We all agree that nutritional assistance programs like WIC save $4 for every $1 spent. It is no different when examining health care costs. It is far less expensive to provide a child with a measles vaccine than treat a community wide outbreak of measles.

Ten million children without health insurance is a problem that impacts every single one of us, and we can pay for it now or we can pay for it later. It is just that simple. I believe that it is much easier and much more cost-effective to act now.

According to the General Accounting Office, children without health insurance are less likely to receive timely preventive care and less likely to grow up to be healthy, productive adults. According to the Children’s Defense Fund, uninsured children are more likely to need emergency room care and less likely to receive timely preventive programs like WIC save $4 for every $1 spent. It is no different when examining health care costs. It is far less expensive to provide a child with a measles vaccine than treat a community wide outbreak of measles.

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By the year 2000, 10 million children lack health insurance coverage, which means that 10 million children have less than 50 percent of the necessary quality health care coverage. One child loses private coverage approximately every minute. Children are the fastest-growing segment of society with no health insurance.

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preschoolers saves $7.40 in direct medical costs.

When we created the school lunch program, we recognized the fact that hungry children cannot learn and are disruptive to other children. The same holds true for sick children. A child with a fever of 102 and a sore throat cannot learn. If we hope to improve education in this country and work to ensure that American students can compete in tomorrow’s global economy, we must first begin by guaranteeing that these children are healthy.

The Children’s Health Coverage Act represents a major step in the right direction. The legislation will provide eligible families a tax credit on a timely basis to cover health insurance premiums. It ensures that the tax credit covers a significant portion of insurance premiums for low-income working families.

It guarantees them a market for private children’s only health insurance by requiring insurers who participate in the Federal Employees Health Benefit Plan to offer these policies. It provides direct assistance to uninsured lower income pregnant women so that their child gets a healthy start in life. It ensures a comprehensive benefits package with a focus on preventative services, and provides coverage up to 18 years of age. It utilizes the private health insurance market, and it does not create a new Federal bureaucracy or entitlement, but builds on the success of several current State plans.

I recognize that this legislation is only one possible solution. Within the next few weeks, I will be joining Senators KENNEDY, KERRY, and DODD in introducing a voucher-based proposal which will meet the same goals and objectives as the bill being introduced today, but it provides for a different approach for assisting families in purchasing coverage.

The voucher-based legislation mirrors the plans currently utilized by 14 States in their efforts to help uninsured children. One of these States is my home State of Washington, which has implemented a plan to help uninsured children receive vital health care services. Because of this commitment in the State of Washington, the number of uninsured children has declined. But the States cannot do it alone. And the Federal Government must ensure that every family, regardless of where they live, have access to affordable health insurance and that the benefits are comprehensive and include an aggressive preventative strategy.

In the last Congress, we made a commitment to working Americans that they would not lose their health insurance coverage if they changed jobs or had a preexisting condition. The Kennedy-Kassebaum legislation will help hundreds of working families. Now we have the opportunity to build on this bipartisan legislation and work to help working families purchase health insurance coverage for their children.

I know that my Republican colleagues recognize the urgent need to give our children a healthy start. And I ask that we use the bipartisan approach utilized in passing the Kennedy-Kassebaum bill to help all of our children. Both the Democratic and Republican leadership are pledged to improving the quality of life for families and putting families first. I can think of no better and important issue for American families than the health security of all of our children.

In 1965, Congress made a commitment to our Nation’s senior citizens that they would not have to go without health coverage. In 1965, we gave senior citizens access to affordable health insurance coverage to protect them from financial ruin and ensure a longer, healthy life. Let 1997 be the year that we make the same commitment to our children.

Again, I want to thank the Democratic leader for his efforts. And I am anxious to begin work on this important initiative and many others that are before us.

Mr. President, I ask unanimous consent that following the remarks of Senator FRIST, the Senate stand in recess under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. I suggest the absence of a quorum. I withhold that.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

(The remarks of Mr. FRIST pertaining to the introduction of S. 146 are located in today's Record under "Statements on Introduced Bills and Joint Resolutions.")
Chamber Action

Routine Proceedings, pages S149-S577

Measures Introduced: One hundred seventy-eight bills and fourteen resolutions were introduced, as follows: S. 1-178, S. J. Res. 1-9, and S. Res. 15-19.

Pages S158-63

Measures Passed:

Technical Correction: Senate passed H. J. Res. 25, making technical corrections to the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104-208), clearing the measure for the President.

Page S574

Nomination—Time Agreement: A unanimous-consent agreement was reached providing for the consideration of the nomination of Madeleine Korbel Albright, of the District of Columbia, to be Secretary of State on Wednesday, January 22, with a vote to occur thereon.

Page S574

Appointments:

Senate Arms Control Observer Group: The Chair, on behalf of the Minority Leader, pursuant to S. Res. 105, adopted April 13, 1989, as amended by S. Res. 280, adopted October 8, 1994, announced the appointment of the following Senators as members of the Senate Arms Control Observer Group: Senators Biden, Byrd (designated to serve as Minority Administrative Co-Chairman), Bumpers, Daschle, Glenn, Kennedy, Kerrey, Levin (designated to serve as Co-Chairman for the Minority), Moynihan, and Sarbanes.

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Nominations Received: Senate received the following nominations:

Ayse Manyas Kenmore, of Florida, to be a Member of the National Museum Services Board for a term expiring December 6, 2000.

John T. Broderick, Jr., of New Hampshire, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1999.

Susan E. Trees, of Massachusetts, to be a Member of the National Council on the Humanities for a term expiring January 26, 2002.

Jeffrey Davidow, of Virginia, to be a Member of the Board of Directors of the Inter-American Foundation, for a term expiring September 20, 2002.

Routine lists in the Foreign Service.

Page S146-48

Messages From the President:

Messages From the House:

Communications:

Page S151

Executive Reports of Committees:

Pages S158

Statements on Introduced Bills:

Pages S163-S568

Amendments Submitted:

Page S569

Notices of Hearings Submitted:

Page S569

Additional Statements:

Pages S569-71

Adjournment: Senate convened at 12 noon and adjourned at 7:19 p.m., until 10 a.m., on Wednesday, January 22, 1997. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S574.)

Committee Meetings

(Committees not listed did not meet)

ECONOMIC OUTLOOK

Committee on the Budget: Committee held hearings to examine the state of the United States economy and economic outlook, receiving testimony from Alan Greenspan, Chairman, Board of Governors of the Federal Reserve System.

Committee will meet again tomorrow.
Committee on Foreign Relations: On Monday, January 20, committee ordered favorably reported the nomi-

Matthew Korbel Albright, of the District of Columbia, to be Secretary of State.

House of Representatives

Chamber Action

Bills Introduced: 45 public bills, H.R. 452–496; and 11 resolutions, H.J. Res. 32–35, H. Con. Res. 9–11, and H. Res. 31–34, were introduced.

Pages H242–44

Reports Filed: No reports were filed today.

Speaker Pro Tempore: Read a letter from the Speaker wherein he designated Representative Bereuter to act as Speaker pro tempore for today.

Pages H171

Select Committee on Ethics Report: By a recorded vote of 395 ayes to 28 noes with 5 voting "present", Roll No. 8, the House agreed to H. Res. 31, in the matter of Representative Newt Gingrich.

Pages H171–H235

Committee Leave of Absence: Read a letter from Representative Barr wherein he requests a leave of absence from the Committee on Veterans' Affairs.

Page H235

Committee Elections: Agreed to H. Res. 31 and H. Res. 32, electing Members to certain standing committees of the House of Representatives.

Pages H235–36

Morning Hour Debate: It was made in order that on Mondays and Tuesdays of each week through the second session of the 105th Congress, the House shall convene 90 minutes earlier than the time otherwise established by order of the House for the purpose of conducting morning-hour debate.

Page H236

State of the Union Address: The House agreed to H. Con. Res. 9, providing for the State of the Union address by the President on Tuesday, February 4, 1997.

Page H236

Presidential Messages: Read the following messages from the President:

National Emergency re Middle East Peace Process: Message wherein he transmits his notice concerning the emergency declared with respect to the Middle East peace process—referred to the Committee on International Relations and ordered printed (H. Doc. 105–28); and

Page H236

Threat of Biological and Chemical Weapons: Message wherein he transmits his report describing the policy functions and operational roles of Federal agencies in countering the threat posed by biological and chemical weapons of mass destruction—referred to the Committee on National Security and ordered printed (H. Doc. 105–29).

Page H236

Quorum Calls—Votes: One recorded vote developed during the proceedings of the House today and appears on pages H234–35. There were no quorum calls.

Adjournment: Met at 12 noon and, pursuant to the provisions of S. Con. Res. 3, adjourned at 2:24 p.m. until 12:30 p.m. on Tuesday, February 4, 1997.

Committee Meetings

COMMITTEE ORGANIZATION

Committee on Commerce: Met for organizational purposes.

COMMITTEE ORGANIZATION

Committee on Education and the Workforce: Met for organizational purposes.

OVERSIGHT—STATUS OF EFFORTS TO IDENTIFY PERSIAN GULF WAR SYNDROME

Committee on Government Reform and Oversight: Subcommittee on Human Resources and Intergovernmental Relations held an oversight hearing on the status of efforts to identify the Persian Gulf War syndrome. Testimony was heard from Donald Curtis, M.D., member, Presidential Advisory Committee on PGW Veterans' Illnesses; Kenneth Kizer, M.D., Under Secretary, Health, Department of Veterans Affairs; Bernard Rostker, Special Assistant, PGW Illnesses, Department of Defense; and public witnesses.

Committee on the Judiciary: Met for organizational purposes.

The Committee also approved oversight reports.
COMMITTEE MEETINGS FOR
WEDNESDAY, JANUARY 22, 1997

(Committee meetings are open unless otherwise indicated)

**Senate**

Committee on Agriculture, Nutrition, and Forestry, to hold an organizational meeting, 9:30 a.m., SR-328A.

Committee on Armed Services, to hold hearings on the nomination of William S. Cohen, of Maine, to be Secretary of Defense, 10:30 a.m., SH-216.

Full Committee, closed business meeting, to consider the nomination of William S. Cohen, of Maine, to be Secretary of Defense, 3 p.m., SR-222.

Committee on Banking, Housing, and Urban Affairs, to hold hearings on the nomination of Andrew M. Cuomo, of New York, to be Secretary of Housing and Urban Development, 10 a.m., SD-538.

Committee on the Budget, to hold hearings on long-term budget projections and prospects for long-term growth, 10 a.m., SD-608.

Committee on Commerce, Science, and Transportation, to hold an organizational meeting, 2 p.m., SR-253.

Full Committee, to hold hearings on the nomination of William M. Daley, of Illinois, to be Secretary of Commerce, 2:30 p.m., SR-253.

Committee on the Judiciary, to hold hearings on proposed legislation to balance the budget, 10 a.m., SD-226.

Committee on Labor and Human Resources, to hold an organizational meeting, 9:30 a.m., SD-430.

**House**

Committee on the Judiciary, Subcommittee on the Constitution, hearing regarding limiting terms of office for Members of the U.S. Senate and the U.S. House of Representatives, 9:30 a.m., 2141 Rayburn.
Next Meeting of the SENATE  
10 a.m., Wednesday, January 22

Senate Chamber

Program for Wednesday: After the recognition of three Senators for speeches and the transaction of any morning business (not to extend beyond 12 noon), Senate will consider the nomination of Madeleine Albright, to be Secretary of State.

Next Meeting of the HOUSE OF REPRESENTATIVES  
12 noon, Tuesday, February 4

House Chamber

Program for Tuesday, February 4: The House will meet in Joint Session with the Senate to receive the President’s State of the Union Address.