the Vietnam conflict; to the Committee on Armed Services.

By Mr. ROCKEFELLER (for himself, Mr. BURNS, and Mr. DORGAN):
S. 1296. A joint bill to enhance rail competition and to ensure reasonable rail rates in any case in which there is an absence of effective competition; to the Committee on Commerce, Science, and Transportation.

By Mr. HELMS:
S. 1430. A bill to suspend from January 1, 1996, until December 31, 2006, the duty on SE2SI Spray Granulated (HOE S 4291); to the Committee on Finance.
S. 1431. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Finance.
S. 1432. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Finance.
S. 1433. A bill to suspend temporarily on a certain chemical; to the Committee on Finance.
S. 1434. A bill to suspend until January 1, 2001, the duty on a certain chemical; to the Committee on Finance.
S. 1435. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Finance.
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S. 1452. A bill to suspend until January 1, 2001, the duty on a chemical; to the Committee on Finance.
S. 1453. A bill to suspend until January 1, 2001, the duty on a chemical; to the Committee on Finance.
S. 1454. A bill to provide a 6-month extension of highway, highway safety, and transit programs pending enactment of a law authorizing the Intermodal Surface Transportation Efficiency Act of 1991; considered and passed.

By Mr. CHAFEE (for himself and Mr. BYRD):
S. 1455. A bill to provide financial assistance for the relocation and expansion of Haffenreffer Museum of Anthropology. Providence, Rhode Island; considered and passed.

By Mr. BAUCUS (for himself and Mr. BURNS):
S. 1456. A bill to authorize an interpretive center at Peck Dam, Montana; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. SPECTER (for himself and Mr. BYRD):
S. Res. 146. A resolution establishing an advisory role for the Senate in the selection of Supreme Court Justices; to the Committee on the Judiciary.

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

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HELMS (for himself, Mr. GLENN, Mr. DEWINE, and Mr. FAIRCLOTH):
S. 1397. A bill to establish a commission to assist in commemoration of the centennial of powered flight and the achievements of the Wright brothers; to the Committee on Governmental Affairs.

THE CENTENNIAL OF FLIGHT COMMEMORATIVE ACT

Mr. HELMS. Madam President, I have a bill, S. 1397, on the desk. Now, Senators DeWINE, FAIRCLOTH, GLENN, and I are introducing this legislation, and we are naming it the Centennial of Flight Commemorative Act. As I indicated, the bill number is S. 1397.

This significant legislation will establish a commission to assist the numerous events that will lead up to and include the celebration of the 100th anniversary of powered flight, a feat in all the history books, accomplished in my one county, Kitty Hawk. When he walked up and down the corridors, I see mamas and daddies pointing to him saying, "That's Senator GLENN." Senator GLENN and six other pioneers, the Mercury astronauts, got America's space program off the ground. Madam President, let me say the title again so it will register—the Centennial of Flight Commemorative Act—proposes the establishment of a commission of 21 individuals to plan for and assist in events leading up to and including the commemoration of the 100th anniversary of the Wright brothers' flights at Kitty Hawk. The commission will be composed of the Secretaries of the Interior, the Director of the National Air and Space Museum, the Secretary of Defense, the Secretary of Transportation, the NASA Administrator, and each of these officials can name a designee. Then there will be two representatives each from the States of North Carolina and Ohio and 12 other private citizens. Of these 12 private citizens, the President of the United States will appoint two from a list recommended by the Senate majority leader in consultation with the Senate minority leader, and two from a list recommended by the Speaker of the House in consultation with the House minority leader. The remaining eight will be chosen based on qualifications and/or experience in the fields of history, aerospace, science, industry, or other professions that will enhance the work of the commission.

The commission will represent the United States and take a leadership role with other nations in recognizing the achievement of the Wright brothers and the importance of aviation history. This commission's activities will be closely coordinated with the First Flight Centennial Commission and the First Flight Centennial Foundation of North Carolina and the 2003 Committee of the State of Ohio. The commission is allowed to retain an executive director and staff that may be required in order to carry out its functions.

S. 1397 authorizes appropriations of $250,000 for each of the fiscal years 1998 to 2004 to fund the work of the commission.

Additionally, the commission may accept monetary contributions and other in kind contributions, volunteer
services and the like. In order to further defray the expenses of the commission, the legislation gives it exclusive right to names, logos, emblems, seals, and marks, which may be licensed on which proceeds from royalties will be used to offset the operating costs of the commission.

S. 1397 requires that annual audits of the commission be conducted by the Inspector General of the General Services Administration to ensure its financial integrity.

The legislation shall be terminated no later than 60 days after the submission of the final audit report.

Senators may ask why establish a Federal commission to commemorate this event? The Wright brothers’ triumph at Kitty Hawk on that bone-chilling day of December 17, 1903 has to rank as one of mankind’s greatest achievements. The world has not been the same since.

As the development of the airplane progressed so did its uses in warfare and civilian aviation. Its development spawned generations of aviation trailblazers.Names like Eddie Rickenbacker, Billy Mitchell, Charles Lindbergh, Jimmy Doolittle, Chuck Yeager, and John Glenn, Mercury, Gemini, Apollo, and space shuttle astronauts became household words.

What is even more astonishing is that 66 years later, Neil Armstrong of Ohio became the first man to set foot on the moon. That would not have been possible without the Wright brothers.

Because of the Wright brothers you can get on a jet aircraft at Dulles Airport and be in London in six or seven hours, far less if you are flying the Concorde. You can fly from New York to Tokyo in 14 hours. On the Concorde, you can travel from New York to London in 3 hours and 50 minutes.

We are seeing daily developments in aviation, faster planes, new space technology. Names like Eddie Rickenbacker, Billy Mitchell, Charles Lindbergh, Jimmy Doolittle, Chuck Yeager, and John Glenn, Mercury, Gemini, Apollo, and space shuttle astronauts became household words.

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In 1902, they conducted over almost 1,000 tests with a more promising glider. In 1903, the Wright brothers had completed the construction of a larger plane powered by their own lightweight gas-powered engine.

Arriving in Kitty Hawk in September, storms and mechanical difficulties delayed trials until December. On the 17th, four men and a boy witnessed the very first flight, and a memorable photograph, fortunately, was captured. Four men and a boy witnessed that first flight.

Back home in Dayton in 1904 and 1905, the Wright brothers continued testing their invention at Huffman Prairie, which is the area adjacent to what is today Wright Patterson Air Force Base where they first achieved maneuverable flight.

In 1908, Wilbur and Orville signed a contract with the War Department for the first military airplane. In September, Orville circled the parade ground at an altitude of 120 feet that across the Potomac River from us today, over at Fort Meyer in Virginia.

When most people think of the Wright brothers, we tend to think of them as having lived a long, long time ago. We tend to think of the Wright brothers as being part of ancient history. We also think of their airplane, the Wright Flyer III, as being an incredibly primitive machine, at least by today’s standards. And it was a primitive machine. There were no fancy guidance systems or high-tech controls.

By swiveling their hips from one side to the other, Orville and Wilbur could steer the airplane. To this day, when young people come in, when school groups come to Washington and visit my office and they say they are going over to the Air and Space Museum, I always tell them to get up on the gallery level and look down on the Wright brothers and see how they controlled the flight, because the person flying lay on the lower wing and had a wooden yoke around his hips. That wooden yoke slid back and forth and there was a wire that went to the trailing edge of the upper wing, and they would slide in the direction they wanted to go, slide their hips over, pull that wire and literally warp the trailing edge of the wing down and made more lift on the wing on that side and the airplane would turn in the direction their hips would turn.

I am glad they developed later on in aviation a better means of control. We can imagine a 747 pilot today making an approach swiveling his hips back and forth. But that was the way the Wright brothers controlled those very early flights.

The first flight at Kitty Hawk and Huffman Prairie seemed so far removed from what we did later on, from my own experience in orbital flight in 1962, or from the first lunar landing, or from living aboard the orbiting space station for weeks on end, as Shannon Lucid did. She was up there for 188 days. She will be honored at the Smithsonian this evening, as a matter of fact. Yet, all this occurred within a lifetime.

I know we kid Senator Thurmond around here quite a lot about his age, but Senator Thurmond was born December 7, 1903. The Wright brothers did not fly until a year later, on December 7, 1903. So we have in this body right now a man whose lifetime spans all of mankind. That is going to be true in the future as well as the past. In field after field, in discipline after discipline, in industry after industry, it is curiosity, that insatiable, relentlessly questioning spirit that keeps asking ‘why’ that has moved our species ahead.

The irony, of course, is any time someone or a group such as the Wright brothers, or a group of people undertake an exploration or undertake to demonstrate a new idea, whether in a laboratory, a spaceship, a bicycle shop or on a production line, there are many who question the wisdom of it all. Those naysayers who wanted to know when their bike would be fixed with the Wright brothers brother! And it crossed my mind that if we were to fly God would have given us feathers, they said.

So there was a joke about the Wright brothers at that time. “If God wanted us to fly, why don’t we have feathers?” And they fortunately laughed along with everybody else, but at the same time went ahead with their work. They were not deterred. But if there is one thing we know for sure about research or any kind of exploration of the unknown it is that we have to know what we will see at the end or what it may lead to.

I believe that today, as perhaps never before, we cannot afford to lose that kind of curiosity and questing spirit that the Wright brothers had. With it, we can continue to learn new things, first, for this Nation, putting them to practical application, staying ahead of global competition. That has been the story of this country’s advancement. Without it, we will quickly become yesterday’s leader, yesterday’s leader, not tomorrow’s leader but yesterday’s leader, hopelessly trying to hold back the hands of the clock and to hold on to a past glory that can never be recaptured.

So the spirit of the Wright brothers is needed as much today as before their very first flight. That is why today I am pleased to join with my colleagues—my colleague from Ohio, my colleagues from North Carolina—in introducing this legislation to establish a national commission to assist in the commemoration of the centennial of powered flight that will occur in 2003 and the achievements of the Wright brothers. Those who worked to build our national parks and memorials to the Wright brothers in Ohio and North Carolina where flight was born and first achieved will now work together to recall and remember the spirit of flight to be commemorated as we approach the centennial of flight in 2003.

The spirit represented by the Wright brothers was captured in their own day by their good friend, Paul Lawrence

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Dunbar, who captured in the prophetic verse which he penned the triumphs that are remembered at the Dayton Aviation Heritage National Historical Park. One of his notations was:

What dreams we have and how they fly like rainbows across the sky; of wealth, of fame of sure success . . .

That is certainly what curiosity has brought us and what the Wright brothers brought us.

Think of all that has occurred since that first flight at Kitty Hawk in 1903. Think of aviation today and all it entails and the giant industry. It has revisited all the world's transportation, has revised our military, our security. All of that stemmed from that first flight in 1903.

So we are happy to put in this legislation today. We hope that it is supported not just those from Ohio and North Carolina, because what started there in 1903 is something that affects everyone. It affects every State and every nation around the globe, even these days. And we look forward to this commission doing a great job in assisting in the commemoration of the centennial of powered flight and the achievements of the Wright brothers.

Mr. FAIRCLOTH. Mr. President, today I am pleased to be an original co-sponsor of legislation being introduced by Senator HELMS—the two Senators from Ohio—that would establish a National Commission to oversee the 100th anniversary of the first flight.

Mr. President, on a cold, windy December morning in 1903, in the Outer Banks of North Carolina, the Wright brothers changed the history of the world. Orville Wright flew for just 12 seconds—but it was the first manned flight.

Today, many people take for granted what was accomplished by the Wright brothers that day, but at the time it was a historic achievement. Man had been thinking of flight for thousand of years—and yet the Wright brothers, here in the United States, were the first to do it.

The development of flight grew rapidly. A little over a decade later, airplanes were used in the battles of World War I. Two decades after the second first flight—Charles Lindbergh here in the United States, were the first to do it.

By Mr. THOMAS (for himself, Mr. KERREY, Mr. ENZI, and Mr. HAGEL):

S. 1396. A bill to extend certain contracts between the Bureau of Reclamation and irrigation water contractors in Wyoming and Nebraska that receive water from Glendo Reservoir; to the Committee on Energy and Natural Resources.

THE IRRIGATION PROJECT CONTRACT EXTENSION ACT OF 1997

By Mr. THOMAS, Mr. President, I rise today to introduce the Irrigation Project Contract Extension Act of 1997. I am pleased to be joined in this endeavor by Senators ENZI, KERREY, and HAGEL.

This legislation would extend, for a period of 3 years, certain water contracts between the Bureau of Reclamation and irrigators in Wyoming and Nebraska that receive water from Glendo Reservoir. All contracts are subject to renewal on December 31, 1998. Extending these contracts is considered a major Federal action and, therefore, subject to review of the National Environmental Policy Act [NEPA] and the Endangered Species Act [ESA]. Without a short-term continuation agreement, the irrigators would be responsible for the costs of the analysis and other environmental documentation.

Currently, the States of Wyoming, Nebraska, and Colorado—and the Department of the Interior—are in the process of implementing a comprehensive fish and wildlife project, known as the Missouri River Fish and Wildlife Habitat Act, designed to reestablish fish and wildlife on the Missouri and Mississippi Rivers. This new 5-year $50 million authorization is a win-win approach that will implement and expand the use of new and innovative measures developed by the Corps of Engineers to improve habitat conservation without impacting adversely private property and other water-related needs of the rivers including navigation, flood control and water supply.

Without specific authorization and for the river.

Mr. BOND, Mr. President, I am pleased to introduce legislation to enhance, preserve and protect habitat for fish and wildlife in the Missouri and Mississippi Rivers. This new 5-year $50 million authorization is a win-win approach that will implement and expand the use of new and innovative measures developed by the Corps of Engineers to improve habitat conservation without impacting adversely private property and other water-related needs of the river.

This new legislation is supported by Missouri Farm Bureau, MARC2000, American Rivers, the Missouri Soybean Association, the Missouri Corn Growers Association, and Farmland Industries. While these groups have not always agreed on river policy, that should not preclude us from seeking common ground and working together to address the questions of resource management and I am delighted that we can come together in support of this commonsense approach.

Without specific authorization and only scarce dollars, the St. Louis Corps of Engineers has been developing and
testing ways in which navigation structures used to guide the river and maintain the channel may be modified to meet environmental as well as navigation goals. These innovations have proven successful earning wide acclaim including the Presidential Design Award and Federal Design Achievement Award.

This legislation seeks to put these successful innovations to work on the Missouri River and expand their use on the middle Mississippi by providing a specific authorization and a dedicated and substantial source of funds. In other words, we are giving the corps the tools they need to put their ideas to work on the rivers to benefit fish and wildlife.

The legislation authorizes $10 million per year to protect, create and enhance side channels, island habitat, sandbars, and other riverine habitat. For example, by notching rock dikes that run perpendicular to the shoreline, sandbars develop between the dikes which has been provided nesting habitat for the endangered least tern. This is a valuable spawning ground for the endangered pallid sturgeon. The Missouri Department of Conservation has run tests validating an increase in diversity and numbers of microinvertebrates surrounding the notched dikes.

Chevron dikes have been developed to improve river habitat and to create beneficial uses of dredge material. These structures are placed in the shallow side of the river channel, pointing upstream which improves the river channel while serving as small islands. These islands encourage the development of all four primary river ecosystem habitats and additionally, various micro-organisms cling to the underwater rock structures, providing a food source for fish.

Changing the gradation of rock revetments, used to stabilize eroding river embankments, to provide greater bank stability and precluded the need to remove bank vegetation so that, for the first time, trees and rock revetment could coexist providing greater habitat diversity.

The draft legislation authorizes $10 million per year over 5 years to develop and implement a plan including the following activities: Modification and improvement of navigation training structures to protect and enhance fish and wildlife habitat; creation of side channels to protect and enhance fish and wildlife habitat; restoration and creation of island fish and wildlife habitat; creation of riverine fish and wildlife habitat; establishment of criteria to prioritize based on cost-effectiveness and likelihood of success; and physical and biological monitoring for evaluation of the river channel design.

The draft provides that the project be coordinated with other related Federal and State activities and that there be public participation in the development and implementation of the project. A 25-percent Federal cost share and limits the Federal cost of any single project to $5 million. Finally, the draft legislation confers no new regulatory authority and requires compliance with the National Environmental Policy Act.

The legislation is designed to work between the banks of the river and for-bids expressly any adverse impacts on private or State activities and that there be coordination with other related Federal and State activities and that there be coordination with other related Federal activities and that there be coordinating with other related Federal activities.

I intend to work with the administration and with other Senators and interested groups to build the broad support necessary to enact this legislation in an omnibus Water Resources Development Act the Senate is expected to consider in 1998.

Mr. President, the problems experienced in the Midwest and elsewhere with railroad bottlenecks highlight the need for diverse transportation options. As the fall harvest proceeds, there are reports of grain being piled for concerned least tern in Nebraska, Kansas, and Nebraska. Notwithstanding that I must continue working on behalf of Missouri to preserve river navigation as a transportation option, our joint efforts to pursue this new legislation is a strong indicator that we may be experiencing an episode of domestic detente on river policy between groups that have pursued differing approaches in the past. This legislation offers a significant boost for our need to make the Missouri River a viable option on the horizon. Eleven States have now enacted legislation or issued regulations requiring retail competition by a time certain. Almost every other State currently has the matter under review.

One argues that there is no need for the Federal Government to intervene; that the States are doing just fine on their own and they should decide when and how to proceed with retail electric competition. Mr. President, I couldn’t disagree more.

A State-by-State approach will likely produce a lot of unintended consequences which will not produce benefits associated with retail competition and could disadvantage certain consumers.

Mr. BUMPERS. Mr. President, I rise today to introduce the Transition to Electric Competition Act of 1997 along with my colleague from the State of Washington, Senator Gorton. This bill provides for the transition toward deregulation and competition in the electric utility industry.

While few people find a discussion of the electric utility industry and the many laws and regulations governing the industry exciting, the fact is that electricity is an extremely important commodity which affects everyone on a daily basis. Any event that increases or reduces electric rates can impact: First, the lives of the poor and those on fixed incomes that depend on electric for basic needs; second, the price of goods we buy every day; as well as third, the competitive-
served by the company. If restructuring proceeds on a State-by-State basis, these holding companies would find themselves subjected to different requirements which could negatively impact consumers.

A State-by-State approach to retail competition also present problems where utilities operate entirely within a single State. It would make no sense for a utility in a State that does not require retail competition, to be able to sell retail in an adjoining State that requires retail competition, while a utility subjected to retail competition is unable to mitigate its losses by competing for customers in the adjoining State. Such a result both increases stranded costs and distorts the generation marketplace.

Moreover, the States can’t adequately address issues associated with the use of transmission lines that provide for the transportation across a number of States or the ability of a utility to have a significant market power to dominate electricity generation in an entire region. Clearly these are issues that need to be resolved at the Federal level.

While introduced S. 237 there weren’t many calling for Federal action. However, interested observers are increasingly coming to the conclusion that Federal electric restructuring legislation is not only helpful, but is necessary. Even some of the States are calling on the Federal Government to act.

The legislation we are introducing today is an updated version of S. 237. The bill includes the following provisions: All consumers would have the right to choose their power supplier by January 1, 2002. States could choose an earlier date for their residents if they wish. Utilities would be able to recover their legitimate, prudent and verifiable costs that they would have been able to recover by competitors if retail competition had not been implemented. Consumers located in States that currently have low cost electricity would be protected from rate increases by ensuring that utilities can’t use their existing assets to sell power in more lucrative markets to the disadvantage of their existing customers. All utilities selling retail power would be required to generate a portion of that power using renewable resources. All of the interconnection trangencies throughout the country would be managed by independent system operators to ensure that electricity flows in an efficient manner and that markets are competitive. FERC would be given greater authority to protect against the use of market power by utilities to inhibit competition. Both the Public Utility Holding Company Act [PUHCA] and the Public Utility Regulatory Policies Act [PURPA] would be repealed in conjunction with the implementation of retail electric competition.

In addition, Mr. President, the legislation attempts to address some of the issues that relate to the impact of retail electric competition on two Federal entities—the Bonneville Power Administration [BPA] and the Tennessee Valley Authority [TVA]. Senator Gorton is especially knowledgeable about the special problems facing BPA and I expect he will work closely with the other Members of the Senate from the Pacific Northwest in developing a consensus approach.

With regard to TVA, our bill attempts to develop an approach that will enable retail competition to be smoothly introduced in the Tennessee Valley and will help TVA pay off its tremendous debt. The bill also requires the TVA board to prepare a study examining whether TVA should be privatized. I know that some observers may be concerned that this could be a first step toward the privatization of the Federal Power Marketing Administration [PMA’s]. Mr. President, there is no connection whatsoever between TVA and the PMA’s. The PMA’s market power is generated at hydroelectric facilities located at Federal dams. These dams perform a variety of public services and cannot be privatized. TVA, on the other hand, generates the bulk of its power from coal and nuclear plants that serve no public purposes. In addition, the Federal PMA’s pay for themselves through power sales, TVA, on the other hand, has an enormous level of privately held debt which it must find a way to pay off, since the Federal Government is not responsible for it.

Mr. President, I am especially pleased that Senator Gorton has decided to join with me in the effort to enact comprehensive electric restructuring legislation. He has a reputation as a very bright and thoughtful Member of this body and is a distinguished member of the Energy and Natural Resources Committee, which has jurisdiction over the matter. I know that he shares my desire to move this legislation through Congress quickly next year.

Senator Murkowski, the chairman of the Senate Energy Committee, recently indicated that he expects the committee to mark up electric restructuring legislation next year. Both Senator Gorton and I want to work with him and the other members of the committee in moving forward. I look forward to undertaking this important task.

Mr. President, I want to say how honored I am to have one of our most distinguished Senators, Senator Gorton of Washington, as my chief cosponsor on this bill.

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

Mr. President, I ask unanimous consent that a section-by-section analysis of the Transition to Electric Competition Act of 1997 be printed in the RECORD.

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE. This Act may be cited as the “Transition to Electric Competition Act of 1997.

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

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SEC. 2. FINDINGS. The Congress finds that:

(a) Congress has the authority to enact laws, under the Commerce Clause of the
United States Constitution, regarding the wholesale and retail generation, transmission, distribution, and sale of electric energy in interstate commerce.

(b) Several States have taken steps to require competition among retail electric suppliers and a large number of other States are expected to act.

(c) It is in the interest of the public that the transition towards competition in electric service ensures that all consumers receive reliable and competitively-priced electric service.

(d) Electric utility companies that prudently incurred costs pursuant to a regulatory structure that required them to provide electricity to consumers should not be penalized during the transition to competition.

(f) Consumers will not benefit from the introduction of competition among electric energy suppliers if certain suppliers have undue market power.

(g) It is important to encourage conserva-
tion and the use of renewable resources to reduce reliance on fossil fuels, promote domestic energy security and protect the environment.

(h) Competition among electric energy suppliers should not degrade reliability nor cause consumers to lose service.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(i) The term “large hydroelectric facility” means a facility which is formed by a single dam or by two or more dams which are components of a greater project and which have a total generating capacity of one or more units (as determined by the Commission) of two thousand MW or more.

(j) The term “participation in rates” means an electric utility company or gas utility company, or any affiliate thereof, participation in the cost of electric energy generated outside of such electric utility company’s service territory and provided to such utility by any other electric utility company.

(k) The term “regulated public utility” means a public utility company which is subject to rate regulation under the Public Utility Regulatory Policies Act of 1978.

(l) The term “retail stranded costs” means the costs of which were included in the retail rate structure that prohibited or limited competition, but for the implementation of retail electric competition, shall be considered generation assets for purposes of this subsection.

(m) The term “lost retail benefits” means the increased cost of retail electric energy in a retail electric energy provider’s service territory resulting from the sale subsequent to the date of this Act of electric company assets to a competitor, outside such service territory, of electric energy generated at facilities the cost of which were included in the retail rate structure that prohibited or limited competition, but for the implementation of retail electric competition.

(n) The term “mitigation” means any voluntary action or business practice used by an electric utility company to dispose of or reduce uneconomic assets or costs.

(p) The term “distribution system” means any system or apparatus used for distribution at retail (other than electric energy suppliers if certain suppliers have undue market power).

(q) The term “electric utility company” means an electric utility company or gas utility company, or any affiliate thereof, a receiver or receivers, trustee or trustees of any of the foregoing.

(r) The term “regulated electric utility company” means an electric utility company or gas utility company, or any affiliate thereof, a receiver or receivers, trustee or trustees of any of the foregoing. 

(s) The term “state regulatory commission” means an electric utility company or gas utility company, or any affiliate thereof, a receiver or receivers, trustee or trustees of any of the foregoing. 

(t) The term “distribution energy systems” means electric energy and ancillary services sold for ultimate consumption.

(1) any company 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(x) The term “rural electric cooperative” means an electric cooperative or any affiliate thereof, a receiver or receivers, trustee or trustees of any of the foregoing, the costs of which would have been recovered in retail rates for but for the implementation of retail electric competition, shall be considered generation assets for purposes of this subsection.

(y) The term “rural stranded costs” means the costs of which were included in the retail rate structure that prohibited or limited competition, but for the implementation of retail electric competition, shall be considered generation assets for purposes of this subsection.

(z) The term “rural utility” means any person, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing. 

(bb) The term “State regulatory authority” means the regulatory body of a State or municipality having sole jurisdiction to regulate rates and charges for the distribution of electric energy to consumers within the State or municipality.

(cc) The term “subsidiary company” of a holding company means—

(dd) The term “transmission system” means all facilities, including federally-owned facilities, transmitting electricity in interstate commerce in the electric transmission sector of the electricity industry, including all facilities transmitting electricity in the State of Texas and those providing international interconnections, but does not include local distribution facilities as determined by the Commission.

(ee) The term “wholesale electric energy” means electric energy and ancillary services sold for resale.

(ff) The term “wholesale electric energy supplier” means any person which sells wholesale electric energy.

(gg) The term “wholesale stranded costs” shall have the same meaning as in the Commission’s Order No. 888.

(hh) The term “wholesale electric energy supplier” means any person which sells wholesale electric energy.

(iii) any person, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing, the costs of which would have been recovered in retail rates for but for the implementation of retail electric competition, shall be considered generation assets for purposes of this subsection.

(jj) The term “utility scale wind facility” means an electric utility company or gas utility company, or any affiliate thereof, a receiver or receivers, trustee or trustees of any of the foregoing.

(kk) The term “utility scale wind facility” means a wind-farm which is capable of generating five or more megawatts.

(ll) The term “utility scale wind generation” means electric energy generated at wind-farms which have wind turbines which are each capable of generating five or more megawatts.

(1) any company 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(mm) The term “utility scale wind generator” means any electric utility company or gas utility company, or any affiliate thereof, a receiver or receivers, trustee or trustees of any of the foregoing, the costs of which would have been recovered in retail rates for but for the implementation of retail electric competition, shall be considered generation assets for purposes of this subsection.

(nn) The term “utility scale wind project” means an electric utility company or gas utility company, or any affiliate thereof, a receiver or receivers, trustee or trustees of any of the foregoing, the costs of which would have been recovered in retail rates for but for the implementation of retail electric competition, shall be considered generation assets for purposes of this subsection.

(oo) The term “utility scale wind energy” means electric energy generated at utility scale wind projects.

(pp) The term “utility scale wind energy project” means an electric utility company or gas utility company, or any affiliate thereof, a receiver or receivers, trustee or trustees of any of the foregoing, the costs of which would have been recovered in retail rates for but for the implementation of retail electric competition, shall be considered generation assets for purposes of this subsection.

(qq) The term “utility scale wind generation project” means an electric utility company or gas utility company, or any affiliate thereof, a receiver or receivers, trustee or trustees of any of the foregoing, the costs of which would have been recovered in retail rates for but for the implementation of retail electric competition, shall be considered generation assets for purposes of this subsection.

(rr) The term “utility scale wind power plant” means an electric utility company or gas utility company, or any affiliate thereof, a receiver or receivers, trustee or trustees of any of the foregoing, the costs of which would have been recovered in retail rates for but for the implementation of retail electric competition, shall be considered generation assets for purposes of this subsection.

(ss) The term “utility scale wind transmission project” means an electric utility company or gas utility company, or any affiliate thereof, a receiver or receivers, trustee or trustees of any of the foregoing, the costs of which would have been recovered in retail rates for but for the implementation of retail electric competition, shall be considered generation assets for purposes of this subsection.

(tt) The term “utility scale wind energy system” means electric energy and ancillary services sold for ultimate consumption.

(uu) The term “utility scale wind energy transmission system” means electric energy and ancillary services sold for ultimate consumption.

(vv) The term “utility scale wind energy” means electric energy and ancillary services sold for ultimate consumption.

(xx) The term “utility scale wind energy transmission system” means electric energy and ancillary services sold for ultimate consumption.

( yy) The term “utility scale wind energy” means electric energy and ancillary services sold for ultimate consumption.

(zz) The term “utility scale wind energy” means electric energy and ancillary services sold for ultimate consumption.

(DDD) The term “transmission system” means all facilities, including federally-owned facilities, transmitting electricity in interstate commerce in the electric transmission sector of the electricity industry, including all facilities transmitting electricity in the State of Texas and those providing international interconnections, but does not include local distribution facilities as determined by the Commission.

(E) The term “wholesale electric energy” means electric energy and ancillary services sold for resale.

(FF) The term “wholesale electric energy supplier” means any person which sells wholesale electric energy.

(G) The term “wholesale stranded costs” shall have the same meaning as in the Commission’s Order No. 888.

(H) The term “wholesale electric energy” means electric energy and ancillary services sold for resale.

(I) The term “wholesale electric energy supplier” means any person which sells wholesale electric energy.

(J) The term “wholesale stranded costs” shall have the same meaning as in the Commission’s Order No. 888.

(K) The term “utility scale wind facility” means an electric utility company or gas utility company, or any affiliate thereof, a receiver or receivers, trustee or trustees of any of the foregoing.

(L) The term “utility scale wind generation” means electric energy generated at wind-farms which have wind turbines which are each capable of generating five or more megawatts.

(M) The term “utility scale wind project” means an electric utility company or gas utility company, or any affiliate thereof, a receiver or receivers, trustee or trustees of any of the foregoing.

(N) The term “utility scale wind energy” means electric energy generated at utility scale wind projects.

(O) The term “utility scale wind energy project” means an electric utility company or gas utility company, or any affiliate thereof, a receiver or receivers, trustee or trustees of any of the foregoing.

(P) The term “utility scale wind generation project” means an electric utility company or gas utility company, or any affiliate thereof, a receiver or receivers, trustee or trustees of any of the foregoing.

(Q) The term “utility scale wind power plant” means an electric utility company or gas utility company, or any affiliate thereof, a receiver or receivers, trustee or trustees of any of the foregoing.

(R) The term “utility scale wind energy system” means electric energy and ancillary services sold for ultimate consumption.

(S) The term “utility scale wind energy transmission system” means electric energy and ancillary services sold for ultimate consumption.

(T) The term “utility scale wind project” means an electric utility company or gas utility company, or any affiliate thereof, a receiver or receivers, trustee or trustees of any of the foregoing.

(U) The term “utility scale wind generation project” means an electric utility company or gas utility company, or any affiliate thereof, a receiver or receivers, trustee or trustees of any of the foregoing.

(V) The term “utility scale wind power plant” means an electric utility company or gas utility company, or any affiliate thereof, a receiver or receivers, trustee or trustees of any of the foregoing.
TITLE I—ELECTRIC COMPETITION

SEC. 101. MANDATORY RETAIL ACCESS.
(a) Customer Choice.—Beginning on January 1, 2002, each consumer shall have the right to purchase retail electric energy from any power-generating and retail electric energy to such consumer, subject to any limitations imposed pursuant to section 104(a) of this Act.

(b) Local Distribution and Retail Transmission Facilities.—Beginning on January 1, 2002, all persons seeking to sell retail electric energy to consumers in such State shall have reasonable access on an unbundled basis, to the local distribution and retail transmission facilities of all retail electric energy providers and all ancillary services.

SEC. 102. AGGREGATION.
Subject to any limitations imposed pursuant to section 104(a) of this Act, a group of consumers or any person acting on behalf of such group may purchase or acquire retail electric energy for the members of the group if they are located in a State or States where there is retail electric competition.

SEC. 103. PRIOR IMPLEMENTATION.
(a) State Action.—Nothing in the Federal Power Act (16 U.S.C. 821 et seq.) shall be deemed to prohibit a State or State regulatory authority from authorizing the use of wholesale stranded costs by a State or a regulation issued by a State regulatory authority seeking a determination of its total stranded costs in that State if:

(1) the State regulatory authority has issued a determination of its total stranded costs; or

(2) the State regulatory authority, or an agreement entered into by the Commission or a State regulatory authority, determines is entitled to recover its retail stranded costs for the purposes of section 105.

(b) Grandfather.—Legislation enacted by a State or a regulation issued by a State regulatory authority which has the effect of providing all consumers in such State the opportunity to purchase retail electric energy from any retail electric energy supplier by January 1, 2002 and provides electric utility companies with the opportunity to recover their retail stranded costs, shall be deemed to be in compliance with the requirements of sections 101 and 105 of this Act.

(c) Reciprocity.—A State or State regulatory authority that provides for retail electric competition, including providing retail electric energy to consumers in such State, shall have the authority to determine its total stranded costs from such rural electric cooperative or municipal electric service provider.

SEC. 104. STATE REGULATION.
(a) State Requirements.—A State or a State regulatory authority may impose requirements on persons seeking to sell retail electric energy to consumers in any State which are intended to promote the public interest, including requirements related to generation reliability and the provision of information to consumers and other retail electric energy suppliers. Any such requirements must be applied on a nondiscriminatory basis and may not be used to exclude any class of potential suppliers, such as wholesale electric energy providers, from the opportunity to sell retail electric energy.

(b) Maintenance of State Authority.—Nothing in this Act is intended to prohibit a State from enacting laws or imposing regulations providing for retail electric energy competition that are consistent with the requirements of this Act.

(c) Continued State Authority Over Distribution.—A State or State regulatory authority may continue to regulate local distribution service currently subject to State regulation, in an manner consistent with this Act.

SEC. 105. RETAIL STRANDED COST RECOVERY.
(a) Application for Determination.—Except as provided in subsection (b), an electric utility company or a joint action agency which sells wholesale electric energy to rural electric cooperatives or municipal electric service providers, or which is affiliated with another electric utility company or a joint action agency which sells wholesale electric energy to rural electric cooperatives or municipal electric service providers, or which is intended to promote the public interest, and which is intended to promote the public interest, including requirements related to generation reliability and the provision of information to consumers and other retail electric energy providers.

(b) Nonregulated Utilities.—A utility that seeks to recover its total stranded costs may determine its total retail stranded costs.

(c) Right of Recovery.—(1) An electric utility company, municipal utility or retail electric cooperative shall be entitled to full recovery of its retail stranded costs, as determined pursuant to subsection (a) or (b), over a reasonable period of time through recovery of one State or that is affiliated with another electric utility company or a joint action agency which sells wholesale electric energy to rural electric cooperatives or municipal electric service providers, or which is intended to promote the public interest, including requirements related to generation reliability and the provision of information to consumers and other retail electric energy providers.

(d) Prohibition on Cost-Shifting.—(1) No State regulatory authority shall be entitled to recover its stranded costs, over a reasonable period of time, from the retail electric energy providers to which it sells electric energy pursuant to the procedures established by this subsection.

(2) A retail electric energy provider's wholesale stranded cost payment obligations pursuant to this subsection shall be deemed retail stranded costs for the purposes of section 105 of this Act.

SEC. 106. WHOLESALE STRANDED COST RECOVERY.
(a) Commission Regulation.—The Commission may take such action as it determines is necessary and appropriate to determine and provide for the recovery of wholesale stranded costs associated with wholesale electric competition with regard to public utilities subject to the jurisdiction of the Commission pursuant to the Federal Power Act.

(b) Regional Generating Facilities.—(1) The consent of Congress is given for the creation of a regional board if—

(A) each State regulatory authority regulates an affiliate of a wholesale electric utility company with wholesale electric utility company serves customers in more than one state elects to join such a board;

(B) an affiliate of the public utility holding company owns and operates a generating facility and sells power from that facility to one or more affiliates of the same holding company or a joint action agency which sells wholesale electric energy to rural electric cooperatives or municipal electric service providers; and

(C) the public utility holding company notifies each State regulatory authority which regulates a retail electric energy provider affiliated with the holding company that it intends to seek recovery of the wholesale stranded costs associated with the generating facility or facilities (described in subsection (b)(1)(B)) owned by the wholesale generating company affiliated with such holding company.

(2) The regional board shall be formed if each elects to form the board within six months after receiving the notification described in subsection (b)(1)(C). If such elections are not timely made and the Commission determines it is in the public interest, the Commission shall assume the responsibilities of the board as described in this section.

(3) The regional board shall have 18 months after the date on which it is formed to determine time, on a unanimous basis, the wholesale stranded costs associated with the generating facility which is the subject of the proceeding and to allocate such costs among the wholesale electric energy provider affiliates of the public utility holding company on a just and reasonable and nondiscriminatory basis.

(4) If the regional board fails to make either or both determinations, as described in subsection (b)(3) in the requisite time period, the Commission shall make the determination or determinations that have yet to be made.

(5) After its level of wholesale stranded costs is determined pursuant to this subsection, the wholesale electric utility company shall be entitled to fully recover its stranded costs, over a reasonable period of time, from the retail electric energy providers to which it sells electric energy pursuant to the procedures established by this subsection.

(6) A retail electric energy provider's wholesale stranded cost payment obligations pursuant to this subsection shall be deemed retail stranded costs for the purposes of section 105 of this Act.

SEC. 107. LOST RETAIL BENEFITS.
A State may require a retail electric energy provider to compensate its retail customers for lost retail benefits if, after retail competition is implemented, the market value of all of the provider's generating assets in the rate base prior to the implementation of retail electric competition is greater than the total costs of these assets that would have been recoverable in retail rates but for the implementation of retail electric competition. No retail electric energy provider shall be required to compensate its customers in an amount that exceeds the increased market value of its generating assets resulting from the implementation of retail electric competition.

SEC. 108. UNIVERSE SERVICE
(a) State Universal Service Programs.—A State may establish a Universal Service...
Program that ensures that all consumers have access to purchase retail electric energy from at least one retail electric energy supplier at a just and reasonable rate.

(b) Findings.—(1) After January 1, 2002, each retail electric energy provider located in a State that has not yet established a Commission described in subsection (a) shall be obligated to sell retail electric energy to, or purchase retail electric energy on behalf of, any of its customers or to provide geographically at a just and reasonable rate the service to which any consumer has access to purchase retail electric energy in such area in which a State regulatory authority or the Commission, if the State regulatory authority fails to make a determination pursuant to a request by an affected person, determines that there is not effective retail electric competition in such area and the consumer has not affirmatively chosen a retail electric energy supplier.

(2) The retail electric energy provider performing the service described in subsection (b)(1) is entitled to a just and reasonable rate from the consumer receiving such service.

(c) Universal Service Fund.—A State or a State regulatory authority, if authorized by the State, may impose a nonbypassable Universal Service Charge on all customers of every retail electric energy provider in such State or on any other retail electric supplier and acquired by such retail electric energy supplier.

(d) Renewable Energy Providers.—(1) Each retail electric energy provider in calendar year 2003, the required annual percentage of the total retail electric energy sold by such supplier in the preceding calendar year.

(2) Every retail electric energy provider in calendar year 2004 and each year thereafter, each retail electric energy supplier shall submit to the Commission Renewable Energy Credits in an amount equal to the required annual percentage of the total retail electric energy sold by such supplier in the preceding calendar year.

(e) State Renewable Energy Programs.—Nothing in this Act shall prohibit a State or State regulatory authority from assessing charges on retail consumers of energy to fund public benefits programs such as those designed to aid low-income energy consumers, energy research and development or achieve energy efficiency and conservation.

(f) Transmission.—(1) The Commission shall continue to have jurisdiction over the transmission of electric energy in interstate commerce by the Independent System Operator and designating an Independent System Operator to manage and operate the transmission system in each region beginning on January 1, 2002. barnes and designating Independent System Operators the Commission shall establish the transmission reliability and efficiency and competition among retail and wholesale electric energy suppliers, including rules relating to transmission rates that inhibit competition and efficiency.

(2) The Commission shall promulgate regulations to provide for the issuance, recording, monitoring the sale or exchange, and tracking of such Credit. A Renewable Energy Credit for any year that is not used to satisfy the minimum annual sales requirement of this section for that Credit may be sold or exchanged for renewable energy sold in such calendar year. The Commission shall promulgate regulations to provide for the issuance, recording, monitoring the sale or exchange, and tracking of such Credits. The Commission shall maintain records of all sales and exchanges of Credits. No such sale or exchange shall be valid unless recorded by the Commission.

(g) Use of Proceeds by BPA.—The Administrator of the Bonneville Power Administration shall use the proceeds from the sale of any Renewable Energy Credit issued to the Bonneville Power Administration under this section for retail electric energy sales to repay the Administration’s outstanding debt to the United States Treasury and bondholders of securities backed by the Bonneville Power Administration.

(h) Rules and Regulations.—The Commission shall promulgate such rules and regulations as may be necessary to verify and audit the validity of Renewable Energy Credits submitted by any person to the Commission.

(i) Annual Reports.—The Commission shall prepare an annual report and measure compliance with the requirements of this section and the success of the National Renewable Energy Program, the requirements of implementing regulations, and the effectiveness of the National Renewable Energy Program in each region beginning on January 1, 2002, and every year thereafter.

(j) Sunset.—The requirements of this section shall cease to apply on December 31, 2019.
SEC. 113. COMPETITIVE GENERATION MARKETS.

(a) MERGERS.—

(1) Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) is amended by adding “including the end of the competitive wholesale and retail electric generation markets,” immediately following “public interest”.

(2) Section 203 of the Federal Power Act (16 U.S.C. 824b) is amended by adding at the end the following:

“(c) ACQUISITION OF NATURAL GAS UTILITY COMPANY.—No public utility shall acquire the facilities or securities of a natural gas utility company unless the Commission finds that such acquisition is in the public interest.

(d) DEFINITION.—For purposes of this section, the term “natural gas utility company” means any company that owns or operates facilities used for the transportation at wholesale, or the distribution at retail (other than the distribution only in enclosed portable containers) of natural or manufactured gas for heat, light, or power.

(b) MARKET POWER.—The Commission may take such actions as it determines are necessary, including the following:

(1) ordering the physical connection of generating units.

(2) ordering a transmitting utility (as defined in section 3(23) of the Federal Power Act (16 U.S.C. 796(23))) to provide transmission to accommodate an enlargement of transmission capacity (consistent with applicable state law) necessary to provide such services.

(3) requiring the divestiture of generating or transmission facilities, in order to prohibit any retail or wholesale electric energy supplier or retail electric energy supplier from engaging or authorized to engage on the United States, (4) any agency, authority, or other governmental authority not operating in the States, (4) any agency, authority, or instrumentality of the Federal Government, or (5) any officer, agent, or employee of any of the foregoing acting as in the course of his official duty.

(b) UNNECESSARY PROVISIONS.—The Commission, by order, or may conditionally or unconditionally exempt any person or transaction, or class of persons or transactions, from any provision or provisions of this title or of any rule or regulation thereunder, if the Commission finds that regulation of such person or transaction is not relevant to the rates of a public utility company. The Commission shall not grant such an exemption, except with regard to section 204 of this Act, unless all affected State regulatory authorities consent.

(c) RETAIL COMPETITION.—The provisions of this title shall not apply to a holding company, any affiliate thereof, from using its ownership or control of resources to maintain a situation inconsistent with effective competition among retail and wholesale electric energy suppliers.

SEC. 114. NUCLEAR DECOMMISSIONING COSTS.

To ensure safety with regard to the public health and safety decommissioning of nuclear generating units, any retail and wholesale electric energy supplier or retail electric energy supplier providing services, or an affiliate thereof, from using its ownership or control of resources to maintain a situation inconsistent with effective competition among retail and wholesale electric energy suppliers.

SEC. 115. RIGHT TO KNOW.

Beginning on January 1, 2002, the Commission shall ensure that each retail electric energy supplier, or an affiliate thereof, from using its ownership or control of resources to maintain a situation inconsistent with effective competition among retail and wholesale electric energy suppliers.

SEC. 116. EXEMPTION OF ALASKA AND HAWAII.

This title shall not apply to any person located in Alaska or Hawaii with regard to any activity or transaction occurring in Alaska or Hawaii.

TITLES II—PUBLIC UTILITY HOLDING COMPANIES

SEC. 201. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935, as amended, 15 U.S.C. 79 et seq., is hereby repealed, effective one year from the date of enactment of this Act.

SEC. 202. EXEMPTIONS.

(a) FEDERAL AND STATE AGENCIES.—No provision of this title shall apply to: (1) the United States or any political subdivision of a State, (2) any foreign government or government not operating in the States, (4) any agency, authority, or instrumentality of the Federal Government, or (5) any officer, agent, or employee of any of the foregoing acting as in the course of his official duty.

(b) UNNECESSARY PROVISIONS.—The Commission, by order, or may conditionally or unconditionally exempt any person or transaction, or class of persons or transactions, from any provision or provisions of this title or of any rule or regulation thereunder, if the Commission finds that regulation of such person or transaction is not relevant to the rates of a public utility company. The Commission shall not grant such an exemption, except with regard to section 204 of this Act, unless all affected State regulatory authorities consent.

(c) RETAIL COMPETITION.—The provisions of this title shall not apply to a holding company, any affiliate thereof, from using its ownership or control of resources to maintain a situation inconsistent with effective competition among retail and wholesale electric energy suppliers.

SEC. 203. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) PROVISION OF BOOKS AND RECORDS.—Every holding company and associate company thereof shall make available to the Commission, the books and records of any company in a holding company or any affiliate thereof, from using its ownership or control of resources to maintain a situation inconsistent with effective competition among retail and wholesale electric energy suppliers.

(b) EXAMINATION OF BOOKS AND RECORDS.—The Commission, by order, or may conditionally or unconditionally exempt any person or transaction, or class of persons or transactions, from any provision or provisions of this title or of any rule or regulation thereunder, if the Commission finds that regulation of such person or transaction is not relevant to the rates of a public utility company. The Commission shall not grant such an exemption, except with regard to section 204 of this Act, unless all affected State regulatory authorities consent.

(c) RETAIL COMPETITION.—The provisions of this title shall not apply to a holding company, any affiliate thereof, from using its ownership or control of resources to maintain a situation inconsistent with effective competition among retail and wholesale electric energy suppliers.

SEC. 204. STATE ACCESS TO BOOKS AND RECORDS.

(a) PROVISION OF BOOKS AND RECORDS.—Every holding company and associate company thereof shall make available to the Commission, the books and records of any company in a holding company or any affiliate thereof, from using its ownership or control of resources to maintain a situation inconsistent with effective competition among retail and wholesale electric energy suppliers.

(b) EXAMINATION OF BOOKS AND RECORDS.—The Commission, by order, or may conditionally or unconditionally exempt any person or transaction, or class of persons or transactions, from any provision or provisions of this title or of any rule or regulation thereunder, if the Commission finds that regulation of such person or transaction is not relevant to the rates of a public utility company. The Commission shall not grant such an exemption, except with regard to section 204 of this Act, unless all affected State regulatory authorities consent.

(c) RETAIL COMPETITION.—The provisions of this title shall not apply to a holding company, any affiliate thereof, from using its ownership or control of resources to maintain a situation inconsistent with effective competition among retail and wholesale electric energy suppliers.

SEC. 205. CLARIFICATION OF REGULATORY AUTHORITY.

No public utility which is an associate company of a holding company may recover in rates any costs associated with wholesale rates, or a State regulatory authority.

SEC. 206. Effect on other regulation.

Nothing in this Act shall preclude a State regulatory authority from exercising its jurisdiction under otherwise applicable law to protect utility consumers.

SEC. 208. ENFORCEMENT.

The Commission shall have the same powers set forth in section 217 of the Federal Power Act (16 U.S.C. 825d–825p) to enforce the provisions of this title.

SEC. 209. SAVINGS PROVISION.

Nothing in this title shall be construed to apply with the exception of any authorization, whether by rule or by order.

SEC. 210. IMPLEMENTATION.

The Commission shall promulgate regulations necessary or appropriate to implement this title not later than six months after the date of enactment of this Act.

SEC. 211. RESOURCES.

Any books and records that relate primarily to the function hereby vested in the Commission shall be transferred from the Securities
and Exchange Commission to the Commis-

TITLE III—PUBLIC UTILITY REGULATORY
Policies Act

SEC. 301. DEFINITION.
For purposes of this title, the term “facili-
ty” means a facility for the generation of elec-
tric energy or an addition to or expansion
of the generating capacity of such a fac-
cility.

SEC. 302. FACILITIES.
Section 210 of the Public Utility Regu-

lation Policies Act of 1978 (16 U.S.C. 824a-3) shall not apply to any facility which begins
commercial operation after the effective
date of this title, except a facility for which
a power purchase contract entered into under
such section was in effect on such ef-
ficacy date.

SEC. 303. CONTRACTS.
After the effective date of this title or after
the date on which retail electric com-
petition, as defined in title I of this Act, is
implemented in all of its service territories,
whichever is earlier, no public utility com-
pany shall be required to enter into a new
contract or obligation to purchase or sell
electric energy pursuant to section 210 of the
Public Utility Regulatory Policies Act of
1978.

SEC. 304. SAVINGS CLAUSE.
Notwithstanding sections 302 and 303, noth-
ing in this title shall be construed:
(a) as granting authority to the Commis-
sion, a state regulatory authority, electric
utility company, or electric consumer, to re-
open, force, the renegotiation of, or interfere
with any existing power purchase con-
tracts or arrangements in effect on the effec-
tive date of this Act between a qualifying
small power producer and any utility or
regional governing body that will balance
the multiple objectives of the river system.
(b) To affect the rights and remedies of any
party with respect to such a power purchase
contract or arrangement, or any require-
ment in effect on the effective date of this
Act to purchase or to sell electric energy
from or to a qualifying small power produc-
tion facility or qualifying cogeneration fac-
cility.

SEC. 305. EFFECTIVE DATE.
This title shall take effect on January 1, 2002.

TITLE IV—ENVIRONMENTAL PROTECTION

SEC. 401. STUDY.
The Environmental Protection Agency, in
consultation with other relevant Federal
agencies, shall prepare and submit a report
to Congress by January 1, 2000, which exam-
ines the implications of differences in appli-
cable air pollution emissions standards for
wholesale and retail electric generation com-
petition, as defined in title I of this Act, and for
the protection of public health and the envi-
ronment. The report shall recommend
changes to Federal law, if any are necessary,
to protect public health and the envi-
ronment.

TITlE V—BONNEVILLE POWER ADMINISTRATION

SEC. 501. FINDINGS AND PURPOSES.
(a) FINDINGS.—The Congress finds that:
(1) The multi-purpose Federal Columbia
River Power System’s Federal and non-Fed-
eral dams have provided immeasurable bene-
fits to the Pacific Northwest by providing
flow control, renewable hydroelectric power,
irrigation, navigation, and recrea-
tion.
(2) The dams provide the Northwest with a
continuing source of clean and renewable
power but, along with over-fishing and other
natural and human impacts on the river sys-
tem, have adversely affected the Colum-
bia Basin’s fish and wildlife.
(3) Enactment of the Energy Policy Act of
1992 established competition for the whole-
sale supply of electricity, and market forces
have driven the cost of power down nation-
ally, the Bonneville Power Administration has ad-
mittedly included large users and large users to buy power
at rates below those offered by the Bonne-
ville Power Administration;
(4) Realizing that economic forces im-
pacting electricity, the four Northwest State
Governors undertook a year-long review in
1996 of the regional electricity system and
made recommendations for the future of the
system;
(5) Among these recommendations is the
separation of the transmission and power
marketing functions of the Bonneville Power
Administration, with Commission oversight
of access to Bonneville’s transmission sys-
tem, and undertaking this separation in a
way that does not impair Bonneville’s abil-
ity to meet its obligations to the U.S. Treas-
ury, fish and wildlife programs, and bond-
holders of the Washington Public Power Sup-
ply System;
(6) There are ongoing efforts by Bonneville
to reduce its costs and require account-
ability of its funds, including those of its
funds used for salmon recovery; and
(7) There is a need to provide a regional
process involving the Federal Government,
state governments, tribal governments, util-
ities and others to manage the
Columbia and Snake River, to balance
the multiple objectives of the river system.
(b) PURPOSES.—The purposes of this title
are:
(1) To establish authority in a consolidated
regional governing body that will balance
the multiple uses of the Columbia and Snake
river system, for hydroelectric production,
river management for recreation, for the protec-
tion and enhancement of fish and wildlife
populations, and for flood control, with that
to body to be responsible and accountable
for spending funds used for salmon recovery;
(2) To facilitate the maintenance of an
open transmission system in the Northwest
based on Commission rules and to ensure its
reliability;
(3) To assure that the Bonneville Power
Administration retains the ability to meet
its unique financial obligations to the U.S.
Treasury, to fish and wildlife programs, and
bondholders of the Washington Public Power
Supply System, and to remain a competitive
wholesale supplier of electricity.

SEC. 502. COLUMBIA RIVER SYSTEM FISH AND WILDLIFE COORDINATION AND GOVERNANCE.
This section is reserved.

SEC. 503. PACIFIC NORTHWEST FEDERAL TRANSMISSION ACCESS.
The Commission’s rules on nondiscrimi-
natory open access to transmission services
provided by public utilities, including its rules on standards of conduct, shall also apply
to transmission services provided by the
Bonneville Power Administration, except as
otherwise provided by the Commission by rule
if it is in the public interest, or except as
necessary to meet the requirements of sec-
tion 504 or 506 of this Act. Except as provided
in sections 504 and 506 of this Act, rates for
transmission imposed by the Administrator
shall continue to be established and reviewed
and approved in accordance with the provi-
sions of otherwise applicable Federal laws.

SEC. 504. transition cost mechanism.
If the Bonneville Power Administration
proposes a charge to recover its transmission
costs resulting from this Act, the Energy
Policy Act, or the Commission’s Order No.
888, a transition cost recovery mechanism
shall be adopted by the Com-
mission within 180 days of the filing of the proposal with the Commission.

SEC. 505. INDEPENDENT SYSTEM OPERATOR PARTICIPATION.
Notwithstanding any other provision of
law, the Administrator of the Bonneville
Power Administration may participate in a
regulated Independent System Operator sub-
ject to the jurisdiction of the Commission pursuant to section 112 of the Act.

SEC. 506.-financial obligations.
Sections 503, 504 and 505 of this Act shall be
interpreted and implemented in a manner
that does not adversely affect the security of
the Bonneville Power Administration’s
Washington Public Power Supply System net-billing and other third-party financing
arrangements.

SEC. 507. Barangay on retail sales.
Except as provided in section 5(d) of the
Northwest Power Act (16 U.S.C. 839c(d)), the Administrator shall not market, sell or dis-

play electric energy to any end use or re-
tail customers that did not have a contract
for the purchase of electric power with the
Administrator for services to specific facil-
ities as of October 1, 1997.

SEC. 508. clarification of Commission au-
thority.
Section 7(a)(2) of the Pacific Northwest
Electric Power Planning and Conservation
Act (16 U.S.C. 824a-3) is hereby repealed.

TITLE VI—TENNESSEE VALLEY AUTHORITY

SEC. 601. competition in service territory.
Notwithstanding any other provision of
law, beginning on January 1, 2002, all retail
and wholesale electric energy suppliers shall
have the right to sell retail and wholesale
electric energy to persons that currently
sell electric energy or an addition to or expan-
sion of the Tennessee Valley Authority
Authority or persons purchasing electric en-
ergy from the Tennessee Valley Authority
Authority or persons purchasing electric en-

SEC. 602. ability to sell electric energy.
(a) T.V.A.—Notwithstanding any other
provision of law, the Tennessee Valley Author-
ity may sell wholesale electric energy to any
person, subject to any restrictions imposed
pursuant to Section 104(a) of this Act, begin-
ing on January 1, 2002.
(b) Power Consumers.—Notwithstanding
any other provision of law, persons that cur-
rently purchase wholesale electric energy from the Tennessee Valley Authority may
sell wholesale and retail electric energy to
any person subject to any restrictions im-
posed pursuant to section 104(a) of this Act,
beginning on January 1, 2002.

SEC. 603. termination of contracts.
(a) Miscellaneous.—Beginning on January 1, 2001, the Tennessee Valley Authority shall allow
any person that has executed a contract to
purchase retail or wholesale electric energy
from the Tennessee Valley Authority to ter-
minate such contract upon one year’s
notice.
(b) Stranded Costs.—Each person holding
a contract that is terminated pursuant to
paragraph (a) shall be responsible for retail or
wholesale stranded costs as determined by
the Commission.
November 7, 1997

CONGRESSIONAL RECORD — SENATE S11975

SEC. 604. RATES FOR ELECTRIC ENERGY.
(a) Establishment.—Notwithstanding any other provision of law, the Board of Directors of the Tennessee Valley Authority shall establish, review and revise rates for the sale and disposition of wholesale and retail electric energy and for the transmission of electric energy by the Tennessee Valley Authority. Such rates shall be established and, as appropriate, revised to recover, in accordance with sound business principles, the costs associated with the generation, acquisition, conservation, transmission, and distribution of electric energy, including the payment of principal and interest on the Authority’s bonds over a reasonable period.

(b) Commission Review.—Rates established under this section shall become effective only upon confirmation and approval by the Commission, upon a finding by the Commission that such rates are sufficient to ensure repayment of the Authority’s bonds over a reasonable number of years after first meeting the Authority’s legitimate, prudent, and verifiable costs.

SEC. 605. PRIVATIZATION STUDY.
(a) Requirement for Preparation of Study.—Notwithstanding the provisions of the Tennessee Valley Authority, the Tennessee Valley Authority shall prepare a study for selling its electric power program (excluding dams and appurtenant works and structures) to private investors and, not later than two years after the date of enactment of this Act, shall submit such plan to the Congress.

(b) Objectives of Study.—The study shall consider the following:
(1) the sale of the Authority’s electric power program as a whole and the sale of some of its component parts;
(2) alternative means of selling the Authority’s electric power program or its component parts, including a public stock offering, the placement of stock, or the sale of assets; and
(3) the effect of any sale on—
(A) electric rates and competition in the regional electricity market;
(B) the operation of the Authority’s nonpower programs, and
(C) the repayment of the Authority’s debt.

(c) Additional Elements.—The study shall also include:
(1) an estimate of the amount of revenue that the United States Treasury would receive under each of the alternatives considered;
(2) the Board’s analysis of the feasibility of each of the alternatives considered and its recommendation either for retaining the Authority’s power program under federal ownership or the preferred alternative for selling it to private investors; and
(3) the Board’s recommendation of whether the Authority’s dams should—
(A) be transferred to the Department of the Interior;
(B) be sold to a joint action agency that sells wholesale electric energy in excess of the minimum requirements.

(d) Further Action.—The Board of Directors shall take no action to implement the sale of the Authority’s power program without further legislation authorizing such action.

SECTION 101.—ELECTRIC COMPETITION

SECTION 102.—Aggregation

A group of consumers or any entity acting on behalf of such group is authorized to aggregate to purchase retail electric energy for the members of the group if they live in a state where retail electric competition exists.

SECTION 103.—Prior Implementation

Nothing in the Federal Power Act shall prohibit States from requiring retail electric competition prior to January 1, 2002. A State requiring retail electric competition prior to January 1, 2002 and providing utilities with the opportunity to recover stranded costs is exempt from the Act’s requirements related to retail competition and stranded costs.

A State may impose reciprocity requirements if it has provided for retail competition that aren’t subject to retail competition from selling power to retail customers in its state.

SECTION 104.—State Regulation

States may impose requirements on retail electric energy suppliers to protect the public interest.

No class of potential retail electric energy suppliers can be excluded from selling retail electric energy.

States may continue to regulate local distribution and retail transmission service provided by retail electric energy providers.

SECTION 105.—Retail Stranded Cost Recovery

An investor-owned utility providing retail electric service prior to the date of enactment which is seeking recovery of its stranded costs must request the State regulatory authority to determine the amount of its stranded costs associated with the implementation of retail electric competition.

If a State regulatory authority determines to the amount of stranded costs within 18 months of the request, FERC will determine the amount.

A municipal electric utility or a rural electric cooperative may determine the amount of its stranded costs.

A utility is entitled to recover its stranded costs from its customers pursuant to a nonbypassable Stranded Cost Recovery Charge.

A rural electric cooperative or municipal joint action agency that sells wholesale power to rural electric cooperatives or municipal distribution companies may recover its stranded costs from the distribution companies.

No class of customers (such as a utility’s residential customers) can be required to pay a Stranded Cost Recovery Charge in excess of its proportional responsibility for utility costs prior to retail electric competition.

Customers served by utility companies operating in more than one state either directly or through an affiliate are only responsible for stranded costs arising from retail electric competition in the state they reside.

For purposes of determining stranded cost amounts, prior prudence determinations are binding.

SECTION 106.—Wholesale Stranded Cost Recovery

FERC has sole jurisdiction to determine and provide for the recovery of the wholesale stranded costs associated with utilities subject to the Federal Power Act.

FERC has sole jurisdiction to determine and provide for the recovery of the wholesale stranded costs associated with utilities subject to the Federal Power Act.

All of the states regulating utility subsidiaries of a multistate utility holding company may form a regional board to calculate the stranded costs of a wholesale electric energy supplier or subsidiary of the holding company that does not sell any retail electric energy and to allocate such costs among the utility subsidiaries of the holding company.

If the regional board is not formed or if the members of the regional board fail to produce a consensus on either determination required by the board, FERC shall perform the board’s responsibilities.

Once the wholesale subsidiary’s stranded costs have been determined, the subsidiary is entitled to recover such costs from its affiliated utility companies in the manner allocated by the board or FERC and the utility companies are entitled to recover such costs from their customers.

SECTION 107.—Lost Retail Benefits

A state may require a retail electric energy provider to compensate its customers for any increase in power costs resulting from the implementation of retail electric competition if the market value of the provider’s generating assets increase and the provider recovers power elsewhere due to the implementation of retail electric competition.

SECTION 108.—Universal Service

A state may establish a Universal Service Program to ensure that all residents have access to electric service at a just and reasonable rate.

If a state has not established a Universal Service Program prior to January 1, 2002, each retail electric energy provider located in that state is obligated to sell power to or purchase power on behalf of consumers that do not have sufficient access to competing retail electric energy suppliers.

The retail electric energy provider is entitled to just and reasonable compensation for the service performed.

States may impose a nonbypassable Universal Service Charge on all retail electric energy suppliers.

States may impose charges on retail electric energy consumers to fund public benefit programs (i.e. low-income and energy efficiency).

SECTION 110.—Renewable Energy

Beginning in 2003, all retail electric energy suppliers are required to either (1) sell at least a minimum amount of renewable energy as part of the total amount of energy it sells or (2) purchase credits from retail electric energy suppliers selling renewable energy in excess of the minimum requirements.

1/2 of one Renewable Energy Credit will be provided to retail electric energy suppliers selling power generated from a large hydroelectric facility (more than 80 MW). One Renewable Energy Credit will be provided to retail electric energy suppliers selling power generated at all other renewable electric facilities built prior to the date of enactment. Two Renewable Energy Credits will be provided to retail electric energy suppliers selling power generated at all other renewable electric facilities built subsequent to the date of enactment.

Retail electric energy suppliers are required to have Credits worth 5% of its generation beginning in 2003, 9% of its generation beginning in 2008 and 12% of its generation beginning in 2013.

The Bonneville Power Administration must use proceeds from the sale of Credits issued to repay the Administration’s outstanding debt to the U.S. Treasury and the Washington Public Power Supply System Bondholders.

SECTION 111.—Determination of Local Distribution Facilities

A State regulatory authority may apply with FERC for a determination of whether a
Section 204—State Access to Books and Records

Within two years of the date of enactment, FERC must establish transmission regions and designate an Independent System Operator (ISO) to manage and operate all of the transmission facilities in each region beginning on January 1, 2002.

The ISO can’t be affiliated with any person owning or controlling facilities in the region or any retail electric energy supplier selling retail electric energy in the region.

FERC is required to issue rules by January 1, 2001, that provide for the oversight of the ISO’s to promote transmission reliability and efficiency and competition among retail and wholesale electric energy suppliers.

The Federal Power Act prohibits FERC requiring transmission access for the purposes of retail wheeling if repealed on January 1, 2002 or at an earlier date for a particular retail wheeling request in a State that retail electric competition prior to January 1, 2002.

Section 113—Competitive Generation Markets

FERC’s authority over utility mergers pursuant to the Federal Power Act is extended to electric utility mergers with natural gas utility companies.

FERC review of mergers must take into account the impact of a merger on competitive wholesale and retail electric generation markets.

FERC has authority to take actions necessary to prevent retail electric energy suppliers and providers from using their control of resources to inhibit retail and wholesale electric competition.

Section 114—Nuclear Decommissioning Costs

Utilities owning nuclear power plants prior to the date of enactment are entitled to recover costs to fund decommissioning of the plants from their customers pursuant to a non-bypassable charge.

Section 115—Right to Know

Each retail electric energy supplier must publicly disclose information on the types of fuel used to generate the electricity sold by the supplier.

Section 116—Exemption of Alaska and Hawaii

Title I does not apply to any transaction occurring in Alaska or Hawaii.

TITLE II—PUBLIC UTILITY REGULATORY POLICIES ACT

Section 201—Repeal of PUHCA

PUHCA is repealed one year from the date of enactment of the Act.

Section 202—Exemption

Title II does not apply to federal or state agencies or foreign governmental authorities not operating in the U.S.

FERC may exempt anyone from any of the requirements of the Title if the Commission finds the particular regulation not relevant to public utility company rates and the affected States consent.

The provisions of the Title do not apply to a particular holding company when retail electric competition exists in the service territory of each utility subsidiary of the holding company.

Section 203—Federal Access to Books and Records

Each holding company and associate company of the holding company must make its books and records available to each State regulatory authority regulating a utility subsidiary of the holding company.

Section 205—Affiliate Transactions

FERC, with regard to wholesale rates and States, with regard to retail rates, have the authority to determine whether a public utility affiliate of a holding company may recover its costs associated with a non-power transaction with an affiliated company if such costs were incurred after the date of enactment.

State regulatory authorities have the authority to review the prudence of a utility’s wholesale power purchases form non-affiliated suppliers.

State regulatory authorities have the authority to review the prudence of a utility’s wholesale power purchase from an affiliated seller in the ISO’s transmission system if the utility affiliate has not allocated the costs of the purchase or among two or more utility subsidiaries of the holding company prior to the date of enactment and there is no subsequent reallocation.

Section 206—Clarification of Regulatory Authority

FERC, with regard to wholesale rates, and State regulatory authorities, with regard to retail rates, must explicitly consent, before a utility affiliate of a utility holding company can recover costs in rates that are not directly related to provision of electric service to its customers.

Section 207—Effect on Other Regulation

State regulatory authorities can exercise their jurisdiction under otherwise applicable law to protect utility consumers.

Section 208—Enforcement

FERC has the same enforcement authority under this Title as it does under the Federal Power Act.

Section 209—Savings Provision

A person engaging in an activity it was legally entitled to engage in on the date of enactment may continue to be entitled to engage in the activity.

Section 210—Implementation

FERC must promulgate regulations to implement the Title within 6 months of the date of enactment.

Section 211—Resources

The SEC must transfer its books and records related to holding company regulation to the FERC.

TITLE III—PUBLIC UTILITY REGULATORY POLICIES ACT

Section 301—Definition

Section 302—Facilities

Section 210 of PURPA doesn’t apply to facilities beginning commercial operation after the effective date of this Title unless the power purchase contract related to the facility was in effect on the effective date.

Section 303—Contracts

Public utilities are not longer required to enter into new purchase contracts under Section 210 of PURPA once there is retail electric competition in their service territories.

Section 304—Savings Clause

This Title does not affect existing power purchase contracts under PURPA.

Section 305—Effective Date

The effective date of this Title is January 1, 2002.

TITLE IV—ENVIRONMENTAL PROTECTION

Section 401—Study

EPA must submit a study to Congress by January 1, 2002, which examines the implications of wholesale and retail electric competition on the emission of pollutants and recommends changes to the Clean Air Act necessary to protect public health and the environment.

TITLE V—BONNEVILLE POWER ADMINISTRATION

Section 501—Findings and Purposes

Section 502—Columbia River Fish and Wildlife Coordination and Governance

This section is reserved for future versions of this Title.

Section 503—Pacific Northwest Federal Transmission Access

BPA is subject to FERC’s open access transmission requirements unless FERC determines it is not in the public interest or it would prevent BPA from paying its debt.

Section 504—Transition Cost Mechanism

FERC is required to develop a transition cost recovery mechanism for BPA if BPA makes a proposal.

Section 505—Independent System Operator Participation

BPA is not prohibited from participating in an Independent System Operator.

Section 506—Financial Obligations

The use of BPA’s transmission facilities for competitive generation transmission shall not adversely affect BPA’s ability to pay its debt.

Section 507—Prohibition on Retail Sales

BPA is prohibited from selling retail electric energy to customers that did not have a contract with BPA as of April 1, 1998.

Section 508—Clarification of Commission Authority

Pacific Northwest transmission rates can’t be used to unreasonably deny transmission access.

Section 509—Repealed Statute

Section 6 of the Federal Columbia River Transmission System is repealed.

TITLE VI—TENNESSEE VALLEY AUTHORITY

Section 601—Competition in Service Territory

Beginning on January 1, 2002, TVA’s retail and wholesale customers are permitted to purchase power from other sellers.

Section 602—Ability to Sell Electric Energy

Beginning on January 1, 2002, TVA may sell wholesale electric energy outside of its current service territory.

Section 603—Termination of Contracts

Any person that currently holds a wholesale or retail contract with TVA may cancel the contract with one year notice beginning on January 1, 2001.

Section 604—Rates for Electric Energy

TVA’s Board of Directors will establish the rates for the sale and transmission of electric energy by TVA.

The rates must be sufficient to recover TVA’s costs, including the payment of principal and interest on its bonds over a reasonable period.

FERC must review and approve the Board’s rates if they are sufficient to ensure the repayment of TVA’s legitimate, prudent and verifiable costs over a reasonable period of time and ensure the recovery of TVA’s stranded retail and wholesale costs.

Section 605—Privatization Plan

Mr. GORTON. Mr. President, the Senator from Arkansas has eloquently and adequately described the bill which we are introducing jointly today. He is also leader in this field, and introduced the bill on this subject early this year. He and I, and the occupant of the Chair, have had the opportunity to go
We must deal with the peculiar challenges of the largest power marketing authority, the Bonneville Power Administration. We do so in a way that reflects the regional review sponsored by the four Governors of the four Pacific Northwest States during the course last fall in general terms for a more effective and broad-based management of the Columbia River State System, reflecting all of the multitude of uses of water in that system, and calling for a far more effective use of dollars that we are spending on salmon recovery.

So I believe for my own region that we can provide lower power costs, greater competition, better salmon recovery, and a more rational management of the Columbia-Snake River System.

I believe for the people of the United States as a whole that we can provide for lower power costs, a greater use of renewable energy, more competition, and a better America.

For those reasons, I am delighted to have been a part at this point of a joint operation with my friend from Arkansas.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I thank my distinguished colleague from Washington State for his eloquent remarks. I just wanted to say how honored I am to have him join me on this bill, and reiterate one other thing because Senator Gorton and I want to be totally honest to the people of this country as we go forward with this bill. I think one thing that I must say is, in my opinion, this $220 billion industry can cope with this bill—not only cope with it, but that industry, business, and the consumers of this country will all benefit from this, and the Nation will because it is a global economy where we are competing so strenuously with the other nations of the world.

Electricity is such a big part of our producing industry, and the less they pay the more competitive we become. That ought to be a real incentive for the people of this body to look very seriously at this bill.

By Mr. MURKOWSKI.

S. 1402. A bill to amend the Social Security Act to establish a community health aide program for Alaskan communities that do not qualify for the Community Health Aide Program for Alaska operated through the Indian Health Service; to the Committee on Finance.

The ALASKAN COMMUNITY HEALTH AIDE PROGRAM EXPANSION ACT OF 1997

Mr. MURKOWSKI. Mr. President, I am pleased to rise to introduce legislation relative to the benefits of community health aides. This particular legislation would be titled the Alaskan Community Health Aide Program Expansion Act of 1997. The purpose of the act would be to provide a link to health care for rural communities, primarily in my State.

The Alaskan Community Health Aide Program Expansion Act would enable the health aides to have access to resources in non-Native areas throughout Alaska. The act will authorize training and continuing education of Alaskans as community health aides to small communities that do not currently qualify for the Indian Health Services Community Health Aide Program.

Mr. President, some 50 years ago, this unique system of community health aides was formed in my State. In the early 1940's, due to an extreme outbreak of tuberculosis across Alaska, volunteers were selected by local communities and trained as community health aides. These communities, of course, suffered from distance, extreme isolation. They were often located hundreds of miles from the nearest physician. And the community health aides, through radio contact to a distant hospital in the region, became the eyes, the ears and hands of a physician and administered life-saving medications to remote patients throughout the State.

Today, through the Indian Health Services, the aides reside in 176 Alaskan-Native communities, small isolated communities throughout our State—which if you spread Alaska across the United States, in a proportional map it would run from Canada to Mexico, from California to Florida. So we are talking about a big piece of real estate, Mr. President.

These aides, today, through telecommunications capability with physicians in Anchorage, Fairbanks, and other urban areas, provide health care, provide disease prevention throughout our State. The health aides are broadly acknowledged as the backbone of rural health delivery for Alaska's Native people.

However, Mr. President, there is a large void in Alaska's Community Health Aide Program. Approximately 50 of our local Alaskan communities do not have community health aides because the people who live there are non-Native, and thus they do not qualify for the service under current law.

In these 50, 51 communities, there is no physician, there is no other health care provider of any kind. Instead, these communities are served by public health care nurses who come and go on an itinerant basis. In other words, Mr. President, health care access in these communities is infrequent at best.

Often these non-Native communities are characterized by geographic isolation and cultural isolation, especially in areas such as the Russian communities of Nikolaevsk, Voseneseda, Katchmaksell, and Rassdonla.

Most of these communities are completely disconnected by roads. Access is only available by airplane, boat, and sometimes snowmachine or dogsled. The needs of these communities is a daunting task.

The needs of these communities is a daunting task.
The Community Health Aide Program Expansion Act would remedy this dilemma. For the first time in the history of our State, all communities and villages will have the opportunity to have health care available within a village. This legislation will enable the training of health aides to live within a community, teach basic disease prevention and health promotion, in other words, the basic skills for good health.

Mr. President, this legislation will enable affordable and consistent access to health care to all Alaskan communities.

I ask my colleagues to join in support of this legislation.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 1402

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 "Alaskan Community Health Aide Program Expansion Act of 1997."

SEC. 2. FINDINGS.

Congress finds the following:

(1) Numerous communities in Alaska have no physicians or health care providers of any kind.

(2) While those communities are served by Alaskan public health nurses on an itinerant basis, Alaskan law prohibits those nurses from treating patients for individual health concerns.

(3) Physical and cultural isolation is so severe in those communities that private health care providers often opt not to serve those communities.

(4) Not enough Native Alaskans reside in such communities to warrant placement of a community health aide pursuant to the Community Health Aide Program for Alaska operated through the Indian Health Service.

SEC. 3. EXPANSION OF THE COMMUNITY HEALTH AIDE PROGRAM FOR ALASKA.

Part A of title XI of the Social Security Act (42 U.S.C. 1301–1320b–16), as amended by section 5321(c) of the Balanced Budget Act of 1997 (42 U.S.C. 1301–1320b–16), is amended by adding at the end the following:

"ALASKAN COMMUNITY HEALTH AIDE PROGRAM

"Sec. 1147. Not later than October 1, 1998, the Secretary shall establish an Alaskan Community Health Aide Program (in this section referred to as the 'Program') under which the Secretary shall—

"(1) provide for the training of Alaskans as community health aides or community health practitioners;

"(2) use such aides or practitioners in the provision of health care, health promotion, and disease prevention services to the Alaskan communities served by the Program;

"(3) provide for the establishment of telecommunication in health clinics located in or near such communities for use by community health aides or community health practitioners;

"(4) using trainers accredited under the Program, provide a high standard of training to community health aides and community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the Alaskan communities served by the Program;

"(5) develop a curriculum for the training of such aides and practitioners that—

"(A) combines education in the theory of health care and community health practitioners' role in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities;

"(6) establish and maintain a Community Health Aide Certification Board to certify as community health aides or community health practitioners individuals who have successfully completed the training described in paragraphs (4) and (5), or can demonstrate equivalent experience;

"(7) develop and maintain a system which provides close supervision of community health aides and community health practitioners;

"(8) develop and maintain a system which provides for the establishment of telecommunication in health clinics located in or near such communities for use by community health aides or community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services in accordance with this section.

By Mr. MURKOWSKI: S. 1403. A bill to amend the National Historic Preservation Act for purposes of establishing a national historic lighthouse preservation program: to the Committee on Energy and Natural Resources.

THE NATIONAL HISTORIC LIGHTHOUSE PRESERVATION ACT OF 1997

Mr. MURKOWSKI. Mr. President, I rise today to introduce legislation that would authorize the Secretary of the Interior, through the National Park Service, to establish a historic lighthouse preservation program. The Secretary is charged with collecting and sharing information on historic lighthouses; conducting educational programs to inform the public about the contribution to society of historic lighthouses; and maintaining an inventory of historic lighthouses.

A historic light station is defined as a lighthouse, and surrounding property, at least 50 years old, which has been evaluated for inclusion on the National Register of Historic Places, and included in the Secretary's listing of historic light stations.

Most important, the Secretary, in conjunction with the Administrator of General Services, is to establish a process for identifying, and selecting among eligible entities to which a historic lighthouse would be conveyed. Eligible entities will include Federal agencies, State agencies, local communities, nonprofit corporations, and educational and community development organizations financially able to maintain historic aids to navigation in compliance with the National Historic Preservation Act. When a historic lighthouse has been deemed excess to the needs of the Federal agency which manages the lighthouse, the General Services Administration will convey it, for free, to a selected entity for education, park, recreation, cultural, and historic preservation purposes.
My legislation also recognizes the value of lighthouse friends groups. Often, these groups have spent significant time and resources on preserving the character of historic lighthouses only to have this work go to waste when the property is transferred to Federal ownership. Under current General Services Administration regulations, these friends groups are last on the priority list to receive a surplus light station in spite of their efforts to protect it. My bill gives priority consideration to entities that have voluntarily helped to maintain a lighthouse. It also would ensure that the Secretary of the Interior transfers any maritime traffic and I took my responsibilities seriously knowing that lives were dependent on it.

By preserving historic lighthouses, we preserve a symbol of that era in American history when maritime traffic was the lifeblood of the Nation, tying isolated coastal towns through trade to distant ports around the world. Hundreds of historic lighthouses are owned by the Federal Government and many of these are difficult and expensive to maintain. This legislation provides a process to ensure that these historic lighthouses are maintained and publicly accessible.

I urge all my colleagues to support this legislation, and 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. 1403

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

SECTION 1. SHORT TITLE.

This Act may be cited as the 'National Historic Lighthouse Preservation Act of 1997'.
shall be determined by the Administrator.

The Administrator may retain all right, title, and interest of the United States in and to any historical artifact, including any lens of amber, that is associated with the historical light station wherever located at the light station or elsewhere.

(e) **Responsibilities of Conveyee.** Each eligible entity to which a historic light station is conveyed under this section shall use and maintain the light station in accordance with this section, and have such terms and conditions recorded with the deed of title to the light station and any real property conveyed therewith.

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

(1) **Historic Light Station.**—The term ‘historic light station’ includes the light tower, lighthouse, keepers dwelling, garages, storage sheds, support structures, piers, walkways, and underlying land; provided that the light tower or lighthouse shall be—

(A) at least 50 years old,

(B) evaluated for inclusion in the National Register of Historic Places; and

(C) included on the Secretary’s listing of historic light stations.

(2) **Eligible Entity.**—The term ‘eligible entity’ shall mean any department or agency of the Federal government, any department or agency of the State in which the historic light station is located, the local government of the community in which the historic light station is located, nonprofit corporation, cooperative, community organization, or community development organization that—

(A) has agreed to comply with the conditions set forth in subsection (c) and to have those conditions set forth in the conveyance document to the light station and any real property and improvements that may be conveyed therewith;

(B) is financially able to maintain the light station and any real property and improvements conveyed therewith in accordance with the conditions set forth in subsection (c); and

(C) can indemnify the Federal government to cover any loss in connection with the light station and any real property and improvements that may be conveyed therewith, or any expenses incurred due to reversion.

SEC. 3. **SALE OF SURPLUS LIGHT STATIONS.**

Title III of the National Historic Preservation Act (16 U.S.C. 470w–6) is amended by adding at the end the following new section:

**§309. Historic Light Station Sales**

"(a) in the event no applicants are approved for the conveyance of a historic light station pursuant to section 308, the historic light station shall be offered for sale. Terms of such sales shall be developed by the Administrator of General Services. Conveyance documents shall include all necessary conveuants to protect the historical integrity of the site. Not so soon as may be, a permanent Bureau of the National Maritime Heritage Grant Program, established by the National Maritime Heritage Act of 1994, Public Law 103–451, within the Department of the Interior.

SEC. 4. **TRANSFER OF HISTORIC LIGHT STATIONS TO FEDERAL AGENCIES.**

Title III of the National Historic Preservation Act (16 U.S.C. 470w–6), is amended by adding at the end the following new section:

**§310. Transfer of Historic Light Stations to Federal Agencies**

"(a) After the date of enactment, any department or agency of the Federal government, to which a historic light station is conveyed, shall use, maintain, and operate the historic light station in accordance with the National Historic Preservation Act of 1966, 16 U.S.C. 470–470x, the Secretary’s Historic Preservation Standards, and other applicable laws.

SEC. 5. **FUNDING.**

There are hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to carry out this Act.

By Mr. **BROWNBACK** (for himself, Mr. **MOYNIHAN**, Mr. **THOMPSON**, and Mr. **KERREY**):

S. 1404. A bill to establish a Federal Commission on Statistical Policy to study the recognition of the Federal statistical system, to provide uniform safeguards for the confidentiality of information acquired for exclusivity statistical purposes, and to improve the efficiency of Federal statistical programs and the quality of Federal statistics by permitting limited sharing of records among designated agencies for statistical purposes under strong safeguards; to the Committee on Governmental Affairs.


Mr. **MOYNIHAN**, Mr. President, I join my distinguished colleagues, Senator **SAM BROWNBACK** of Kansas, Senator **FRED THOMPSON** of Tennessee, and Senator **BOB KERREY** of Nebraska, in introducing legislation to establish a commission to oversee the Federal statistical system. Congressman **STEPHEN HORN** of California and Congresswoman **CAROLYN MALONEY** of New York plan on introducing identical legislation in the House of Representatives. This legislation is similar to bills I introduced in September 1996, and again at the beginning of this Congress.

The commission to study the Federal statistical system would consist of 15 Presidential and congressional appointees with expertise in fields such as actuarial science, finance, and economics. Its members would conduct a thorough review of the U.S. statistical system, and issue a report including recommendations on whether statistical agencies should be consolidated.

Of course, we have an example of a consolidated statistical agency just across the northern border. Statistics Canada, the most centralized statistical agency among OECD countries, was established in November, 1913 as a reaction to a familiar problem. At that time, the Canadian Minister of Industry was trying to obtain an estimate of the manpower resources that Canada could commit to the war effort. And he got it. He had different estimates from statistical agencies scattered throughout the government. Consolidation seemed the way to solve this problem, and so it happened—as it can in a parliamentary government—rather quickly, just as World War I ended.

Last spring, a member of my staff met in Ottawa with the Assistant Chief Statistician of Statistics Canada. He reported that Statistics Canada is doing quite well. Decisions about the allocation of resources among statistical functions are made at the highest levels of government because the Chief Statistician of Statistics Canada holds a position equivalent to Deputy Cabi-
It happens that this Senator’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. This was a new position in which I was responsible for 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 Labor, 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 confidences. 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 a Nobel laureate, George Stigler. The committee stressed the importance of accurate and timely statistics. You cannot begin to solve a problem until you can measure it.

This legislation would require the Commission to conduct a comprehensive examination of the current statistical system and focus particularly on whether three agencies that produce data as their primary product—the Bureau of Economic Analysis (BEA) and the Bureau of the Census in the Commerce Department, and the Bureau of Labor Statistics (BLS) in the Labor Department—should be consolidated into a Federal statistical service.

In September 1996, prior to when I first introduced a bill establishing a commission to study the U.S. statistical system, I received a letter from nine former chairmen of the Council of Economic Advisers (CEA) endorsing this legislation. Excluding two recent chairs, who at that time were still serving in the Clinton administration, the signatories include virtually every living former chair of the CEA. While acknowledging that the United States possesses a first-class statistical system, these former chairmen remind us that problem periodically arise under the current system of widely scattered responsibilities. They conclude as follows:

Without at all prejudging the appropriate measures to deal with these difficult problems, there is a thoroughly qualified review by a highly qualified and bipartisan Commission as provided in your bill has great promise of showing the way to major improvements.

The letter is signed by Michael J. Boskin, Martin Feldstein, Alan Greenspan, Paul W. McCracken, Raymond J. Saulnier, Charles L. Schultze, Beryl W. Sprinkel, Herbert Stein, and Murray Weidenbaum. I want to reiterate my commitment that the full text of this letter be printed in the RECORD following my statement.
as an advisory body to the Federal Statistical Service on confidentiality issues; and conduct comprehensive studies, and submit reports to Congress on all matters relating to the Federal statistical infrastructure, including:

An examination of the methods by which data is used in producing official data; a review of information technology and recommendations of appropriate methods for disseminating statistical data; and a comparison of our statistical system with the systems of other nations. This legislation is not only a first step but an essential one. The commission will provide Congress with the blueprint for reform. It will be up to us to finally take action after nearly a century of inattention to this very important issue.

By Mr. SHELBY (for himself, Mr. MACK, Mr. FAIRCLOTH, Mr. D'AMATO, Mr. BRYAN, Mr. GREEN, Mr. KERZY, Mr. BUR-NETT, Mr. GRAMM, Mr. HAGEL, Mr. ALLARD, Mr. ENZI, and Ms. MOSELEY-BRAUN):

S. 1405. A bill to amend titles 17 and 18, United States Code, to provide greater protection for copyrighted material and for other purposes; to the Committee on the Judiciary.


Mr. SHELBY. Mr. President, I rise today to introduce a bipartisan bill with my colleague from Florida, Senator CONNIE MACK, and 11 other original cosponsors from the Banking Committee. Entitled the “Financial Regulatory Relief and Economic Efficiency Act of 1997,” the bill is designed to promote greater access to capital and credit for businesses and consumers, while ensuring the safety and soundness of our financial system.

The acronym for the bill, FRREE, is actually indicative of the bill itself. If enacted, the bill would free valuable resources at financial institutions now being used to comply with the bureaucratic maze of current rules and regulations, and instead allow institutions to commit more of those resources to the business of lending. This is especially important, now that we are entering the 80th month of the current economic expansion. The 9 completed expansions since the end of World War II have averaged 50 months. Thus, many professional economists, businessmen, and academics worry how much longer the expansion of the current business cycle can go. Because this bill frees up resources that are inefficiently being used in the private sector, I believe this bill could have a substantial positive impact on extending the current business cycle as well as minimize any future economic downturn.

One key provision would repeal an antiquated law that disallows banks to pay interest on business checking accounts. Due to sophisticated and expensive technology, big corporations can get around this problem by employing sweep accounts. However, smaller, family owned businesses cannot take advantage of this expensive technology and are forced to keep their money in noninterest bearing checking accounts. The Board of Governors of the Federal Reserve, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision, concluded in their 1996 Joint Report, “Streamlining of Regulatory Requirements,” that the statutory prohibition against paying interest on demand deposits no longer serves a public purpose. Today, the repeal also has the support of the Chamber of Commerce, the National Federation of Independent Business, and the American Farm Bureau Federation.

The bill also allows the Federal Reserve to pay interest on reserve balances, thus reducing potential volatility in short-term lending rates. Given the history of importance of price stability, it is imperative we give the Federal Reserve this tool in order to better conduct monetary policy.

In short, Mr. President, the bill repeals outdated laws that hinder the management practices of institutions; cuts bureaucratic red tape; eliminates unnecessary bookkeeping; increases funds available for residential mortgage lending; and eliminates unnecessary restrictions on the discounting, and bundling of financial services to consumers.

The bill enjoys the overwhelming support of the Senate Banking Committee and the chairman of the committee, Chairman D’AMATO, is committed to having hearings on this bill when we return early next year.

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. 1405

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 “Financial Regulatory Relief and Economic Efficiency Act of 1997”.

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

SEC. 1. Short title; table of contents.

TITLE I—IMPROVING MONETARY POLICY AND FINANCIAL INSTITUTION MANAGEMENT PRACTICES

Sec. 101. Payment of interest on reserves at Federal reserve banks.

Sec. 102. Amendments relating to savings and demand deposit accounts at depository institutions.

Sec. 103. Repeal of savings association liquidation preferences.

Sec. 104. Repeal of dividend notice requirement.

Sec. 105. Thrift service companies.

Sec. 106. Elimination of thrift multistate holding company restrictions.

Sec. 107. Nonmember savings investments by savings association holding companies.

Sec. 108. Repeal of deposit broker notification and recordkeeping requirement.

Sec. 109. Uniform regulation of extensions of credit to receivers.

Sec. 110. Expedited procedures for certain reorganizations.

Sec. 111. National bank mergers.

Sec. 112. Amendment to Bank Consolidation and Merger Act.

Sec. 113. Loans on or purchases by institutions of their own stock; affiliations.

Sec. 114. Depository institution management interlocks.

Sec. 115. Purchased mortgage servicing rights.

Sec. 116. Cross marketing restriction; limited purpose bank relief.

Sec. 117. Divestiture requirement.

Sec. 118. Daylight overdrafts incurred by Federal home loan banks.

Sec. 119. Federal home loan bank governance amendments.

Sec. 120. Collaboration of advances to members.

TITLE II—STREAMLINING ACTIVITIES OF INSTITUTIONS

Sec. 201. Updating of authority for community development instruments.


Sec. 203. Federal Reserve Act lending limits.

Sec. 204. Eliminate unnecessary restrictions on production of multiple funds.

Sec. 205. Business purpose credit extensions.

Sec. 206. Affinity groups.

Sec. 207. Equal protection practices.

Sec. 208. Restriction on acquisitions of other insured depository institutions.

Sec. 209. Mutual holding company.


TITLE III—STREAMLINING AGENCY ACTIONS

Sec. 301. Scheduled meetings of Affordable Housing Advisory Board.

Sec. 302. Elimination of duplicative disclosure of fair market value of assets and liabilities.

Sec. 303. Payment of interest in receiverships with surplus funds.

Sec. 304. Repeal of reporting requirement on differences in accounting standards.

Sec. 305. Agency review of competitive factors in Bank Merger Act filings.

Sec. 306. Termination of the Dirksen Depositor Protection Oversight Board.

TITLE IV—DISCLOSURE SIMPLIFICATION

Sec. 401. Alternative compliance method for APR disclosure.

Sec. 402. Alternative compliance methods for advertising credit terms.

TITLE V—MISCELLANEOUS

Sec. 501. Positions of Board of Governors of Federal Reserve System on the Executive Schedule.

Sec. 502. Consistent coverage for individuals enrolled in a health plan administered by the Federal banking agencies.

Sec. 503. Federal Housing Finance Board.

Sec. 504. Technical corrections.

Sec. 505. Rules for continuation of deposit insurance for member banks.

Sec. 506. Amendments to the Revised Statutes.

Sec. 507. Conforming change to the International Banking Act.

TITLE I—IMPROVING MONETARY POLICY AND FINANCIAL INSTITUTION MANAGEMENT PRACTICES

SEC. 101. PAYMENT OF INTEREST ON RESERVES AT FEDERAL RESERVE BANKS.

(a) IN GENERAL.—Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended

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(c) Technical and Conforming Amendments.—Section 19 of the Federal Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by striking subsection (b)(4)(C)’’ and inserting ‘‘subsection (b)’’.

(c) Technical and Conforming Amendments.—Section 19(c)(1)(B) of the Federal Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by striking ‘‘subsection (b)’’.

(a) NOW ACCOUNTS AUTHORIZED FOR ALL MEMBERS.—Section 19(c)(1)(B) of the Federal Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by striking ‘‘subsection (b)’’.

(b) AUTHORIZATION FOR PASS THROUGH RESERVES FOR MEMBER BANKS.—Section 19(c)(1)(B) of the Federal Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by striking ‘‘subsection (b)’’.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 19 of the Federal Reserve Act (12 U.S.C. 461) is amended—

(1) in subsection (b)(4) (12 U.S.C. 461(b)(4)), by striking paragraph (C) and redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(2) in the first sentence, by striking ‘‘corporation organized’’ and all that follows through ‘‘such State.’’ and inserting ‘‘company, if such company engages or will engage only in activities reasonably related to the activities of financial institutions, as the Director may determine and approve. For purposes of this subparagraph, the term ‘company’ includes any corporation and any limited liability company (as defined in section 1(b)(7) of the Bank Service Company Act).’’

(d) REGULATION AND EXAMINATION OF SERVICE PROVIDERS.—Section 5(d) of the Home Owners’ Loan Act (12 U.S.C. 164(d)) is amended by adding at the end the following new paragraph:

‘‘(7) REGULATION AND EXAMINATION OF SAVINGS ASSOCIATION SERVICE COMPANIES.—

‘‘(A) SERVICE PERFORMED BY CONTRACT OR OTHERWISE.—If a savings association, subsidiary, or any savings and loan affiliate or entity, as identified by section 8(b)(9) of the Federal Home Loan Bank Act, that is regularly examined or subject to examination by the Director, causes to be performed for itself, by contract or otherwise, any services authorized under this Act of another applicable Federal law, with its approval the Director may determine and approve. For purposes of this subparagraph, the term ‘company’ includes any corporation and any limited liability company.’’

(b) Regulation and Examination of Service Providers.—Section 5(d) of the Home Owners’ Loan Act (12 U.S.C. 164(d)) is amended by adding at the end the following new paragraph:

‘‘(7) REGULATION AND EXAMINATION OF SAVINGS ASSOCIATION SERVICE COMPANIES.—

‘‘(A) SERVICE PERFORMED BY CONTRACT OR OTHERWISE.—If a savings association, subsidiary, or any savings and loan affiliate or entity, as identified by section 8(b)(9) of the Federal Home Loan Bank Act, that is regularly examined or subject to examination by the Director, causes to be performed for itself, by contract or otherwise, any services authorized under this Act of another applicable Federal law, with its approval the Director may determine and approve. For purposes of this subparagraph, the term ‘company’ includes any corporation and any limited liability company.’’

(c) Technical and Conforming Amendments.—Section 22(g)(4) of the Federal Reserve Act (12 U.S.C. 375a(4)) is amended by striking ‘‘member bank’s appropriate Federal banking agency’’ and inserting ‘‘Board’’.

SEC. 110. EXPEDITED PROCEDURES FOR CERTAIN REORGANIZATIONS.

The National Bank Consolidation and Merger Act (12 U.S.C. 215 et seq.) is amended—

(1) by redesignating section 5 as section 7; and

(2) by inserting after section 4 the following new section:

‘‘SEC. 5. EXPEDITED PROCEDURES FOR CERTAIN REORGANIZATIONS.

‘‘(a) IN GENERAL.—A national banking association may, with the approval of the Comptroller, pursuant to rules and regulations promulgated by the Comptroller, and upon the affirmative vote of the shareholders of such association owning at least two-thirds of its capital stock, reorganize so as to become a subsidiary of a bank holding company or a company that will, upon consummation of such reorganization, become a bank holding company.

‘‘(b) REORGANIZATION PLAN.—A reorganization authorized under subsection (a) shall be carried out in accordance with a reorganization plan that—

‘‘(1) specifies the manner in which the reorganization shall be carried out;

‘‘(2) is approved by a majority of the entire board of directors of the association; and

‘‘(3) specifies—

‘‘(A) the amount of cash or securities of the bank holding company, or both, or other consideration, to be paid to the shareholders of the reorganizing association in exchange for their shares of stock of the association;

‘‘(B) the date as of which the rights of each shareholder to participate in such exchange will be determined; and

‘‘(C) the manner in which the exchange will be carried out; and

‘‘(4) is submitted to the shareholders of the reorganizing association at a meeting to be held on the call of the directors in accordance with the procedures prescribed in connection with a merger of a national bank under section 3.

‘‘(c) RIGHTS OF DISSENTING SHAREHOLDERS.—If, pursuant to this section, a reorganization plan has been adopted by the shareholders and the Comptroller, any shareholder of the association who has voted
against the reorganization at the meeting referred to in subsection (b)(4), or has given notice in writing at or prior to that meeting to the presiding officer that the shareholder dislikes the reorganization plan, shall be entitled to receive the value of his or her shares, as provided by section 3 for the merger of a national bank.

"(c) REORGANIZATION.—The corporate existence of an association that reorganizes in accordance with this section shall not be deemed to have been affected in any way because of such reorganization."

SEC. 111. NATIONAL BANK DIRECTORS.
(a) AMENDMENTS TO THE REVISED STATUTES.—Section 5145 of the Revised Statutes (12 U.S.C. 401) is amended by striking "for one year" and inserting "for a period of not more than 3 years.", and by adding at the end the following:

"In accordance with regulations issued by the Comptroller of the Currency, an association may adopt bylaws that provide for staggering the terms of its directors."

(b) AMENDMENT TO THE BANKING ACT OF 1933.—Section 31 of the Banking Act of 1933 (12 U.S.C. 71a) is amended in the first sentence, by inserting before the period ", except that the Comptroller of the Currency, by regulation or order, exempt a national banking association from the 25-member limit of this section for this section:

SEC. 112. AMENDMENT TO BANK CONSOLIDATION AND MERGER ACT.

The National Bank Consolidation and Merger Act of 1973 (12 U.S.C. 1843 et seq.) is amended by inserting after section 5, as added by section 110 of this Act, the following new section:

"SEC. 6. Mergers and consolidations with subsidiaries and nonbank affiliates.

"(a) In General.—Upon the approval of the Comptroller, a national banking association may merge with 1 or more of its subsidiaries or nonbank affiliates.

"(b) Comptroller.—Nothing in this section shall be construed—

"(1) to affect the applicability of section 18(e)(1) of the Federal Deposit Insurance Act; or

"(2) to grant a national banking association any power or authority that is not permissible for a national banking association under other provisions of law.

"(c) Regulations.—The Comptroller shall promulgate regulations to implement this section.

SEC. 113. LOANS ON PURCHASES BY INSTITUTIONS OF THEIR OWN STOCK; AFFILIATES.

(a) AMENDMENTS TO REVISED STATUTES.—Section 2301 of the Revised Statutes of the United States (12 U.S.C. 83) is amended to read as follows:

"SEC. 2301. LOANS ON PURCHASES BY INSTITUTIONS OF THEIR OWN STOCK; AFFILIATES.

"(a) General prohibition.—No national banking association shall make any loan or discount on the security of the shares of its own capital stock.

"(2) Exclusion.—For purposes of this section, an insured depository institution shall not be deemed to be making a loan or discount on the security of the shares of its own capital stock if it acquires the stock to prevent loss upon a debt contracted for in good faith before the date of the loan or discount transaction.

"(c) Conferring.—Section 18(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1828(a)(1)) is amended by striking "directors" and inserting "management official.

SEC. 114. DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS.

Section 256(b) of the Depository Institution Management Interlocks Act (12 U.S.C. 3294(b)) is amended by striking "director" each place it appears and inserting "management official.

SEC. 115. PURCHASED MORTGAGE SERVING RIGHTS.

Section 475(a) of the Federal Deposit Insurance Act (12 U.S.C. 1828 note) is amended—

"(1) by striking "purchased";

"(2) by striking "right" each place it appears and inserting "right";

"(3) by striking "90" and inserting "100".

SEC. 116. CROSS MARKETING RESTRICTION; LIMITED PURPOSE BANK RELIEF.

(a) Cross Marketing Restriction.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended by striking paragraph (3).

(b) Daylight Overdrafts.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended by inserting after paragraph (2) the following:

"(3) Permissible overdrafts described.—For purposes of paragraph (2)(C), an overdraft is described in this paragraph if—".

"(i) the condition or ceased the activity that caused the company to fail to qualify for the exemption provided under such paragraph if—".

"(4) Divestiture requirement.

(a) In General.—Section 4(f)(4) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(4)) is amended to read as follows:

"(4) Divestiture in case of loss of exemption.—If any company described in paragraph (1) fails to qualify for the exemption provided under such paragraph if—"

"(5) Federal Home Loan Bank governance.

(a) In General.—Section 11A the following new section:

"SEC. 119. FEDERAL HOME LOAN BANK GOVERNANCE.

The Federal Home Loan Bank Act (12 U.S.C. 1461 et seq.) is amended by inserting after section 11A the following new section:

"SEC. 11A. FEDERAL HOME LOAN BANK GOVERNANCE.

The Federal Home Loan Bank Act (12 U.S.C. 1461 et seq.) is amended by inserting after section 11A the following new section:

"SEC. 11B. DAYLIGHT OVERDRAFTS INCURRED BY FEDERAL HOME LOAN BANKS.

The Federal Home Loan Bank Act (12 U.S.C. 1461 et seq.) is amended by inserting after section 11B the following new section:

"SEC. 11B. DAYLIGHT OVERDRAFTS INCURRED BY FEDERAL HOME LOAN BANKS.

(a) In General.—Any policy or regulation adopted by the Board to approve or disapprove a plan to amend a company's articles of incorporation providing for the payment system risk or intraday credit shall—

"(1) include—

"(A) the establishment of net debit caps appropriate to the credit quality of each Federal Home Loan Bank; and

"(B) the imposition of normal fees for daylight overdrafts, calculated in the same manner as fees for other users; or

"(2) exempt Federal Home Loan Banks from such policy or regulation.

"(b) Definition.—For purposes of this section, the term "Federal Home Loan Bank" has the same meaning as in section 2 of the Federal Home Loan Bank Act.

SEC. 119. FEDERAL HOME LOAN BANK GOVERNANCE.

The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

"(1) in section 7(i) (12 U.S.C. 1421(i)), by striking "subject to the approval of the board"; and

"(2) in section 12(a) (12 U.S.C. 1423(a))—"
SEC. 202. ACCEPTANCE OF BROKERED DEPOSITS.

(a) Definitions.—For purposes of this section:

(1) the term ‘affinity group’ means any person, other than an individual, that—

(A) is established for a common objective or purpose;

(B) is not established by 1 or more settlement service providers for the principal purpose of endorsing the products or services of a settlement service provider;

(C) the common objective or purpose of which is not principally the conduct of settlement services; and

(D) does not consist of member organizations whose principal business is providing settlement services; and

(2) the terms ‘person’, ‘settlement services’, and ‘thing of value’ have the meanings given those terms in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602)."
(1) by striking “title—” and inserting “title, the following definitions shall apply:”; and
(2) in paragraph (2)—
(A) by striking “term ‘communication’ means” and inserting “term ‘communication’—”;
(B) by striking the period at the end and inserting “;”;
(C) by inserting the following new subparagraph:
“(C) in an acquisition in which the insured institution has been found to be undercapitalized by an appropriate Federal or State authority.”;
(2) in subparagraph (B), by striking the period at the end and inserting “;”;
(3) by adding at the end the following new subparagraph:
“(C) in paragraph (1) from—
(A) by chartering a savings association, the stock of which is to be wholly owned, except as otherwise provided in this section, directly or indirectly by the mutual association and by transferring the substantial part of its assets and liabilities, by merger or otherwise, including all of its insured liabilities, to the interim savings association;
(B) by converting to a stock association charter and simultaneously forming a subsidiary stock holding company that owns 100 percent of the voting stock of the converting association; or
(C) in any other manner approved by the Director, including by the formation of a subsidiary stock holding company, transferring assets and liabilities by merger or otherwise to the subsidiary stock holding company, and exercising the use of one or more interim institutions.”;
(2) in paragraph (3)(D)—
(A) by striking “savings association” and inserting “subsidiary stock holding company or subsidiary stock holding company”; and
(B) by striking “the capital of the association” and inserting “the capital of the subsidiary stock holding company”;
(C) by striking “association”; and
(D) by inserting “of the association” before “established”;
(3) in paragraph (5)—
(A) by inserting “subsidiary stock holding company” before “may engage”;
(B) in subparagraph (A)—
(i) by inserting “or acquiring” after “investing in”;
(ii) by inserting “, savings bank, or bank” before the period; and
(C) in subparagraph (C), by inserting “or bank” before the period;
(4) by striking paragraph (7) and inserting the following:
“(7) CHARTERING AND REGULATION.—(A) MUTUAL.—A mutual holding company shall be chartered by the Director, and a subsidiary stock holding company may be chartered under State law, and such holding companies shall be subject to such regulations as the Director may prescribe. Unless the context otherwise requires, a mutual holding company shall be subject to the other requirements of this section regarding regulation of holding companies. 
(B) CONVERSION TO STATE CHARTER.—A mutual holding company chartered pursuant to paragraph (1) may convert its charter to a State mutual holding company charter.
(C) CONVERSION TO FEDERAL CHARTER.—Notwithstanding any provision of Federal law, a mutual holding company organized under State law may convert its State mutual holding company charter to a Federal mutual holding company charter.”;
(5) in paragraph (8)—
(A) by striking “company” and inserting “company, if more than 50 percent of the voting share of such subsidiary stock holding company is owned by the mutual holding company; and
(B) by striking subparagraph (B) and inserting the following:
“(B) ISSUANCE OF SHARES.—This section shall not prohibit a savings association or subsidiary stock holding company chartered as part of a transaction described in paragraph (1) from—
(i) issuing any nonvoting shares or less than 50 percent of the voting share of such association or subsidiary stock holding company to any person other than the mutual holding company; 
(ii) issuing all of the voting shares of such association to a subsidiary stock holding company, if more than 50 percent of the voting shares issued to the mutual holding company, except with respect to the payment of dividends;
(C) MUTUAL SAVINGS ASSOCIATION.—In the case of a mutual savings association in which holders of accounts or obliors exercise voting rights, such holders of accounts or obliors shall have the right to subscribe on a priority basis for voting shares of the subsidiary stock holding company or savings association chartered pursuant to paragraph (1), pursuant to regulations of the Director, but only with respect to the voting shares issued in connection with the initial reorganization pursuant to paragraph (1) shall be exercisable; such shares are subsequently sold by the subsidiary savings association or subsidiary stock holding company;
(i) issuing any nonvoting shares or less than 50 percent of the voting share of such association or subsidiary stock holding company to any person other than the mutual holding company in connection with the formation of the mutual holding company or at a later date, a separate class of voting shares, the rights and preferences of which are identical to those of the class of voting shares issued to the mutual holding company, except with respect to the payment of dividends;
(C) MUTUAL SAVINGS ASSOCIATION.—In the case of a mutual savings association in which holders of accounts or obliors exercise voting rights, such holders of accounts or obliors shall have the right to subscribe on a priority basis for voting shares of the subsidiary stock holding company or savings association chartered pursuant to paragraph (1), pursuant to regulations of the Director, but only with respect to the voting shares issued in connection with the initial reorganization pursuant to paragraph (1) shall be exercisable; such shares are subsequently sold by the subsidiary savings association or subsidiary stock holding company;
(ii) in paragraph (9)(A)(i)(I), by inserting “, directly or indirectly,” after “owned”; and
(7) in paragraph (10)—
(A) by striking “subsection—” and inserting “subsection, the following definitions shall apply:”; and
(B) by adding at the end the following:
“(D) SUBSIDIARY STOCK HOLDING COMPANY.—The term ‘subsidiary stock holding company’ means a stock holding company organized under applicable State law, that is wholly-owned, except as otherwise provided in this section, by the mutual holding company.”;
SEC. 210. CALL REPORT SIMPLIFICATION.
(a) MODERNIZATION OF CALL REPORT FILING AND DISCLOSURE SYSTEM.—In order to reduce the administrative requirements pertaining to bank reports of condition, savings association financial reports, and bank holding company consolidated and parent-only financial reports to improve the timeliness of such reports and statements, the Federal banking agencies shall—
(1) work jointly to develop a system under which—
(A) insured depository institutions and their affiliates may file such reports and statements electronically;
(B) the Federal banking agencies may make such reports and statements available to the public electronically; and
(2) not later than 1 calendar years after the date on which it is requested, or not later than 10 calendar days

SECTION III—STREAMLINING AGENCY ACTIONS
SEC. 301. SCHEDULED MEETINGS OF AFFORDABLE HOUSING ADVISORY BOARD.
Section 16(b)(6)(A) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q) is amended—
(1) by striking “4 times a year, or more frequently if requested” and inserting “2 times a year, or at such times requested”;
(2) by striking “‘In each year’ and all that follows through ‘located.’”;
SEC. 302. ELIMINATION OF DUPLICATIVE DISCLOSEMENT OF FAIR MARKET VALUE OF ASSETS AND LIABILITIES.
Section 37(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831a(3)) is amended by adding at the end the following new subparagraph:
“(C) the Federal banking agencies shall, consistent with the principles of safety and soundness, work jointly—
(A) by reviewing the information required by schedules supplementing the core information referred to in subsection (b); and
(B) to eliminate requirements that are not warranted for reasons of safety and soundness or other public purposes.

SEC. 303. PAYMENT OF INTEREST IN RECEIVERSHIPS WITH SURPLUS FUNDS.
Section 31(d)(10) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1822(d)(10)) is amended by adding at the end the following new subparagraph:
“(C) RULEMAKING AUTHORITY OF CORPORATION.—The Corporation may prescribe such rules, including definitions of terms, as it deems appropriate to establish the interest rate for or to make payments of postinsolvency interest to creditors holding proven claims against the receivership estates of insured Federal or State depository institutions following satisfaction by the receiver of the principal amount of all creditor claims.”;
SEC. 304. REPEAL OF REPORTING REQUIREMENT ON DIFFERENCES IN ACCOUNTING STANDARDS.
Section 37 of the Federal Deposit Insurance Act (12 U.S.C. 1831m) is amended by striking subsection (c).
SEC. 305. AGENCY REVIEW OF COMPETITIVE FACTORS IN BANK MERGER ACT FILINGS.
(a) REPORT REQUIRED.—Section 18(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1828c(c)(4)) is amended by striking “request reports” and all that follows through the end of the paragraph and inserting the following:
“request a report on the competitive factors involved from the Attorney General. The report shall be furnished to the Attorney General not later than 10 calendar days after the date on which it is requested.”
SEC. 306. TERMINATION OF THE THRIFT DEPOSITORY PROTECTION OVERSIGHT BOARD.

(a) In General.—Effective 3 months after the date of enactment of this Act, the Thrift Depositor Protection Oversight Board established under section 21(a)(4)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441 note) is terminated.

(b) Effect on Transaction.—Section 127(a)(3)(G) of the Truth in Lending Act (15 U.S.C. 1607(a)(3)(G)) is amended by inserting before the semicolon “or, at the option of the creditor, a statement that the periodic payments may increase or decrease substantially”.

SEC. 402. ALTERNATIVE COMPLIANCE METHODS FOR ADVERTISING CREDIT TERMS.

(a) Downpayment Amounts.—Section 144(d) of the Truth in Lending Act (15 U.S.C. 1637a(d)) is amended—

(1) by striking “or the number of installments or the period of repayment, then”; and

(2) by inserting “or” before “the dollar”.

(b) Alternative Disclosures.—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661 et seq.) is amended by adding at the end the following new section:

SEC. 148. ALTERNATIVE DISCLOSURES.

(a) In General.—A radio or television advertisement to aid, promote, or assist, directly or indirectly, any extension of consumer credit may satisfy the disclosure requirements in sections 143, 144(d), 144(a), or any combination of any of the requirements in subsections (b) and (c) of this section.

(b) Information To Be Disclosed.—A radio or television advertisement referred to in subsection (a) may, but need not, contain the following:

(1) the name of the institution that is providing the credit;

(2) the annual percentage rate of any finance charge, and with respect to an open-end credit plan, the simple interest rate or the periodic rate in addition to the annual percentage rate;

(3) whether the interest rate may vary;

(4) if the advertisement states an introductory rate or rates with respect to a variable-rate plan an initial rate that is not based on the index and margin used to later rate adjustments;

(5) a telephone number established in accordance with subsection (b) of section 144(d) of the Truth in Lending Act, that may be used by consumers to obtain all of the information otherwise required to be disclosed pursuant to sections 133 and 144(d), and subsections (a) and (e) of section 137; and

(6) a statement that the consumer may use the telephone number established in accordance with subsection (c) to obtain further details about additional terms and costs associated with the offer of credit.

(c) Requirements for Telephone Numbers.—In the case of an advertisement described in subsection (b) that refers to a telephone number—

(1) the creditor shall establish the telephone number for a broadcast area not later than the date on which the advertisement is broadcast in that area;

(2) the required information shall be available by telephone for a broadcast area for a period of not less than 10 days following the date of the final broadcast of the advertisement in that area;

(3) the consumer shall provide all of the information that is otherwise required pursuant to sections 133 and 144(d), and subsections (a) and (e) of section 137; and

(4) the creditor shall provide all of the information that is otherwise required pursuant to sections 133 and 144(d), and subsections (a) and (e) of section 137; and

(5) a statement that the consumer may use the telephone number established in accordance with subsection (c) to obtain further details about additional terms and costs associated with the offer of credit.

SEC. 404. ANNUAL REPORT TO CONGRESS ON THE ABBREVIATED REPORTING REQUIREMENTS.

(a) In General.—The Secretary shall submit to the Congress an annual report describing the effects of the amendments made by this Act.
(a) IN GENERAL.—
(1) POSITIONS AT LEVEL I OF THE EXECUTIVE SCHEDULE.—Section 5312 of title 5, United States Code, is amended by adding at the end the following:

"Chairman, Board of Governors of the Federal Reserve System."

(2) POSITIONS AT LEVEL II OF THE EXECUTIVE SCHEDULE.—Section 5313 of title 5, United States Code, is amended by striking "Chairman, Board of Governors of the Federal Reserve System." and inserting "Members, Board of Governors of the Federal Reserve System.".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the first pay period for the Chairman and Members of the Board of Governors of the Federal Reserve System beginning on or after the date of enactment of this section.

SEC. 502. CONSISTENT COVERAGE FOR INDIVIDUALS ENROLLED IN A HEALTH PLAN ADMINISTERED BY THE FEDERAL BANKING AGENCIES.

(a) ENROLLMENT IN CHAPTER 89 PLAN.—For purposes of chapter 89 of title 5, United States Code, each such enrollment is:

(1) a health benefits plan administered by the Federal Deposit Insurance Corporation before the termination of such plan on January 3, 1998; and

(2) subject to subsection (c), in a health benefits plan (not under chapter 89 of such title) with respect to which the eligibility of any individual or retired employees of the Board of Governors of the Federal Reserve System terminates on January 3, 1998.

(b) ENROLLMENT; CONTINUED COVERAGE.—

(1) ENROLLMENT.—Except as to subsection (c), any individual who, on January 3, 1998, is enrolled in a health benefits plan described in paragraph (1) of subsection (a) may enroll in an approved health benefits plan under chapter 89 of title 5, United States Code, either as an individual or for self and family, in accordance with this section; and

(2) PROVISION OF COVERAGE.—Nothing in subsection (a)(2) shall be considered to apply with respect to any individual whose eligibility for coverage under the plan does not involuntarily terminate on January 3, 1998.

(c) ELIGIBILITY FOR FEHBP LIMITED TO INDIVIDUALS LOOSING FORMER HEALTH PLAN.—Nothing in subsection (a)(2) or any paragraph of subsection (b) (to the extent that paragraph (1) of subsection (a)(2) shall be considered to apply with respect to any individual whose eligibility for coverage under the plan does not involuntarily terminate on January 3, 1998.

(d) TRANSFERS TO THE EMPLOYEES HEALTH BENEFITS FUND.—The Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System shall transfer to the Employees Health Benefits Fund, under section 8909 of title 5, United States Code, for use in the Office of Personnel Management, after consultation with the Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System, to be necessary to reimburse the Fund for the cost of providing benefits under this section not otherwise paid for by the individuals covered by this section. The amounts so transferred shall be held in the Fund and used by the Office of Personnel Management in addition to amounts available under section 8906(g)(1) of title 5, United States Code.

(e) ADMINISTRATION AND REGULATIONS.—The Office of Personnel Management—

(1) shall administer the provisions of this section to provide—

(A) a period of notice and open enrollment for individuals affected by this section; and

(B) no lapse of health coverage for individuals who enroll in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with this section; and

(2) may prescribe regulations to implement this section.

SEC. 503. FEDERAL HOUSING FINANCE BOARD.

Section 22(b)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1422a(b)(2)) is amended—

(1) by striking subparagraph (B); and

(2) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

TITLE VI—TECHNICAL CORRECTIONS

SEC. 601. TECHNICAL CORRECTION RELATING TO DEPOSITORY INSURANCE FUNDS.

(a) IN GENERAL.—Section 2707 of the Deposit Insurance Act of 1996 (Public Law 104–208) is amended by striking "7(b)(2)(C)" and inserting "7(b)(2)(E)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be deemed to have the same effective date as section 2707 of the Deposit Insurance Act of 1996.

SEC. 602. RULES FOR CONTINUATION OF DEPOSIT INSURANCE FOR MEMBER BANKS CONVERTING CHARTERS.

Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(s)(b)(1)) is amended by striking the second sentence, by striking "subsection (d) of section 4" and inserting "subsection (c) or (d) of section 4".

SEC. 603. AMENDMENTS TO THE REVISED STATUTES.

(a) WAIVER OF CITIZENSHIP REQUIREMENT FOR FEDERAL RESERVE BANKS AND TRUSTS.—Section 5146 of the Revised Statutes of the United States (12 U.S.C. 72) is amended in the first sentence, by inserting before the period ", and" a semicolon and inserting ", in the case of not more than a minority of the total number of directors".

(b) TECHNICAL AMENDMENT TO THE REVISED STATUTES.—Section 328 of the Revised Statutes of the United States (12 U.S.C. 11) is amended by striking "to be interested in any association issuing national currency under the laws of the United States" and inserting "to hold an interest in any national bank".

(c) REPEAL OF UNNECESSARY CAPITAL AND SURPLUS REQUIREMENT.—Section 5138 of the Revised Statutes of the United States (12 U.S.C. 51) is repealed.

SEC. 604. CONFORMING CHANGE TO THE INTERNSHIP PROGRAM OF THE NATIONAL BANKING ACT.

Section 4(b) of the Banking Act of 1979 (12 U.S.C. 3102(b)) is amended in the second sentence, by striking paragraph (1) and by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively.

Ms. MOSELEY-BRAUN. Mr. President, today, Senator SHELBY and several of my other colleagues on the Banking Committee are introducing the Financial Regulatory Relief and Economic Efficiency Act of 1997. I am cosponsoring this legislation because I have long been committed to the process of reducing unnecessary regulatory burdens on financial institutions. Many of the provisions were drafted in consultation with the banking regulatory agencies and will remove duplicative, unnecessary restrictions that no longer make sense and are no longer appropriate, giving our country a great change in the financial services industry. This bill will allow the banks to be more efficient and cost-effective in their activities. It will also allow them to better meet the needs of the users of the system, the individuals, the communities, the businesses, the exporters, the farmers, and all those who depend on our financial system. We live in capital-scarce times and that means that it is imperative that our financial system provides capital to those who need it in the most cost-effective manner possible. We can be longer tolerate inefficiencies due to outmoded regulation.

However, it is important to note that (a) I do not support every provision of this bill, and (b) I have serious concerns about portions of it. I believe that certain sections of the bill will need to be changed significantly as it works its way through the Banking Committee and the Senate floor. That said, I want to make a part of this process, and I believe in the objectives of the bill: reducing unnecessary regulatory burden. Furthermore, I think the issue should be addressed in a bipartisan manner.
Mr. SMITH of Oregon. Mr. President, several months ago, one of my constituents, Gilbert Miller, a retired Air Force senior master sergeant, walked into my Medford, OR office to share an idea with me. After doing some research, he discovered that some retired military reserve component members who had honorably served their country as Selected Reservists were not eligible for funeral burial flags. In response to this reality, I believe it is imperative in recognition of Veterans’ Day, I rise to introduce a bill authorizing the Department of Veterans’ Affairs to issue burial flags to deceased members of the reserve component.

Mr. President, National Guard and Reserve units and individual members increasingly share the day-to-day burden of our national defense. Their service is routinely performed in a drill or short active duty tour status alongside an active component service member. Their status, however, does not make their contribution to our national defense any less important or less critical. Simply put, many requirements could not be met without the direct involvement of their service in the Armed Forces under conditions not less favorable than honorable; or

(C) was discharged from service in the Armed Forces under conditions not less favorable than honorable; or

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. 1406

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

SECTION 1. ISSUANCE OF BURIAL FLAGS FOR DECEASED OR FORMER MEMBERS OF THE SELECTED RESERVE.

Section 2301(2) of title 38, United States Code, is amended to read as follows:

"(2) deceased individual who—

(A) was serving as a member of the Selected Reserve (as described in section 10131 of title 10) at the time of death;

(B) had served at least one enlistment, or the period of initial obligated service, as a member of the Selected Reserve and was discharged from service in the Armed Forces under conditions not less favorable than honorable; or

(C) was discharged from service in the Armed Forces under conditions not less favorable than honorable by reason of a disability incurred or aggravated in line of duty during the individual’s initial enlistment, or period of initial obligated service, as a member of the Selected Reserve.

By Mr. BURNS:

S. 1407. A bill to allow participation by the communities surrounding Yellowstone National Park in decisions affecting the park, and for other purposes; to the Committee on Energy and Natural Resources.

THE YELLOWSTONE NATIONAL PARK COMMUNITY PARTICIPATION ACT

Mr. BURNS. Madam President, I rise today to introduce the Yellowstone National Park Community Participation Act. This is a bill to require the National Park Service to work in conjunction and consult with the communities surrounding any Yellowstone National Park in both Montana and Wyoming.

The communities surrounding Yellowstone National Park, are as directly affected by actions within the park, as anything in the park itself. These communities’ stability and economic viability are in a large part dependent on the actions within the park. Their future is dependent both by local park management, and management by the National Park Service in Washington, DC.

The Department of the Interior and the Director of the National Park Service have stated that the management of the parks and the Park Service itself should work in a cooperative effort to make sure that the local communities, affected by actions in the parks, are consulted before action occurs. Well, unfortunately this is not always the case.

Last year in the 104th Congress, authority was given to the National Park Service to provide for a demonstration project as it relates to fees charged to the national parks. They were done with the understanding that this would assist the parks in coming up with additional funding for the backlog of construction and maintenance in each individual parks. Dollars which are sorely needed in the parks and which it is hoped would be put to good use.

Communities surrounding our parks, especially Yellowstone, understand the need for the repairs to the infrastructure in the park. They are very willing to work with park management to do what they can to assist in maintaining the parks and assisting management in working on a means for caring for the parks.

When the Park Service asked for input and provided each individual park with an opportunity to use and develop a new fee structure for the parks not all the communities were asked or informed of the increases in the fees. This was the case in Yellowstone National Park.

While the management of Grand Teton, just a few miles south of Yellowstone, worked with and notified the communities affected by the fee changes. Providing these communities an opportunity to prepare for the effects these changes would have on their business and economic vitality.

An announcement was made by the Secretary of the Interior in the park. They are all very willing to work with park management to do what they can to assist in maintaining the parks and assisting management in working on a means for caring for the parks.

Finally, Mr. President, I would like to thank the Non Commissioned Officers Association and all the veterans’ groups for their support of this bill.

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what occurred just last winter. Due to
what the park management called re-
duced funding, they changed the winter
opening dates for the entrances to Yel-
lowstone. This had a dramatic effect on
the economic stability of the communi-
ties which are located at the en-
tances to the park.

The basis for business in those commu-
nities at the entrances to Yellowstone,
is not just the traffic they see
during the summer, but rests in large part in winter tourism in and around
Yellowstone. As beautiful and magnifi-
cent, as Yellowstone can be during the
summer, the visual experiences a per-
son can enjoy during the winter are
multiplied. Many of the businesses in
these local communities look upon
winter tourism as a means of keeping
them in business for the next year.

When any change is announced, with-
out suitable notification or adequate
consultation, these communities suffer
greatly. Last winter visitors arrived at
Yellowstone and were greeted not with a
welcome, but with a barrier which kept
them from enjoying their park.

This delayed opening had a dev-
astating effect on the communities at
the gateways to Yellowstone. Many tour
groups and individuals who had planned future winter events in the
area, have since canceled those plans.
Although it was not true, many of these
tour and business groups were of
the understanding that Yellowstone
was closed to winter travel and activ-
ity.

The language in this bill would as-
sure stability for the future of these
communities located at the gateways
to Yellowstone National Park. The leg-
islation would provide for an opening
and closing date, which the people of
the community of West Yellowstone,
MT, could count on in planning for
tour groups and the hiring of personnel
to make the visitors’ stays a memo-
rable experience.

I have attempted to work with the
Park Service and the local communi-
ties to see if some means of consulta-
tion could be worked out among all the
parties involved. Last January a ser-
ies of meetings were held between rep-
resentatives of the local community the Park Service and my staff, to discuss
the problems which the local communities were facing due to the actions taken
last winter. As a result of these meet-
ings, it was hoped that the manage-
ment of the park would be more respon-
sive to the working with the local com-
munities in the development of changes affecting their lives. So far
this has not been the case.

I am offering this legislation today, in
an attempt to open dialog to find
suitable arrangements for consultation
between the park and the gateway
communities of Yellowstone National
Park. I will request a hearing on this
matter to open that dialog and to seek
a means by which all parties are com-
fortable in a process of exchange and
consultation on the future of the busi-
ness related to Yellowstone. I look for-
ward to working with the Park Service
to find a means of keeping Yellowstone a treasure
for all America and the world to enjoy,
during all seasons of the year.

Thank you, Madam President.

By Mr. D’AMATO (for himself
and Mr. MOYNIHAN):
S. 1408. A bill to establish the Lower
East Side Tenement National Historic
Site, and for other purposes; to the
Committee on Energy and Natural Re-
sources.

THE LOWER EAST SIDE TENEMENT MUSEUM
NATIONAL HISTORIC SITE ACT OF 1997

Mr. D’AMATO. Mr. President, I rise
today to join with my friend and col-
league, Mr. MOYNIHAN, and intro-
duce legislation that will declare the
Lower East Side Tenement Museum a
national historic site. Most of us have
heard the stories of how the great wave
of immigrants of generations ago en-
tered our country. No one would know
what happened to them after they
landed at Ellis Island. At the Lower
East Side Tenement Museum at 97 Or-
chard Street in New York City, one is
able to follow the lives of the immi-
grants beyond the first hours on our
shores. The museum tells their history,
displays their courage and showcases
their values in an interpretive setting
that brings the visitor back to an era
from which many of us came. The mu-
seum presents to many of us an aware-
ness of our ancestral roots that we may
never have known existed. Through the
legislation being introduced by Senator
MOYNIHAN and me, the museum will be
able to affiliate itself with the Na-
tional Park Service, bestowing na-
tional recognition on the humble be-
ginnings of millions of our ancestors.

The Tenement Museum is unique in
that it not only traces the quality of
life inside the tenement, but presents a
picture of the immigrant’s outside
world as well. Due to the cramped
and dingy nature of the tenement, as
much time as possible was spent outside.
Thus, in order to fully explore their
lives, it is essential to look toward
their work, their houses of worship,
their schools and delivering them to
entertainment. The museum incorpo-
rates the experiences of yesteryear’s immi-
gants and interprets them for today’s
generations. It gives the visitor a pow-
eful glimpse into the life and living
arrangements that our ancestors faced
on a daily basis. Besides onsite pro-
grams, the museum utilizes the sur-
rounding neighborhood; an area which
continues to this day in its role as a re-
ceiver of immigrants.

Throughout our Nation we have pre-
served, revered and cherished places
of national significance and beauty. We have put enormous energy
toward maintaining homes of noted
Americans and protecting vast areas of
wilderness. What we do not have, though, is a monument to the so-called
ordinary citizen. The Tenement Mu-
seum can fill that role and will do so at
no cost to the Federal Government
under this legislation.

It is unlikely that many of those who
lived in buildings like the one at 97 Or-
chard Street felt that they were spe-
cial. Rather, they were probably grate-
ful for the chance to come to America
to make a better life for themselves
and their families. Given the liv-
 ing and working conditions that we
now take for granted, the language and
cultural obstacles they had to over-
come, we should applaud their ability
to take hold of an opportunity not
only survive, but thrive. It is their con-
tributions to society in the face of
overwhelming obstacles that defined an
era and established an ethic that sur-
vives to this day. It is their spirit that
we admire, and that, in retrospect,
makes these otherwise ordinary indi-
viduals special. The Tenement Museum
is their monument, and as their de-
sendants, it is ours as well.

Congress has an opportunity to rec-
ognize the pioneer spirit of our ances-
tors and deliver it to future genera-
tions of Americans. The museum re-
minds us all of an important and often
forgotten chapter in our immigrant
heritage, mainly, that millions of fami-
lies made their first stand in our Na-
ton not in a log cabin or farmhouse or
mansion, but in a city tenement.

Granting the Lower East Side Tene-
tement Museum affiliated status within
the National Park Service will shed
light on that chapter while linking it
to the chain of the Status of Liberty,
Ellis Island, and Castle Clinton in the
story of our urban immigrant heritage.
I urge my colleagues to join Senator
MOYNIHAN and me in cosponsoring this
bill, and I urge its speedy consideration
by the Senate.

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. 1408

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

SECTION 1. SHORT TITLE.
This Act may be cited as the “Lower East
Side Tenement National Historic Site Act of
1997”.

SEC. 2. FINDINGS AND PURPOSES.
(a) FINDINGS.—Congress finds that—
(1)(A) immigration, and the resulting di-
versity of cultural influences, is a key factor in
defining the identity of the United States;
and
(2) many United States citizens trace their
ancestry to persons born in nations other
than the United States;

(b) PURPOSES.—Congress finds that—
(1) it is in the national interest to
promote ethnic identity; and
(2) the lower East Side of New York
City has a significant heritage.

Mr. President, I ask unanimous con-
sent that the text of the bill be printed
in the RECORD.
number of immigrants than the Lower East Side neighborhood of Manhattan in New York City; 
(4) the Lower East Side Tenement at 97 Orchard Street in New York City is an outstanding survivor of the vast number of humble buildings that housed immigrants to New York City during the greatest wave of immigration in American history; 
(5) the Lower East Side Tenement is owned and operated as a museum by the Lower East Side Tenement Museum; 
(6) the Lower East Side Tenement Museum is dedicated to interpreting immigrant life within a neighborhood long associated with the immigrant experience in the United States; the Lower East Side's Lower East Side neighborhood; and 
(7) the Director of the National Park Service found the Lower East Side Tenement at 97 Orchard Street to be nationally significant; and 
(b) the Secretary of the Interior declared the Lower East Side Tenement a National Historic Landmark on April 19, 1994; and 
(c) the Director of the National Park Service, through a special resource study, found the Lower East Side Tenement to be nationally significant and feasible for inclusion in the National Park System. 
(b) PURPOSES.—The purposes of this Act are—
(1) to ensure the preservation, maintenance, and interpretation of this site and to interpret at this site the themes of immigration, tenement life in the latter half of the 19th century and the first half of the 20th century, the housing reform movement, and tenement architecture in the United States; 
(2) to ensure continued interpretation of the nationally significant immigrant phenomenon associated with New York City's Lower East Side and the Lower East Side's role in the history of immigration to the United States; and 
(3) to enhance the interpretation of the Lower East Side, Ellis Island, and Statue of Liberty National Monuments. 
SEC. 3. DEFINITIONS. 
As used in this Act:
(1) HISTORIC SITE.—The term "historic site" means the Lower East Side Tenement found at 97 Orchard Street on Manhattan Island in the City of New York, State of New York, and designated as a national historic site by section 4.
(2) MUSEUM.—The term "Museum" means the Lower East Side Tenement Museum, a nonprofit organization established in City of New York, State of New York, which owns and operates the tenement building at 97 Orchard Street and manages other properties in the vicinity of 97 Orchard Street as administrative and program support facilities for 97 Orchard Street.
(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior. 
SEC. 4. ESTABLISHMENT OF HISTORIC SITE. 
(a) IN GENERAL.—To further the purposes of this Act and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.), the Lower East Side Tenement at 97 Orchard Street, in the City of New York, State of New York, is designated a national historic site. 
(b) COORDINATION WITH NATIONAL PARK SYSTEM.—
(1) AFFILIATED SITE.—The historic site shall be an affiliated site of the National Park System. 
(2) COORDINATION.—The Secretary, in consultation with the Museum, shall coordinate the operation and interpretation of the historic site with the Statue of Liberty National Monument, Ellis Island National Monument, and Castle Clinton National Monument. The historic site's story and interpretation of the immigrant experience in the United States is directly related to the themes and purposes of these National Monuments. 
(c) OWNERSHIP.—The historic site shall continue to be owned, operated, and managed by the Museum. 
SEC. 5. MANAGEMENT OF THE SITE. 
(a) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement with the Museum to ensure the marking, interpretation, and preservation of the historic site designated by section 4(a). 
(b) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary may provide technical and financial assistance to the Museum to mark, interpret, and preserve the historic site, including making preservation-related capital improvements and repairs. 
(c) GENERAL MANAGEMENT PLAN.—
(1) IN GENERAL.—The Secretary, in consultation with the Museum, shall develop a general management plan for the historic site that defines the role and responsibility of the Secretary with regard to the interpretation and the preservation of the historic site. 
(2) INTEGRATION WITH NATIONAL MONUMENTS.—The plan shall outline how interpretation and programming for the historic site shall be integrated and coordinated with the operations of the Statue of Liberty National Monument, Ellis Island National Monument, and Castle Clinton National Monument to enhance the story of the historic site and these National Monuments. 
(3) COMPLETION.—The plan shall be completed not later than 3 years after the date of enactment of this Act. 
(d) LIMITED ROLE OF SECRETARY.—Nothing in this Act authorizes the Secretary to acquire the property at 97 Orchard Street or to assume overall financial responsibility for the operation, maintenance, or management of the historic site. 
SEC. 6. AUTHORIZATION OF APPROPRIATIONS. 
There are authorized to be appropriated such sums as are necessary to carry out this Act. 
Mr. MOYNIHAN. Mr. President, I rise to join my friend and colleague Senator D'AMATO in introducing a bill that will authorize a small but most significant addition to the National Park system by designating the Lower East Side Tenement Museum a national historic site. For 150 years New York City's Lower East Side has been the most vibrant, populous, and famous immigrant neighborhood in the Nation. From the first waves of Irish and German immigrants to Italians and Eastern European Jews to the Asian, Latin, and Caribbean immigrants arriving today, the Lower East Side Tenement Museum provides millions their first American home. 
For many of them that home was a brick tenement, six or so stories, no elevator, maybe no plumbing, maybe no windows, a business on the ground floor, and millions of our forbearers upstairs. The Nation has with great pride preserved log cabins, farm houses, and other symbols of our agrarian roots. It is time for the Nation to commemorate and display the first stop for 12 million immigrants who arrived in New York City. 
Until now we have not preserved a sample of urban, working class life as part of the immigrant experience. For many of those disembarked on Ellis Island the next stop was a tenement on the Lower East Side, such as the one at 97 Orchard Street. This is how the Lower East Side Tenement Museum shows us what that next stop was like. 
The tenement at 97 Orchard was built in the 1860's, during the first phase of tenement construction. It provided housing for 20 families on a plot of land planned for a single family residence. Each floor had four 3-room apartments, each of which had two windows in one of the rooms and none in the others. The privies were out back, as was the spigot that provided water for everyone. The public bathhouse was down the street. 
In 1900 this block was the most crowded per acre on Earth. Conditions improved at 97 Orchard Street after the passage of the New York Tenement House Act of 1901. In time the overcrowding remained. Two toilets were installed on each floor. A skylight was installed over the stairway and indoor windows were cut in the walls to allow some light throughout each apartment. For the first time the ground floor became commercial space. In 1918 electricity was installed. Further improvements were mandated in 1935, but the owner of this building chose to board it up rather than follow the new regulations. It remained boarded up for 60 years until the idea of a museum took hold. 
The tenement museum will keep at least one apartment in the dilapidated condition in which it was found when reopened, to show visitors the process of urban archaeology. Others are being restored to show how real families lived at different periods in the building's history. Across the street there are interpretive programs to better explain the larger experience of gaining a foothold on American shores. The Lower East Side of New York. There are also plans for programmatic ties with Ellis Island and its precursor, Castle Clinton. And the museum plans to play an active role in the immigrant community around it, further integrating the past and present immigrant experience on the Lower East Side. 
This bill designates the tenement museum a national historic site. It also authorizes the Secretary of the Interior to enter into a cooperative agreement with the Museum to ensure the marking, interpretation, and preservation of the site. The Secretary will also coordinate with the Statue of Liberty, Ellis Island, and Castle Clinton sites to help with the interpretation of the immigrant experience. It will be a productive partnership. 
Mr. President, I believe the tenement museum provides an outstanding opportunity to preserve and present an important stage of the immigrant experience and the move for social change in our cities at the turn of the century. I know of no better place than 97 Orchard Street to do so, and no
other place in the National Park system doing so already. I look forward to the realization of this grand idea, and I ask my colleagues for their support.

By Ms. COLLINS (for herself, Mr. THOMPSON, and Mr. BENNETT): S. 1409. A bill for the relief of Sheila Heslin of Bethesda, MD; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Ms. COLLINS. Mr. President, today I am introducing a bill, along with my colleagues Senators THOMPSON and BENNETT, that will require the Department of Justice to pay the legal fees of a former Federal employee, Sheila Heslin, who incurred these expenses as a direct result of the campaign finance investigations conducted by the Congress, the Department of Justice, and the Central Intelligence Agency.

Earlier this fall, Ms. Heslin testified before the Senate Governmental Affairs Committee about actions she took while performing her official duties as an employee of the National Security Council. Everyone who observed her testimony was impressed with her honesty and courage in resisting high-level political pressures in the Department of Justice to pay the legal fees of many other Government officials. Ms. Heslin provides the best example of how career Government officials ought to conduct themselves. She demonstrated courage and a high regard for the proper conduct of U.S. foreign policy.

Ms. Heslin participated in these proceedings as a witness, not as the subject of any investigation. She provided important information on events and activities that may well become the subject of prosecution. As a result, Ms. Heslin was forced to retain private counsel to advise her in the various investigations because representation by Government counsel would have presented a clear conflict of interest.

It is my understanding that the Department of Justice has to date declined to reimburse Ms. Heslin for the legal fees relating to her testimony before the Senate Governmental Affairs Committee and other similar inquiries. She is now a private citizen with a new baby and without the personal wealth to afford the legal representation she served as a Government employee has required. As an important and fully cooperative witness in these investigations, she has set an example that ought to be discouraged by denying Government officials the financial means for outside representation in a case involving appropriate actions taken during her Federal employment.

Under existing regulations, the Department of Justice normally approves the payment of legal fees for Government employees when "the actions for which representation is requested reasonably appears to have been performed within the scope of the employee’s employment” and payment is "in the interest of the United States." Both requirements have been met in the case Sheila Heslin.

Moreover, Mr. President, in connection with these actions, the Department of Justice has paid the legal fees of hundreds of Government employees, some of whom were high-level political appointees. For example, in fiscal year 1996, political appointees at the White House and on the Vice President's staff were reimbursed thousands of dollars in attorneys’ fees. To deny the payment of legal fees to Ms. Heslin, who is not suspected of any wrongdoing, while at the same time paying the legal fees of many other Government employees, some of whom were being investigated for possible illegal activities, is simply unfair.

Earlier this month, I asked the Attorney General to personally address this matter and to reverse the decision denying reimbursement to Ms. Heslin. I am still waiting for Attorney General Reno’s response to my letter.

In the absence of action by the Department of Justice, I am introducing this bill which directs the Attorney General to pay reasonable attorney’s fees incurred by Ms. Heslin as a result of the campaign finance investigations. To ensure that such payments are not the result of the conduct of the Government’s staff, I am introducing a provision that the amounts be determined in accordance with applicable Justice Department regulations.

Mr. President, this bill is not only for Sheila Heslin. It is also to send a clear message to every career Government employee who in the future has to choose between succumbing to inappropriate political pressure or doing the right thing. It is also for the American people who demand that officials, whether public servants or private citizens, be reimbursed for legal representation when the actions of their Government do not penalize them. For that reason I hope my colleagues will support this measure.

By Mr. REED:

S. 1410. A bill to amend section 258 of the Communications Act of 1934 to enhance to protections against unauthorized changes in subscriber selections of telephone service providers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE ANTI-SLAMMING ACT OF 1997

Mr. REED. Mr. President, I rise today to make a few comments concerning legislation which I am introducing to deal with the problem of slamming. Earlier this year, I outlined the remedies necessary to deal with this serious consumer problem in a Sense of the Senate Resolution which I am introducing to the Senate Appropriations legislation. The legislation I introduce today embodies those remedies. I would like to take a moment to thank Ranking Member HOLLINGS and Chairman MCCAIN and the staff for the assistance they have lent to me on this issue.

Telephone “slamming” is the illegal practice of switching a consumer’s long distance service without the individual’s consent. This problem has increased dramatically over the last several years, as competition between long distance carriers has risen. Slamming is the top consumer complaint lodged at the Federal Communications Commission (FCC), with 11,278 reported complaints in 1995, and 16,500 in 1996. In the first nine months of 1997 alone, 15,000 complaints have been filed. Unfortunately, this represents only the tip of the iceberg because most consumers never report violations to the FCC. Data from the regional Bell companies estimates that 1 in 20 switches is fraudulent. Media reports indicate that as many as 1 million illegal transfers occur annually. Thus, slamming threatens to rob consumers of the benefits of a competitive market, which is now composed of over 500 companies which generate $72.5 billion. As a result of slamming, consumers face not only increased phone bills, but also the significant expenditure of time and energy in attempting to identify and reverse the fraud. The results of slamming are clear: higher phone bills and immense consumer frustration.

Mr. President, we are all aware of the stiff competition which occurs for customers in the long distance telephone service industry. The goal of deregulating the telecommunications industry was to allow consumers to easily avail themselves of lower prices and better service. Hopefully, this option will soon be presented to consumers for in-state calls and local phone service. Indeed, better service at lower cost is a main objective of those who seek to regulate the utility industry. Unfortunately, fraud threatens to rob many consumers of the benefits of a competitive industry.

Telemarketing is one of the least expensive and most effective forms of marketing, and it has exponentially expanded in recent years. By statute, the Federal Trade Commission (FTC) regulates most telemarketing, prohibiting deceptive or abusive sales calls, requiring that homes not be called at certain times, and that companies honor a consumer’s consent. This problem has in recent years, as competition between long distance carriers has risen. Slamming is the top consumer complaint lodged at the Federal Communications Commission (FCC), with 11,278 reported complaints in 1995, and 16,500 in 1996. In the first nine months of 1997 alone, 15,000 complaints have been filed. Unfortunately, this represents only the tip of the iceberg because most consumers never report violations to the FCC. Data from the regional Bell companies estimates that 1 in 20 switches is fraudulent. Media reports indicate that as many as 1 million illegal transfers occur annually. Thus, slamming threatens to rob consumers of the benefit of a competitive market, which is now composed of over 500 companies which generate $72.5 billion. As a result of slamming, consumers face not only increased phone bills, but also the significant expenditure of time and energy in attempting to identify and reverse the fraud. The results of slamming are clear: higher phone bills and immense consumer frustration.

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I was particularly pleased to work with recommendations to improve this bill. While the FCC has brought action against twenty-two of the industry’s largest firms for committing slamming violations with penalties totaling over $1.8 million, this represents a minute fraction of the violations. FCC prosecution does not effectively address or deter this serious fraud. To date, they have been too aggressive in pursuing violators. The California Public Utility Commission fined a company $2 million earlier this year after 56,000 complaints were filed against it. Arizona, Arkansas, Idaho, Illinois, Kansas, Minnesota, Mississippi, Missouri, New Jersey, Ohio, Vermont, and Wisconsin have all pursued litigation against slammers. Earlier this summer, public officials of twenty-five states asked the FCC to adopt tougher rules against slamming.

As directed by the Telecommunications Act of 1996, the FCC has recently moved to close several loopholes which have allowed slamming to continue unabated. Most importantly, the FCC has proposed to eliminate the financial incentives which encourage many companies to slam by mandating that all revenues generated from an illegal switch be returned to the original carrier. At present, a slammer can retain the profits generated from an illegal switch through either (1) a letter of agency, known as a LOA, from the consumer; (2) a recording of the consumer verifying his or her choice on a toll free line provided by the carrier; or (3) a record of verification by an appropriately qualified and independent third party. The regulations are expected to be finalized by the FCC early in 1999. While I represent those states which believe that these remedies will be wholly inadequate to address the ever-increasing problem of slamming, the problem is that slammed consumers would still be left without conclusive proof that their consent was properly obtained and verified.

My legislation encompasses a three part approach to stop slamming by strengthening the procedures used to verify consent obtained by marketers; increasing enforcement procedures by allowing citizens or their representatives to pursue slammers in court with the evidence necessary to win; and encouraging all stakeholders to use emerging technology to prevent fraud.

Mr. President, let me also thank the National Association of Attorneys General, the National Association of Regulatory Utility Commissioners which through both their national offices and individual members provided extensive recommendations to improve this bill. Additionally, I am grateful for the helpful input of several groups which advocate on behalf of consumers. I was particularly pleased to work with the Consumer Federation of America to address concerns which its members expressed, and I am honored that this legislation has received the endorsement of their organization.

Mr. President, let me take a few minutes to address a few provisions of my bill. My legislation requires that a consumer’s consent to change service is verified so that discrepancies can be adjudicated quickly and efficiently. Like the 1996 Act, my bill requires a legal switch to include verification. However, my legislation enumerates the necessary elements of a valid verification. First, the bill requires verification to be maintained by the provider, either in the form of a letter from the consumer or by recording verification of the consumer’s consent via the phone. The length that the verification must be maintained is to be determined by the FCC. Second, the bill stipulates the form that verification must take. Written verification remains the same as current regulations. Oral verification must include the voice of the subscriber affirmatively demonstrating that she wants her long distance provider to be changed; is authorized to make the switch; and that she has received notice currently verifying an imminent switch. The bill mandates oral verification to be conducted in a separate call from that of the telemarketer, by an independent, disinterested party. This verifying call must promptly disclose the nature and purpose of the call. Third, after a change has been executed, the new service provider must send a letter to the consumer, within five business days of the change in service, informing the consumer that the change, which he requested and verified, has been effected. Fourth, the bill mandates that a copy of verification be provided to the consumer upon request. Finally, the bill requires the FCC to finalize rules implementing these mandates within nine months of enactment of the bill.

These procedures should help ensure that consumers can efficiently avail themselves of the phone service they seek, without being exposed to random and undetectable fraudulent switches. If an individual is switched without his or her consent, the mandate of record, maintained verification will provide the consumer with the proof necessary to prove that the switch was illegal.

The second main provision of my legislation would provide consumers, or their public representatives, a legal right to pursue violators in court. Following the model of Senator Hollings’ 1991 Telephone Consumer Protection Act, my bill provides aggrieved consumers with a private right of action in any state court which allows, under specific slamming laws or more general consumer protection statutes such an action. This bill has been adjudicated to withstand constitutional challenges on both equal protection and tenth amendment claims. Thus, the bill has the benefit of specifying one forum in which to resolve illegal switches of all types of service: long distance, in-state, and local service.

Realizing that many individuals will not have the time, resources, or inclination to pursue a civil action, my bill also allows state Attorneys Generals, or other officials authorized by state law, to bring an action on behalf of citizens. Like the private right of action in suits brought by public officials damages are statutorily set at $1,000 or actual damages, whichever is greater. Treble damages are awarded in cases of knowing or willful violations. In addition to monetary awards, states are entitled to seek relief in the form of writs of mandamus, injunction, or similar relief. To ensure a proper role for the FCC, state actions must be brought in a federal district court where the victim or defendant resides. Additionally, state actions must be certified with the Commission, which maintains a right of intervention in an action. The bill makes express the fact that it has no impact on state authority to investigate consumer fraud or bring legal action under any state law.

Finally, Mr. President, my legislation recognizes that legislators or regulators can solve tomorrow’s problems with today’s technology. Therefore my bill mandates that the FCC provide Congress with a report on other, less burdensome but more secure means of obtaining and recording consumer consent. Such methods might include utilization of Internet technology or issuing PIN numbers or customer codes to be used before carrier changes are authorized. The bill requires that the FCC report to Congress on such methodology by December 31, 1999.

Mr. President, I appreciate the opportunity to discuss my initiative to stop slamming. I hope that this issue can be addressed quickly. As a result, I would urge all my colleagues to cosponsor this legislation.
DODD, DUBIN, and WELLSTONE in introducing legislation that begins to realize the paramount goal of doubling funding for the National Institutes of Health [NIH] over the next 5 years. The bill ensures that any tobacco settlements or judgments are not tax deductible.

As currently crafted, the global settlement specifically allows the tobacco companies to deduct the entire amount of their payments. That is a possible $129 billion from their tax bill. I believe it is fundamentally wrong to allow them such a free ride at taxpayers' expense. More importantly, any settlement should provide funds for biomedical research, including funding to find better treatment and cures for the diseases caused by tobacco.

Although the Tax Code often allows settlement amounts to be deductible, the current law provides that fines or penalties paid to a Government entity are not. The unprecedented situation we face today for tobacco industry demands that the Congress define these payments as more akin to such a fine or penalty. If a businessman cannot deduct a speeding ticket he received on his way to a meeting, tobacco should not be allowed to deduct its penalty for guaranteed immunity and certainty of liability. Which is worse, a speeding ticket or knowingly addicting and killing millions of Americans?

I want my colleagues to understand that the thrust of our efforts on this front does not hinge on the enactment of a final Federal settlement. The bill applies to any settlement or judgment at the State or Federal level. As such, if the tobacco companies are found liable for governmental entities, those payments will not be deductible. However, the bill leaves in place the deductibility of compensatory sums paid to individuals for harm done by tobacco. Now is the time for Congress to step forward and place that we will not be a party to any tobacco settlement that comes at taxpayers' expense.

Allowing the companies to state that they are willing to pay $368.5 billion to the Government, when in reality they are only paying two-thirds of that amount, is false advertising. The bill ensures that any tobacco settlement should provide funds for biomedical research, including funding to find better treatment and cures for the diseases caused by tobacco.

In addition, the medical technology industry provides high-wage jobs to millions of Americans. Investment in biomedical research helps the United States compete in the global marketplace in such industries as pharmacology, biotechnology, and medical technology. Combined with the actions taken earlier this year to reform the FDA, public and private investment in biomedical research will ensure our ability to compete in this important industry and create new jobs.

Mr. President, there are millions of Americans who are fighting a day-to-day battle against cancer, heart disease, diabetes, anemia, AIDS, osteoporosis, Parkinson’s disease, and other ailments. Their lives are in our hands. They are asking for hope and the opportunity for a cure. We must act now.

This legislation is supported by more than 175 organizations representing a broad base of research, patient, health professions, consumer, and education communities. I ask unanimous consent that a list of these organizations be included in the RECORD.

I urge my colleagues to join this bipartisan effort to help achieve the goal of doubling NIH funding over the next 5 years.

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

ORGS.

1. American Academy of Allergy, Asthma and Immunology.
9. American Association for Cancer Education.
10. American Association for Cancer Research.
11. American Association for the Study of Lung Disease.
15. American Association of Colleges of Pharmacy.
During the negotiations that led to the proposed national tobacco settlement, the resulting savings to substantially reduce tobacco use in the U.S. and help smokers quit.

Senator MACK and I, joined by a strong bipartisan group of our colleagues, are introducing legislation that would prevent tobacco companies from claiming the settlement or judgement payments as a tax-deductible expense, and use the resulting savings to substantially reduce tobacco use in the U.S. and help smokers quit.

It is important to note that this common sense proposal is the first major tobacco legislation this year to be introduced with strong bipartisan support. We have 16 cosponsors—8 Democrats and 8 Republicans—and I believe we'll have many more as more of our colleagues have the time to review this bill. Senator MACK and I are also very pleased to have the support of over 170 organizations from across the Nation signed up in support of this plan.
that "all payments pursuant to this agreement shall be deemed ordinary and necessary business expenses." This means that all payments under this proposal, an estimated $368.5 billion over 25 years, would be tax deductible. Thus the industry could write off about 35 percent of the proposed settlement payment of $368.5 billion, as well as any future payments or fines. So, if this were allowed to happen, the American people—not Big Tobacco—would be forced to pay approximately $130 billion of the tobacco settlement.

But the American people have paid enough. They’ve paid by having their kids deliberately targeted in slick advertising campaigns. They’ve paid by having the industry lie to them about the health effects of tobacco. And they’ve paid with disease and death.

Tobacco products kill more than 400,000 Americans every year—that’s more deaths than from AIDS, alcohol, car accidents, murders, suicides, drugs, and fires combined. Last year, close to 5,000 Iowans died from smoking related illnesses.

Mr. President, our bipartisan bill would close this outrageous loophole in the proposed national tobacco settlement. Our bill would keep new sources of funding for investing in health research.

And that’s what we really need. The proposed settlement provides funding for smoking cessation programs, anti-smoking education programs, and FDA enforcement—but only a tiny amount is set aside for vital scientific research on lung cancer, emphysema, and heart disease.

The Senate is already on record, in a vote of 90-0, to double the budget of NIH within 5 years. If we create a trust fund for medical research as I have been calling for since 1993 and deposit in it the savings from the elimination of this special interest loophole, we could take a major step to meet the Senate’s objective and make even more headway in curing killer diseases.

A fund for health research would provide additional resources for our search for medical breakthroughs over and above those provided to NIH in the annual appropriations process. The fund would greatly enhance the quality of health care by investing more in finding preventive measures, cures and more cost effective treatments for the major illnesses and conditions that strike people each day.

In 1993 and 1994 I argued that any health care reform plan should include additional funding for health research. Health care reform was taken off the department's front burner but the need to increase our Nation’s commitment in the search for medical breakthroughs.

Mr. President, this legislation is common sense, bipartisan—and it’s the right thing to do. Senator MACK and I join in asking our colleagues for their support to carefully review our proposal. Certainly any tobacco legislation that this Congress adopts next year should contribute significantly to our Nation’s commitment in the search for medical breakthroughs.

Mr. DODD, Mr. President, I rise today to join my colleagues, Senator MACK, Senator HARKIN, and others in introducing the National Institutes of Health Trust Fund Act of 1997. This bill, very simply, is intended to ensure that the public have a stake in the future health of this Nation.

By Mr. SMITH of Oregon (for himself, Mrs. FEINSTEIN, Mr. WYDEN, Mr. BAUCUS and Mr. HARRIS):

S. 1412. A bill to amend the Internal Revenue Code of 1986 to permit certain tax free corporate liquidations into a 501(c)(3) organization and to revise the unrelated business income tax rules regarding receipt of debt-financed property in such a liquidation; to the Committee on Finance.

THE CHARITABLE GIVING INCENTIVE ACT

Mr. SMITH of Oregon. Mr. President, I rise to introduce with Senator FEINSTEIN legislation that will provide incentives to encourage their wealth for charitable causes. In this era of ever-tightening fiscal constraints placed on congressional ability
to authorize discretionary funding, we have asked our communities to do more and more for those less fortunate. Charitable organizations in our communities have become an integral part of the safety net for the poor and homeless and significant sources of assistance for education in every community.

To help charities take advantage of those donors who wish to contribute significant wealth for charitable purposes, we are introducing the Charitable Giving Incentive Act. This legislation will change current tax law to encourage prospective donors to contribute a controlling interest in a closely-held corporation to charity.

When a donor is willing to make a gift of a controlling interest in a company, a tax is imposed on the corporation upon its liquidation, reducing the gift that the charity receives by 35 percent. The Smith/Feinstein bill would eliminate this egregious tax that is levied upon the value of these qualifying corporations. We sincerely hope that this will directly encourage meaningful contributions to charitable organizations that help a variety of causes. I ask that my colleagues support this legislation and look forward to its being considered by the Finance Committee in the near future.

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.

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 “Charitable Giving Incentive Act”.

SEC. 2. ELIMINATION OF CORPORATE LEVEL TAX IMPLICATIONS ON TRANSFER OF CLOSELY HELD CORPORATIONS UNDER CERTAIN CONDITIONS.

(a) In General.—Paragraph (2) of section 337(b) of the Internal Revenue Code 1986 (relating to treatment of indebtedness of subsidiary, etc.) is amended—

"(1) by striking ''Except as provided in subparagraph (B)'' and inserting ``(1) by striking ''Except as provided in subparagraph (B)'' and in subparagraph (A) and inserting ''Except as provided in subparagraph (B) or (C)'', and

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

"(C) EXCEPTION IN THE CASE OF CLOSELY HELD STOCK ACQUIRED WITHOUT CONSIDERATION.—If the 80-percent distributee is an organization described in section 501(c)(3) and acquired stock in a liquidated domestic corporation from either a decedent (within the meaning of section 1361(c)(2)) or the decedent's spouse, subparagraph (A) shall not apply to any distribution of property to the 80-percent distributee. This subparagraph shall apply only if all of the following conditions are met:

"(i) 80 percent or more of the stock in the liquidated corporation was acquired by the donor (without consideration) from an estate or trust created by one or more qualified persons. For purposes of this clause, the term ‘qualified person’ means a citizen or individual member of the United States Armed Forces stationed in an estate (other than a foreign estate within the meaning of section 7701(a)(31)(A)), or any trust described in clause (i), (ii), or (iii) of section 1361(c)(2)(A).

"(ii) The liquidated corporation adopted its plan of liquidation on or after January 1, 1999.

"(iii) The 80-percent distributee is an organization created or organized under the laws of the United States or of any State.

"(iv) All of the stock in the liquidated corporation is non-redistributable stock (as defined in section 6166(b)(7)(B)).

Nothing in subsection (d) shall be construed to limit the application of this subsection in circumstances in which this subparagraph applies."

(b) REVISION OF UNRELATED BUSINESS INCOME TAX PROVISIONS ON TRANSFER OF CLOSELY HELD CORPORATIONS.—Subparagraph (B) of section 514(c)(2) of the Internal Revenue Code of 1986 (relating to property acquired subject to mortgage, etc.) is amended by inserting "or pursuant to a liquidation described in section 337(b)(29C)," after "bequest or devise.,"

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Mrs. FEINSTEIN. Mr. President, I rise today with my colleagues Senator GORDON SMITH and Ron WYDEN of Oregon, as well Senator MAX BAUCUS and Senator SLADE GORTON to introduce legislation to create tax incentives and encourage more charitable giving in America. The legislation, based on S. 1121 which I introduced last year, represents an important step to encourage greater private sector support for important educational, medical, and other good causes in local communities across the country.

Americans are among the most caring in the world, contributing generously to charities in their communities: American families contribute, on average, nearly $650 for each household, or about $130 billion annually, to charities. Approximately, three out of every four households give to nonprofit charitable organizations.

However, charities are very concerned for Federal efforts to balance the budget will limit funds for social spending for urgent needs like children’s services, homelessness, job training, and health care. While support for charities grew by 3.7 percent in 1998, the contributions for human services, the area most closely associated with poverty programs, dropped by 6 percent. Nonprofit charities are very concerned about their ability to maintain their current level of services or grow to address unmet needs.

Nonprofit charities can never replace government programs, but they can play a critical role and provide vital social services. The Federal Government must ensure we are doing everything we can to encourage support for charities, which supplement Federal programs.

EXPANDING TAX INCENTIVES FOR CHARITABLE GIVING

The Federal Government must provide the leadership and the tools to encourage more charitable giving through the Tax Code. One source of untapped resources for charitable purposes is closely held corporate stock. A closely held business is a corporation, in which stock is issued to a small number shareholders, such as family members, but is not publicly traded on an exchange. This type of business is very popular for family businesses involving different generations. However, the tax cost of contributing closely held stock to a charity or foundation can be prohibitively high. The tax burden discourages families and owners from winding down a business and contributing the proceeds to charity. This legislation would permit certain free liquidations of closely held corporations into one or more tax exempt 501(c)(3) organizations.

Under current law, a corporation may have to be liquidated to effectively complete the transfer of assets to a charity, incurring a corporate tax at the 35 percent tax rate. In 1986, Congress repealed the “General Utilities” doctrine, imposing a corporate level tax on all corporate transfers, including those to tax exempt charitable organizations. A charity subject to taxation on its unrelated business income from certain types of donated property.

These tax costs make contributions of closely held stock a costly and ineffective means of giving funds to a charity. If we are going to find new ways to strengthen charities, we need to review the tax costs which undercut the incentive to give and the value of a charitable gift.

Volunteers are already hard at work in their communities and charitable funding is already stretched dangerously thin. Charities need added tools to unlock the public’s desire to give generously. We need to create appropriate incentives for the private sector to do more.

In California, volunteer and charitable organizations, together, perform vital roles in the community and deserve our support. I would like to offer one example, the Drew Center program if only more resources were available. Stronger tax
incentives to boost charitable giving could provide the Drew Center with some of the resources needed to combat this enormous problem.

The Chrysalis Center: In 1993 I visited the Chrysalis Center, a Los Angeles organization devoted to helping homeless individuals find and keep jobs. Chrysalis provides employment assistance, from training in jobseeking skills to supervised searches for permanent employment. The Center has helped place thousands of individuals in permanent, full-time jobs in the last decade. Jobs for the Homeless: Jobs for the Homeless assists with job placement services for the homeless in Berkeley and Oakland, supporting over 1,400 men and women. However, thousands more need their help. The former homeless individuals have landed successful positions in manufacturer, retailers, and small and large businesses. Without more contributions, Jobs for the Homeless will be unable to provide the necessary increase in literacy or drug rehabilitation programs, critical ingredients in moving people back to work.

Today, Senators Smith, Wyden, Baucus, Gorton, and I introduce tax incentives to encourage stronger support for the Nation’s vital charities. The proposal: Eliminates the corporate tax upon liquidation of a qualifying closely held corporation under certain circumstances. The legislation would result in increased contributions of stock to be dedicated to a charity; and clarifies that a charity can receive mortgaged property in a qualified liquidation, without triggering unrelated business income tax for 10 years. By eliminating the corporate tax upon liquidation, Congress would encourage additional, and much needed, charitable gifts. Across America, countless thousands have built successful careers and have generated substantial wealth in closely held corporations. As the individuals age and plan their estates, we should help them channel their wealth to philanthropic goals. Individuals who are willing to make generous bequests of companies and assets, often companies they have spent years building, should not be discouraged by substantially reducing the value of their gifts through Federal taxes.

While the Joint Tax Committee has not yet prepared an official revenue cost, previous estimates suggest a cost of about $400 million over 5 years. However, as a result of capital gains tax reform adopted earlier this year, the cost is likely to be significantly lower. Of equal significance, the same revenue estimates project big increases in charitable giving as a result of the legislation, stimulating between $3 and 5 billion in charitable contributions. This tax proposal may generate as much as seven or eight times its projected revenue loss in expanded charitable giving.

I encourage others to review this legislation and listen to the charities in your community. The legislation has been endorsed by the Council on Foundations, which represents foundations throughout the country, and the Council of Jewish Federations. Since the introduction of the legislation last year, the proposal has been revised to sharpen the bill’s focus and target the legislation in the most effective manner. I want to encourage the review process to continue, so we may continue to build support and target the bill’s impact for the benefit of the Nation’s non-profit community.

With virtually limitless need, we must look at new ways to encourage and nurture a strong charitable sector. Private charities cannot replace the government, but if the desire to support charitable activity exists, we should not impose taxes to decrease the value of that support. Tax laws should encourage, rather than impede, charitable giving. By inhibiting charitable gifts, Federal tax laws hurt those individuals that most need the help of their government and their community.

By Mr. LUGAR (for himself, Mr. HAGEL, Mr. ROBERTS, Mr. THOMAS, Mr. BINGE, Mr. HAGEL, Mr. ROBERTS, Mr. THOMAS, Mrs. FEINSTEIN, and Mr. CHAFEE):

S. 1413. A bill to provide a framework for the legislative and executive branches of unilateral economic sanctions reform by the Committee on Foreign Relations.

THE ENHANCEMENT OF TRADE, SECURITY, AND HUMAN RIGHTS THROUGH SANCTIONS REFORM ACT

Mr. LUGAR, Mr. President. I rise to introduce the Enhancement of Trade, Security, and Human Rights Through Sanctions Reform Act, a bill that will establish a more deliberative, common-sense approach to U.S. sanctions policy. I’m pleased to be joined by several distinguished colleagues, in introducing this important piece of legislation.

In recent years, there has been a proliferation in the use of unilateral economic sanctions as a tool of American foreign policy. While unilateral sanctions may be a low cost alternative to the deployment of American Armed Forces abroad—or to milder, less coercive choices—they almost never succeed in achieving their foreign policy objectives and impose a greater burden on American companies, producers, farmers, and workers than on the intended target country.

A cardinal test of foreign policy is that when we act internationally, our actions should do less harm to ourselves than to others. Unilateral economic sanctions, unfortunately, often fail this crucial test.

Mr. President, there have been a large number of studies on unilateral economic sanctions in recent years and the proposals are quite interesting results. Manufacturers revealed that in the period 1993 to 1996, the United States imposed unilateral sanctions to achieve foreign policy goals 61 times in 35 different countries. Last year, the report of the President’s Export Council cited 75 countries representing 52 percent of the world’s population that have been subject to or threatened by U.S. unilateral economic sanctions.

These actions have jeopardized billions in export earnings and hundreds of thousands of American jobs, while weakening our ability to provide humanitarian assistance abroad. In another study, the Institute for International Economics concluded that, in 1995 alone, economic sanctions cost U.S. exports—to 26 countries—between $15–19 billion, and eliminated upwards to 200,000 U.S. jobs, many in high wage export sectors.

The damage to the U.S. economy can have long-term consequences. Once foreign competitors establish a presence in international markets abandoned by the United States, the potential losses begin to magnify. Over time, the cumulative impact of sanctions, as well as loss of commercial contracts, but more importantly, may be a loss of confidence in American suppliers and in the United States as a reliable partner to do business. Frequent resort to economic sanctions increases the chances they may be, runs the risk of weakening the export sector which has contributed so greatly to our economic prosperity. This weakening effect can, in turn, have an adverse effect on our political influence abroad.

The major difficulty with an increased use of unilateral economic sanctions is that they rarely achieve the foreign policy goals they are intended to achieve. Sanctions frequently give the illusion of action by substituting for more decisive action or by serving as a palliative for those who demand that some action be taken—any action—by the United States against another country with whom we have a disagreement.

Sanctions can also make it more difficult diplomatically to engage foreign governments in dialogue to help bring about a political opening or a change in behavior. Serious trade sanctions can, in fact, inhibit, rather than facilitate, constructive dialogue with others.

As a nation, we often seek instant gratification or quick results from our actions. Sanctions, however, take a long time to work. The behavior we seek in other countries will most often take place incrementally over time. In some cases, our sanctions have the unintended consequences of providing authoritarian leaders a basis for increasing their political support and rallying opposition to the United States because our sanctions can be used to divert popular anger and resentment away from their own mis-deeds and mis-rules.

Unilateral sanctions almost never help those we want to assist, they frequently harm the United States more than the sanctioned country and undermine our international economic
competitiveness and economic security. Most regretfully, unilateral sanctions have become a policy of first choice when other policy alternatives exist.

Nonetheless, some economic sanctions may remain a tool of American foreign policy. Multilateral, unlike unilateral, sanctions have frequently advanced American national interests. The multilateral sanctions against Saddam Hussein that followed Iraq's aggression against Kuwait have helped to deplete Iraq's weapons of mass destruction program. Similarly, international sanctions against Serbia and the Federal Republic of Yugoslavia functioned to isolate them diplomatically and protect United States and allied interests in the Balkans. The international sanctions against apartheid in South Africa in the 1980's had a significant influence on bringing about a nonviolent peaceful transition in that country.

Finally, there is a consensus to oppose Soviet expansion through export restraints on East-West trade in the Coordinating Committee, or CoCom, proved to be enormously effective. Most economic sanctions, whether unilateral or multilateral, must never be used in a way that place for a long time before they are effective and their success will almost always be dependent upon extensive multilateral cooperation and compliance.

Nothing in our proposed legislation prohibits unilateral economic sanctions. There are situations where other foreign policy options have been exhausted and where the actions of others are so outrageous or so threatening to the United States and our national interests that our response, short of the use of force, must be firm and unambiguous. In such instances, economic sanctions may be a useful instrument of American foreign policy.

Mr. President, my proposed legislation is prospective. It will not affect existing U.S. sanctions. It will apply only to unilateral sanctions and to those sanctions intended to achieve foreign policy or national security objectives. It would exclude, by definition, U.S. trade laws, Jackson-Vanik and munitions list controls. It would not address the complex and important issue of state and local sanctions designed to achieve foreign policy goals, although these so-called vertical sanctions are increasingly important features of American foreign policy.

More specifically, Mr. President, this legislation seeks to establish clear guidelines and informational requirements to help us understand better the likely consequences of our actions before we opt to impose economic sanctions. We should know in advance of voting on sanctions legislation what our goals are, the anticipated economic, political and humanitarian benefits anticipated, and the possible impact on our reputation as a reliable supplier, the other policy options that have been explored, and whether the proposed sanctions are likely to contribute to achieving the foreign policy objectives sought by legislation. Comparable requirements are also in the bill for sanctions mandated by the executive branch.

Once sanctions are implemented, the bill also requires an annual report from the President detailing the degree to which sanctions have accomplished U.S. goals, as well as their impact on our economic, political and humanitarian relations with other countries.

The bill also provides for more active and timely consultations between Congress and the President. It provides Presidential waiver authority in emergencies or if he determines it is in the national interest.

It includes a sunset provision that would terminate unilateral economic sanctions after 2 years duration unless the Congress or the President acts to reauthorize them.

It includes language on contract sanctity to help ensure the United States is a reliable supplier.

It identifies U.S. agriculture as an especially vulnerable sector of our economy and requires a special report on the disproportionate burden stemming from U.S. economic sanctions. Because of this, there is discretionary authority for agricultural assistance in the bill. In addition, the bill opposes agricultural embargoes as foreign policy tools and uses that economic sanctions be targeted as narrowly as possible in order to minimize harm to innocent people and humanitarian activities.

Mr. President, my sanctions reform bill represents an attempt to develop an improved and comprehensive approach to an important foreign policy issue. We, in the Congress, are often called upon to make difficult choices between conflicting interests or among our core values as a nation and our international interests. These are frequently hard choices that should be given careful attention and preceded by careful analysis. We should never turn our back on our fundamental values of supporting democracy, human rights, and basic freedoms abroad but we should ask whether we can alter the behavior of other countries by imposing sanctions on them. Many times we cannot and at other times the benefits of making such behavior worse may be outweighed. There is no magic formula for influencing the behavior of other countries, but unilateral economic sanctions are rarely the answer.

Nothing in this bill prevents the imposition of U.S. unilateral economic sanctions or dictates a particular trade-off between American core values and our commercial and other interests. The steps detailed in this bill provide for better policy procedures so that consideration of economic sanctions is part of a deliberative process by which the President and the Congress can make reasoned and balanced choices affecting the totality of American values and interests.

Mr. President, I feel strongly about this issue. I hope my colleagues will join the other original cosponsors by taking a close look at this legislation. I am convinced that if we deal with the sanctions issues in a careful and systematic manner, we can make a significant positive contribution to our national interest.

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

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

S. 1413

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 "Enhancement of Trade, Security, and Human Rights through Sanctions Reform Act".

SEC. 2. PURPOSE. The purpose of this Act to establish an effective framework for consideration by the legislative and executive branches of unilateral economic sanctions.

SEC. 3. STATEMENT OF POLICY. It is the policy of the United States—

(1) to pursue United States interests through vigorous and effective diplomatic, political, commercial, charitable, educational, cultural, and strategic engagement with other countries, while recognizing that the national security interests of the United States may sometimes require the imposition of economic sanctions on other countries;

(2) to foster multilateral cooperation on vital matters of United States foreign policy, including promoting human rights and democracy, combating international terrorism, proliferation of weapons of mass destruction, and international narcotics trafficking, and ensuring adequate environmental protection;

(3) to promote United States economic growth and job creation by expanding exports of goods, services, and agricultural commodities, and by encouraging investment that supports the sale abroad of products and services of the United States;

(4) to maintain the reputation of United States businesses and farmers as reliable suppliers to international customers of quality products and services, including United States manufactured goods, agricultural products, financial services, and agricultural commodities;

(5) to avoid the use of restrictions on exports of agricultural commodities as a foreign policy weapon;

(6) to oppose policies of other countries designed to discourage economic interaction with countries friendly to the United States or with any United States national, and to avoid use of such measures as instruments of United States foreign policy; and

(7) when economic sanctions are necessary—

(A) to target them as narrowly as possible on those foreign governments, entities, and officials that are responsible for the conduct of a country against which sanctions are imposed.

(B) to the extent feasible, to avoid any adverse impact of economic sanctions on the humanitarian activities of United States and foreign nongovernmental organizations in a country against which sanctions are imposed.
SEC. 4. DEFINITIONS.

As used in this Act:

(1) UNILATERAL ECONOMIC SANCTION.—

(A) IN GENERAL.—The term "unilateral economic sanction" means any restriction or condition on economic activity with respect to a foreign country or foreign entity that is imposed, or is likely to be imposed, by the United States for purposes of foreign policy or national security, including any of the measures described in subparagraph (B), except in a case in which the United States and foreign countries or foreign entities have agreed to implement the measure pursuant to a multilateral regime and the other members of that regime have agreed to impose substantially equivalent measures.

(B) MEASURES.—The measures referred to in subparagraph (A) are the following:

(i) The suspension, restriction, or prohibition on, direct or indirect investment, insurance, or reinsurance in a foreign country or in which a particular foreign entity participates.

(ii) The suspension of, or any restriction or prohibition on, commercial transactions with a foreign country or entity.

(iii) The suspension of, or any restriction or prohibition on, direct, or indirect investment, insurance, or reinsurance in a foreign country or in which a particular foreign entity participates.

(iv) The imposition of increased tariffs on, or other restrictions on imports of, products of a foreign country or entity, including the denial, revocation, or conditioning of non-discriminatory (most-favored-nation) trade.

(v) The imposition of, or any restriction or prohibition on, direct, or indirect investment, insurance, or reinsurance in a foreign country or in which a particular foreign entity participates.

(vi) The suspension of, or any restriction or prohibition on, direct, or indirect investment, insurance, or reinsurance in a foreign country or in which a particular foreign entity participates.

(vii) Any measure imposed on a foreign country or entity that is substantially equivalent to any of the measures described in subparagraph (A).

(2) MULTILATERAL REGIME.—As used in this paragraph, the term "multilateral regime" means an agreement, arrangement, or obligation under which the United States cooperates with, or makes commitments to, other governments in commerce for reasons of foreign policy or national security, including—

(i) obligations under resolutions of the United Nations;

(ii) nonproliferation and export control agreements, such as the Australia Group, the Nuclear Suppliers Group, the Missile Technology Control Regime, and the Wassenaar Arrangement;

(iii) treaty obligations, such as under the Chemical Weapons Convention Treaty, the Non-Proliferation of Nuclear Weapons, and the Biological Weapons Convention; and

(iv) agreements concerning protection of the environment, such as the International Convention for the Conservation of Atlantic Tunas and the United States' participation in the Protocol on Substances that Deplete the Ozone Layer, and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes.

(3) FINANCIAL TRANSACTION.—As used in this paragraph, the term "financial transaction" has the meaning given that term in section 102(9) of the International Trade Act of 1974, including the enactment of section 337 of the Tariff Act of 1930, and section 246 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2460e).

(4) INVESTMENT.—As used in this paragraph, the term "investment" means any contribution or commitment of funds, commodities, services, patents, or other forms of intellectual property, processes, or techniques, including—

(i) a loan or loan guarantee;

(ii) the purchase of a share of ownership;

(iii) participation in royalties, earnings, or profits; and

(iv) the furnishing of commodities or services pursuant to a lease or other contract.

(5) EXCLUSIONS.—The term "unilateral economic sanction" does not include—

(i) any measure imposed to remedy unfair trade practices or to enforce United States rights under a trade agreement, including under section 337 of the Tariff Act of 1930, title VII of that Act, title III of the Trade Act of 1974, sections 1374 and 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3801 and 3810), and section 3 of the Act of March 3, 1933 (41 U.S.C. 101–110); or

(ii) any measure imposed to remedy market disruption or to respond to injury to a domestic industry for which increased imports are a substantial cause or threat thereof, including remedies under sections 201 and 202 of the Tariff Act of 1930 and section 232 of the Trade Act of 1974 (19 U.S.C. 1621 and 1625 and 19 U.S.C. 1302).

SEC. 5. GUIDELINES FOR UNILATERAL ECONOMIC SANCTIONS LEGISLATION.

Any bill or joint resolution that imposes any unilateral economic sanction, or authorizes the imposition of any unilateral economic sanction by the executive branch, and is considered by the House of Representatives or the Senate, should—

(1) state the foreign policy or national security objective or objectives of the United States that the economic sanction is intended to achieve;

(2) provide that the economic sanction terminate 2 years after it is imposed, unless specifically reauthorized by Congress;

(3) provide for contract sanctity;

(4) provide authority for the President both to adjust the timing and scope of the sanction and to waive the sanction, if the President determines it is in the national interest to do so;

(5)(A) target the sanction as narrowly as possible on foreign governments, entities, and officials that are responsible for the conduct against which the sanction is targeted; and

(B) seek to minimize any adverse impact on the humanitarian activities of United States and foreign nongovernmental organizations in any country against which the sanction may be imposed; and

(6) provide, to the extent that the Secretary of Agriculture or the Congressional Budget Office finds that—

(A) the proposed sanction is likely to restrict exports of any agricultural commodity or is likely to result in retaliation against exports of any agricultural commodity from the United States, and

(B) the sanction is proposed to be imposed, or is likely to be imposed, on a country or countries that constituted, in the preceding calendar year, the market for more than 3 percent of all export sales from the United States of an agricultural commodity that the Secretary of Agriculture expands or terminates agricultural export assistance under United States market development, food assistance, or export promotion programs to offset the likely damage to United States producers of the affected agricultural commodity or commodities, to the maximum extent permitted by the obligations of the United States under the Agricultural Trade Act of 1977 (U.S.C. 5601), section 102(4) of the Uruguay Round Agreements Act (19 U.S.C. 3901(d)(2)).
SEC. 6. REQUIREMENTS FOR BILL OR JOINT RESOLUTION.

(a) PUBLIC COMMENT.—Before considering a bill or joint resolution that imposes any unilateral economic sanction, or authorizes the imposition of any unilateral economic sanction, or authorizes the imposition of any unilateral economic sanction by the executive branch, the committee of primary jurisdiction shall publish a notice which provides an opportunity for interested members of the public to submit comments to the committee on the proposed sanction.

(b) C ONSULTATION.—The committee of primary jurisdiction that orders or submits a bill or joint resolution described in section 5 shall timely request from the President and the Secretary of Agriculture the reports identified in subsection (c). Each such report that has been timely submitted prior to the filing of the committee report accompanying the bill or joint resolution shall be included in the committee report. The committee report shall also contain, if the bill or joint resolution does not meet any of the guidelines specified in paragraphs (1) through (6) of section 5, an explanation of why it does not.

(c) REPORTS.—

(1) REPORT BY THE PRESIDENT.—The President's report to Congress under subsection (b) shall contain—

(A) an assessment of—

(i) the likelihood that the proposed unilateral economic sanction will achieve its stated objective within a reasonable period of time; and

(ii) the impact of the proposed unilateral economic sanction on—

(I) humanitarian conditions, including the impact on conditions in any specific countries on which the sanction is proposed to be or may be imposed;

(II) humanitarian activities of United States and foreign nongovernmental organizations;

(III) relations with United States allies;

(IV) other United States national security and foreign policy interests; and

(V) countries and entities other than those on which the sanction is proposed to be or may be imposed;

(B) a description and assessment of—

(i) diplomatic and other steps the United States has taken to accomplish the intended objectives of the unilateral sanction legislation;

(ii) the likelihood of multilateral adoption of comparable measures;

(iii) comparable measures undertaken by other countries;

(iv) alternative measures to promote the same objectives, and an assessment of their potential effectiveness; and

(v) any obligations of the United States under international treaties or trade agreements with which the proposed sanction may conflict;

(C) the likelihood that the proposed sanction will lead to retaliation against United States interests, including agricultural interests; and

(D) whether the achievement of the objectives of the proposed sanction outweighs any likely costs to United States foreign policy, national security, economic, and humanitarian interests, including any potential harm to United States business, agriculture, and consumers, and any potential harm to the international reputation of the United States as a reliable supplier of products, technology, agricultural commodities, and services.

(2) REPORT BY THE SECRETARY OF AGRICULTURE.—The Secretary of Agriculture shall submit to the appropriate committees a report which shall contain an assessment of—

(A) the extent to which any country or countries proposed to be sanctioned or likely to be sanctioned are markets that accounted for, in the preceding calendar year, more than 3 percent of all export sales from the United States of any agricultural commodity, and

(B) the likelihood that exports of agricultural commodities from the United States will be affected by the proposed sanction or by retaliation against any country proposed to be sanctioned or likely to be sanctioned, and specific commodities which are most likely to be affected;

(C) the likely effect on incomes of producers of the specific commodities identified by the Secretary;

(D) the extent to which the proposed sanction would permit foreign suppliers to replace United States suppliers; and

(E) the likely effect of the proposed sanction on the reputation of United States farmers as reliable suppliers of agricultural commodities in general, and of the specific commodities identified by the Secretary.

(b) GUIDELINES FOR EXECUTIVE BRANCH ACTION.

(1) IN GENERAL.—Any bill or joint resolution that imposes any unilateral economic sanction described in section 5 shall be considered by a President of the United States as a mandate for purposes of part B of title IV of the Congressional Budget Act of 1974.

(2) REPORT BY THE CONGRESSIONAL BUDGET OFFICE.—The Budget Office shall submit to the President and to the Joint Committee on the Budget pursuant to subparagraph (A) an assessment of the impact on United States trade performance, employment, and growth, the international reputation of the United States as a reliable supplier of products, agricultural commodities, technology, and services, and the economic well-being and international competitive position of United States industries, firms, workers, farmers, and communities.

(3) GUIDELINES FOR EXECUTIVE BRANCH SANCTIONS.—Any unilateral economic sanction imposed by the President—

(I) shall include a clear finding that the sanction is likely to achieve a specific United States foreign policy or national security objective within a reasonable period of time, which shall be specified, and that the achievement of the objective of the sanction outweighs any costs to United States national security, economic, and humanitarian interests, including any potential harm to United States business, agriculture, and consumers;

(II) shall provide for contract sanctity; and

(III) be targeted not later than 2 years after the sanction is imposed, unless specifically extended by the President in accordance with the procedures of this section;

(4) GUIDELINES FOR EXECUTIVE BRANCH SANCTIONS.—Any unilateral economic sanction imposed by the President—

(D)(i) be targeted as narrowly as possible on foreign governments, entities, and officials that are responsible for the conduct being targeted; and

(ii) seek to minimize any adverse impact on the humanitarian activities of United States nongovernmental organizations in a country against which the sanction may be imposed; and

(2) should provide, to the extent that the Secretary of Agriculture finds that—

(A) a unilateral economic sanction is likely to restrict exports of any agricultural commodity, and

(B) the proposed sanction or retaliation against any country proposed to be sanctioned or likely to risk retaliation against exports of any agricultural commodity from the United States, and

(C) the proposed sanction is proposed to be imposed, or is likely to be imposed, on a country or countries that constituted, in the preceding calendar year, the market for more than 3 percent of all export sales from the United States of an agricultural commodity, and

(D) the Secretary of Agriculture expands international markets for United States agricultural exports, and

(E) the likely effect on the reputation of the United States as a reliable supplier of agricultural commodities in general, and of the specific commodities identified by the Secretary.

(c) C ONSULTATION.—The President shall consult with the appropriate committees regarding the proposed unilateral economic sanction, including consultations regarding efforts to achieve multilateral cooperation on the issues or problems prompting the proposed sanction.

(C) P UBLIC HEARINGS; R ECORD.—The President of the United States shall ensure that the public and the Congress receive an opportunity to submit comments on the proposed unilateral economic sanction.

(D) GUIDELINES FOR EXECUTIVE BRANCH SANCTIONS.—Any unilateral economic sanction imposed by the President—

(I) shall include a clear finding that the sanction is likely to achieve a specific United States foreign policy or national security objective within a reasonable period of time, which shall be specified, and that the achievement of the objective of the sanction outweighs any costs to United States national security, economic, and humanitarian interests, including any potential harm to United States business, agriculture, and consumers;

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(2) should provide, to the extent that the Secretary of Agriculture finds that—

(A) a unilateral economic sanction is likely to restrict exports of any agricultural commodity, and

(B) the proposed sanction or retaliation against any country proposed to be sanctioned or likely to risk retaliation against exports of any agricultural commodity from the United States, and

(C) the proposed sanction is proposed to be imposed, or is likely to be imposed, on a country or countries that constituted, in the preceding calendar year, the market for more than 3 percent of all export sales from the United States of an agricultural commodity, and

(D) the Secretary of Agriculture expands international markets for United States agricultural exports, and

(E) the likely effect on the reputation of the United States as a reliable supplier of agricultural commodities in general, and of the specific commodities identified by the Secretary.

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(D) GUIDELINES FOR EXECUTIVE BRANCH SANCTIONS.—Any unilateral economic sanction imposed by the President—

(I) shall include a clear finding that the sanction is likely to achieve a specific United States foreign policy or national security objective within a reasonable period of time, which shall be specified, and that the achievement of the objective of the sanction outweighs any costs to United States national security, economic, and humanitarian interests, including any potential harm to United States business, agriculture, and consumers;

(II) shall provide for contract sanctity; and

(III) be targeted not later than 2 years after the sanction is imposed, unless specifically extended by the President in accordance with the procedures of this section;

(4) GUIDELINES FOR EXECUTIVE BRANCH SANCTIONS.—Any unilateral economic sanction imposed by the President—

(D)(i) be targeted as narrowly as possible on foreign governments, entities, and officials that are responsible for the conduct being targeted; and

(ii) seek to minimize any adverse impact on the humanitarian activities of United States nongovernmental organizations in a country against which the sanction may be imposed; and

(2) should provide, to the extent that the Secretary of Agriculture finds that—

(A) a unilateral economic sanction is likely to restrict exports of any agricultural commodity, and

(B) the proposed sanction or retaliation against any country proposed to be sanctioned or likely to risk retaliation against exports of any agricultural commodity from the United States, and

(C) the proposed sanction is proposed to be imposed, or is likely to be imposed, on a country or countries that constituted, in the preceding calendar year, the market for more than 3 percent of all export sales from the United States of an agricultural commodity, and

(D) the Secretary of Agriculture expands international markets for United States agricultural exports, and

(E) the likely effect on the reputation of the United States as a reliable supplier of agricultural commodities in general, and of the specific commodities identified by the Secretary.

(c) C ONSULTATION.—The President shall consult with the appropriate committees regarding the proposed unilateral economic sanction, including consultations regarding efforts to achieve multilateral cooperation on the issues or problems prompting the proposed sanction.

(C) P UBLIC HEARINGS; R ECORD.—The President of the United States shall ensure that the public and the Congress receive an opportunity to submit comments on the proposed unilateral economic sanction.

(D) GUIDELINES FOR EXECUTIVE BRANCH SANCTIONS.—Any unilateral economic sanction imposed by the President—

(I) shall include a clear finding that the sanction is likely to achieve a specific United States foreign policy or national security objective within a reasonable period of time, which shall be specified, and that the achievement of the objective of the sanction outweighs any costs to United States national security, economic, and humanitarian interests, including any potential harm to United States business, agriculture, and consumers;
Section 4: Definitions. This section defines "equality," "agricultural commodity," "appropriate measures," and "unilateral economic sanctions." The definition also excludes U.S. trade laws, Jackson-Vanik, and in the aggregate, of all unilateral economic sanctions in effect under United States law, regulation, or Executive order, including the costs of acting unilaterally. The report will also assess alternatives, such as prior notification of U.S. steps and comparable multilateral measures.

The Secretary of Agriculture's report shall assess the likely extent of the proposed legislation and in the aggregate, of all unilateral economic sanctions in effect under United States law, regulation, or Executive order, including the costs of acting unilaterally. The report will also assess alternatives, such as prior notification of U.S. steps and comparable multilateral measures.

Section 7: Requirements for Executive Action. In case of national emergency, the President may impose a unilateral sanction no less than 60 days after announcing his intention to do so, during which time he shall consult with Congressional committees and publish a notice in the Federal Register seeking public comment. Any Executive sanction must meet the same guidelines that Section 5 applies to the Congress and must, in addition, include a clear finding that the sanction is likely to achieve a specific U.S. foreign policy or national security objective within a reasonable—and specified—period of time.

Section 7 also requires—prior to the imposition of a unilateral sanction—the President to consult with the U.S. International Trade Commission to provide the appropriate Congressional committees reports that contain the same assessment as required in the reports described in Section 6. The President shall report by the U.S. International Trade Commission on the likely short- and long-term costs of the proposed sanctions to the U.S. economy.

Section 8: Annual Report. The President shall submit to the appropriate committees a report that describes the extent to which sanctions have achieved U.S. objectives, as well as their impact on humanitarian and other U.S. interests, including restraints on exports, and in the aggregate, of all unilateral economic sanctions in effect under United States law, regulation, or Executive order, including the impact on U.S. competitiveness.

In case of national emergency, the bill allows the President temporarily to waive most Section 7 requirements in order to act immediately. If the President acts on an emergency basis, the waived requirements must be restored within 90 days. The President shall establish an interagency Sanctions Review Committee to improve coordination of U.S. policy regarding unilateral sanctions.

Section 8: Annual Report. The President must submit to the appropriate committees a report that describes the extent to which sanctions have achieved U.S. objectives, as well as their impact on humanitarian and other U.S. interests, including restraints on exports, and in the aggregate, of all unilateral economic sanctions in effect under United States law, regulation, or Executive order, including the impact on U.S. competitiveness.
By Mr. MCCAIN (for himself, Mr. HOLLINGS, Mr. BREAUX, and Mr. GORTON):

S. 1415. A bill to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE UNIVERSAL TOBACCO SETTLEMENT ACT

Mr. MCCAIN. Mr. President, I am pleased today to introduce the Universal Tobacco Settlement Act. This bill is cosponsored by the Commerce Committee Ranking Member Senator HOLLINGS, Senator GORTON, and Senator BREAUX.

Mr. President, the bill we are introducing today is the legislative version of the Universal Tobacco Settlement agreed upon by the attorneys general and the tobacco companies. We hope it will serve as the basis of discussion and amendment here in the Senate.

I want briefly to discuss what this bill is and is not. It is the basis for hearings, discussion, and amendment. After this bill is introduced, I will ask congressmen to jointly refer it to various committees of jurisdiction for consideration. As the chairman of the Commerce Committee, I intend to hold extensive hearings on this bill and use it as the vehicle for amendment.

I recognize that this legislation was drafted by Senate legislative counsel who was requested to write a bill that would implement and mirror the universal tobacco agreement without any direction or input from Members and without any alteration from the agreement.

The substance of the bill is not perfect, complete, comprehensive, or legislation that could ever be signed into law without considerable debate and amendment. None of the cosponsors endorse this bill as being the answer to our Nation's problem with tobacco-related death and illness. But it can and should serve as a basis to begin negotiations between all concerned parties.

The bipartisan group of attorneys general and the tobacco companies deserve praise for developing this language. I know it was not easy. But much more needs to be done.

The Universal Tobacco Settlement Agreement presents more questions than it answers. That may be why we must move the legislative process forward and begin debating substantive language.

I had hoped that the administration would send the Congress legislation in this area. I would have liked for the Congress to begin considering the proposals developed and advocated by the White House. Unfortunately, the White House chose not to take such action.

As a result, I have chosen to begin this discussion with attorneys general agreement.

There has been one addition to the settlement developed by the attorneys general. The universal tobacco settlement did not address the issue of tobacco farmers and the communities whose existence and economy depends on the growing of tobacco. To address this concern, a new title IX has been added to the bill. The text of title IX is the language of S. 1310, legislation introduced by Senator FORD. It is my hope that with the addition of this language to the bill, we can begin the comprehensive debate necessary on this subject.

Mr. President, let there be no mistake, the Senate takes its role in this matter very seriously. Millions of lives have been lost and millions more will follow. Every day 3,000 young adults and children begin smoking. We cannot and should not allow this to continue.

With the introduction of this bill we will begin this debate and I am hopeful that by early next year we can move forward on the floor on this matter.

By Mr. MCConnell:

S. 1416. A bill to amend Federal election laws to repeal the public financing of national political party conventions and Presidential elections and spending limits on Presidential election campaign expenditures as authorized by the Bipartisan Campaign Reform Act of 1997, as amended.

Mr. MCConnell. Mr. President, the Governmental Affairs hearings investigating the 1996 Presidential election confirmed what knowledgeable observers have contended for years—the Presidential campaign finance system is broken. Its $75 million campaign finance entitlement program looks as attractive as a camel's back in 2000. The Reform Party, funded by more restrictions—to the party committees and independent groups. It would be like putting band-aids on the Titanic, and unconstitutional, to boot.

The reform dream is the taxpayers' nightmare. Over $1 billion has been squandered on the Presidential system. It is an entitlement program for politicians. And a boondoggle for the likes of fringe candidates such as Lenora Fulani and Lyndon LaRouche who have flocked to the Presidential campaign entitlement program, like moths to a flame.

Even Ross Perot's Reform Party has gotten into the act—as the Texas billionaire received $30 million from the U.S. Treasury last year for his campaign. It is the irony that the Reform Party's partaking of taxpayer funds from the Presidential system coffers will be the straw that breaks the camel's back in 2000. The Reform Party is going to bleed the reform dream dry to the point that we may lose what is left of the Presidential campaign finance entitlement program, like moths to a flame.
By Mr. AKAKA (for himself, Mr. CRAIG, and Ms. LANDRIEU):

S. 1418 to promote the research, identification, assessment, exploration, and development of methane hydrate resources, and for other purposes; to the Committee on Energy and Natural Resources.

THE METHANE HYDRATE RESEARCH AND DEVELOPMENT ACT OF 1997

Mr. AKAKA. Mr. President, on behalf of myself and Senators CRAIG and LANDRIEU, I am introducing the Methane Hydrate Research and Development Act of 1997.

Methane hydrate is a methane-bearing, ice-like substance that occurs in abundance in marine sediments. It is a crystalline solid of methane molecules surrounded by a structure of water molecules.

Methane hydrates are stable at moderately high pressures and low temperatures and contain large quantities of methane. One unit volume of methane hydrate contains more than 100 volumes of methane at standard temperature and pressure.

Methane hydrates are found in deep ocean sediments. Significant quantities are also found in the permafrost of Alaska, Canada, and Siberia.

Despite their potential as an energy resource, methane hydrates have not received the attention they deserve. We are only beginning to understand the magnitude of this potential resource. The amount of methane sequestered in gas hydrates is enormous. Worldwide estimates range from 100,000 trillion cubic feet to 270 million trillion cubic feet. Locations of known methane hydrate deposits within the United States include the Arctic, the seabed adjacent to the coasts of Alaska, California, the Gulf of Mexico, and the Eastern Seaboard.

A conservative estimate of deposits under U.S. jurisdiction is 2,700 trillion cubic feet to seven million trillion cubic feet. Nine percent of the world's methane is thought to be stored in marine sediments. Significant quantities are also found in the permafrost of Alaska, Canada, and Siberia.

This is an exciting area of research and of new knowledge. It has an enormous payoff, not only for our energy security, but also for the global environment.

My bill establishes a small research and development program with the potential for major payback. It would direct the Department of Energy to conduct research and development in collaboration with the Naval Research Laboratory and the U.S. Geological Survey. The Secretary of Energy would also consult with other Federal and State agencies, industry, and academia. It directs the Department to conduct research on, and identify, explore, assess, and develop methane hydrate resources as a source of energy. It also directs the Department to develop technologies needed to develop methane resources in an environmentally sound manner. It provides for research to develop safe means of transportation and storage of methane produced from methane hydrates. To alleviate the concerns related to releases of methane, the legislation directs the Department to undertake research to assess and mitigate hydrate degassing, both natural and that associated with commercial development. It requires the Department to develop technologies to reduce the risk of drilling through the gas hydrates. And finally, it provides for the hiring of scientists and engineers that would be needed for this new and exciting field of endeavor.

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

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

S. 1418

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 “Methane Hydrate Research and Development Act of 1997”.

SEC. 2. DEFINITIONS.
In this Act:
(1) CONTRACT.—The term “contract” means a procurement contract within the meaning of 6303 of title 31, United States Code.
(2) COOPERATIVE AGREEMENT.—The term “cooperative agreement” means a cooperative agreement within the meaning of section 6305 of title 31, United States Code.
(3) GRANT.—The term “grant” means a grant agreement within the meaning of section 6503 of title 31, United States Code.

(4) METHANE HYDRATE.—The term “methane hydrate” means a methane clathrate that—

(A) is in the form of a methane-water ice-like crystalline material; and
(B) is stable and occurs naturally in deep-ocean and permafrost areas.

(5) SECRETARY.—The term “Secretary” means the Secretary of Energy.

(6) DEPARTMENT OF DEFENSE.—The term “Secretary of Defense” means the Secretary of Defense, acting through the Secretary of the Navy.

(7) SECRETARY OF THE INTERIOR.—The term “Secretary of the Interior” means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

SEC. 3. METHANE HYDRATE RESEARCH AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—

(1) COMMENCEMENT OF PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Defense and the Secretary of the Interior, shall commence a program of methane hydrate research and development.

(2) DESIGNATIONS.—The Secretary, Secretary of Defense, and Secretary of the Interior shall designate individuals to implement this Act.

(3) MEETINGS.—The individuals designated under paragraph (2) shall meet not less frequently than every 120 days to review the progress of the program under paragraph (1) and make recommendations on future activities.

(b) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—

(1) ASSISTANCE AND COORDINATION.—The Secretary may award grants or contracts to, or enter into cooperative agreements with, universities and industrial enterprises to—

(A) conduct basic and applied research to identify, explore, assess, and develop methane hydrate as a source of energy;
(B) assist in developing technologies required for efficient and environmentally sound development of methane hydrate resources;
(C) undertake research programs to provide safe means of transport and storage of methane produced from methane hydrates;
(D) conduct drilling and trapping in methane hydrate resources research and re-source development;
(E) conduct basic and applied research to assess the environmental impacts of hydrate degassing, both natural and that associated with commercial development; and
(F) develop technologies to reduce the risks of drilling through methane hydrates.

(2) CONSULTATION.—The Secretary may establish an advisory panel consisting of experts from academia, and Federal agencies to advise the Secretary on potential applications of methane hydrate and assist in developing recommendations and priorities for the methane hydrate research and development program carried out under this section.

(c) LIMITATIONS.—

(1) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount made available to carry out this section for a fiscal year may be used by the Secretary for expenses associated with the administration of the program subsection (a)(1).

(2) CONSTRUCTION COSTS.—None of the funds made available to carry out this section may be used for the acquisition of a new building or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees).

(d) RESPONSIBILITIES OF THE SECRETARY.—

In carrying out subsection (b)(1), the Secretary shall—

(1) facilitate and develop partnerships among government, industry, and academia to research, identify, assess, and explore methane hydrate resources;
(2) undertake programs to develop basic information necessary for promoting long-term interest in methane hydrate resources as an energy source;
(3) ensure that the data and information developed through the program are accessible and widely disseminated as needed and appropriate;
(4) promote cooperation among agencies that are developing technologies that may hold promise for methane hydrate resource development; and
(5) report annually to Congress on accomplishments under this Act.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—

(1) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount made available to carry out this section for a fiscal year than 5 percent of the amount made available to carry out this section for a fiscal year may be used by the Secretary for expenses associated with the administration of the program subsection (a)(1).

(2) CONSTRUCTION COSTS.—None of the funds made available to carry out this section may be used for the acquisition of a new building or the acquisition, expansion, remodeling, or alteration of an existing building located in the United States.

SEC. 5. GRANTS FOR METHANE HYDRATE RESEARCH

(a) IN GENERAL.—

(1) A DMINISTRATIVE EXPENSES.—Not more than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Defense and the Secretary of the Interior, shall make available to carry out this section for a fiscal year an amount not in excess of $10,000,000 for expenses associated with the administration of the program under subsection (b).

(2) CONSULTATION.—The Secretary may make grants or enter into cooperative agreements with, universities and industrial enterprises to—

(A) conduct basic and applied research to identify, explore, assess, and develop methane hydrate as a source of energy;
(B) assist in developing technologies required for efficient and environmentally sound development of methane hydrate resources;
(C) undertake research programs to provide safe means of transport and storage of methane produced from methane hydrates;
(D) conduct drilling and trapping in methane hydrate resources research and re-source development;
(E) conduct basic and applied research to assess the environmental impacts of hydrate degassing, both natural and that associated with commercial development; and
(F) develop technologies to reduce the risks of drilling through methane hydrates.

(b) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—

(1) ASSISTANCE AND COORDINATION.—The Secretary may award grants or contracts to, or enter into cooperative agreements with, universities and industrial enterprises to—

(A) promote education and training in the science of methane hydrates to date by drilling into an ocean and permafrost areas.

(b) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—

(1) ASSISTANCE AND COORDINATION.—The Secretary may award grants or contracts to, or enter into cooperative agreements with, universities and industrial enterprises to—

(A) conduct basic and applied research to identify, explore, assess, and develop methane hydrate as a source of energy;
(B) assist in developing technologies required for efficient and environmentally sound development of methane hydrate resources;
(C) undertake research programs to provide safe means of transport and storage of methane produced from methane hydrates;
(D) conduct drilling and trapping in methane hydrate resources research and re-source development;
(E) conduct basic and applied research to assess the environmental impacts of hydrate degassing, both natural and that associated with commercial development; and
(F) develop technologies to reduce the risks of drilling through methane hydrates.

(c) LIMITATIONS.—

(1) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount made available to carry out this section for a fiscal year may be used by the Secretary for expenses associated with the administration of the program subsection (a)(1).

(2) CONSTRUCTION COSTS.—None of the funds made available to carry out this section may be used for the acquisition of a new building or the acquisition, expansion, remodeling, or alteration of an existing building located in the United States.
Nearly a decade ago, several researchers independently tried to estimate how much methane exists in hydrate deposits. Because of the scarcity of direct hydro- or seismic studies that could detect such deposits, they resorted to a field of geology known as paleoceanography—the study of past ocean conditions and compositions through analysis of sediments that accumulate at the ocean floor. The theory is that while some hydrates remain frozen, others melt and release methane into the atmosphere, leading to warming and climate change.

The researchers concluded that global hydrate deposits contain approximately 10,000 gigatons, or 10 times as much as the carbon dioxide in the atmosphere. This is about a quarter of the total amount of methane in the atmosphere, making it a significant contributor to climate change.

The researchers also estimated that if hydrates were to melt, they could release a substantial amount of methane into the atmosphere, leading to rapid climate change. They concluded that this could happen at a rate of a few centimeters per decade, which would be much faster than the current rate of climate change.

The researchers suggested that hydrates could be a source of significant greenhouse gas emissions, and that they should be studied more closely in order to better understand their role in climate change. The study also highlighted the need for more research on the stability of hydrates and the conditions under which they might melt.

In conclusion, the researchers emphasized the importance of studying hydrates in order to better understand their role in the climate system. They suggested that further research is needed to better understand how hydrates might respond to changing ocean conditions, and to develop strategies for managing the potential emissions of methane from these deposits.
provide under California law, were provided to illegal aliens who were injured during illegal crossings at the border and while escaping border patrol pursuits.

The Sacramento Bee recently reported the following:

Every time a Border patrol chase results in injuries, San Diego area hospitals provide ‘free’ care to those injured... (For instance), medical care for Francisco Quintero—who was struck by a car while fleeing Border patrol agents—cost UCSD Medical Center over $1 million in uncompensated expenses. In one recent vehicle chase, a van loaded with illegal immigrants crashed while evading the Border Patrol resulting Scripps Hospital $200,000 and Mercy Hospital $100,000 in uncompensated care.

In the 1996 Immigration Act, Congress acknowledged the huge cost shift to state and local county hospitals in unreimbursed cost for emergency medical services provided to illegal aliens by authorizing full reimbursement for emergency Medicaid and ambulatory services.

However, the $25 million appropriated annually over the next 4 years under the Balanced Budget Act for emergency Medicaid for illegal aliens is insufficient to cover the full cost of emergency medical services for illegal aliens nationwide, where high immigrant States like California, Texas, New York, Florida, Illinois, New Jersey, Arizona and Massachusetts end up picking up the responsibility for caring for the injured illegal aliens.

In fact, for fiscal year 1998, there are no appropriations for reimbursement for emergency ambulatory services, as authorized by the 1996 Immigration Act. Instead, Congress only requires INS to perform a pilot project in Nogales, Arizona and report its findings to Congress.

Appropriating $25 million over the next 4 years and performing a pilot project in Nogales, Arizona is not enough to cover the millions of dollars high immigrant States like California incur every year in unreimbursed emergency medical and ambulatory costs for illegal aliens injured at the border or during a border patrol pursuit.

Mr. President, time has come for the Federal Government to take full responsibility for the costs associated with providing emergency medical services, including ambulatory services, for illegal aliens and lifting the fiscal burden on State and local counties.

Thank you and I urge all my colleagues to support this legislation.

Mr. President, I ask unanimous consent that certain aspects of medicine be provided without charge, including custody practice, of the United States for their costs of providing medical services, including ambulatory services, related to an emergency medical condition of an individual who—

(a) Subject to the availability of appropriations, the Attorney General shall fully reimburse States and political subdivisions of States for their costs of providing medical services, including ambulatory services, related to an emergency medical condition of an individual who—

(1) is injured while, or being pursued immediately after, crossing a land or sea border of the United States without inspection or at any time or place other than as designated by the Attorney General; and

(2) is under the custody of the State or subdivision pursuant to a transfer, request, or other action by a Federal authority.

(b) There is established in the general fund of the Treasury a separate account out of which the Attorney General shall provide reimbursement under this section.

(c) Reimbursement under this section shall not be taken out of monies appropriated for the Immigration and Naturalization Service.

(d) There are authorized to be appropriated for fiscal years 1998-2002 an amount not to exceed $25 million annually for the purpose of carrying out this section.

(e) The Attorney General shall report to the Judiciary and Appropriations Committees of the House of Representatives and the Senate annually on the implementation of this section.

(f) By March 1, 1998, the Attorney General shall submit to the Judiciary Committees of the House of Representatives and the Senate a report on the implementation of this section.

(g) For purposes of this section, the term 'emergency medical condition' has the same meaning as that term has under section 562 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.''

Mr. KENNEDY (for himself, Mr. COCHRAN, Mr. DURBIN, Mr. FAIRCLOTH, and Ms. MIKULSKI):

S. 1421. A bill to amend the Public Health Service Act to provide additional support for and to expand clinical research grants, and for other purposes; to the Committee on Labor and Human Resources.

THE CLINICAL RESEARCH ENHANCEMENT ACT OF 1997

Mr. KENNEDY. Mr. President, the promise of new biomedical research is beginning to come true as the progress of the past has been, it pales in comparison to future opportunities. We stand on the threshold of stunning advances in medicine. Supporting biomedical research is among the wisest possible investments we can make in our Nation’s future.

Support for clinical research is central to biomedical research. Clinical research is essential for the advancement of scientific knowledge and the development of new treatments and cures. Tremendous advances in basic biological research are opening doors to new insights into all aspects of medicine. As a result, there are extraordinary opportunities for cutting-edge clinical research to translate breakthroughs in the laboratory to the bedside of patients.

Improvements in patient care and diagnosis and prevention of disease depend upon clinical research that brings basic research discoveries to the bedside. In addition, the results of clinical research are incorporated by industry and developed into new drugs, vaccines, and health care products. These developments strengthen the economy and create jobs.

Advances in biomedical research may also prove to be the most effective way to reduce the country’s health care costs in the long run. As our Nation’s demographics change and the baby boomers move toward retirement, financing Medicare has become an increasing concern. A Duke University study released earlier this year suggested that a small improvement in the disability rate of our children could bring large cost savings for Medicare. Investment in medical research will result in healthier older Americans and lower costs to Medicare.

First, it will implement the long-standing recommendations regarding the merit review process for clinical research proposals at NIH.

Second, it will provide greater support for general clinical research centers.

Third, it will create new opportunities to pursue clinical research. A Clinical Research Career Enhancement Award will enable a clinical researcher to pursue research projects with a mentor prior to independent pursuit of research. For more established researchers, the Innovative Medical Science Award will provide funds to apply basic scientific discoveries to medical treatment.

Fourth, it expands the Loan Repayment Program for clinical researchers to encourage the recruitment of new investigators.
A solid infrastructure is essential to any research program. In clinical research, that infrastructure is provided by the general clinical research centers at academic health centers throughout the country. Support for these centers was explicitly targeted by Secretary of Health and Human Services Donna Shalala in her December 1993 report to the NIH. Today, academic health centers provide approximately $1 billion annually from clinical revenues to support clinical research. However, academic health centers are confronted with heavy competition from non-teaching hospitals and are increasingly obligated to emphasize patient care over research to minimize costs. In the face of these changes, clinical researchers have become more dependent on NIH for infrastructure support.

In spite of the expanding need, NIH support for the general clinical research centers has barely kept up with inflation. The centers are consistently funded at 75 percent of the funding level recommended by the NIH’s own Advisory Council. This level is not adequate for the backbone of the nation’s clinical research efforts. Clearly, we need to do more.

The number of physicians choosing careers in clinical investigation is in serious decline. Between 1985 and 1997, the number of physicians increased by 34 percent, while the number of physicians pursuing research decreased by 37 percent. Fewer young physicians are choosing careers in research, and we need to reverse that decline.

Student debt is a major barrier to pursuing clinical research. Young physicians graduate from medical school with an average debt burden of $80,000. Limited financial opportunity in clinical research has caused many young physicians to choose more lucrative medical practice. NIH has acknowledged this problem and has established a loan repayment subsidy to encourage the recruitment of clinical researchers in 1993. Our legislation expands the current program.

Many of today’s young clinical investigators are unfamiliar with research methodology. Dr. Harold Varmus, the Director of NIH, has articulated the need for individuals seeking careers in clinical research efforts. Clearly, we need to do more.

Our legislation creates career development awards to help meet this need. Less than a third of all NIH grantees are physicians. Only a fraction of them receive awards for clinical investigation. The funding gap for clinical research is evident in the earliest phases of clinical investigation, where basic scientific discoveries are tested on a small scale in studies involving few patients. Industry will not support such research in non-product-oriented studies and often regard such efforts as too speculative. The medical science awards in our bill will ensure funding for these important research initiatives.

The need for reform of the peer review system has been documented by studies of the Institute of Medicine and an outside review committee of the NIH Division of Research Grants, which is responsible for the peer review process. So far, their recommendations have not been implemented, and the bias is not limited to clinical research. NIH’s Advisory Council has repeatedly called for comprehensive reform. Our legislation will implement these recommendations and provide effective evaluation of clinical research proposals.

The funds authorized by our legislation to support clinical research do not target specific diseases. The funds would go to peer-reviewed proposals to translate basic scientific discoveries into treatment and prevention of disease. Without such legislation, clinical research will continue to decline to a point where advances in medicine will no longer come from this country but from abroad.

Mr. President, our bill is supported by more than a hundred and forty biomedical associations and organizations. We would like to thank the American Federation for Medical Research for their efforts to support this legislation and ask unanimous consent that the list of supporters, the letters of support be included in the Record.

I look forward to working with my colleagues as we move this important legislation through Congress.

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

S. 1321

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 Research Enhancement Act of 1997.”

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds and declares as follows:

(1) Clinical research is critical to the advancement of scientific knowledge and to the development of new cures and improved treatment for disease.

(2) Tremendous advances in biology are opening doors to new insights into human biology and the prevention and treatment of disease, thus creating extraordinary opportunities for clinical research.

(3) Clinical research includes translational research which is an integral part of the research process leading to general human applications. It is the bridge between the laboratory and new methods of diagnosis, treatment, and prevention and is thus essential to progress against cancer and other diseases.

(4) The United States will spend more than $1 trillion on health care in 1997, but the Federal budget for health research at the National Institutes of Health was $12.7 billion, only 1 percent of that total.

(5) Studies at the Institute of Medicine, the National Research Council, and the National Academy of Sciences have all addressed the current problems in clinical research.

(6) The Director of the National Institutes of Health has recognized the current problems in clinical research and has through the use of an advisory committee begun to evaluate these problems.

(7) The current level of training and support for health professionals in clinical research is fragmented, frequently undervalued, and potentially underfunded.

(8) The professional standards are not only apprentices for future positions but a crucial source of energy, enthusiasm, and ideas in the day-to-day research that constitutes the scientific enterprise. Serious questions about the future of life-science research are raised by the following:

(A) The number of young investigators applying for grants dropped by 54 percent between 1985 and 1993.

(B) The number of federally funded research (RO1) grants awarded to persons under the age of 36 have decreased by 70 percent from 1985 to 1993.

(C) New NIH reports indicate a growing problem in clinical research and have through the use of an advisory committee begun to evaluate these problems.

(D) The prolonged period of clinical training required increases the accumulated debt burden.

(E) The number of active clinical researchers and the number of those choosing this career path:

(A) A medical school graduate incurs an average debt of $80,000, as reported in the Medical School Graduation Questionnaire by the American Association of Medical Colleges (AAMC).

(B) The United States will spend more than $1 trillion on health care in 1997, but the Federal budget for health research at the National Institutes of Health was $12.7 billion, only 1 percent of that total.

(11) Appropriations for general clinical research centers in fiscal year 1997 equaled $153,000,000.

(12) In fiscal year 1997, there were 74 general clinical research centers operating, supplying patients in the areas in which such centers operate with access to the most modern clinical research and clinical care facilities and technology.

(13) The average annual amount allocated for each general clinical research center is $1,900,000, establishing a current funding level of 75 percent of the amounts approved by the Advisory Council of the National Center for Research Resources.
SEC. 3. INCREASING THE INVOLVEMENT OF THE NATIONAL INSTITUTES OF HEALTH IN CLINICAL RESEARCH.

Section 402 of the Public Health Service Act (42 U.S.C. 282) is amended by adding at the end the following:

"(1) The Director of NIH shall undertake activities to support and expand the involvement of the National Institutes of Health in clinical research training and career enhancement awards to support individuals pursuing master's or doctoral degrees in clinical investigation.

(2) The Director of NIH shall establish peer review mechanisms to evaluate applications for grants, which shall include:

(A) clinical research career enhancement awards;

(B) innovative medical science awards;

(C) graduate training in clinical investigation awards;

(D) intramural clinical research fellowships.

Such review mechanisms shall include individuals who are exceptionally qualified to appraise the merits of potential clinical research training and research grant proposals.

SEC. 4. GENERAL CLINICAL RESEARCH CENTERS.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is further amended by adding at the end the following:

"SEC. 409B. GENERAL CLINICAL RESEARCH CENTER (GCRC) PROGRAM.

(a) GRANTS.—The Director of the National Center for Research Resources shall make grants (to be referred to as "innovative medical science awards") to support interdisciplinary clinical research projects at general clinical research centers or at other institutions that have the infrastructure and resources deemed appropriate for conducting patient-oriented clinical research. The Director of the National Center for Research Resources shall award institutional grants for fiscal years for fiscal year 1998, and such sums as may be necessary for each subsequent fiscal year.

(b) INNOVATIVE MEDICAL SCIENCE AWARD.—

(1) IN GENERAL.—The Director of the National Center for Research Resources shall make grants (to be referred to as "innovative medical science awards") to support individuals pursuing master's or doctoral degrees in clinical investigation. The Director shall establish the following:

(A) by striking ''Amounts'' and inserting "(A) clinical research career enhancement awards;"

(B) by adding at the end the following:

"(E) Ethical and regulatory issues.

(2) APPLICATIONS.—An application for a grant under this subsection shall be submitted by an individual scientist at such time as the Director requires.

(3) LIMITATIONS.—The amount of a grant under this subsection shall not exceed $75,000 per year.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to make grants under paragraph (1), $3,000,000 for fiscal year 1998, and such sums as may be necessary for each subsequent fiscal year.

SEC. 5. CLINICAL RESEARCH ASSISTANCE.

(a) NATIONAL RESEARCH SERVICE AWARDS.—

Section 487(a)(1)(C) of the Public Health Service Act (42 U.S.C. 288a(a)(1)(C)) is amended by adding at the end the following: "(5) AUTHORIZATION OF APPROPRIATIONS.—

There is authorized to be appropriated to make grants for fiscal year 1998, and such sums as may be necessary for each subsequent fiscal year.

(b) LOAN REPAYMENT PROGRAM.—Section 487E of the Public Health Service Act (42 U.S.C. 288g) is amended by adding at the end the following:

"(1) in the section heading, by striking "FROM DISADVANTAGED BACKGROUNDS";

(2) in subsection (a)(1)—

(A) by striking "who are from disadvantaged backgrounds"; and

(B) by striking "as employees of the National Institutes of Health" and inserting "as part of a clinical research training position";

(3) in subsection (a), by striking paragraph (3) and inserting the following: "(3) APPLICABILITY OF CERTAIN PROVISIONS REGARDING OBLIGATED SERVICE.—With respect to the National Health Service Corps Loan Repayment Program established under subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with this section, apply to the program established in this section in the same manner that the same provisions apply to such loan repayment program.

(4) in subsection (b)—

(A) by striking "Amounts" and inserting the following: "(A) by striking "Amounts" and inserting "(A) grants to an individual;"

(B) by adding at the end the following: "(B) The term "clinical research training position" means an individual serving in a general clinical research center or in clinical research at the National Institutes of Health, or a physician receiving a clinical research career enhancement award, an innovative medical science award, or a graduate training in clinical investigation award.

(4) AUTHORIZATION OF APPROPRIATIONS.—

There is authorized to be appropriated to make grants under paragraph (1), $3,000,000 for fiscal year 1998, and such sums as may be necessary for each fiscal year.

SEC. 6. DEFINITION.

Section 409 of the Public Health Service Act (42 U.S.C. 288d) is amended—

(1) by striking "For purposes" and inserting "(a) HEALTH RESEARCH SERVICE.—For purposes"; and

(2) by adding at the end the following:

"(2) IDENTITY.—As used in this section, the term "clinical research" means research conducted with human subjects, or research on the causes and consequences of disease in human populations involving material of human origin (such as tissue specimens) for which an investigator or colleague directly interacts with human subjects in an outpatient or inpatient setting to determine the problem investigated (such as epidemiology, pathophysiology, or disease; or epidemiologic or behavioral studies, outcomes research, or health services research, or developing new technologies or therapeutic interventions.

SEC. 7. SUPPORTS OF CLINICAL RESEARCH ENHANCEMENT ACTivetion.
The national organization of 6,000 physician scientists engaged in basic, clinical, and health sciences research. Most of our members receive NIH support for their basic research but are finding it increasingly difficult to obtain public or private funding for translational or clinical research—studies through which basic science discoveries are translated to the care of patients. In the past, academic medical centers provided institutional support for this research through revenues generated by patient care activities. However, as the health care marketplace has become increasingly competitive, academic centers have all but eliminated internal subsidies for clinical research or the training of clinical investigators. In fact, the Association of American Medical Colleges has estimated that these institutions have lost approximately $800 million in annual "purchasing power" for research and training within their institutions. In this context, the $60 million in spending entailed in your legislation (representing less than one-half of one percent of the NIH budget) would seem an extremely modest investment in a much-needed program to reinvigorate our nation's clinical research capabilities.

The Clinical Research Enhancement Act is a conservative approach to a severe problem. The Institute of Medicine (IOM) expressed alarm about the challenge confronting clinical research in a 1994 report, and your bill is based on the initiatives recommended by the IOM.

The IOM recommended that the General Clinical Research Centers program be strengthened. Your bill would codify this program, which has existed since the late 1950s, so that the Congress will have greater discretion over GCRC funding.

The IOM recommended enhanced career development in clinical investigation, and your bill proposes such awards.

The IOM noted problems with the NIH peer review of clinical research. Your bill directs the NIH to improve the peer review process for such research and establishes "innovative scientific awards" that will be reviewed by scientists knowledgeable in clinical investigation.

The IOM recommended programs to relieve the tuition debt of physicians pursuing clinical research careers. Your bill would expand an existing NIH intramural program for this purpose to the extramural community.

The IOM recommended structured, didactic training in clinical investigation. Your bill authorizes funding for advanced degree (master's and Ph.D.) training in clinical research as successfully initiated at several institutions around the country.

The list of almost 150 organizations that support the Clinical Research Enhancement Act indicates the consensus of scientific, medical, consumer, and patient organizations that steps must be taken as soon as possible to stop the deterioration of the U.S. clinical research capacity, to reinvigorate the clinical research programs of academic medical centers, and to assure that the American people and the American economy benefit from the translation of basic science breakthroughs into improved clinical care and new medical products. The American Federation for Medical Research is pleased to have the opportunity to express its strong support for your legislation.

Sincerely,

JEFFREY KERN, M.D.,
President.
supports the Clinical Research Enhancement Act. As you know, it has been more than three years since the Institute of Medicine (IOM) documented the major challenges confronting translational research in our country. Your bill would implement a number of the IOM recommendations for addressing these problems. It is critically important that the NIH move forward as rapidly as possible with these initiatives.

The NIH is the major funding source in the United States for basic biomedical research. However, the major dividends from this investment are realized through translational research that improves our ability to prevent, effectively treat, and cure disease and disability. The NIH must foster not only the basic research that begins this process but also the translational research through which a basic science discovery is applied to a medical problem. There is generous industry support for clinical research and clinical trials aimed at the development of new products. However, private funding is extremely limited for initial translational research that may have little or no commercial product potential. Examples of such research include studies of nutritional therapies, new approaches to disease prevention, transplantation techniques, behavioral interventions, and studies of off-label uses of approved pharmaceuticals. Such research was often subsidized from patient care revenues to academic medical centers. However, competition in the health care marketplace has begun to erode the source of funding. Therefore, NIH must play an expanded role in providing support for this research. The Clinical Research Enhancement Act would foster NIH funding opportunities for this type of research through the establishment of "innovative medical science awards." Such studies will focus on translating basic research discoveries into tools that health care professionals can use to cure disease and relieve suffering.

In addition, we support provisions of the bill that would foster opportunities for physicians to pursue careers in clinical research. There is ample evidence that American physicians are opting out of careers in science for a variety of reasons. Steps must be taken to rebalance the supply of well-trained physician scientists if the United States is to continue its leadership in the world of medical science.

Finally, the bill would direct the NIH to improve the peer review of patient-oriented research. Studies have documented the fact that clinical research proposals are at a disadvantage when reviewed by NIH study sections because of NIH's primary focus on basic biomedical research. This must be changed, as proposed in your bill, so that scientific opportunities to improve medical care are not lost.

The undersigned organizations are extremely grateful for your leadership in addressing the problems confronting clinical research. We support your initiative to assure that the NIH invests in the translational research that holds the key for patients around the country who are waiting for a cure. We are pleased to endorse the clinical Research Enhancement Act.

Alzheimer's Association
American Autoimmune Related Diseases Association
American Diabetes Association
American Kidney Fund
American Paralysis Association
Dietetic Diseases National Coalition
Epilepsy Foundation of America
Foundation Fighting Blindness
Juvenile Diabetes Foundation International
Glaucoma Research Foundation
Myasthenia Gravis Foundation
National Alopecia Areata Foundation
National Multiple Sclerosis Society
National Osteoporosis Foundation
National Turner's Syndrome Association
Paget Foundation
Sjogren's Syndrome Foundation
Tourrette Syndrome Association.

By Mr. McCaIN (for himself, Mr. Burns, Mr. Conrad, and Mr. Dorgan):

S. 1422. A bill to amend the Communications Act of 1934 to promote competition in the market for delivery of multichannel video programming and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE FEDERAL COMMUNICATIONS COMMISSION SATELLITE CARRIER OVERSIGHT ACT

Mr. McCaIN. Madam President, today I am introducing the Federal Communications Commission Satellite Carrier Oversight Act. This bill will do a number of things to promote competition in the marketplace. I wish to thank Senator Burns for his support on this bill.

Congress has had a longstanding interest in promoting competition in the multichannel video marketplace so as to enable consumers to have a choice of video providers at competitive rates. However, a recent regulatory action threatens the ability of direct-to-home [DTH] satellite television operators to compete effectively with cable operators.

On October 27, 1997, the Librarian of Congress adopted a Copyright Arbitration Royalty Panel's recommendation of a precipitous and wholly unjustified increase in the copyright fees satellite carriers pay for superstition and network affiliate signals delivered to satellite TV households. This action will result in a rate increase for satellite television subscribers in excess of 270 percent more than cable for the exact same superstations and 900 percent more for the exact same network signals.

This creates an enormous disparity in the copyright fees paid for the same signals and will result in rate increases to satellite subscribers, which in turn will create a negative impact on competition between cable and satellite. Such a result is directly contrary to the intent of Congress to give consumers a choice of video providers at competitive rates.

The bill also addresses an issue of continuing concern to the DTH industry. Signal theft represents a serious threat to DTH operators. In the Telecommunications Act of 1996, Congress confirmed the applicability of penalties for unauthorized decryption of DTH satellite services. The amendment we propose would confirm the judicial interpretation that civil suits may be brought by DTH operators for signal theft.

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. 1422

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 Communications Commission Satellite Carrier Oversight Act.''

SEC. 2. FINDINGS.

(a) The Congress finds that:

(1) Signal theft represents a serious threat to direct-to-home satellite television. In the Telecommunications Act of 1996, Congress confirmed the applicability of penalties for unauthorized decryption of direct-to-home satellite services. Nevertheless, concerns remain about civil liability for such unauthorized decryption.

(2) In view of the desire to establish competition to the cable television industry, Congress authorized consumers to utilize direct-to-home satellite systems for viewing video programming through the Cable Communications Policy Act of 1984.

(3) Congress found that the Cable Television Consumer Protection and Competition Act of 1992 that without the presence of another multichannel video programming distributor, a cable television operator faces no local competition, and that the result is undue market power for the cable operator as compared to that of consumers and other video programmers.

(4) The Federal Communications Commission, under the Cable Television Consumer Protection and Competition Act of 1992, has the responsibility for reporting annually to the Congress on the state of competition in the market for delivery of multichannel video programming.

(5) In the Cable Television Consumer Protection and Competition Act of 1992, Congress stated its policy of promoting the availability to the public of a diversity of
SEC. 3. DBS SIGNAL SECURITY.

(a) Section 605(d) of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) by adding at the end of subsection (g):—

"(3) The Librarian of Congress, within 180 days of enactment of this amendment, shall report to Congress on the effect of increased royalty fees paid by satellite carriers pursuant to the decision of the Librarian of Congress on October 27, 1997, which established a royalty fee of $0.14 per subscriber per month for the retransmission of distant broadcast signals by satellite carriers, before January 1, 1999.

By Mr. HAGEL (for himself, Mr. BENNETT, Mr. KERRY, and Mr. GRAMM)]

S. 1423. A bill to modernize and improve the Federal Home Loan Bank System; to the Committee on Banking, Housing, and Urban Affairs.

(a) Example of a bill to modernize and improve the Federal Home Loan Bank System; to the Committee on Banking, Housing, and Urban Affairs.

FEDERAL HOME LOAN BANKS MODERNIZATION ACT

Mr. HAGEL. Mr. President, I rise today to introduce the Federal Home Loan Bank System Modernization Act of 1997. I am joined in this effort by my distinguished colleagues Senators BENNETT, GRAMM, and KERRY.

This legislation represents months of work in crafting a bill that has bipartisan support. The process has been open, and we have included all theaffected parties: The Federal Home Loan Bank System to community banks. This bill will help community banks and the consumers who rely on them. Take, for example, the case of Commercial State Bank in Wausa, NE. The bank is growing as well. In the small community of 600 people, deposits cannot keep pace with the growing demand for loans—and that means the bank’s liquidity is declining. With less liquidity, the bank isn’t as much money available for lending as the community demands.

This bill would help banks like Commercial and communities like Wausa.
that were issued to help pay for the S&L bailout. This fixed obligation has driven the banks to increase their levels of non-mission-related investments. Under our legislation each FHLBank would be required to pay 20.75 percent of its earnings to service the REFCORP debt. Freeing the FHLBanks of the obligation to generate a specific dollar figure would allow them to concentrate on their primary mission of housing finance and community lending. This change was secured by the Congressional Budget Office as increasing Federal revenues by $44 million over the next 5 years. In other words, this change would allow a $44 million reduction in taxpayer obligations.

Fourth and finally, the legislation addresses the issue of devolution of management functions from the Finance Board to the FHLBanks. On issues of day-to-day management, the FHLBanks should be able to govern themselves independently of their regulator. Devolution of the Finance Board should be mission regulation and safety-and-soundness regulation. The provisions of the legislation that accomplish this goal are non-controversial and enjoy broad support.

Mr. President, it is time to modernize the Federal Home Loan Bank System. The landscape of the financial services industry is rapidly evolving. The Federal Home Loan Banks should be allowed to modernize to keep pace with these changes. I am proud to take up this issue in the Senate and build on the work done in the House of Representatives by Congressmen BAKER and KANJORSKI, both tireless proponents for Federal Home Loan Bank modernization. Their help in the formulation of this legislation was critical.

I sincerely hope the Senate Banking Committee and the full Senate will have the chance to consider this important legislation and encourage my colleagues to support it.

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

There being no objection, the material ordered to be printed in the RECORD.

By Mr. MURKOWSKI (for himself, Mr. AKAKA, Mr. STEVENS, and Mr. INOUYE):

S. 1424. A bill to amend the Internal Revenue Code of 1986 to modify the air transportation tax changes made by the Taxpayer Relief Act of 1997; to the Committee on Finance.

AVIATION TAXES MODIFICATION LEGISLATION

Mr. MURKOWSKI. Mr. President, today, along with Senators AKAKA, STEVENS, and INOUYE, I am introducing legislation that will provide a measure of relief to the citizens of Alaska and Hawaii who must rely on air transport far more than the citizens in the lower 48.

When Congress adopted the balanced budget legislation last summer, one of the provisions of the tax bill re-wrote the formula for calculating the air passenger tax for domestic and international flights. As part of this formula change, Congress adopted a per passenger, per segment fee which disproportionately penalizes travelers to and from Alaska and Hawaii who have no choice but to travel by air.

That legislation we are introducing today would reinstate the prior law 10 percent tax formula that is used by other states.

In addition, the $6 international departure fees that are imposed on such flights would be retained at the current level and would not be indexed. I see no reason why passengers flying from these states should be denied the benefit of an international departure fee.

I am introducing this bill because our states face a guaranteed increase in tax every year because of inflation. We don’t index tobacco taxes, we don’t index fuel taxes; why should government automatically gain additional revenue from air passengers simply because of inflation?

Mr. President, this legislation requires that intrastate Alaska and Hawaii flights will be subject to a flat 10 percent tax if such flights do not originate or terminate at a rural airport in our states. In addition, the definition of a rural airport is expanded to include airports within 75 miles of each other where no roads connect the communities. In many towns in Alaska, air transport is the only viable means of transportation from one community to another. Therefore, these airports should be denied the benefit of the special rural airport tax rate simply because our state does not have the
transportation infrastructure or geographic definition that exists in most of the lower-48.

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. 1241

November 7, 1997

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

SECTION 1. MODIFICATIONS TO AIR TRANSPORTATION TAX CHANGES MADE BY TAXPAYER RELIEF ACT OF 1997.

(a) ELIMINATION OF INFLATION ADJUSTMENT FOR TAX ON CERTAIN USE OF INTERNATIONAL TRAVEL FACILITIES.—Section 4261(e)(4) of the Internal Revenue Code of 1986 (relating to inflation adjustment of dollar rates of tax) is amended—

(1) in subparagraph (A), by striking “each dollar amount contained in subsection (c)” and inserting “the $12.00 amount contained in subsection (c)(1)”; and

(2) in subparagraph (B), by striking “the dollar amounts contained in subsection (c)” and inserting “the $12.00 amount contained in subsection (c)(1)”;

(b) MODIFICATION OF RURAL AIRPORT DEFINITION.—Subclause (I) of section 4261(e)(1)(B) of the Internal Revenue Code of 1986 (defining “rural airport”) is amended by inserting “(or is so located but is not connected to such other airport by paved roads)” after “(clause)”;

(c) IMPOSITION OF TICKET TAX ON SEGMENTS TO AND FROM ALASKA OR HAWAII.—Section 4261(e)(6) of the Internal Revenue Code of 1986 (defining “rural airport”) is amended by inserting “(or is so located but is not connected to such other airport by paved roads)” after “(clause)”;

(d) MODIFICATION OF RURAL AIRPORT DEFINITION.—Subclause (I) of section 4261(e)(1)(B) of the Internal Revenue Code of 1986 (defining “rural airport”) is amended by inserting “(or is so located but is not connected to such other airport by paved roads)” after “(clause)”;

(e) MODIFICATION OF RURAL AIRPORT DEFINITION.—Subclause (I) of section 4261(e)(1)(B) of the Internal Revenue Code of 1986 (defining “rural airport”) is amended by inserting “(or is so located but is not connected to such other airport by paved roads)” after “(clause)”;

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 1031 of the Taxpayer Relief Act of 1997.

Mr. INOUYE. Mr. President, I am pleased to lend my support to Senator MURkowski and other colleagues in introducing legislation today that addresses certain aviation tax inequities that were enacted as part of Public Law 105–34, the Taxpayer Relief Act of 1997.

Among other aviation provisions, Public Law 105–34 lowered the passenger ticket tax from 10 percent to 9 percent, falling incrementally to 7.5 percent over 3 years. In addition, the law established a new domestic segment fee of $1, rising incrementally to $3 over 5 years, which will ultimately be indexed for inflation. However, flights from certain small, rural airports are taxed at a 10 percent rate and exempted from the segment fee. Finally, while the existing $6 international departure tax for flights between Hawaii and other states is maintained, the charge is indexed for inflation beginning in 1999.

Mr. President, these taxes unfairly discriminate against Hawaii travelers. Residents of and visitors to Hawaii are entirely dependent on plane service for communication among the State’s eight major islands as well as for travel to and from the distant U.S. mainland. The new aviation charges make personal, commercial, and Government travel within Hawaii more costly and hurts our tourism-based economy by inhibiting visits from other States. I understand that many of these problems also apply to Alaska, which has similar transportation concerns.

The bill we are introducing today addresses these shortcomings. Our legislation would reinstate the prior 10 percent ticket tax on flights between our States and the mainland as well as on intrastate flights in Hawaii and Alaska. The measure would also eliminate the inflation adjustment for the $6 international departure tax to which flights to and from our States are subject. Finally, the bill would redefine the rural airport exemption in such a way that will qualify many passengers traveling within the State of Alaska for the reduced 7.5 percent rate.

Thank you, Mr. President. For the sake of Hawaii’s and Alaska’s unique air transportation needs, I urge my colleagues to support this initiative.

By Mr. BURNS: S. 1425. A bill to provide for the preservation and sustainability of the family farm through the transfer of responsibility for operation and maintenance of the Flathead Indian Irrigation Project, Montana; to the Committee on Indian Affairs.

THE FLATHEAD IRRIGATION PROJECT TRANSFER ACT OF 1997

Mr. BURNS, Madam President, I rise today to introduce a bill to transfer the operation of an irrigation project in Montana from the Bureau of Indian Affairs to the local irrigators. This is a bill, which has been before Congress before, that has been changed to address the concerns expressed by the BIA and groups which have opposed this legislation in the past.

Years of management by the Bureau of Indian Affairs has led to a project in poor physical condition. Rather than being an asset for the government and the users, the Flathead Irrigation is rapidly becoming a liability. Using current estimates, the project is in need of $15 to $20 million worth of repair and conditioning. Government managers admit that costs associated with rehabilitation of this project could be as much as 40 percent higher than if the project were under local control.

The irony of this project however, is the fact that studies on locally owned irrigation projects in Montana and Wyoming show that the costs of operation and maintenance of the Flathead project are some of the highest in the Rocky Mountain Region the condition of the project may be worst in that same region. What do these people, and for that matter the taxpayer, get for the higher costs associated with the current management? Not much if anything at all.

Let’s take a moment here to see what local control of this irrigation project would mean to the irrigators and to the taxpayer. First of all, local control will mean increased accountability of the monies collected by and used in the operation of the Flathead Irrigation Project. At the current time the BIA is unable, or unwilling, to provide basic financial information to the local irrigation districts. This despite the fact that the local farmers and ranchers pay 100% of the costs to operate and maintain the project. At the same time, the BIA is unable to deliver a year-end balance of funds paid by the local irrigation users.
Local control will also create savings over the current operation management. By using these savings the local management could be used to restore the Flathead Irrigation Project to a fully functioning, efficiently operating unit.

Without the transfer to local control, the residents of the Flathead face an uncertain future. This irrigation project is located in one of the most beautiful valleys in western Montana. Currently, agriculture have been devastated farmers and ranchers in a difficult position. Montana farmers and ranchers have always been land rich and cash poor. In the case of this valley in Montana, this is the rule and not the exception. They live in an area that is being changed daily due to the number of summer home construction, because of the beauty and a temperate climate for Montana.

The family farmers and ranchers in this area continue to face economic pressures outside which has led to a number of folks packing up and subdividing their land for residential home sites. Those who have packed up and left the area, have taken their land and subdivided it for the residential development, removing the land from agricultural production.

The subdivision of the land has a number of negative impacts on this valley and Montana and the Nation. The landscape is dotted with magnificent homes and protected the land and open spaces, and of course wildlife. Another of the major impacts sin on the local and state economies and governments. Agriculture land in Montana pays approximately $0.89 for every dollar they receive in local government services. Residential subdivisions only pay approximately $0.89 for every dollar they receive in local government services.

Preservation of the small family farms and ranches in the Mission, St. Mary's, and Camas valleys in Montana is dependent upon local control. As local control of the Flathead Irrigation Project will provide these hard working Americans an opportunity to control and have input on the costs associated with the operation of this vital water source.

The local control of this project is supported by a wide cross section of Montanans. Governor Marc Racicot, the 5th Congressional District, and local irrigation districts are among the local government officials in support of this bill. Organizations which have voiced their support for the measure include the Montana Stockgrowers Association, Montana Water Resources Association and the National Water Resources Association. The support of this measure in bipartisan in nature as well.

Madam President, I am pleased to introduce this measure today, and I look forward to moving this bill forward through committee and to the floor in an attempt to give local control back to the people who depend on the Flathead Irrigation Project for their way of living.

By Mr. LAUTENBERG:
S. 1426. A bill to encourage beneficiary deserts to provide adequate protection of intellectual property rights, and for other purposes; to the Committee on Finance.

THE RIGHTS OF INTELLECTUAL PROPERTY OWNERS FAIRNESS FACILITATION ACT OF 1997

Mr. LAUTENBERG. Mr. President, I rise today to introduce legislation I believe will encourage many of our trading partners to improve their protection of American intellectual property rights. This is not an insignificant matter. Mr. President, it is estimated that American companies lose approximately $50 billion every year from intellectual property violations. This theft not only affects a company's bottom line, it means losses to America's competitiveness, and, most importantly, it means loss of American jobs.

The "Rights of Intellectual Property Owners Fairness Facilitation Act of 1997," or RIP-OFF, will require participants in the Generalized System of Preferences program to expedite their implementation of intellectual property agreement contained in the Uruguay Round of the General Agreement on Tariffs and Trade. In addition, to continue as a GSP beneficiary, a country must fully comply with the terms of any bilateral or other multilateral intellectual property agreement it has with the United States.

Mr. President, the Agreement on Trade-Related Aspects of Intellectual Property Rights, known as TRIPS, requires signatories to improve and better enforce the rights of intellectual property holders. Unfortunately, too many countries are able to delay implementation of TRIPS for an inordinately long period of time. Developing countries have until 2000 and least developed countries until 2010 to implement TRIPS. TRIPS requirements for as long as 2006. The United States simply cannot afford to permit piracy to continue unabated for such a lengthy period.

The GSP program allows certain products from developing countries to be exported to the United States duty-free. Through the years, Congress has conditioned the receipt of these tariff preferences on such factors as whether a country is a good friend to the American people, which can include most important, respect for workers' rights to its workers, and whether it harbors terrorists. Although GSP beneficiaries are supposed to provide 'adequate and effective' intellectual property protection, it is an amorphous standard that has only been used a handful of times against countries, and then, only for a limited period of time, and with limited success. By tying the GSP program to expedited implementation of TRIPS, any country that has agreements with them negotiate terms of any bilateral or other multilateral intellectual property agreement.

This legislation is very similar to a bill I introduced several years ago with Senator Boren. The modifications I have made account for the time countries have already had to commence changes to their intellectual property laws and regulations. Additionally, the bill clarifies that the standards provided in TRIPS should be the floor for intellectual property agreements, and that our government should continue seeking stronger protection for American intellectual property owners.

Mr. President, I urge my colleagues to support this legislation and ask unanimous consent that the text of the bill be inserted into the RECORD along with letters of support.

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

S. 1426
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 "Rights of Intellectual Property Owners Fairness Facilitation Act of 1997".

SEC. 2. FINDINGS.
Congress makes the following findings:

(1) United States industry loses billions of dollars each year to countries that do not provide adequate protection of intellectual property rights.

(2) According to the Department of Commerce, United States companies lose approximately $50,000,000,000 as a result of violations of intellectual property rights by foreign countries.
November 7, 1997

DEAR SENATOR LAUTENBERG: I am writing to express PhRMA’s appreciation and support for your legislation, the “Rights of Intellectual Property Owners Fairness Facilitation Act of 1997.” The protection and enhancement of American intellectual property is fundamental to the competitiveness of many U.S. industries, especially the research-based pharmaceutical industry. As the Senate considers the legislation and the Executive Branch, over the years many countries such as Mexico and Brazil have improved their intellectual property regimes, thereby improving their prospects for economic development and setting a positive example for other countries around the world. I believe your legislation, by providing a balanced range of incentives for countries to improve their protection of intellectual property rights, will send a positive signal to our trading partners. Please do not hesitate to contact me if there is anything PhRMA can do to support the passage of your legislation.

Sincerely,

ALAN F. HOLMER,
President.

PhRMA & GAMBLE,

HON. FRANK LAUTENBERG,
United States Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: On behalf of Procter & Gamble, I write in strong support of your efforts to protect U.S. intellectual property rights abroad. As the “Rights of Intellectual Property Owners Fairness Facilitation Act of 1997,” Procter & Gamble now generates over half of its $1.3 billion in annual sales from international markets. America’s leadership to create rules-based international markets is
one of our primary concerns. As we continue to build our business in developing countries, we seek a “level playing field” in the form of transparent, rules-based treatment and protection of intellectual property rights. It is significant that in foreign nations, they require that developing countries adequately protect our intellectual property rights. And we would lose GSP benefits, represents a positive step.

We are all too familiar with what can happen overseas when U.S. intellectual property rights are inadequately protected. For instance, in the Persian Gulf countries, P&G suffers from severe counterfeit activity. In certain other nations receiving GSP preferences, we estimate that nearly 10% of our total sales is lost to counterfeit products. If GSP can be used as an incentive for countries to implement the TRIPS standards at an accelerated pace, we would avoid those losses.

Your proposed similar legislation in 1994, which we and many of our trade associations such as IFP and PhRMA supported. We will encourage those organizations to again support this initiative.

Sincerely,

R. SCOTT MILLER,
Director.

By Mr. FORD—

S. 1427. A bill to amend the Communications Act of 1934 to require the Federal Communications Commission to preserve low-power television stations that provide community broadcasting, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE COMMUNITY BROADCASTERS PROTECTION ACT OF 1997

Mr. FORD. Mr. President, today, I am pleased to introduce the Community Broadcasters Protection Act of 1997. This legislation is designed to provide some limited protections for the owners and operators of low-power television, or LPTV.

Mr. President, when the Federal Communications Commission created low-power television licenses in the early 1980’s, it did so with a simple premise: television stations unable to reach a large area, can still offer a valuable service to our communities. Low-power television stations operate at the higher ends of the broadcast spectrum and serve a more limited area, generally a coverage area of approximately 12 to 15 miles. In addition, LPTV licensees operate as a “secondary status”. That is, they cannot interfere with the transmission of full power stations.

Since their creation almost 20 years ago, LPTV stations have flourished. As entrepreneurs, LPTV owners and operators have experimented with various kinds of programming. Many have been extremer on local news, sports, and music formats. Still, many other LPTV stations offer more local and “niche” programming because their service areas are smaller, their audiences more targeted.

Unfortunately, the transition to the digital television era threatens the viability of many LPTV stations. As their spectrum is reclaimed by the FCC for the purpose of digital television, some of the LPTV stations may face darkness during the transition to digital television, or afterwards.

Let me say, Mr. President, that I have been an ardent supporter of the transition to digital television. I believe the move to digital television is a prudent use of modern technology for the use of a scarce public, electromagnetic spectrum. But I also believe that as we make this transition, good public policy must support the investments made by LPTV licensees. I would note, Mr. President, that a majority of Members of the Senate agreed with me on this point as a number of Members joined me on March 6, 1997, letter to then FCC Chairman Reed Hundt in which we expressed concerns about the plans for the transition to digital television.

And while the FCC agrees that LPTV licensees have been successful and offer a valuable entertainment service, there remains regulatory uncertainty for LPTV licensees in the digital age. That is why I have introduced the Community Broadcasters Protection Act of 1997. This legislation would elevate some LPTV stations from their current secondary status to a newly created Class A license. In so doing, Class A LPTV licensees would be treated under law and FCC regulations like a full power television station. That is, Class A LPTV licensees assume the same duties and responsibilities as their full power counterparts.

To qualify for a Class A license, an LPTV station must broadcast a minimum of 18 hours per day, and broadcast an average of 3 hours per week of programming produced within the market area served by the LPTV station. LPTV stations must be operating under these conditions within the last 2 years before enactment of this legislation and within 6 months of filing for the license. Once an LPTV station obtains a Class A license, the FCC would be required to find spectrum for the station in the new digital television era. Like its full power counterparts, a Class A LPTV station would not be forced off the air by having its license terminated or rescinded. However, in those instances where the FCC cannot accommodate an LPTV licensee in one market, because of the potential for interference with full power digital television stations, the FCC is authorized to award the LPTV Class A license to another licensee in an adjacent community, or if that is not available, in another community acceptable to the licensees.

Lower-power television licensees are willing and prepared to join their full power counterparts in the transition to digital television—a transition which is technologically complex and potentially costly for both full power and low-power broadcasters. But as long as there remains a regulatory uncertainty about the future of LPTV, they will not be able to obtain the investments and capital required to make that transition.

It is an interesting historic footnote, that at the time LPTV was authorized by the FCC, then FCC Chairman Charles Ferris suggested that one day, LPTV could develop into full power television stations. While this legislation does not elevate LPTV to full power status, I do believe that this legislation addresses a critical issue for LPTV supporters—the development of adequate protections in the digital age for broadcasters who provide a significant benefit to the public. I hope my colleagues, who are also supporters of their community broadcasters agree with me and will lend their support to move this legislation forward towards enactment.

By Mr. GRAHAM (for himself, Mr. MACK and Mr. BUMPERS):—

S. 1428. A bill to waive time limitations specified by law in order to allow the Medal of Honor to be awarded to Robert R. Ingram of Jack- sonville, Florida, for acts of valor while a Navy Hospital Corpsman in the Republic of Vietnam during the Viet nam conflict; to the Committee on Armed Services.

THE ROBERT R. INGRAM RECOGNITION ACT OF 1997

Mr. GRAHAM. Mr. President, I rise today to urge passage of a private bill that will honor a man that served this country with honor and bravery. This bill will allow Robert R. Ingram to receive the Medal of Honor for conspicuous gallantry and intrepidity at the risk to his life above and beyond the call of duty.

Robert R. Ingram served as Corpsman with Company C, First Battalion, Seventh Marines in Vietnam. On March 28, 1966, Corpsman Ingram, who served as a Marine point platoon in Quang Ngai Province, Republic of Vietnam. They were sabotaged by the Vietnamese, and the platoon was decimated, suffering numerous casualties. Corpsman Ingram was himself injured four times during the attack while he administered first aid to other members of his platoon.

Enduring the pain from his many injuries and disfigurement of his own life, Corpsman Ingram’s selfless actions saved many U.S. soldiers that day. By his indomitable fighting spirit, daring initiative, and unaltering dedication to duty, Corpsman Ingram clearly earned the Medal of Honor as a result of his actions. However, the Navy failed to process an award, and Corpsman Ingram received no official commen-dation for his actions. The men with whom he served that fateful day, and the men whose lives he saved, all feel that a commendation is due. However, there is no evidence of an award recommendation.
Mr. President, it is time that Robert R. Ingram receives an honor that should have been bestowed upon him over thirty years ago. This bill calls for the time limitations in Section 6248 to be waived so that this action may be taken.

Mr. President, I ask unanimous consent that the full 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:

SECTION 1. AUTHORITY FOR AWARD OF MEDAL OF HONOR TO ROBERT R. INGRAM FOR VALOR DURING THE VIETNAM WAR

(a) WAIVER OF TIME LIMITATIONS.—Notwithstanding the time limitations specified in section 6248 of title 10, United States Code, or any other time limitation with respect to the awarding of certain medals to persons who served in the naval service, the President may award the Medal of Honor under section 552 of title 31, United States Code, to Robert R. Ingram of Jacksonville, Florida, for the acts of valor referred to in subsection (b).

(b) ACT DESCRIPTION.—The acts of valor referred to in subsection (a) are the actions of Robert R. Ingram on March 28, 1966, as a Hospital Corpsman Third Class in the Navy serving in the Republic of Vietnam with Company C of the First Battalion, Seventh Marines, during a combat operation designated as Operation Indiana.

By Mr. ROCKEFELLER (for himself, Mr. BURNS, and Mr. DORGAN):

S. 1428. A bill to enhance rail competition and to ensure reasonable rail rates in any case in which there is an absence of effective competition; to the Committee on Commerce, Science, and Transportation.

THE RAILROAD SHIPPER PROTECTION ACT OF 1997

Mr. ROCKEFELLER. Mr. President, I am pleased and proud to be joined by two of my distinguished colleagues, Senator CONRAD BURNS and Senator BYRON DORGAN, in introducing today the Railroad Shipper Protection Act of 1997. This legislation is the result of many months of effort to develop constructive and pragmatic proposals for addressing the increasingly serious problems faced by shippers in need of affordable access to railroad service in every region of the country. As a bipartisan team committed to achieving urgent results in the coming year, we offer this bill with the hope that it will generate the interest, input, and support needed to help shippers obtain fair treatment and true competitive access from railroads across the country. I commend both Senators BURNS and DORGAN for their leadership and constant attention to these issues, which can be complex and yet affect numerous communities, key industries, and workers nationwide.

This legislation deals with issues of longstanding concern to me. Because of the importance of the relationship between the Nation’s railroads and the shippers and communities that they serve, especially in my State of West Virginia, I have made a special effort throughout my tenure in the Senate to promote a rail transportation system that is fair and economically sound for all parties. Of all of the things that consumers and shippers worry about over the years, none is more troubling than the plight of captive rail shippers—businesses and communities that depend on a single railroad for freight transportation service.

West Virginia enjoys its fair share of captive shippers. Many of our coal fields, most of our chemical manufacturers, and one of our finest steel manufacturing facilities—and the largest single employer in our State—all are captive to a single railroad for shipments to domestic and foreign markets. The result is that West Virginia businesses too often suffer from unreasonable freight rates and inadequate transportation service.

Today, two events are conspiring to create added problems for rail shippers—and worsen the competitive position of existing captive rail shippers in West Virginia and across the Nation.

First, our national freight rail system continues to concentrate in fewer and fewer hands. Since Congress deregulated the railroads in 1980, the number of major Class I railroads has declined from 43 to 5—and will drop to 4 if the division of Conrail is approved. For a long time the fears expressed by those of us in Congress who are dedicated to protecting shippers, have fallen on deaf ears. In the past several months, however, the entire Nation has witnessed the far-reaching economic impact of a merger gone awry. The 1996 merger of Union Pacific and Southern Pacific has made dramatic headlines as service is disrupted, trains pile up, shipments are lost, and ultimately facilities and jobs are put in jeopardy. The chemical industry, for example, pays service disruptions costing an average of $35 to $60 million per month through the summer and into the fall.

The UP–SP service crisis has caught my attention in part because the effects are so far-reaching that a number of West Virginia shippers have asked for my help, and in part because I now face a major merger in my own backyard with the proposal to divide Conrail between CSX and Norfolk Southern. The UP–SP story is expected to improve in the coming months, following implementation of a comprehensive service recovery plan and unprecedented intervention by the Surface Transportation Board, but the UP–SP story has only reinforced my belief that concentration of the Nation’s railroads is an ominous development for many shippers and for States like West Virginia. Railroad concentration is reducing transportation options and worsening the competitive position of captive shippers.

Second, the Surface Transportation Board, established in 1995 to succeed the Interstate Commerce Commission, is understaffed and underfunded, and is not adequately promoting rail competition and protecting captive shippers. As I feared at the time it was passed, the effect of the ICC Termination Act has been to reduce our national commitment to a strong and effective regulatory body to protect rail shippers. Rather than being vigilant in protecting captive shippers from railroad abuses, the STB has instead been consumed with reviewing major railroad mergers, concentrating revenue adequacy determinations which serve no purpose, and making matters worse for shippers by deciding in December 1996 that railroads may render captive a shipper that is otherwise positioned to enjoy competitive service by refusing to quote a rate on a bottleneck segment.

Mr. President, just as the railroad industry has become more and more concentrated, the agency charged with protecting captive railroad customers has become less and less able to do its job.

Some may wonder how the STB, which is directly charged with protecting against unreasonable rates and promoting competition, came to make such an anticompetitive and antishopper decision as that set forth in the 1996 bottleneck cases, and I think the answer illustrates well the need for Congress to correct the current imbalance between railroads and their customers.

The answer lies in the confusing inconsistent statutes that were given to the STB in the ICC Termination Act, previously in the Staggers Rail Act of 1980 and the Railroad Revitalization and Regulatory Reform Act of 1976. In these statutes Congress directed the STB and its predecessor, the ICC, to promote our national railroad transportation system “by allowing rail carriers to earn adequate revenues” (49 U.S.C. 10101(3)) and by making “an adequate and continuing effort to assist those carriers in maintaining service levels” that allow them “to attract and retain capital in amounts adequate to provide a sound transportation system in the United States” (49 U.S.C. 10704(a)(2)). Congress has further directed the STB to make an annual determination of each railroad’s revenue adequacy—a determination that finds most Class I railroads to be revenue inadequate, contrary to the view of Wall Street and industry observers about the financial strength of individual railroads and the industry as a whole.

As is evident in reading the Board’s bottleneck decision, the perceived revenue inadequacy of the major railroads, and the belief that protecting the mergers, concentrated revenue inadequacy determinations, and responsibility of the agency, formed the basis of the STB’s agreement with the railroads that they should have the right to prevent rail-to-rail competition even where competition is physically possible. The result is that in the evolution of the railroad industry, such an approach is not only inequitable, it is harmful to our national economy.
Today, I join with my colleagues in proposing legislation to clarify the policy of the U.S. Government with regard to railroad competition and to restore the intended balance between railroads and shippers in the laws governing their relationship and the oversight role of the STB. This bill would accomplish five major objectives: First, making clear that it is the policy of the U.S. Government to promote rail competition and protect captive shippers; second, reducing the regulatory burden on captive shippers by simplifying the market dominance test; third, overturning the bottleneck decision by requiring railroads to quote a rate on any available segment of service; fourth, eliminating the “revenue adequacy” test, which serves no practical purpose and perpetuates the erroneous view that railroads are in dire financial straits; and fifth, requiring the STB to open its process more widely in order to meet the needs of small shippers.

It is my intention to pursue this legislation in the context of the STB’s reauthorization next year. I am firmly committed to ensuring that the Board is reauthorized in a timely way and is provided with the funds it needs to perform its mission as the primary oversight agency for the Nation’s railroads, but I want to make clear that I will not support continuation of the status quo in the relationship between railroads and shippers.

The legislation I introduce today will begin to afford rail-to-rail competition and captive shipper protection the priority they deserve in our national transportation policy. It is an important first-step, and I look forward to working with Senator BURST, Senator DORGAN, and others over the course of the next several months to expand upon the shipper protections we propose today. I invite my colleagues to join us in this effort, and genuinely seek constructive input and assistance to accomplish that goal.

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

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

SEC. 1. SHORT TITLE. This Act may be cited as the “Railroad Shipper Protection Act of 1997”.

SEC. 2. FINDINGS. The Congress finds that—

(1) the railroad industry has consolidated dramatically since passage of the Staggers Rail Act of 1980 (94 Stat. 1895 et seq.), leaving the railroad industry with only a few major carriers and providing shippers with limited competitive options;

(2) the financial health of the railroad industry is substantially based on the passage of the Staggers Rail Act of 1980;

(3) due partly to the continued consolidation of the railroad industry, captive rail shippers—

(A) continue to exist; and

(B) are increasing in number; and

(4) rail shippers, including captive rail shippers, will benefit from increased competition among railroads and a streamlined process under which the Surface Transportation Board determines the reasonableness of captive rail shipper rates.

SEC. 3. DEFINITIONS. In this Act:

(1) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(2) SURFACE TRANSPORTATION BOARD.—The term “Surface Transportation Board” or “Board” means the Surface Transportation Board established under section 701 of title 49, United States Code.

SEC. 4. PURPOSES. The purposes of this Act are—

(1) to clarify the rail transportation policy of the United States;

(2) to ensure rail competition for shippers in geographic areas in which rail competition is physically available;

(3) to ensure reasonable rates for captive rail shippers; and

(4) to remove unnecessary regulatory burdens from the rate reasonableness process of the Surface Transportation Board.

SEC. 5. CLARIFICATION OF RAIL TRANSPORTATION POLICY. Section 10101 of title 49, United States Code, is amended—

(a) E STABLISHMENT OF RATE.—Section 11010(a) of title 49, United States Code, is amended by striking after the first sentence the following: “Upon the request of a shipper, a rail carrier shall establish a rate for transportation requested by the shipper between any 2 points on the system of that rail carrier where traffic originates, terminates, or may be interchanged. A rate established under the preceding sentence shall apply to those changes.”

(b) RAIL TRANSPORTATION POLICY.—Section 10101(d) of title 49, United States Code, is amended by inserting after the first sentence the following:

“(1) In making a determination under this section, the Board shall find that the rail carrier establishing the challenged rate referred to in subsection (b) has market dominance over the transportation for which the rate applies if that rail carrier—

“(A) is the only rail carrier serving the origin, destination, or intermediate portion of the transportation route between an origin and a destination at the origin, intermediate, or destination; and

“(B) does not prove to the Board that the rate charged results in a revenue-variable cost percentage for that transportation that is less than 180 percent.

“(2) In making a market dominance determination under this section in any case in which more than one rail carrier provides service at an origin or destination, the Board shall consider only transportation competition at that origin or destination.”.

SEC. 6. REVENUE ADEQUACY DETERMINATIONS. (a) RAIL TRANSPORTATION POLICY.—Section 10101(3) of title 49, United States Code, is amended by striking “,” as determined by the Board.

(b) AUTHORITY FOR REVENUE ADEQUACY DETERMINATION.—Section 10709(a) of title 49, United States Code, is amended—

(1) by striking “(a)(1)” and inserting “(a)”;

(2) by striking paragraphs (2) and (3).

SEC. 7. SIMPLIFIED STANDARD FOR MARKET DOMINANCE. Section 10707(d) of title 49, United States Code, is amended by—

(a) E STABLISHMENT OF RATE.—Section 11010(a) of title 49, United States Code, is amended by inserting after the first sentence the following:

“(A) In making a market dominance determination under this section, the Board shall find that the rail carrier establishing the challenged rate referred to in subsection (b) has market dominance over the transportation for which the rate applies if that rail carrier—

“(A) is the only rail carrier serving the origin, destination, or intermediate portion of the transportation route between an origin and a destination at the origin, intermediate, or destination; and

“(B) does not prove to the Board that the rate charged results in a revenue-variable cost percentage for that transportation that is less than 180 percent.

“(2) In making a market dominance determination under this section in any case in which more than one rail carrier provides service at an origin or destination, the Board shall consider only transportation competition at that origin or destination.”.

SEC. 8. REVIEW OF REASONABLENESS DETERMINATIONS. (a) ADMINISTRATIVE RELIEF.—Not later than 180 days after the date of enactment of this Act, the Surface Transportation Board shall—

(1) review the rules and procedures applicable to rate complaints and other complaints filed with the Board by small shippers;

(2) identify any such rules or procedures that are unduly burdensome to small shippers;

(3) take such action, including rulemaking, as is appropriate to reduce or eliminate the aspects of the rules and procedures that the Board determines under paragraph (2) to be unduly burdensome to small shippers;

(b) LEGISLATIVE RELIEF.—The Board shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives if the Board determines that additional changes in the rules and procedures described in subsection (a) are appropriate and require commensurate changes in statutory law. In making that notification, the Board shall make recommendations concerning those changes.

Mr. DORGAN. Mr. President, today I am joining Senator ROCHFELLE and others in introducing legislation that is designed to address some chronic problems facing rail shippers, especially small, captive shippers such as the small grain elevators in agricultural States like North Dakota. As this bill is introduced in the Senate today, thousands of busheIs of grain are lying on the ground in North Dakota because there are no cars available to small elevators to take wheat and barley to market. The frustration of North Dakota farmers and grain shippers is focused not only on the availability of cars but on the rates charged to market this time of year, but also on what they have to pay when they have only one railroad serving them. The rates captive shippers pay to get their products to market reflect the basic principles of economics: where there is competition there are lower rates and where there is not, the captive shipper pays significantly more.
While the legislation we are introducing today will not create more grain cars this year and it will not solve full the myriad of concerns that many captive shippers have with respect to rail service in this country, this bill will take a step toward addressing some issues that will help improve the situation of captive shippers.

The inspiration of this bill is the fact that 20 years ago there were more than 40 Class I railroads and today there are eight, of which 5 of these “mega carriers” generate 94 percent of the Class I rail industry’s gross income and own over 90 percent of the track miles, and produce nearly 95 percent of the gross ton miles. Today, the western two-thirds of the country is divided up between two mega carriers that own approximately 85 percent of the track, generate over 90 percent of the gross ton miles, and earn about 90 percent of the total net railroad operating income west of the Mississippi River.

As the railroad industry has consolidated over the past 20 years, more and more shippers have become captive to one carrier, replacing competitive service with monopoly service. At the same time, small captive shippers have mountains of red tape to seek relief on unreasonable rates before the Surface Transportation Board. It seems to me that the Congress needs to begin a serious debate on issues effecting captive shippers. The legislation that we are introducing today eliminates outdated regulatory structures and too many hurdles and red tape stand between the small shipper and relief on unreasonable rates. This legislation takes a modest step at addressing a few specific issues in these areas.

This legislation addresses the broader issues of promoting rail competition and protecting captive shippers where competition does not exist by identifying these issues as priorities for the STB. The legislation makes a commitment to a competitive market. It will encourage the STB to review its regulations and make recommendations to Congress and the President. It will guarantee part-time workers more benefits and living wages, are often still struggling. How do we expect individuals and families to survive on part-time wages and no benefits. Their status may be classified as part-time, but their expenses certainly are not.

Employers must strive to provide salaries and benefits that meet the demands of today’s circumstances while searching for ways to increase productivity and remain competitive in a global environment.

The recent UPS experience put a national spotlight on this issue; working full-time hours at part-time status and receiving less money and fewer benefits than full-time employees. One of the concessions of the negotiations was that UPS would agree to create 10,000 full-time jobs from existing part-time positions.

A poll of 500 individuals by the University of Connecticut in September found strong support for action that would guarantee part-time workers some benefits and compel employers to pay those workers hourly wages equal to their full-time counterparts. Part-time employees in Connecticut comprise 12 percent of the work-force, less than the 18 percent national average.

Our work-force is one of our country’s most treasured assets. Employees deserve to receive living wages and benefits and we must act now. Therefore, I urge my colleagues to join me in cosponsoring this legislation.

Mr. President, I ask unanimous consent that the bill “Backed” be included in the RECORD and I ask unanimous consent that the bill be printed in the RECORD.
There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1435

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

SEC. 1. SHORT TITLE. This Act may be cited as the “National Commission on Fairness in the Workplace Act”.

SEC. 2. FINDINGS. Congress finds that—

(1) there is an increasing trend toward the use of part-time workers;
(2) part-time jobs often have no or limited health or pension benefits and few labor protections;
(3) there is a trend toward the creation of more part-time jobs than full-time jobs;
(4) questions have been raised regarding the impact of part-time employment on wage levels, benefits, earning potential, and productivity; and
(5) a Federal commission should be established to conduct a thorough study of all matters relating to the impact of part-time employment on wage levels, benefits, earning potential, and productivity and to study the practice of providing different wage and benefit levels to part-time and full-time workers.

SEC. 3. ESTABLISHMENT OF COMMISSION. (a) There is established a commission to be known as the National Commission on Fairness in the Workplace (hereafter referred to in this Act as the “Commission”).

(b) MEMBERSHIP.—The Commission shall be composed of 9 members of whom—

(1) 3 shall be appointed by the President;
(2) 3 shall be appointed by the President pro tempore of the Senate, upon the recommendation of the Majority and Minority Leaders of the Senate; and
(3) 3 shall be appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed 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) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting as directed by the President.

(e) MEETINGS.—After the initial meeting, the Commission shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—

The Commission shall select a Chairperson and Vice Chairperson from among its members.

SEC. 4. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall conduct a comprehensive study of the impact of part-time employment in the United States.

(2) MATTERS TO BE STUDIED.—The matters to be studied by the Commission under paragraph (1) shall include—

(A) a review of the trend toward creation of more part-time jobs;
(B) an assessment of the relationship between part-time work and wage levels, benefits, earning potential, and productivity; and
(C) the practice of providing different wage and benefit levels to part-time and full-time workers.

(b) REPORT.—Not later than 12 months after the Commission holds its first meeting, the Commission shall submit a report on the study to the President and Congress. The report shall contain a statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions considered necessary in its discretion.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out its duties of this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairperson of the Committee, the head of such department or agency shall furnish such information to the Commission.

SEC. 6. COMMISSION PERSONNEL MATTTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not otherwise an officer or employee of the Federal Government shall be compensated at a rate not to exceed the rate of basic pay prescribed for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. Each member of the Commission who is otherwise an officer or employee of the United States shall serve without compensation in addition to that received for services as an officer or employee of the United States.

(b) 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.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may appoint a full-time employee to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment and termination of an executive director shall be subject to confirmation by a majority of the members of the Commission.

(2) COMPENSATION.—The executive director shall be compensated at a rate not to exceed the rate payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. The Chairperson may fix the compensation of other personnel without regard to the provisions of chapter 55 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for a position at level V of the Executive Schedule under section 5316 of such title.

(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status, benefits, or privilege.

(d) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may, with the approval of the head of the appropriate and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay prescribed for a position at level V of the Executive Schedule under section 5316 of such title.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out the purposes of this Act. Appropriations made under this Act shall be available without regard to the provisions of any other Act limiting the period of availability of such appropriations, until expired.

SEC. 8. TERMINATION.

The Commission shall terminate 30 days after submission of its report under section 4(b).

[From the Hartford Courant, October 8, 1997]

PART-TIMERS’ RIGHTS BACKED; RESIDENTS POLED BY THE UNIVERSITY OF CONNECTICUT IN SEPTEMBER STRONGLY SUPPORT GOVERNMENT ACTION THAT WOULD GUARANTEE PART-TIMERS SOME BENEFITS; COURANT: UCONN CONNECTICUT POLL

(By Liz Halloran)

It was the workplace issue that tripped up UPS and snarled the nation’s package delivery system during a May strike this summer: the growing use of part-time employees to do America’s business.

UPS workers agreed to go back to work after a giant delivery company said it would create 10,000 new full-time jobs from existing part-time positions.

The strike was over, but the national conversation about the estimated 22 million part-time workers—their rights and the government’s role in protecting them—kicked into high gear.

“Not everyone can work full time, and part-time work offers extra freedom and income to families in need,” said Sen. Christopher J. Dodd, D-Conn., who is urging Congress to set up a committee to study part-time work.

“[Part-time work] shouldn’t be a passport to second-class status,” he said.

It seems those in Connecticut agree strongly that part-time work that provides significant pay, benefits and stature must remain an option for families and individuals struggling to satisfy their own needs, those of their children and demands of their careers.

Part-timers in Connecticut make up about 12 percent of the work force—less than the 18 percent national average—and most don’t want a full-time job, a new Courant/ConnPoll shows.

But the residents polled by telephone by the University of Connecticut Sept. 9-15 showed remarkable support for government action that would guarantee part-timers some benefits, and compel companies to pay those workers hourly wages equal to their full-time counterparts. Only one in three said they would support laws restricting companies from hiring part-time workers instead of creating full-time jobs.

But two-thirds said they would support laws requiring employers to give part-time workers benefits such as health insurance, pensions and vacations. Three out of four of those surveyed said that there should be no difference in the hourly pay of part- and full-time workers.

“There is backing for ‘fairness’—especially in hourly rates and for the provision of at least some fringe benefits,” said G. Donald Ferree Jr., poll director.

A majority of the 500 residents polled, however, expressed more interest in making sure that all workers—including part-timers—are paid equitably, than in judging whether jobs should be part or full time, Ferree said.
are more likely than men to work part time, he said.

The strong support the poll results show for part-time worker benefits and equal pay did not come as a surprise to Joseph P. Brennan, vice president of legislative affairs at the Connecticut Business and Industry Association.

"I think the timing of the poll may have skewed it, because the UPS strike was in the headlines, and general polling at that time seemed to support the workers," Brennan said.

Polling done in the past by the association tells a different story, he said, suggesting that residents do not support greater governmental control of general business practices. The association polls, however, have not asked specifically about part-time work.

Some business leaders have also argued that state intervention into policies regarding part-time employee pay and benefits could hamper Connecticut's ability to compete with other states for jobs. They have also said that any requirements should come from Congress and be applied uniformly nationwide.

A package of state legislative proposals aimed at regulating corporate behavior, including a requirement to pay part-timers the same hourly wage as full-timers doing the same job, made its way through the General Assembly this year.

Union officials say they believe that public sentiment for part-time workers runs deeper than anyone knows.

"The people in the poll have said it all—it's about equal pay and equal benefits for equal work," said John W. Olsen, president of the state AFL-CIO. "It's not as much about part and full time anymore."

Olsen said that if part-timers are compensated equally, employers will find it less attractive to use them to replace full-time positions.

The issue was central to a demonstration in mid-September against Pratt & Whitney, a division of United Technologies Corp. About 400 workers and supporters, dozens of whom were arrested, gathered in downtown Hartford to protest Pratt's decision to cut contracted full-time cleaning jobs and replace them with part-time, lower-paying positions.

While there are instances in Connecticut where part-time workers have been affected by company decisions to replace full-time jobs with low-wage, no-benefit positions, most part-time employees polled said they are not looking for full-time work.

Only one out of five part-timers questioned in the poll said they were actively seeking full-time work.

"Part-time work plays a real role in Connecticut, and many engaged in it do not want full-time work instead," Ferre said.

One other thing the poll made clear. Ferre said, is that the days when one income was deemed enough for a family to live on are over. About half of those polled said their family could live on what the main earner is paid, but nearly as many said that their household needs the income of more than one person.

On the job, some of the time:

Connecticut residents show remarkable support for requiring employers to pay part-time workers at the same hourly rate as full-time workers and to provide part-time workers some benefits. Those polled also strongly believe it is important to preserve part-time employment as a work option.

The Courant/Connecticut Poll on part-time workers was conducted by the University of Connecticut from Sept. 9-15. Five hundred randomly selected people were interviewed by telephone. Percentages are rounded to the nearest whole number and may not add up to 100.

The poll has a margin of error of plus or minus 5 percentage points. This means there is a 1-in-20 chance that the results would differ by more than 5 points in either direction from the results of a survey of all adult residents.

A poll's margin of error increases as the sample size shrinks. Results for a subgroup within the poll have a higher margin of error.

The telephone numbers were generated by a computer in proportion to the number of adults living in each area. The actual respondent in each household also was selected at random.

ADDITIONAL COSPONSORS

S. 61

At the request of Mr. LOTT, the names of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 283

At the request of Mr. MCCONNELL, the names of the Senator from Missouri [Mr. BOND] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 283, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 428

At the request of Mr. KOHL, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 428, a bill to amend chapter 44 of title 18, United States Code, to improve the safety of handguns.

S. 751

At the request of Mr. SHELBY, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 751, a bill to protect and enhance sportsmen's opportunities and conservation of wildlife, and for other purposes.

S. 875

At the request of Mr. TORRICELLI, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 875, a bill to promote on-line commerce and communications, to protect consumers and service providers from the misuse of computer facilities by others sending bulk unsolicited electronic mail over such facilities, and for other purposes.

S. 1044

At the request of Mr. LEAHY, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 1044, a bill to amend the provisions of titles 17 and 18, United States Code, to provide greater copyright protection by amending criminal copyright infringement provisions, and for other purposes.

S. 1169

At the request of Mr. REED, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 1169, a bill to establish professional development partnerships to improve the quality of America's teachers and the academic achievement of students in the classroom, and for other purposes.

S. 1188

At the request of Mr. KOHL, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 1188, a bill to amend chapters 83 and 85 of title 28, United States Code, relating to the jurisdiction of the District Court for the District of Columbia, and the United States Court of Appeals for the District of Columbia, and for other purposes.

S. 1204

At the request of Mr. CHAFEE, the name of the Senator from Illinois [Ms. DUGGAR-BRAUN] was added as a cosponsor of S. 1204, a bill to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law, to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution.

S. 1221

At the request of Mr. STEVENS, the name of the Senator from New Hampshire [Mr. GREGG] was added as a co-sponsor of S. 1221, a bill to amend title 46 of the United States Code to prevent foreign ownership and control of United States flag vessels employed in the fisheries in the navigable waters and exclusive economic zone of the United States, to prevent the issuance of fishery endorsements to certain vessels, and for other purposes.

S. 1228

At the request of Mr. CHAFEE, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1228, a bill to provide for a 10-