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Senate

The Senate met at 8:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, our source of spiritual, intellectual, and physical strength, You have replenished our wells of energy and given us a fresh new day in which we have the privilege of serving You.

Lord, grant the Senators more than the courage of their convictions. Rather, give them convictions that arise from Your gift of courage. May this indomitable courage be rooted in profound times of listening to You that result in a relentless commitment to truth that is expressed in convictions that cannot be compromised.

We trust You to guide them so that all they say and decide is in keeping with Your will. We ask for Your wisdom in the crucial matter to be voted on today. Lord, take command of their minds and their thinking, speak Your truth through their speaking and then give them clarity for hard choices. In the name of our Lord and Savior. Amen

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator MCCAIN, is recognized.

SCHEDULE

Mr. MCCAIN. Mr. President, for the information of all Members, this morning the Senate will begin 1 hour of debate on the veto message to accompany the partial-birth abortion ban legislation. Upon the conclusion of debate time, at approximately 9:30 a.m., the Senate will vote on the question of passing the bill, the objections of the President to the contrary notwithstanding. Following that vote, the Senate may turn to the consideration of any legislative or executive items cleared for action. The leader would like to remind all Members that there will be no rollcall votes on Monday in observance of the Jewish holiday, Rosh Hashanah. Also, Members should be aware that a rollcall vote has been scheduled for Tuesday, September 22, at 2:20 p.m., on the Kennedy minimum wage amendment.

PARTIAL-BIRTH ABORTION BAN ACT OF 1997—VETO

The PRESIDING OFFICER (Mr. GREGG). Under the previous order, the Senate will now resume consideration of the veto message on H.R. 1122, which the clerk will report.

The legislative clerk read as follows:

Veto message on H.R. 1122, to amend title 18, to ban partial-birth abortions.

The Senate resumed reconsideration of the bill.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I come to the Senate floor today to speak on behalf of millions of defenseless unborn children who cannot speak for themselves. If they could speak, I know that they would ask for a chance to live. Tragically, too many unborn children are not given a choice and they lose their chance at life to abortion.

We are not here today to debate the legality of abortion. We are here to discuss ending partial-birth abortion—a particularly gruesome procedure that would be outlawed today but for the President's veto last year of a national ban.

Banning partial-birth abortions goes far beyond traditional pro-life or pro-choice views. No matter what your personal opinion regarding the legalization of abortion, we should all be appalled and outraged by the practice of partial-birth abortions. This procedure is inhumane and extremely brutal, entailing the partial delivery of a healthy baby who is then killed by having its vibrant brain stabbed and suctioned out of the skull.

This is simply barbaric.

I have heard from thousands of people in my home State of Arizona who are outraged that this brutal procedure is permitted. Many of them have differing views regarding the legalization of abortion, but they all concur that partial-birth abortions are particularly cruel and must be stopped.

Arizonans were recently reminded about the devastating effects for unborn children of partial-birth abortions. On June 30 of this year, a physician in Phoenix attempted to perform a partial-birth abortion. Dr. John Biskind of the A–Z Women's Center was aborting what he believed was a 23-week-old baby.

After beginning the procedure, Dr. Biskind realized that the child was actually a 37-week, 6-pound baby girl. He immediately stopped the abortion procedure and delivered the baby girl. She suffered a fractured skull and facial lacerations, but thankfully is now recovering with a loving family who adopted her.

This deplorable incident should never have occurred. It could have been prevented, sparing this little girl, now known as Baby Phoenix, the physical and emotional trauma of nearly being killed at birth.

If a national ban on partial-birth abortion had been the law, this Arizona doctor would not have been performing such a horrific procedure on a viable 23-week-old baby—let alone 37-week-old Baby Phoenix.

Clearly, this near-tragedy illustrates the urgent need for a ban on partial-birth abortions in our Nation. We simply cannot allow this heinous procedure to continue taking the lives of viable, healthy babies.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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Some would argue that abortion, including partial-birth abortion, is a matter of choice—a woman's choice. Respectfully, I must disagree.

What about the choice of the unborn baby? Why does a defenseless, innocent child not have a choice in their own destiny?

Some may answer that the unborn baby is merely a fetus and is not a baby until he or she leaves the mother's womb. Again, I disagree, particularly, in the case of infants who are killed by partial-birth abortions.

Most partial-birth abortions occur on babies who are between 20 and 24 weeks old. Viability, ''the capacity for meaningful life outside the womb, albeit with artificial aid'' as defined by the United States Supreme Court, is considered by the medical community to begin at 20 weeks for an unborn baby. Most, if not all, of the babies who are aborted by the partial-birth procedure could be delivered and live. Instead, they are partially delivered and then murdered. These children are never given a choice or a chance to live.

Today, we have to make a choice. We can choose to protect our Nation's most valuable resource—our children. We can choose to give a tomorrow full of endless possibilities to unborn children throughout our Nation. We can choose to save thousands from being murdered at the hands of abortionists.

Or we can choose to allow this barbaric procedure to continue, permitting doctors to kill more innocent, unborn children.

We each have a choice, a choice which unborn children are denied. We must make the right choice when we vote today, the choice to save thousands of unborn children by banning partial-birth abortions in this country.

Mr. President, I yield the floor.

Mr. SANTORUM. Mr. President, I thank the Senator from Arizona for his terrific statement.

I suggest the absence of a quorum and ask unanimous consent that the time be taken off the other side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent that I be given 2 minutes off the time of the other side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I have been listening, as I have in years past, to the debate, to the eloquence of those dedicated individuals who feel so strongly about this issue, particularly the leadership of the Senator from Pennsylvania and the things he has said, the things he has stood for, and the Senator from New Hampshire, Senator SMITH, and then Dr. FRIST.

I hope people heard what Dr. FRIST said because he really is the only one who truly is a professional, who truly understands what this is all about, who can articulate the pain that a small baby during the birth process feels when he is put to death in the very cruel way that this takes place.

As he described that procedure—the procedure of going under the cranium with scissors and opening it up with no anesthesia and the baby feeling that pain—something occurred to me: that those individuals who want to keep that procedure alive and keep it legal are the same ones who, if you did that to a dog, would be picketing your office.

I think somehow we have developed, in a perverted way, into a society, many of whom put a greater value on the lives of critters than on human life. I hope we change that today. I yield the floor.

Mr. SANTORUM. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time run off the time of the opposition.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I ask unanimous consent to speak and have my time allocated to the opposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, in approximately 40 minutes, this Senate is going to cast a historic vote. We are going to have the opportunity to, again, define who we are as a people.

I urge my colleagues, as I have in the past, to vote to override the President's veto. I ask unanimous consent that a letter which I have be printed into the RECORD. This is a letter dated May 8, 1997. This is a letter that is signed by a number of law professors.

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

DEAR SENATOR: We write to you as law professors in support of the Partial-Birth Abortion Ban Act, S.6. We do not write as partisans. We are both Democrats and Republicans, and we are of different minds on various aspects of the abortion issue. We are concerned, however, that baseless legal arguments are being offered to oppose a ban on partial-birth abortions, and we are unanimous in concluding that such a ban is constitutional.

We have learned that some Senators are concerned about claims that a ban on second trimester partial-birth abortions, or a ban on third trimester procedures without a ''health'' exception, would be unconstitutional under *Roe* v. *Wade* and later abortion decisions.

The destruction of human beings who are partially born is, in our judgment, entirely outside the legal framework established in *Roe* v. *Wade* and *Planned Parenthood* v. *Casey*. No Supreme Court decision, including these, ever addressed the constitutionality of forbidding the killing of partially born children. In fact, *Roe* noted explicitly that it did not decide the constitutionality of that part of the Texas law which forbade—and still forbids—killing a child in the process of delivery.[1]

Even should a court in the future decide that a law banning the partial-birth procedures is to be evaluated within the *Roe/Casey* ''abortion'' framework, we believe such a ban would survive legal scrutiny thereunder. The partial-birth procedure entails mechanical cervical dilation, forcing a breech delivery, and exposing a mother to severe bleeding from exposure to shards of her child's crushed skull. Before viability, an abortion restriction is unconstitutional only if it creates an ''undue burden'' on the judicially established right to have an abortion. A targeted ban of a single, maternal-health-endangering procedure cannot constitute such a burden.

To the extent of its constitutionally delegated authority, Congress may also ban all forms of abortion after viability, subject to the health and life interests of the mother. Under the most recent Supreme Court decision concerning abortion, *Planned Parenthood* v. *Casey*, there is no reason to assume that the Supreme Court would interpret a post-viability health exception to require the government to tolerate a procedure which gives zero weight to the life of a partially-born child and which itself poses severe maternal health risks. Furthermore, according to published medical testimony, including that of former Surgeon General C. Everett Koop: ''Partial-birth abortion is never medically necessary to protect a mother's health or future fertility. On the contrary, this procedure can pose a significant threat to both her immediate health and future fertility.'' Even the American College of Obstetricians and Gynecologists—which opposes the bill—acknowledges that partial-birth abortion is never the ''only option to save the life or preserve the health of the woman.'' Banning this procedure does not compromise a mother's health interests. It protects those interests.

In short, while individuals may have ideological or political reasons to oppose banning the partial-birth procedure, those objections should not, in good conscience, be disguised as legal or constitutional in nature.

Respectfully submitted,

Rev. Robert J. Araujo, S.J., Gonzaga Law School; Thomas F. Bergin, University of Virginia School of Law; G. Robert Blakey, University of Notre Dame Law School; Gerard V. Bradley, University of Notre Dame Law School; Jay Bybee, Louisiana State University Law Center; Steven Calabresi, Northwestern University School of Law; Paolo G. Carozza, University of Notre Dame Law School; Carol Chase, Pepperdine University School of Law; Robert Cochran, Pepperdine University School of Law; Teresa Collett, South Texas College of Law; John E. Coons, University of California, Berkeley; Byron Cooper, Associate Dean, University of Detroit Mercy School of Law; Richard Cupp,

[1] 410 U.S. 113, fn. 1 (1973), citing Art. 1195, of Title 15, Chapter 9. (Presently, this law is codified at Vernon's Ann. Texas Civ. St. Art. 4512.5.) A similar ban remains in effect in Louisiana (L.A. Revised Statutes 14.87.1). The Texas and Louisiana statutes are also consistent with existing case law in California. See *People* v. *Chavez*, 77 Cal. App. 2d 621 (1947) (''It should equally be held that a viable child in the process of being born is a human being within the meaning of the homicide statutes, whether or not the process has been fully completed.''); accord *Keeler* v. *Superior Court*, 2 Cal. 3d 619 (1970).

Pepperdine University School of Law; Joseph Daoust, S.J., University of Detroit Mercy School of Law; Paul R. Dean, Georgetown University Law Center; Robert A. Destro, The Catholic University of America; and David K. DeWolf, Gonzaga Law School.

Bernard Dobranski, Dean, The Catholic University of America; Joseph Falvey, Jr., Assistant Dean, University of Detroit Mercy School of Law; Lois Fielding, University of Detroit Mercy School of Law; David Forte, Cleveland-Marshall College of Law, Cleveland State University; Steven P. Frankino, Dean, Villanova University School of Law; Edward McGlynn Gaffney, Jr., Dean, Valparaiso University School of Law; George E. Garvey, Associate Dean, The Catholic University of America; John H. Garvey, University of Notre Dame Law School; Mary Ann Glendon, Harvard University Law School; James Gordley, University of California, Berkeley; Richard Alan Gordon, Georgetown University Law Center; Alan Gunn, University of Notre Dame Law School; Jimmy Gurule, University of Notre Dame Law School; Jacqueline Nolan-Haley, Fordham University School of Law; Laura Hirschfeld, University of Detroit Mercy School of Law; and Harry Hutchison, University of Detroit Mercy School of Law.

Phillip E. Johnson, University of California, Berkeley; Patrick Keenan, University of Detroit Mercy School of Law; William K. Kelley, University of Notre Dame Law School; Douglas W. Kmiec, University of Notre Dame Law School; David Thomas Link, Dean, University of Notre Dame Law School; Leon Lysaght, University of Detroit Mercy School of Law; Raymond B. Marcin, The Catholic University of America; Michael W. McConnell, University of Utah College of Law; Mollie Murphy, University of Detroit Mercy School of Law; Richard Myers, University of Detroit Mercy School of Law; Charles Nelson, Pepperdine University School of Law; Leonard J. Nelson, Associate Dean, Cumberland School of Law, Samford University; Michael F. Noone, The Catholic University of America; Gregory Ogden, Pepperdine University School of Law; John J. Potts, Valparaiso University School of Law; Stephen Presser, Northwestern University School of Law; and Charles E. Rice, University of Notre Dame Law School.

Robert E. Rodes, Jr., University of Notre Dame Law School; Victor Rosenblum, Northwestern University School of Law; Stephen Safranek, University of Detroit Mercy School of Law; Mark Scarberry, Pepperdine University School of Law; Elizabeth R. Schiltz, University of Notre Dame Law School; Patrick J. Schiltz, University of Notre Dame Law School; Thomas L. Shaffer, University of Notre Dame Law School; Michael E. Smith, University of California, Berkeley; David Smolin, Cumberland School of Law, Samford University; Richard Stith, Valparaiso University School of Law; William J. Wagner, The Catholic University of America; Lynn D. Wardle, Brigham Young University; and Fr. Reginald Whitt, O.P., University of Notre Dame School of Law.

Mr. DEWINE. Mr. President, this letter addresses a lot of the concerns that were expressed on the floor yesterday about the constitutionality of this piece of legislation. I call Members' attention to portions of this letter. They will have an opportunity to, of course, read the entire letter. This is what, in part, the letter says:

We write to you as law professors in support of the Partial-Birth Abortion Ban. . . . We do not write as partisans. We are both Democrats and Republicans, and we are of different minds on various aspects of the abortion issue. We are concerned, however, that baseless legal arguments are being offered to oppose a ban on partial-birth abortions, and we are unanimous in concluding that such a ban is constitutional.

The destruction of human beings who are partially born is, in our judgment, entirely outside the legal framework established in Roe v. Wade and Planned Parenthood v. Casey. No Supreme Court decision, including these, ever addressed the constitutionality of forbidding the killing of partially born children. In fact, Roe noted explicitly that it did not decide the constitutionality of that part of the Texas law which forbade —and still forbids—killing a child in the process of delivery.

Even should a court in the future decide a law banning the partial-birth procedure is to be evaluated within the Roe/Casey ''abortion'' framework, we believe such a ban would survive legal scrutiny thereunder. The partial-birth procedure entails mechanical cervical dilation, forcing a breech delivery, and exposing a mother to severe bleeding from exposure to shards of her child's crushed skull. Before viability, an abortion restriction is unconstitutional only if it creates an ''undue burden'' on the judicially established right to have an abortion. A targeted ban of single, maternal-health-endangering procedure cannot constitute such a burden.

The letter goes on to quote C. Everett Koop, who has been quoted on this floor before on this issue.

Partial-birth abortion is never medically necessary to protect the mother's health or future fertility. On the contrary, this procedure could impose a significant threat to both her immediate health and future fertility.

It is abundantly clear that this law is constitutional. I again ask my colleagues to vote in favor of the override.

I first had the opportunity to listen to this debate several years ago when a nurse from my home State of Ohio, nurse Brenda Shafer, testified before the Senate Judiciary Committee. She is the first person, really, to draw public attention to this procedure. She was pro-choice. She was called in on a temporary basis to go to Dr. Haskell's abortion clinic in Dayton, OH. What she saw and what she described, I think, has shocked the Nation. This pro-choice nurse became a person adamantly opposed to partial-birth abortion. She described it in detail, as has been described on this floor many, many times. It is something that no civilized society should tolerate.

This vote that we are going to cast in a moment is about who we are as a people, what we tolerate, and what we do not tolerate. It is time for this country, for the Senate, and this Congress, to say this barbaric procedure we simply will no longer tolerate.

I yield the floor.

Mr. SANTORUM. Mr. President, I yield 3 minutes from our time to the champion and initial author of this bill in the Senate, Senator BOB SMITH of New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I thank my colleague, Senator SANTORUM, for his leadership on this issue.

I pick up on what Senator DEWINE just said about Nurse Shafer. Thirteen years she worked in an abortion clinic. She testified before the Judiciary Committee, and I think it might be interesting to read her statement about what she saw, word for word. I don't think anybody has done that. Listen to Nurse Shafer, who witnessed this partial-birth abortion.

I stood at the doctor's side and I watched him perform a partial-birth abortion on a woman who was 6 months pregnant. The baby's heart beat was clearly visible on the ultrasound screen. The doctor delivered the baby's legs and arms. Everything but his little head. The baby's body was moving. His little fingers were clasped together. He was kicking his feet. The doctor took a pair of scissors and inserted them into the back of the baby's head and the baby's arms jerked out in a flinch, a startled reaction like a baby does when he thinks that he might fall. Then the doctor opened the scissors up. Then he stuck a high-powered suction tube into the hole and sucked the baby's brains out. Now the baby was completely limp. I never went back to the clinic, but I'm still haunted by the face of that little boy. It was the most perfect angelic face I have ever seen.

My colleagues, if we continue to tolerate this, somehow, some way, some day, we are going to be judged. This is wrong. This is immoral. When we see and hear the things that are going on in our country today and read and hear the polls, maybe we shouldn't be surprised. This is the standard that we set for our children? What a disgraceful thing to do, not to override this veto.

The President's own Southern Baptist religion, past and current president of the Southern Baptist Convention, wrote a letter to the President of the United States pleading with him to change his position, telling him why they believe he was wrong, that there is no medical reason to improve the health or to save the life of the mother. There is no medical reason to perform this—180 doctors in a letter I referred to yesterday on the floor said so; 4 doctor at a press conference yesterday said so; so did Dr. Koop, one of the most respected people ever to serve in government, former Surgeon General.

Yet here we are. This is a terrible thing. I just hope and pray that my colleagues in the next hour or the next half hour will see the light, if you will, and change their position so we can win this vote.

Mr. SANTORUM. I thank the Senator from New Hampshire and thank him for his tremendous leadership on this issue.

I yield 10 minutes to the Senator from Indiana, who is leaving this Chamber after many years of distinguished service. He has been the champion here for life, Senator COATS from Indiana.

Mr. COATS. Mr. President, let me first say thanks to my colleagues from Pennsylvania, New Hampshire and Ohio, and others who have so persuasively and so relentlessly pursued the truth of this issue and brought us to this point where we have to have an honest, open debate and a vote about

where we stand on what I believe is the most important issue facing America.

We do have fundamental disagreement over the subject of abortion. Strong convictions have often led to strident rhetoric. Sometimes labels and name-calling are too easily substituted for persuasion. Education is a means of winning the hearts and minds of our fellow citizens. ''Extremism'' and ''fanaticism'' have been labels that have been used and attached to those with deeply held beliefs.

Yet as civil as our discourse needs to be, sometimes there are issues that are of such weight and such gravity that strong rhetoric is necessary, when the truth—raw and exposed—merits passion and rhetoric. This is such a case. There really is only one issue at stake here. That issue is that what we are confronting is an affront to humanity. It is an affront to justice to end the life of a kicking infant as it emerges from its mother's womb. That is at issue here. The legislation that the President has vetoed is not the expression of extremism. The expression of extremism is the procedure we are debating—extreme in its violence and disregard for human life and dignity. We have heard a description of that. I was going to give that, but I will defer on the description because it has been given by my colleague from New Hampshire. The opposition has used arguments to defend this procedure that I believe are evasive and misrepresent the truth.

It is said that the procedure is rare and, therefore, we ought not to be discussing it. Despite the fact that the procedure is not rare and affects thousands of individuals—children—would we be passing on the debate, the fundamental issue of life itself, if we were talking about the Holocaust because somebody was saying we are not talking about very many people? It is just a few hundred or a few thousand. Does that make the debate or issue any different?

The issue is not whether it is rare; the issue is, as a matter of undeniable, unalienable human rights, it should not only be rare, this procedure should be nonexistent.

It is said that the child feels nothing. We now know that the child feels pain, that a mother's anesthesia does not eliminate her child's pain. We know that a child killed in this procedure feels exactly what a preemie would feel if a doctor performed a similar procedure in the nursery.

It is said that the procedure is done to save the life of the mother. We know that is not true. We also know that this procedure has significant risks for the mother. In fact, the primary purpose of this procedure is for the convenience of the abortionist.

It is said that the partial-birth abortion is part of the mainstream of medicine. But we know that the AMA Council on Legislation stated that this practice is not a ''recognized medical technique,'' and that this ''procedure is basically repulsive.'' Those are not the words of this Senator. Those are not the words of those of us in the political arena. Those are the words of the AMA Council.

So when we strip away all the arguments, we are left with an uncomfortable truth: This procedure is not the practice of medicine; it is an act of violence, an almost unspeakable act of violence—the taking of an innocent life, a life fully capable of being self-sustaining.

Mr. President, it is hard to clearly confront the reality of this matter because clarity requires such anguish. But that reality is simple and terrible. The reality is that the death of a child should haunt us and shame us as a society. It should cause us to grieve. But more than that, it should cause us to turn our backs on this practice, as my colleague from New York has said, which borders on infanticide, and which I believe is infanticide.

It is hard for me to believe that such a statement, such a debate, should be necessary. It is hard for me to understand how a moral commitment so basic could ever be debated on the floor of the U.S. Senate. Has our compassion grown so selective? Has our moral sense grown so dull? Have our hearts grown so hard?

This is not just another skirmish in the running debate between left and right. It raises the most basic of questions asked in any democracy: Who is my neighbor? Who is my brother? Who do I define as inferior and cast beyond sympathy and protection? Who do I embrace and value, in both law and love?

This is not a matter of ideology; it is a matter of humanity. This is not just a matter of our Nation's politics; it is a matter of our Nation's soul. It is a matter of how we will be judged as a nation, not only by history, but by Almighty God.

We have disagreed in this body in matters of social policy. Yet, surely, we can come together and agree on this one thing—that an unborn child should not be subjected to violence and death. I believe personally that that protection should be applied and extended to all of the unborn. That is a debate that we must have, but that is not the debate today. The debate today is over this particular procedure. At the very least, regardless of our view and position of how far this ought to extend, to all of humanity and all of creation, can we not at least today reject the extinction of a child's life just seconds before it is born and fully leaves the womb? Can we not at least refuse to cross this line?

Mr. President, the vote today is an opportunity for us to take a different path. It is an opportunity for Republicans and Democrats, liberals and conservatives, and it is an opportunity even for those who support abortion and take the pro-choice position, to override the President's veto. We can begin today to define some common ground. We can begin today by saying every child in America will be embraced by our community, that no one is expendable, no one will be turned away. We can begin today to define a basic value, a basic common ground, because if we pass this legislation over the President's objection, it will mean that we will, once again, in this great experiment in democracy, extend the circle of protection and expand it one more time. This is the test of a just civilization, and this is the standard by which we, individually and as a nation, will be tested as well.

If we defeat this measure, we will say something about this great American experiment and the limits that we place on its promise. Our founders raised the standard for the ages that all men are created equal and endowed by their Creator with certain unalienable rights. It is true that the laws they lived by, even the Constitution they wrote, stood in tension with that transcendent ideal. But the standard remained and has sustained the hopes of the weak throughout the history of this country.

The history of our Nation is a story of how the hopes of the weak have been advanced, our progress toward the ideals of the declaration has been bought with blood, demanded with eloquence, and written into our law in some historic debates in this Chamber and elsewhere.

Mr. President, one by one, the powerless have been embraced and the American family has been extended—to African Americans, women, the disabled. Each have redeemed a promissory note, given at our founding. Each victory of compassion and justice has been a landmark of liberty. Over time, justice has prevailed.

Abraham Lincoln wrote of our founders:

> This was their majestic interpretation of the economy of the universe. This was their lofty, and wise, and noble understanding of the justice of the Creator to his creatures. . . . In their enlightened belief, nothing stamped with the divine image and likeness was sent into the world to be trodden on. . . . They grasped not only the whole race of man then living, but they reached forward and seized upon the farthest posterity. They erected a beacon to guide their children, and their children, and the countless myriads who would inhabit the Earth in other ages.

Does that beacon still shine throughout the world? Does the light of that path of nations, where freedom is new, shine? And what is the example that we set?

It is my deepest concern, my nightmare fear that we will extinguish that light, that we will halt the progress of America's promise, and we will cast one class of the powerless into the darkness beyond our protection.

Lincoln talked of America as a nation dedicated to a proposition embodied in the declaration, but can the weakest member of the human family find a humble share in the promise of our founding? Will we say, after centuries of struggle, that the gate of

mercy is now slammed shut, locked and the key thrown away?

These are the questions that put the American experiment to the test. Let us affirm the words of the Great Emancipator that nothing, nothing stamped with a divine image and likeness is denied the right to participate in this noble experiment called democracy. Let us not fail in this test that is now put before us.

Mr. President, it appears my time has expired. I thank, again, the Senator from Pennsylvania for his outstanding leadership on this issue.

Mr. SANTORUM. I thank the Senator from Indiana.

Mr. LEVIN. Mr. President, I will vote to sustain the President's veto.

The American College of Obstetricians and Gynecologists has continually expressed deep concern about legislation prohibiting the intact D&X procedure, which is the technical name for the late term birth abortion procedure. They have urged congress not to pass legislation criminalizing this procedure and not to supersede the medical judgment of trained physicians. They have stated, ''The intervention of legislative bodies into medical decision making is inappropriate, ill advised, and dangerous.''

The Supreme Court has ruled that a ban on all abortions after viability is permitted under the Constitution providing the ban contains an exception to protect the life and health of the woman.

The bill vetoed by the President does not meet that test because the exception it provides for does not include language relative to a woman's health.

Principally for both those reasons, I voted against this legislation and I continue to oppose it. Instead, I support an alternative which would ban all post-viability abortions, regardless of the procedure used, except in cases where it is necessary to protect a woman's life or health.

Mr. HATCH. Mr. President, we have all heard the shocking accounts of teenaged girls giving birth and then dumping their newborns into trash cans. One young woman from Delaware gave birth in a bathroom stall during her prom, and then proceeded to strangle and suffocate her child, leaving his body in the garbage. Cases in Maryland and Arkansas tell similar stories.

Criminal charges were recently brought against a young woman in my home state of Utah for secretly giving birth in her parent's Salt Lake City home and then leaving the baby to die in a drawer.

As I read these accounts, I find myself wondering about the blurry line which exists between late-term abortions and infanticide. William Raspberry argued in a July 13, 1998, column in the Washington Post: a ''short distance [exists] between what [these teenagers] have been sentenced for doing and what doctors get paid to do.''

Few people would dispute that such incidents constitute murder. Any cruelty or intentional harm inflicted on a defenseless child causes anger to rise in all of us, particularly when a variety of services exist to assist the parents with their responsibilities—or even, through foster care or adoption, to relieve them entirely.

I have sympathy for any young woman who contemplates an abortion. Surely this is a difficult decision to make. The circumstances that drive a woman to it must certainly be complex and appear to her to be insoluble.

But, the late-term partial birth abortion is not an ordinary abortion. It is not contemplated in the Roe v. Wade decision.

That is why even pro-choice members of Congress were compelled to support this legislation. It is incomprehensible that any reasonable person could examine the evidence and continue to defend it.

This procedure involves the partial delivery, in the late second or third trimester of pregnancy, of an intact fetus into the birth canal. The fetus is delivered from its feet through its shoulders, so that only its head remains in the uterus. Then, either scissors or another instrument is used to poke a hole in the base of the skull where a suction catheter is inserted to extract the baby's brain.

If you are sickened and pained by that description as you listen to it—just as I am each time I read it—imagine what it must be like for the child who must experience it. This procedure is not done on a mass of tissue. It is performed on a living baby capable of feeling pain and, at the time this procedure is typically performed, capable of living outside of the womb with appropriate medical attention.

So, then, I agree with William Raspberry and our colleague Senator MOYNIHAN. The line between infanticide and partial birth abortion is very blurry indeed.

Let me set out for the Senate one more time exactly what this bill does and does not do. This bill does not ban all abortions after a certain week of pregnancy. It does not dictate the circumstances under which late-term abortions would be permitted. H.R. 1122 bans this one, specific, abhorrent procedure.

Opponents of this bill argue that partial-birth abortions are performed to preserve the health and life of the mother. This point of view, however, is based on false claims by advocacy groups and not on the facts. Such claims are a futile attempt at making this procedure appear less barbaric and thus more palatable to the American people.

I think Americans deserve to hear the facts. They need to know the truth about a procedure which our esteemed colleague from New York, Senator MOYNIHAN, has accurately described as ''close to infanticide.''

The former U.S. Surgeon General, C. Everett Koop, described his opposition to the partial-birth abortion procedure in an interview with the American Medical News, which was published in its August 19, 1996 issue. Dr. Koop stated:

> . . . in no way can I twist my mind to see that the late-term abortion as described—you know, partial birth, and then destruction of the unborn child before the head is born—is a medical necessity for the mother. It certainly can't be a necessity for the baby. So I am opposed to . . . partial-birth abortion.

Dr. Daniel H. Johnson, President of the American Medical Association, asserted the AMA's position on the issue in the May 26, 1997, edition of the New York Times. Dr. Johnson stated:

> [T]he partial delivery of a living fetus for the purpose of killing it outside the womb is ethically offensive to most Americans and physicians. Our panel could not find any identified circumstances in which the procedure was the only safe and effective abortion method.

Often the health of the woman is not even under consideration. Dr. Martin Haskell, one of a hand full of doctors who perform this procedure, admitted in testimony given under oath in Federal district court in Ohio that he performs the procedure on second trimester patients for ''some medical'' and ''some not so medical'' reasons.

The record in support of this legislation is long. In November 1995, I presided over a 6½-hour Senate Judiciary Committee hearing on the issue. At the March 1997 Senate-House joint hearing, we heard from 10 witnesses, including representatives of the major organizations on both sides of this issue and a medical doctor who specializes in maternal-fetal medicine. As testimony from the hearings demonstrated, this procedure is not performed primarily to save the life of the mother or to protect her from serious health consequences. Instead, the evidence shows that this procedure is often performed in the late second and early trimesters for purely elective reasons.

I acknowledge that there may have been rare cases where this awful procedure was performed and where there was a possibility of serious, adverse health consequences for the mother.

However, even in those cases, a number of other procedures could have been performed. In fact, other procedures would have been performed had the mothers gone to any doctor other than one of the handful of doctors who perform these awful partial-birth abortions.

I understand that many people on both sides of the abortion issue have very strongly held beliefs. I respect those whose views differ from my own. And I condemn, as I know every other Member of this body does, the use of violence or any other illegal method to express any point of view on this issue.

It is critical to remember, however, that this bill is not about the right of a woman to choose an abortion. That is a debate for another day. The only bill we are voting on today is H.R. 1122, a bill that seeks to make a particularly gruesome, and I believe inhumane, abortion procedure illegal.

I would like to express my appreciation to Senator SANTORUM for his leadership on this issue and join him in urging our colleagues to support this bill and override the President's veto.

Ms. SNOWE. Mr. President, I rise in opposition to this attempt to override the President's veto of H.R. 1122, the so-called ''Partial Birth'' Abortion Ban Act of 1997.

Mr. President, let it be clear that this legislation puts women's lives and health on the line. If we vote today to override the President's veto we will bear the burden of putting women's lives and health at risk by substituting the judgement of politicians for the judgement of medical doctors. And that just isn't right.

Twenty-two years ago, the Supreme Court issued a landmark decision in Roe versus Wade that held that women have a constitutional right to an abortion, but after viability, states could ban abortions—as long as they allowed exceptions for cases in which a woman's life or health is endangered.

H.R. 1122 is in direct violation of the Court's ruling. It contains no exception for the health of the mother, and therefore represents a direct, frontal assault not only on Roe, but on the health and reproductive rights of women everywhere.

It should be no surprise, then, that similar efforts around the country to ban the so-called ''partial birth'' abortion procedure have not stood up to constitutional muster.

In fact, legal challenges have been mounted in 20 of the 28 states that have passed these laws. Nineteen out of twenty states have had their laws enjoined or severely limited. Seventeen courts have issued temporary or permanent injunctions stopping laws from taking effect. And one attorney general has limited enforcement of the law.

And I want to be just as clear that innocent women will suffer if we vote to override the President's veto. It is not simply the Constitution which demands a health exception be included in any such legislation—it is compassion for the lives of our nation's women.

There is no question that any abortion is an emotional, wrenching decision for a woman. No one would debate this. And when a woman must confront this decision during the later stages of a pregnancy because she knows that the pregnancy presents a direct threat to her own life or health, the ramifications of such a decision multiply dramatically.

So, too, is it beyond debate that all of us want to see the instances of abortions reduced in America. Unfortunately, contrary to what proponents of this legislation believe, H.R. 1122 will not bring us closer to this goal. In contrast, it will force women and physicians to choose another, less safe and potentially life threatening procedure. Is that what we really want? To put women's lives and health at risk?

Because that is exactly what H.R. 1122 will do. It will put women at unacceptable risk, while in turn doing absolutely nothing to lower the number of abortions in this country.

I suggest that there is a better way. I suggest we are not stuck with an all-or-nothing approach, even on this most contentious of issues.

That is why last year, I supported an amendment which would have decreased the number of abortions in this country without putting the lives and health of women on the line.

This substitute would have ensured that no abortion will take place after viability unless it is absolutely necessary to avoid grieve physical injury to a woman, while protecting women's lives and health. And most of all, unlike the underlying bill, it would have reduced the number of abortions in this country.

Critics of this proposal, unfortunately, believed that this language contains a loophole because it leaves it to the doctor to determine when the fetus is viable.

I find this viewpoint curious on two fronts. First, it begs the question, why did H.R. 1122 proponents trust doctors to determine when an abortion is necessary to protect a woman's life, when they do not trust doctors to determine when a woman faces a grievous health risk or when the fetus is viable?

And second, who is in a better position than doctors to determine when the fetus is viable? Are opponents honestly suggesting the federal government has the answer to that question?

The Supreme Court has said in Planned Parenthood versus Danforth, and I quote ''the time when viability is achieved may vary with each pregnancy, and the determination of whether a particular fetus is viable, is, and must be, a matter for the judgment of the responsible attending physician.''

It comes down to who should be making these decision. Will it be politicians, whose extent of medical knowledge may be little more than what they see on ''E.R.''? Or will it be physicians, who live ''E.R.''?

The substitute language we championed would have required that a doctor certify that a post-viability abortion is necessary to protect a woman from grievous injury. Any doctor who violated this requirement would not only have faced still civil penalties, but will risk having his or her medical license revoked.

Curiously, H.R. 1122 does not require a doctor to certify that this procedure is necessary to protect a woman's life. For this reason, it appears far easier for a doctor to falsify information under the underlying bill, because there is no certification requirement.

Mr. President, what the vast majority of American people really want from their leaders on this issue is an answer to the problem of late term abortions, not a ban one procedure which will only force women to and doctors to choose other less safe procedures.

Because, despite the terrible conflict over H.R. 1122, there is one area where almost all Americans agree: That no viable fetus should be aborted—by any methods—unless it is absolutely necessary to protect the life or health of the mother.

By coming together on this issue, we can bridge the chasm that has developed in this debate. And despite the fact that the substitute amendment failed in this body last year, I still strongly believe this is the right course to take.

Forty-one States, including my home State of Maine, already ban post-viability abortions. We need to ensure that healthy pregnancies are never terminated after a fetus is viable, regardless of the procedure used. We also need to ensure that any such measure is in keeping with the Constitution and the best interests of the life and health of women.

These are not mutually exclusive goals. This is not a gulf that can never be crossed. And this is an issue that is not going to go away.

That is why we are coming back this year, and renewing our effort to ban all abortions after viability. On Wednesday, Senator DURBIN and I, along with Senators COLLINS, MIKULSKI, LANDRIEU, LIEBERMAN, GRAHAM, and TORRICELLI introduced a bipartisan measure, the Late-Term Abortion Limitation Act, because we believe this can and will solve the problem of late term abortions.

While the Durbin-Snowe legislation is similar to last year's substitute, it states that, prior to an abortion, both the performing physician and an independent physician certify in writing that, in their medical judgment, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health. With the opinion required from another doctor, this will ensure that the abortion was absolutely medically necessary.

And finally, let me be clear that the health exception for ''grievous physical injury'' could only be invoked under two circumstances.

The first involves those heart-wrenching cases where a wanted pregnancy seriously threatens the health of the mother. The Durbin-Snowe language would allow a doctor in these tragic cases to perform an abortion because he or she believes it is critical to preserving the health of a woman facing: Peripartal cardiomyopathy, a form of cardiac failure which is often caused by the pregnancy, which can result in death or untreatable heart disease; pre-eclampsia, or high blood pressure which is caused by a pregnancy, which can result in kidney failure, stroke, or death; and uterine ruptures which could result in infertility.

Second, the language also applies when a woman has a life-threatening condition which requires life-saving treatment. It applies to those tragic cases, for example, when a woman

needs chemotherapy when pregnancy, so the families face the terrible choice of continuing the pregnancy or providing life-saving treatment. These conditions include: Breast cancer; lymphoma, which has a 50 percent mortality rate if untreated; and primary pulmonary hypertension, which has a 50 percent maternal mortality rate.

Now, I ask my colleagues, who could seriously object under these circumstances?

In closing, Mr. President, let me restate that this is not a problem without a solution. The Durbin-Snowe language very clearly provides this body with an alternative that will not only ensure that healthy pregnancies will never be terminated after a fetus is viable; not only reduce the number of abortions in this Nation; not only put medical decisions in the hands of medical doctors; but will be in keeping with the requirements of the United States Constitution and our responsibility to America's women.

That is why I urge my colleagues to vote to sustain the President's veto, and I hope we can coalesce around support for the Durbin-Snowe bill.

Mr. KENNEDY. Mr. President, I oppose this legislation, and I urge the Senate to sustain the President's veto.

In my view, this legislation is unconstitutional under the Supreme Court's decisions in Roe v. Wade and Planned Parenthood v. Casey, and President Clinton was right to veto it. The Roe and Casey decisions prohibit the government from imposing an ''undue burden'' on a woman's constitutional right to choose to have an abortion at any time up to the point where the developing fetus reaches the stage of viability. The government can constitutionally limit abortions after the stage of viability, as long as the limitations contain exceptions to protect the life and the health of the woman.

This bill fails that constitutional test. In cases before viability, it clearly imposes an undue burden on a woman's constitutional right to an abortion. In cases after viability, it clearly does not contain the constitutionally required exception to protect the mother's health.

Supporters of this legislation are flagrantly defying these constitutional requirements. In the vast majority of states that have passed so-called partial-birth abortion bans, the law is on appeal, enjoined, or the subject of a restraining order. With only one exception, where the laws have been challenged, the courts have concluded that these bans are unconstitutional.

The conclusion is obvious. The supporters of this unconstitutional legislation would rather have an issue than a bill. President Clinton vetoed this legislation on October 10, 1997. Almost an entire year has passed since that veto. If the Senate Republican leadership genuinely cared about preventing these abortions, they would have brought this veto before the Senate long ago. Instead, they delayed and delayed and delayed. And now, surprise! The Senate is finally being asked to vote on this veto a few weeks before election day. They want an issue, not a bill.

In her testimony before the Senate Judiciary Committee, Coreen Costello put this issue clearly. After consulting numerous medical experts and doing everything possible to save her child, Coreen Costello had the procedure that would be banned by this legislation. Based on that experience, she said this to our committee:

> I hope you can put aside your political differences, your positions on abortion, and your party affiliations and just try to remember us. We are the ones who know. We are the families that ache to hold our babies, to love them, to nurture them. We are the families who will forever have a hole in our hearts. We are the families that had to choose how our babies would die . . . please put a stop to this terrible bill. Families like mine are counting on you.

I want the Senate to sustain the President's veto.

Mrs. MURRAY. Mr. President, I rise today to in support of the President's veto of the so-called Partial Birth Abortion Ban Act and urge my Colleagues to join me in defeating this real threat to women's health.

Most of what has been said here today in support of this ban is troubling, because some have implied that women make health care decisions in haste without much thought or understanding. Let me assure my Colleagues that women have the ability to make informed health care decisions. We are more than capable of understanding the difference between pre and post viability. We are more than capable of making wise health care decisions in consultation with our physicians and family. We do not need Members of Congress making our health care decisions. I believe that most women would argue that health care decisions are best left to physicians and patients.

We argue that patients and doctors should make health care decisions. Not insurance bureaucrats. Yet today many of my Colleagues are trying to make a major health care decision for many women in this country. Not just a health decision but for some women a life or death decision. This is why the American College of Obstetricians and Gynecologists oppose this ban. They understand the threat to women. They know first hand the complications that can develop throughout a pregnancy. They have experienced first hand the risk that many women face throughout a pregnancy. They are the one's we should be listening to in this debate.

That is the issue. Protecting the life and health of the woman. This is not about choice or even about the Constitution. This is about protecting the life and health of women.

Let me point out to my Colleagues, post viability abortions are prohibited except when necessary to save the life and health of the woman. This is the law of the land and I support it. But the legislation that the Administration wisely vetoed would undermine this standard established by the Supreme Court and includes no exception to save the woman's health and the life exception is so narrow that few could meet the test. There is no exception to protect a women's ability to have additional healthy children. There is no exception to give the doctor the ability to do what is right for his or her patient. This is a dangerous precedent that we cannot allow to go forward.

I have come to this floor many time to advocate on behalf of women's health. I have had many successes in increasing funding for research and in working to eliminate gender bias in research. I have worked to increase funding for breast cancer research. I have fought to improve and expand mammography coverage for Medicare beneficiaries. I have worked to increase focus on cardiovascular disease, the number one killer of American women. As a member of the Appropriations Committee, I have always considered women's health one of my top priorities.

I am here today for the same reason, to continue my fight for the lives and health of women. I urge my Colleagues to talk to women who have had to make this decision to have this procedure. Listen to what their doctors told them and why they made the decision forced upon them. I know that if you could hear what they have endured and the heartache they have faced you would understand why today's vote is a women's health vote and why this ban is such a danger to women.

Let women and their doctors make these difficult decisions. This ban is a serious threat to women and their families. Please do not jeopardize a women's health and threaten her life based on gruesome diagrams that simply do not tell the real story.

I would urge all of those who believe that this legislation is necessary to take the time to listen to phyisicans and women who have had this procdure. I can guarantee that this procedure is only done in the final weeks of a pregnancy when it becomes medically necessary to save the women's life or health.

Ms. MIKULSKI. Mr. President, today the Senate will vote on whether or not to override the President's veto of H.R. 1122, the so-called ''Partial Birth Abortion Ban''. I will cast my vote to uphold the President's veto.

I do so for several reasons. First and foremost, this bill denies a woman, in consultation with her physician, the right to make necessary or appropriate medical decisions. Second, it does not provide any protection for a woman whose health is grievously threatened by her pregnancy. Third, this bill will not stop a single abortion from occurring. Finally, it is unconstitutional.

I believe that women, in consultation with their physicians, must make decisions on what is medically necessary or appropriate in reproductive matters. These must be medical decisions not political decisions.

Mr. President, we need to let doctors be doctors. This is my principle whether we are talking about reproductive choice or any health care matter. Physicians have the training and expertise to make medical decisions. They are in the best position to determine what is necessary or appropriate for their patients. Not bureaucrats. Not managed care accountants. And certainly not legislators.

Who is best equipped to decide whether a difficult pregnancy threatens a woman's life? Who decides whether a woman would suffer grievous injury to her physical health if a pregnancy is continued? Who decides what is medically necessary for a particular woman in her unique circumstances?

The answer must be that doctors decide. The women themselves must decide. Legislators should not take the decision away from them. This bill is unacceptable because it shackles physicians. It prevents them from exercising their best medical judgement on behalf of their patients.

I also will vote to uphold the President's veto because this bill does not offer any protections for women's health. I know that there are many who view efforts to provide for the health of the woman as some sort of loophole. But I believe we must acknowledge the realities of women's health and women's lives.

Even the most ardent opponent of reproductive rights would have to acknowledge that there are medical crises that arise during pregnancy that could cause profound harm to women's health. Yet the authors of the bill before us refused to make any concession to health concerns

I will vote today to sustain the President's veto because this bill would not prevent one abortion—not one. By banning a particular procedure, it does nothing to stop abortions from occurring. A doctor can still opt to use any other abortion procedure—even ones that might be less suitable for the woman's particular health circumstances. So let's be clear—this bill would not prevent abortions.

Finally, this bill fails the test of constitutionality. The Supreme Court in Roe versus Wade and in its subsequent decisions has been quite clear. Prior to the point of fetal viability, a woman's right to an abortion is constitutionally protected.

The Court has also insisted that any legislation restricting abortion must ensure that the woman's life and her health are protected. The woman's physician must place her health as the paramount concern. On both of these points, this bill fails to meet the constitutional standard the Court has established.

This is not mere speculation. In 19 out of 20 states that have passed ''partial-birth'' abortion bills, either a court or state attorney general has prevented those laws from taking effect. Six of those states used language that is identical to the bill now before the Senate. Seventeen courts have ruled that these state laws are unconstitutional. So it should be clear that this bill cannot pass constitutional muster.

For all of these reasons this bill is seriously flawed. The President's veto of this legislation was the right thing to do. It was the constitutional thing to do. I expect that the Senate will vote today to uphold that veto.

When the Senate passed this legislation last May, I said that its passage was a hollow victory. It was hollow because the bill could never be enacted into law and could never be upheld as Constitutional. I believe that subsequent events are proving that prediction to be correct.

There is a better way to address this issue. I believe the vast majority of my colleagues would agree that—absent a threat to life or a grievous threat to a woman's health—abortion in the last months of pregnancy is not defensible. Why can't we enact legislation that would provide a ban on those post viability abortions?

When the Senate considered this issue last May, I worked with my Democratic Leader TOM DASCHLE and a bipartisan group of Senators to craft such an approach. The Daschle alternative would have meant fewer abortions. It banned all abortions once a fetus had achieved viability.

It provided only two exceptions—first, when the woman's life was threatened by continuing the pregnancy. Second, when she was at risk of grievous injury to her physical health. And it allowed the woman and her physician to make that medical determination.

I still believe that is the correct approach, the common sense approach. The Daschle alternative was respectful of the Constitution. It safeguarded women's health. I was disappointed that we were unable to pass this alternative. I believe the President would have signed a bill along the lines of the Daschle alternative.

Because I believe so strongly that this is the correct approach to take, I have joined with my colleague, Senator DURBIN, and others, in introducing a bill modeled after the Daschle alternative.

I urge my colleagues—whether you support the bill we are considering today or not and whatever your views on reproductive choice—to take another look at this proposal.

It is our best chance to forge a consensus on this issue. We can stop inappropriate post-viability abortions while still protecting the lives and health of women. The Durbin bill shows us the way. I believe it reflects the values and views of the American people.

So, Mr. President, I will vote to sustain the President's veto today. But I would urge my colleagues to bring fresh thinking to this matter. We can have a real legislative solution, rather than a political wedge issue. We should certainly try.

Mr. FEINGOLD. Mr. President, I will vote to sustain the President's veto of HR 1122, the so-called partial birth abortion bill, that seeks to outlaw a particular abortion procedure, which is most closely analogous to the intact dilation and extraction procedure, sometimes called Intact D&E. I do support a ban on post-viability abortions, if the ban is subject to important exceptions to protect a woman's life and prevent grievous injury to her physical health. I am disappointed that the proponents of HR 1122 have steadfastly refused to accept any amendment, no matter how tightly crafted, which would include provisions to protect a woman's physical health in extreme circumstances.

I have said repeatedly here on the floor of the Senate, during hearings in the Judiciary Committee, and at listening sessions held across the state of Wisconsin that I believe post-viability abortions should be banned, with two exceptions. The first is an exception to save the life of the woman, which is an important and necessary provision. I hope we can agree on that point. The second is to protect a woman from grievous injury to her physical health. I hope we can also agree on that point. I am sensitive to the fears of the bill's proponents that any health exception might serve as a major loophole, and I agree that the definition of a threat to physical health should be narrow. But it should be there.

Let me remind my colleagues that the Supreme Court has clearly ruled that, although states have the right to restrict post-viability abortions, exceptions must always be made to protect the life and health of the mother. Twenty-eight states, including my own home state of Wisconsin, have passed so-called partial birth abortion bans, and the statutes in ten states are substantially identical to HR 1122. Wisconsin's experience in the wake of the passage of its partial birth abortion ban should give all of us, as we consider whether to override the President's veto of HR 1122, some additional pause. For nearly two weeks following the passage of the state bill, physicians struggled to determine which procedures, if any, were allowed under the bill; prosecutors proclaimed that they couldn't enforce the new law in their communities until it was clarified by a court.

Last year, I voted for the bipartisan alternative amendment to HR 1122 introduced by Senator DASCHLE and others. I voted for that amendment because it took a comprehensive approach to banning abortions on viable fetuses, rather than merely banning a single procedure. I did so, Mr. President, because I was concerned that the language contained in HR 1122 was imprecise. I looked closely at the bill to see how it addressed the significant concerns raised by my constituents based upon accounts and descriptions of the ''procedure'' they had heard. The text of HR 1122 does not specify a gestational age, such as ''late term;'' it

does not mention any specific part of the fetus, such as the head; and it does not mention any specific medical instruments, medical situations or circumstances.

I believe that the Daschle amendment provides that needed clarity while being sufficiently narrow to satisfy most reasonable people's concerns about healthy women with normal pregnancies who might seek to terminate those pregnancies in the third trimester. It would have required a physician to certify that continuation of the pregnancy would threaten the woman's life or risk grievous injury to her physicial health. Grievous injury was define in the amendment as ''a severely debilitating disease or impairment specifically caused by the pregnancy, or any inability to provide necessary treatment for a life threatening condition.''

The other side claims that abortion is never necessary to protect a woman's health. But Mr. President, I have met women whose doctors believed differently. The American College of Obstetricians and Gynecologists (ACOG) and the Society of Physicians for Reproductive Health supports them. ACOG has stated that although Intact D & E may not be the only option to save a woman's life or preserve her health, it sometimes may be the best or most appropriate procedure, depending on the woman's particular circumstances. Precisely because I am not a doctor. I think it is important for us to uphold the President's veto. The point is, Mr. President, that there is a dispute within the medical community about the necessity for and the risk associated with Intact D & E. And that is where it should be resolved. It should be women and their doctors, not politicians, who decide which medical procedure is appropriate within the confines of the Daschle amendment.

The Daschle alternative amendment struck the right balance between protecting women's constitutional right to choose abortion and the right of the state to protect future life. It would have protected a woman's physical health throughout her pregnancy, while ensuring that only grievous, medically diagnosable physicial conditions could justify ending a viable pregnancy. Within the terms of that amendment, both fetal viability and women's health would have been determined by the physician's best medical judgement, as they should be.

I hope, as we vote today, we do so in full knowledge of the strong feelings about this issue on all sides. We should respect these differences, avoid efforts to confuse or distort each others views before the public, and maintain a level of debate that reflects the importance of relying on the facts about this issue and finding a response that is sensitive and constitutionally sound.

Mrs. FEINSTEIN. Mr. President, I opposed the override of the veto of H.R. 1122, a bill banning emergency late-term abortions. There are several reasons why this is a flawed bill. This bill attempts to ban a specific medical procedure, called by opponents, partial-birth abortion, but there is no medical definition of partial-birth abortion. The language in this bill is so vague that it could affect far more than the one particular procedure it seeks to ban, procedures used during the second and possibly the first trimester of a pregnancy. There is no exception to protect the health of the woman. This bill would ban a type of medical procedure regardless of whether it is the medically safest procedure under a particular set of circumstances. States are legislating prohibitions on abortions.

H.R. 1122 would criminalize the use of a medical procedure called, by the bill, partial-birth abortion. This term does not appear in medical textbooks or training. Doctors do not know what it means. The doctors who testified before the Senate Judiciary Committee could not identify, with any degree of certainty or consistency, what medical procedure this legislation refers to. For example, when asked to describe in medical terms what a partial-birth abortion is Dr. Pamela Smith, Director of OB/GYN Medical Education at Mount Sinai Hospital in Chicago called it ''a perversion of a breech extraction.'' (page 127) Dr. Nancy Romer, a practicing OB/GYN and Assistant Professor at Wright State University School of Medicine, who said the doctors at her hospital had never performed the procedure, had to quote another doctor in describing it as ''a dilation and extraction, distinguished from dismemberment D and Es.'' (page 182)

When the same question was posed to legal experts in Judiciary Committee hearings—to define exactly what medical procedure would be outlawed by this legislation—the responses were equally vague. This vagueness means that every doctor that performs even a second trimester abortion could be vulnerable and could face possible prosecution under this law.

The language in this bill is so vague that, far from outlawing just one abortion procedure, the way this bill is written virtually any legal procedure could fall within its scope. I asked the legal and medical experts who testified at the Judiciary Committee hearing if this legislation could affect abortion-not just late-term abortion-but earlier abortions as well. Dr. Lewis Seidman, Professor of Law at Georgetown University, gave the following answer. ''As I read the language in a second trimester pre-viability abortion where the fetus in any event will die, if any portion of the fetus enters the birth canal prior to the technical death of the fetus, then the physician is guilty of a crime and goes to prison for two years.'' Dr. Seidman continued his testimony, concluding that ''if I were a lawyer advising a physician who performed abortions, I would tell him to stop because there is just no way to tell whether the procedure would eventuate in some portion of the fetus entering the birth canal before the fetus is technically dead, much less being able to demonstrate that after the fact.'' (223)

Dr. Cortland Richardson, Associate Professor of Gynecology and Obstetrics at John Hopkins University School of Medicine, in testimony before a House committee, said that the language ''partially vaginally delivers'' is vague, not medically oriented, and just not correct. ''In any normal second trimester abortion procedure by any method, you may have a point at which a part, a one inch of umbilical cord, for example, of the fetus passes out of the cervical opening before fetal demise has occurred.'' (H.R. Rep No. 267, September 27, 1995 testimony) So this bill could affect far more than just the few abortions performed in the third trimester, and far more than just the one procedure being described.

This bill has no exemption to protect the health of the mother and as such, would directly eliminate that protection provided by the Supreme Court in Roe v. Wade and Planned Parenthood V. Casey.

If this bill were law, a pregnant woman seriously ill with diabetes, cardiovascular problems, cancer, stroke, or other health-threatening illnesses would be forced to carry the pregnancy to term or run the risk that the physician could be challenged and have to prove in court what procedure he or she used, and whether or not the doctor ''partially vaginally-delivered'' a living fetus before death of that fetus.

Here are some examples, provided to me by gynecologists, of rare maternal medical conditions that could necessitate a post-viability procedure to protect a woman's health. The health of these women would be endangered in these situations.

A fetus has a huge hydrocephalic head (or other greatly enlarged organ) three times the normal size and a cranium is filled with fluid. The head is so large the woman physically cannot deliver it. Labor is impossible, because the fetus cannot get down the birth canal and out. A caesarian is impossible because it would require a huge, up-and-down incision, which would rupture in future pregnancies or labor. Thus, a woman could not have future children and this procedure affects her ability to have future pregnancies.

A condition called arthrogryposis, or a rigid fetus, the fetus cannot move down and out in labor, and labor risks rupturing the woman's cervix. With prolonged intense pushing the mother's heart is put at risk. If this stiff fetus cannot be delivered by a caesarian, a large vertical incision would be required, thus risking future pregnancies.

Women with certain health conditions cannot tolerate the stress of labor or surgery. They include cardiac problems like congestive heart failure; severe kidney disease (e.g. renal shutdown); severe hypertension, diathesphesis, and Von Willibrand's Disease (bleeding, clotting disorder).

Pre-eclampsia (toxemia) is a serious complication of pregnancy and a leading cause of maternal and fetal death that affects the placenta. The placenta does not attach to the wall of the uterus and thus limits the amount of blood and nutrients reaching the fetus, causing it to be underweight and prone to complications. This condition can progress to eclampsia, which can lead to convulsions, kidney failure, and death. The only treatment is to deliver the fetus. The woman cannot withstand labor or surgery.

A woman with diabetes might have a decline in renal function. She might not be able to tolerate the physical stress of labor or surgery.

Why is this legislation even necessary? Roe v. Wade unequivocally allows States to ban all post-viability abortions unless they are necessary to protect a woman's life or health. Forty-one States have done so. Surely, anyone who believes in States' rights must question the logic of imposing new, Federal regulations on States in a case such as this in area where States have legislated.

Medical decisionmaking should be made by medically trained people, not Congress. Congress cannot anticipate every medical situation and explicitly delineate them in law. During pregnancy, labor, and delivery, complicated conditions can develop that are often last minute, life-threatening, and complex for the mother and fetus. No legislator can ever anticipate, craft into law, every conceivable medical emergency that a physician caring for a pregnant woman will face.

We have entrusted and trained physicians to make safe and ethical medical decisions based on scientific and medical data on the benefits and risks to the patient. They do so based on their extensive training, their best medical judgment, proven medical techniques, and therapeutic assessment of the patient.

Physicians are sworn to protect the health of their patients. Congress should not pass legislation that would deny a physician the ability to provide care that in their professional judgment is medically necessary.

Medical decisionmaking or choosing the most appropriate therapy is based on the risk benefit for the mother and fetus, medical training, multiple decisional building blocks by medical experts, often a team. It is highly individualized. Every case is different. The medical history of patients varies tremendously. There are no absolutes. It is based on medical knowledge and training on a wide array of choices.

Only the attending physicians in consultation with the woman, with all the facts of the medical case and the medical history assembled, can make the decision. Physicians are bound by ethics, licensing, practice guidelines, and liability. Decisions are often team decisions, not made by one isolated physician and always in consultation with the patient or family. We hire trained professionals because we want their expertise.

In the words of the California Medical Association, ''We believe that this bill would create an unwarranted intrusion into the physician-patient relationship by preventing physicians from providing necessary medical care to their patients . . . political concerns and religious beliefs should not be permitted to take precedence over the health and safety of patients.'' The American Women's Medical Association wrote, ''We do not believe that the federal government should dictate the decisions of physicians . . .''

Let me make this clear: I oppose post-viability abortions. They are wrong, except to save the mother's life and health. Late-term abortions are rare and they should be rare. When the Senate considered this bill last year, on May 14, 1997, I offered a substitute to the bill before us. My substitute had 3 provisions. it would have prohibited all abortion procedures after a fetus is viable, not prohibited abortions if in the medical judgment of the physician, an abortion is necessary to preserve the life of the woman or to avert serious adverse health consequences to the woman, and imposed civil penalties. I continue to believe that my substitute would accomplish the goals of the bill before us while protecting women's health and constitutional rights.

Mr. President, these are tragic situations, situations that most of us could never imagine. We had couples come to us and tell us heartbreaking stories about babies they dearly wanted, but babies they could not have because to go through labor and delivery the mother would have died, been seriously injured or prevented from having future pregnancies. These were people who explored every available option, who consulted experts, to save the baby that they very much wanted. These are rare and difficult circumstances.

The Federal Government has no place interfering, making this tragic situation any more difficult or complicated for these families. This is a vague, poorly constructed bill. It attempts to ban a medical procedure without properly identifying that procedure in medical terms. It is so vague that it could affect far more than the procedure it seeks to ban. It fails to protect women's health at a time when they face tragic complications in their pregnancies. I urge my colleagues to vote to sustain the President's veto.

Mr. NICKLES. Mr. President, the Senate again is considering the Partial-Birth Abortion Ban Act. This bill, which prohibits a procedure used to kill unborn children late in pregnancy in a particularly gruesome and painful manner, passed both the House and Senate before being vetoed by President Clinton on April 10, 1996. Last Congress, the House voted to override the President's veto by a vote of 285–137. Unfortunately, we failed in the Senate to override the Presidents' veto. The House voted again last year to prohibit partial-birth abortions by a veto proof margin of 295–136 and again the Senate passed the legislation by a vote of 64–36. However, President Clinton vetoed the ban for the second time. Today, the Senate again has the opportunity to over-ride the Presidents veto and put a stop to this horrific procedure. I rise to state my strong support for this just and very necessary legislation and hope that my Senate Colleagues will join with the House members and override the Presidents' veto.

As I am sure all of my colleagues know by now, the procedure banned by this bill—the partial-birth abortion procedure—defies description. I am not going to go into the terrible details of this procedure, which is performed on a living child late in pregnancy.

Mr. Presdient, this is a truly shocking procedure. It is absolutely indefensible. In fact, Dr. Pamela Smith, an obstetrician at Mt. Sinai Hospital in Chicago, and Director of Medical Education in the Department of Obstetrics and Gynecology at that hospital, testified last Congress before the House Judiciary Subcommittee on the Constitution that even when describing the procedure to groups of pro-choice physicians she found that ''many of them were horrified to learn that such a procedure was even legal.'' [H. Rept. 104–267, p. 5]

As Dr. Smith further points out, ''partial birth abortion is a surgical technique devised by abortionists in the unregulated abortion industry to save them the trouble of 'counting the body parts' that are produced in dismemberment procedures.'' [Letter to U.S. Senators, 11/4/95] She says, in the same letter: ''Opponents [have] insinuated that aborting a living human fetus is sometimes necessary to preserve the reproductive potential and/or life of the mother. Such an assertion is deceptively and patently untrue.''

And what about the baby, is the baby exempt from the pain of this procedure? No. As stated in a August 26, 1998, report in the Journal of the American Medical Association: ''When infants of similar gestational ages are delivered, pain management is an important part of the care rendered to them. However, with [this procedure] pain management is not provided for the fetus, who is literally within inches of being delivered. It is beyond ironic that the pain management practiced for [this procedure] on a human fetus would not meet the federal standards for the humane care of animals used in medical research.''

In a July 9, 1995, letter to Congressman TONY HALL, a registered nurse who had observed as Dr. Haskell (who has performed over 1,000 partial-birth abortions) performed several partial-birth abortions described one such procedure:

> The baby's body was moving. His little fingers were clasping together. He was kicking his feet. All the while his little head was stuck inside. Dr. Haskell took a pair of scissors and inserted them into the back of the

baby's head. Then he opened the scissors up. Then he stuck the high-powered suction tube into the hole and sucked the baby's brains out.

President Clinton has claimed that for some women whose unborn babies are diagnosed with grave disorders, this procedure is the only way to prevent serious health damage. But according to the Physicians' Ad Hoc Coalition for Truth (PHACT), a coalition of about 500 medical specialists including former Surgeon General C. Everett Koop, even in cases involving such severe fetal disorders, ''partial-birth abortion is never medically necessary to protect a mother's health or her future fertility.'' (See The Wall Street Journal, Thursday, September 19, 1996, and PHACT press release dated May 7, 1997.)

Not only is this procedure not medically necessary, but it actually is medically dangerous to the health of the mother! According to a recent article in American Medical News (March 3, 1997), Diana Grossheim, on her doctor's advice, opted for the partial-birth abortion technique to remove her 21 week old child who had died in utero. As a result, she now has an incompetent cervix which endangered a subsequent pregnancy and required bed rest from week 23 through the duration of her pregnancy.

Furthermore, according to Dr. Pamela Smith, ''there are absolutely no obstetrical situations encountered in this country which require a partially-delivered human fetus to be destroyed to preserve the health of the mother.'' For example, performing a Caesarean section could produce a healthy mother and living child. (American Medical News, November 20, 1995)

Even Dr. Warren Hern, an abortionist who specializes in late-term abortions, says that even he would not perform a partial-birth abortion because it is unsafe for the mother. He notes that turning the fetus to a breech position is ''potentially dangerous'' and that ''you have to be concerned about causing amniotic fluid embolism or placental abruption if you do that.'' (American Medical News, November 20, 1995)

Dr. Martin Haskell, one of the major proponents and practitioners of this technique, states that some 80 percent of these procedures which he has performed were for ''purely elective'' reasons. [Interview with AMA's American Medical News, July 5, 1993] His late colleague and fellow proponent of the partial-birth method claimed in material submitted to the House subcommittee that ''non-elective'' reasons to perform the procedure include ''psychiatric indications,'' such as depression and ''pediatric indications'' (i.e., the mother is young).

On January 12, 1997, the American College of Obstetricians and Gynecologists (ACOG) issued a policy statement regarding this procedure stating they ''could identify no circumstances under which this procedure . . . would be the only option to save the life or preserve the health of the woman.'' In July, 1997, the ACOG Executive Board supplemented its policy on abortion toward stating, ''ACOG is opposed to abortion of the healthy fetus that has attained viability in a healthy woman.''

The American Medical Association, on May 19, 1997 wrote to support H.R. 1122, the Partial Birth Abortion Ban. And, on May 26, 1997, AMA President Daniel H. Johnson. Jr. M.D., stated ''The partial delivery of a living fetus for the purpose of killing it outside the womb is ethically offensive to most Americans and physicians. Our panel could not find any identified circumstances in which the procedure was the only safe and effective abortion method.''

The stark fact is that unless this bill becomes law, more innocent unborn children will have their lives brutally ended by the inhumane partial-birth procedure. During last year's debate the New York Times quoted the pro-choice National Abortion Federation, as saying that only about 450 partial-birth abortions are performed each year.

Well, everyone now knows that was a lie! In February this year, Ron Fitzsimmons, the executive director of the National Coalition for Abortion Providers, said he lied about the frequency and necessity of partial-birth procedures. He now admits that this procedure is performed 3,000 to 5,000 times a year with the vast majority being performed during the fifth and sixth months of pregnancy, on healthy babies of healthy mothers. (New York Times, 2–26–97; March 3, 1997, American Medical News.)

In addition, two lengthy investigative reports published last year in the Washington Post and the Record of Hackensack, New Jersey, reporters for both newspapers found that the procedure is far more common than pro-abortion groups have claimed, and is typically performed for non-medical reasons.

The Record found, for example, that a single abortion clinic in Englewood, N.J., performs ''at least 1,500'' partial-birth abortions a year—three times the number that the National Abortion Federation had claimed occur annually in the entire country. Doctors at the Englewood clinic said that only a ''minuscule amount'' are for medical reasons. One of the abortion doctors at that clinic told the Record, ''Most are Medicaid patients, black and white, and most are for elective, not medical reasons: People who didn't realize, or didn't care, how far along they were. Most are teenagers.''

It is unbelievable to me that this unspeakable abortion procedure even exists in this country, much less that we are having to take legislative action to ban such a procedure. It is further unbelievable to me that anyone in good conscience can even defend the partial-birth abortion procedure. It is a fiction to believe that it is alright to end the life of a baby whose body, except the head, is fully delivered. In order to engage in such a fiction, one has to take the position that curling fingers and kicking legs have no life in them. Those who subscribe to such a fiction, are at best, terribly misguided.

As Former Surgeon General C. Everett Koop stated:

> . . . in no way can I twist my mind to see that the late-term abortion as described—you know, partial birth and then destruction of the unborn child before the head is born—is a medical necessity for the mother. It certainly can't be a necessity for the baby. American Medical News, August 19, 1996.

Even a Chicago Tribune March 3, 1997 editorial stated:

> The American people have learned enough about partial-birth abortions to know that they should be stopped.

Twenty-eight states have approved a ban on partial birth abortions. Now it is time for the Senate to do the same. It is time to end this injustice and the practice of this inhumane procedure. I urge my colleagues to join me in ending this atrocity.

Mr. MCCONNELL. Mr. President, this debate offers each Senator an opportunity to set forth, in a very real way, his or her vision for America. from time to time, we are given a stage, a national audience, and a defining moment—a moment in which we must extol that which is good and noble and just, and reject that which is not. I believe that today provides one such moment in this effort to override President Clinton's veto of the Partial Birth Abortion Ban Act.

I rise today in strong support of the Partial-Birth Abortion Ban Act of 1997. with this vote, the Senate will protect unborn children from the barbaric procedure known as ''partial-birth abortion,'' or it will not. The Senate will side with truth, or it will not.

The president has vetoed this bill on two occasions now, telling the country that partial-birth abortions are necessary in ''a small number of compelling cases,'' to protect the mother from ''serious injury to her health,'' and to avoid the mother's ''losing the ability to ever bear further children.''

Mr. President, that is not the truth. The evidence is quite to the contrary. The procedure is not limited to a small number of cases, but rather is far more widespread, numbering in the thousands. As one newspaper has explained, ''[i]nterviews with physicians who use the method reveal that in New Jersey alone, at least 1,500 partial-birth abortions are performed each year.''

The procedure is never necessary to protect the mother's health or fertility. The Physicians' Ad Hoc Coalition for Truth, which includes former Surgeon General C. Everett Koop, has flatly rejected the President's assertion on this point:

> Contrary to what abortion activists would have us believe, partial-birth abortion is *never* medically indicated to protect a woman's health or her fertility. In fact, the opposite is true: The procedure can pose a significant and immediate threat to both the pregnant woman's health and fertility.

The opponents of this legislation have gone to great lengths to hide the truth from the American people. One has famously admitted to deliberate falsehoods. Others have tried to obscure the facts by using medical terms like ''intact dilation and evacuation'' or ''intrauterine cranial decompression.'' But, no matter what words the other side uses, nothing can change the fact that this procedure is a partial-birth abortion, it is heinous, and it is wrong.

I want to close my remarks this morning, Mr. President, by thanking some very special people for their support on this critical issue. I want to thank Margie Montgomery of Kentucky Right to Life. She has worked tirelessly and faithfully on behalf of unborn children. Her years of service have been truly heroic.

I also want to thank the Respect Life Committee, and particularly Mel Meiners and Dan Bowling. To illustrate the broad support in my state for ending this inhumane act, they have crafted an amazing Prayer Chain, containing over 3,700 signatures from dedicated people who are praying that we will override President Clinton's veto. I would say, Mr. President, that we could probably take their Prayer Chain and stretch it all the way around the Senate floor. We would then be enveloped by this symbol of commitment to protecting unborn children. This Chain is a moving display of faith and commitment—I am very grateful for having receive it.

Let me list a few of the Catholic churches who are responsible for the Prayer Chain: Guardian Angels, Holy Family, Our Mother of sorrows, Resurrection, St. Martin of Tours, and St. Stephen Martyr. The chain is also a product of the efforts of the Little Sisters of the Poor Home for the Elderly, Holy Angels Academy, and, as I've already mentioned, Kentucky Right to Life. I also want the RECORD to reflect that I have received over 10,000 letters and cards from concerned Kentuckians urging us to end this barbaric practice.

I truly appreciate their support and hope that my colleagues will join me in taking a stand for what is right and just. We must send a clear and principled message to the President and to the nation.

Mr. JEFFORDS. Mr. President, today we will vote once again on legislation offered by the Senator from Pennsylvania to ban the dilation and extraction, or D&X, procedure used by doctors, H.R. 1122. I will be voting against this ban for the fourth time in as many years.

My reasons for opposing this legislation are well-known. First, I believe that this bill undermines the Supreme Court's decision in Roe v. Wade to leave these critical matters to the states. Those states who have chosen not to pass legislation banning late-term procedures leave the decision to the woman, her family and their doctor.

Second, I believe that a woman's right to control her own reproductive destiny is protected as part of the Constitutional right to privacy. The Supreme Court under Roe has decided that the decision of whether to undergo an abortion is a matter of individual conscience and should be made by a woman in thoughtful consultation with her doctor.

Third, preventing doctors from using the D&X procedure only when it is necessary to save the life of the mother clearly goes against the Supreme Court's decision in Roe. Roe requires the states to safeguard the life and health of the mother when they regulate late-term abortions. Because of the unconstitutionality of this legislation, I feel I cannot support its passage.

Finally, I believe that women who choose to undergo a D&X procedure do so for grave reasons and I trust that those states that have chosen to regulate late-term abortions do so in a manner that both protects the mother and prevents unnecessary abortions. The Supreme Court has established a delicate legal framework in which to address late-term abortions and we should not shift the decision making to the federal government.

Mr. SANTORUM, Mr. President, I believe I am the last speaker. I suggest the absence of a quorum and ask unanimous consent the time run off the opposition's side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I also ask unanimous consent that I might use 2 minutes from the opposition's side of this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana.

Mr. BURNS. Mr. President, there are some of us who do not have the eloquent speech of those who have spoken on this issue, but I think that I have a pretty good advisor in this issue.

I am wondering if I am listening to the same America in which I grew up. In rural America, life was simple but life was precious. We were fortunate enough in our family to have a couple of outstanding young folks blessed to our family, one of whom is now a medical doctor in family medicine.

A couple of years ago when this issue came up, she was the first one to call me, she being a new graduate of the University of Washington at the Seattle medical school and now doing her residency in Tennessee. She is blessed with a deeply faithful heart and motivated to doing the good things for humanity, taking her oath that she took upon graduation from medical school very, very seriously. If you have not heard that oath, maybe one should read it one time and see what the medical doctors take upon themselves, those who really do dedicate themselves to humanity. She, plain and simply, told her father that there is no reason for this procedure at all, none.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BURNS. I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Those of us who have been granted life and been able to work in it and enjoy the full fruits of it sometimes lose sight of just exactly where we come from. So this is a matter of conscience, the deep American conscience, especially when those who know and are motivated to do the right thing, those who work with it every day, tell us there is no reason for this procedure. I hope my colleagues will support the override of the President's veto.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, may I ask how much time is left on our side?

The PRESIDING OFFICER. The Senator has 1 minute 15 seconds.

Mrs. BOXER. I ask unanimous consent I be allowed to speak for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I thank my colleagues very much.

I thought we had a good debate on this yesterday, and I think the issue is pretty clear. I say to my colleagues, there is no health exception in this bill at all, which not only makes it unconstitutional, but which puts women in harm's way. And the life exception in the bill is very narrowly drawn. It is not the usual Henry Hyde language, the first version of his language or even the second. So it becomes very difficult for a physician to act to save the mother's life.

If the President would have signed this bill, he would have been putting a woman's health and her life at risk. So I think he did the right thing to listen to the 39,000 OB/GYNs whose job it is to bring babies into the world. They oppose this bill very strongly. They call it, and I am quoting, ''dangerous.''

Proponents of this bill argue that it would prohibit a specific procedure. Many of the women who have had this procedure have been here these last few days. They have been visiting us. They were looking in our eyes. They were telling us that they believe very strongly, and their families believe, that without this procedure they could have died. They could have been made infertile. Those women look in our eyes and tell us how desperately they wanted their babies.

One of them I introduced on the floor in a photo calls herself a conservative

Republican, an antichoice, pro-life individual. She wanted her baby more than anything else and when tragedy struck, she had to have this procedure. She went to several doctors to try to find a way out, to have her baby. She had to have this procedure. She asks us, don't outlaw this without a health exception and a clear life exception.

So why would we turn our back to hurt women who want children? Why should we presume to know more than 39,000 obstetricians and gynecologists who tell us not to tie their hands in the hospital room?

So I know this is a very difficult issue on both sides. I know there are strong emotions on both sides. But I think the important thing to remember is, if we sustain this President's veto, which I hope we will do, there is not one woman in America who has to have any specific procedure. It is a personal decision. It is a decision based on health. If we go the route of those who are speaking to us today on the other side of the aisle, government would say to doctors, not only in this circumstance, but if they had their way—they are very honest about it, and I respect them for it—no way would abortion be legal in this country. If they had their way, government would step in where religion should be; government would step in where families should be.

I yield the floor.

Mr. SANTORUM. Mr. President, I yield myself the remainder of the time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. Let me respond directly to the Senator from California. Let me quote from the 39,000 OB/GYNs letter that was sent up here. It says that the policy committee of this select panel—''could identify no circumstances under which this procedure would be the only option to save the life or preserve the health of the mother.''

They went on to say that, ''However, it may [I underline may] be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of the mother.''

However, after more than a year, ACOG has given no specific example of any circumstance under which a partial-birth abortion would be the most appropriate procedure in any circumstance. The silence from that organization is deafening. And the reason they cannot give a circumstance is because there is no circumstance. There is no circumstance where this is the best procedure. There is no circumstance where this is needed to be performed for the health of the mother.

This is the last, which I thought was the last, of a series of misinformation that has been spewed out here on the Senate floor and across the country on the issue of partial-birth abortion. I will chronologically go through the lies that have been told by all of the abortion rights organizations, to stop the passage of this bill.

The first lie, when BOB SMITH and CHARLES CANADY introduced the bill they maintained in a letter, the National Abortion Federation did, that illustrations of this procedure are ''highly imaginative and artistically designed, but with little relationship to the truth or to medicine.''

They denied it existed, denied it was ever done. What was the truth? Three years prior to this statement, Dr. Haskell, who performs this procedure, appeared before the National Abortion Federation meeting and described the procedure shown in the drawings that BOB SMITH used here on the floor of the Senate, and talked about partial-birth abortion to this very group. Lie No. 1.

Lie No. 2, they said that this was a procedure where the fetus would feel no pain because of the anesthesia. I will combine No. 2 and No. 3. Lie No. 3, they went on to say the ''anesthesia ensures fetal death.''

Planned Parenthood, in a factsheet of October 1995 says, ''The fetus dies after overdose of anesthesia given to the mother intravenously.''

That is just absurd. Dr. Martin Haskell, again, who is one of the great users of this procedure, in the American Medical News:

> Let's talk about whether or not the fetus is dead beforehand. . . .
>
> Dr. HASKELL. No, it's not. It really is not.

In fact, a group of anesthesiologists came up to the Senate and pleaded to testify to debunk this myth that somehow anesthesia kills, or somehow could anesthetize the baby in the womb, because women were refusing to get anesthesia for fear that they would harm their baby.

Lie No. 4, this was a great one: Partial-birth abortion is ''rare.''

Testimony after testimony, a letter signed by the Guttmacher Institute, Planned Parenthood, National Organization of Women, Zero Population Growth, Population Action, National Abortion Federation and a myriad of organizations said there are fewer than 500 cases in America. None of the reporters here or across America challenged them on it, except one little reporter in Bergen County, New Jersey, who called an abortion clinic and they found out at that clinic 1,500 were done, in that clinical alone. Another lie debunked.

Lie No. 5, another doozy of a lie. This lie said that partial-birth abortion is used only to save the woman's life or health or when the fetus is deformed.

Ron Fitzsimmons on ABC Nightline: ''The procedure was used only on women whose lives were in danger or whose fetuses were damaged.'' Ron Fitzsimmons, fast forward, 2 years later, ''What the abortion rights supporters failed to acknowledge is that the vast majority of these abortions are performed in the 20-plus week range on healthy fetuses and healthy mothers. The abortion rights folks know it, the anti-abortion folks know it, and so, probably, does everyone else.''

Another great lie but, by the way, that lie continues to be perpetrated here on the Senate floor, that this procedure is necessary for the health of the mother.

Let's move on to the last great lie, No. 6, partial-birth abortion protects the health of women. Let me tell you what the American Medical Association said when they endorsed this legislation. They say: ''Thank you for the opportunity to work with you towards restricting a procedure that we all agree is not good medicine.''

There is no reason—there is no reason, this goes on to say in another publication, ''There is no health reason for this procedure. In fact, there is ample testimony to show that all of the health consequences are more severe for this procedure than any other procedure used.''

If you are really concerned about the health of the mother, then look at all of the information that has been put out there by a variety of different organizations that says that this procedure is dangerous. It would never be used to protect the life of the mother. It is a 3-day procedure. If a mother presents herself in an emergency situation, you don't wait 3 days to evacuate the uterus. You do the procedure immediately. This is not.

Just think, common sense, we are delivering a baby. It is almost born. It is this far away from being born. Why is it healthier for the mother to insert a pair of scissors into the baby's skull, fracturing and shattering that skull inside the mother, causing potential harm to that mother by doing so? It is a blind procedure. Why don't you just let the baby live? The baby is almost outside the mother. Let the baby live. There can be no rationale, can be no rationale for destroying this little baby by executing this little baby at that point in time, when it is almost born.

Let me show you a couple of pictures, because the Senator from California has shown many pictures here on the floor of the Senate of women who have had partial-birth abortions as the reason this procedure needs to be kept legal. Let me show you the picture of a young man who is here in Washington today, Tony Melendez, who is a Thalidomide baby. People like Tony Melendez, came here to the House and the Senate to testify. It was said we need to keep partial-birth abortion legal because of people like Tony Melendez, who don't have arms or don't have legs or may be blind, those people should be aborted—those people who are not worthy to live. That is why we need to keep this, because of those poor deformed babies.

Yes, Tony Melendez was disabled in the sense that he had no arms, but Tony Melendez has been an inspiration to millions across the world in his ability to sing and play the guitar, yes, with his feet, as he did for us this morning downstairs in the Capitol.

The Senator from California will have women standing out there in the

hall. Tony will also be there as a stark reminder that this bill is aimed at people like him, people who just are not perfect enough for us to deserve to be born.

I find it absolutely incredible that last year when we debated this bill, right before this bill came up, we had a vote on the Individuals with Disabilities Education Act. Passionate people on the other side of the aisle, whom I respect greatly for their defense of the disabled, got up and talked about how it was so important to give these people meaningful lives. They gave impassioned speeches, and yet, in the very next vote, they said that while they want to give them the right to education, they don't want to give them the right to live in the first place.

The Bible says, ''A house divided against itself cannot stand.'' You cannot in any way conceivably fit in that you are willing to fight for the disabled, but only after they survive birth; you won't fight for them—in fact, you point the finger at them and say that those, in particular, should not be born.

The Democratic Party, over the last 100 years, has had a wonderful, wonderful reputation for fighting for those who are the least among us, for civil rights, for rights for women, rights for minorities, rights for the disabled. They have continued to try to open the American family, and I salute them for that. But they do a great disservice to that legacy when they turn their backs on people like Tony Melendez and Donna Joy Watts.

One of the cases that is cited often by the President is cases of children with hydrocephaly. Donna Joy Watts had hydrocephaly with no chance to live. Her mother had to go to three hospitals just to get Donna Joy delivered. They wouldn't deliver her. They would abort her, everyone would abort her, but they wouldn't deliver her. And Donna Joy is here today at 6 years of age. She just earned her white belt in karate.

Mr. President, I have been asked many times what pulled me to the Senate floor to debate this issue, because I had never spoken a word in the House or Senate about the issue of abortion, and I have given a lot of answers as to why I joined BOB SMITH in this fight.

I finally realized after the birth of my son and the death of my son, Gabriel; it finally came to me what pulled me to the Senate floor. What pulled me here was something that my son revealed to me in his short life—that we draw lines that don't exist in our society with respect to life. He revealed to me, in the love that I had for him, that what pulled me to the Senate floor was the love that I have for little children like Donna Joy and Tony and so many others.

I ask my colleagues today if they will open their hearts and love them, too.

Mr. President, I yield the floor.

The PRESIDING OFFICER. All time has expired. The question is, Shall the bill (H.R. 1122) pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 64, nays 36, as follows:

[Rollcall Vote No. 277 Leg.]

YEAS—64

Abraham	Faircloth	Mack
Allard	Ford	McCain
Ashcroft	Frist	McConnell
Bennett	Gorton	Moynihan
Biden	Gramm	Murkowski
Bond	Grams	Nickles
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Burns	Hagel	Roth
Byrd	Hatch	Santorum
Campbell	Helms	Sessions
Coats	Hollings	Shelby
Cochran	Hutchinson	Smith (NH)
Conrad	Hutchison	Smith (OR)
Coverdell	Inhofe	Specter
Craig	Johnson	Stevens
D'Amato	Kempthorne	Thomas
Daschle	Kyl	Thompson
DeWine	Landrieu	Thurmond
Domenici	Leahy	Warner
Dorgan	Lott	
Enzi	Lugar	

NAYS—36

Akaka	Feinstein	Lieberman
Baucus	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Murray
Bryan	Inouye	Reed
Bumpers	Jeffords	Robb
Chafee	Kennedy	Rockefeller
Cleland	Kerrey	Sarbanes
Collins	Kerry	Snowe
Dodd	Kohl	Torricelli
Durbin	Lautenberg	Wellstone
Feingold	Levin	Wyden

The PRESIDING OFFICER (Mr. KYL). On this vote, the yeas are 64, the nays are 36. Two-thirds of the Senators voting, not having voted in the affirmative, the bill on reconsideration fails to pass over the President's veto.

CHILD CUSTODY PROTECTION ACT

The PRESIDING OFFICER. Under the previous order, the clerk will report S. 1645.

The legislative clerk read as follows:

A bill (S. 1645) to amend title 18, United States Code, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortive decisions.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu therof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Child Custody Protection Act''.

SEC. 2. TRANSPORTATION OF MINORS TO AVOID CERTAIN LAWS RELATING TO ABORTION.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 117 the following:

''CHAPTER 117A—TRANSPORTATION OF MINORS TO AVOID CERTAIN LAWS RELATING TO ABORTION

''Sec.
''2401. Transportation of minors to avoid certain laws relating to abortion.

''§ 2401. Transportation of minors to avoid certain laws relating to abortion

''(a) OFFENSE.—

''(1) GENERALLY.—Except as provided in subsection (b), whoever knowingly transports an individual who has not attained the age of 18 years across a State line, with the intent that such individual obtain an abortion, and thereby in fact abridges the right of a parent under a law, requiring parental involvement in a minor's abortion decision, of the State where the individual resides, shall be fined under this title or imprisoned not more than one year, or both.

''(2) DEFINITION.—For the purposes of this subsection, an abridgement of the right of a parent occurs if an abortion is performed on the individual, in a State other than the State where the individual resides, without the parental consent or notification, or the judicial authorization, that would have been required by that law had the abortion been performed in the State where the individual resides.

''(b) EXCEPTIONS.—

''(1) The prohibition of subsection (a) does not apply if the abortion was necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself.

''(2) An individual transported in violation of this section, and any parent of that individual, may not be prosecuted or sued for a violation of this section, a conspiracy to violate this section, or an offense under section 2 or 3 based on a violation of this section.

''(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution for an offense, or to a civil action, based on a violation of this section that the defendant reasonably believed, based on information the defendant obtained directly from a parent of the individual or other compelling facts, that before the individual obtained the abortion, the parental consent or notification, or judicial authorization took place that would have been required by the law requiring parental involvement in a minor's abortion decision, had the abortion been performed in the State where the individual resides.

''(d) CIVIL ACTION.—Any parent who suffers legal harm from a violation of subsection (a) may obtain appropriate relief in a civil action.

''(e) DEFINITIONS.—For the purposes of this section—

''(1) a law requiring parental involvement in a minor's abortion decision is a law—

''(A) requiring, before an abortion is performed on a minor, either—

''(i) the notification to, or consent of, a parent of that minor; or

''(ii) proceedings in a State court; and

''(B) that does not provide as an alternative to the requirements described in subparagraph (A) notification to or consent of any person or entity who is not described in that subparagraph;

''(2) the term 'parent' means—

''(A) a parent or guardian;

''(B) a legal custodian; or

''(C) a person standing in loco parentis who has care and control of the minor, and with whom the minor regulatory resides;

who is designated by the law requiring parental involvement in the minor's abortion decision as a person to whom notification, or from whom consent, is required;

''(3) the term 'minor' means an individual who is not older than the maximum age requiring parental notification or consent, or proceedings in a State court, under the law requiring parental involvement in a minor's abortion decision; and

''(4) the term 'State' includes the District of Columbia and any commonwealth, possession, or other territory of the United States.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 117 the following new item:

''117A. Transportation of minors to avoid certain laws relating to abortion ..... 2401.''.

CLOTURE MOTION

Mr. NICKLES. Mr. President, I send a cloture motion to the desk to the substitute amendment.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provision of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the committee amendment to S. 1645, the Child Custody Protection Act:

Trent Lott, Orrin G. Hatch, Spencer Abraham, Charles Grassley, Slade Gorton, Judd Gregg, Wayne Allard, Pat Roberts, Bob Smith, Paul Coverdell, Craig Thomas, James Jeffords, Jeff Sessions, Rick Santorum, Mitch McConnell, and Chuck Hagel.

Mr. NICKLES. Mr. President, I ask unanimous consent that the cloture vote occur at 4:30 p.m. on Tuesday, September 22, and that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, just so Members will know, there is a cloture motion that has just been filed. We should note for the record that we have been working in good faith with the chairman of the Judiciary Committee and the distinguished Senator from Michigan, Mr. ABRAHAM, on reaching agreement on a unanimous consent agreement. We started working on this agreement immediately after the majority invoked cloture to proceed to the bill. And in showing our good faith, everybody on this side of the aisle voted for that, to proceed to the bill. In fact, as I recall, the vote was unanimous in this Chamber.

S. 1645 is a bill that provokes strong feelings on both sides. A number of Members have expressed interest in offering amendments to this bill. In fact, on Tuesday, I say to the Senator from Oklahoma, we sent the Republican side a fairly limited list of amendments that Democrats plan to offer to the bill. Some of these amendments, such as those of the distinguished Senator from California, Mrs. FEINSTEIN, were debated in committee with careful thought and consideration, I thought, on both sides of the aisle.

In fact, I told Senator ABRAHAM later that I believed we had a very good debate on this bill in committee, and, as the distinguished Senator from Michigan knows, I did my best to move the bill along through committee.

We have not heard back from the Republican side about where we stand on the UC with the amendment list we proposed. We are waiting to hear back. I think if we work on this we will be able to reach some agreement and proceed on this measure with full and fair debate on the amendments that Members want to offer.

I whole-heartedly support the goal of fostering closer familial relationships and the notion of encouraging parental involvement in a child's decision whether to have an abortion. I believe, however, that States should continue to maintain their historically dominant role in developing and implementing policies that affect family matters, such as marriage, divorce, child custody and policies on parental involvement in minors' abortion decisions. That is the nature of our federal system, in which the States may, within the common bounds of our Constitution, resolve issues consistent with the particular mores or practices of the individual State.

In my view, this bill significantly undermines important federalism principles that we have respected—at least since the Civil War. In addition, while I know as a parent that most parents hope their children would turn to them in times of crisis, no law will make that happen. No law will force a young pregnant woman to talk to her parents when she is too frightened or too embarrassed to do so. Instead, of encouraging a young woman to involve her parents in a decision to have an abortion, this bill will drive young women away from their families and greatly increase the dangers they face from an unwanted pregnancy. For these reasons, I oppose this bill.

Proponents contend that the bill's ''simple purpose'' is to provide assistance to States that have elected to adopt parental consent requirements. Yet, the bill would not give federal enforcement ''assistance'' to all forms of parental consent or notification laws adopted in 40 states. Under the definition in the bill, only the most restrictive State parental consent or notification laws would get such assistance. The bill carefully restricts the parental involvement laws that would enjoy the new federal ''assistance'' offered by the bill to those that require the consent of or notification to only parents or guardians of a pregnant minor. States that have adopted a law that allows for the involvement of any other family member, such as a grandparent, aunt or adult sibling, in the decision of a minor to obtain an abortion would not be covered and not entitled to any Federal ''assistance.''

Only 20 States have adopted parental consent or notification laws that are currently enforced and meet the bill's definition of a ''law requiring parental involvement in a minor's abortion decision.'' Thus, the majority of the States either have opted for no such law or are enforcing a law that allows for the involvement of adults other than a parent or guardian in the minor's abortion decision.

Proponents are just plain wrong when they argue that this bill ''does not supersede, override, or in any way alter existing State laws regarding minors' abortions.'' On the contrary, the direct consequence of this bill would be to federalize the reach of parental involvement laws in place in the minority of States in ways that override policies in place in the majority of the States in this country.

The fact that the bill establishes no new parental consent or notification requirements is a mere fig leaf which cannot hide its anti-federalism effect. The bill would use federal agency resources to enforce the minority—20—States' parental involvement laws wherever minors from those States travel and in connection with actions taken in other States. Furthermore, it would create a federal crime as a mechanism for such federal intervention.

This is an extraordinary step to extend one State's parental consent laws against its residents wherever they may travel throughout the Nation. The twenty State parental involvement statutes ''assisted'' by S. 1645 were not drafted with this extraterritorial application in mind. These statutes do not say that the parental involvement provisions hinge on residency but provide restrictions on abortions to be performed on minors within the State where the law applies. Nevertheless, even if these States have not contemplated and neither need nor want Federal intervention to enforce their parental involvement laws, this bill would federalize the reach of these laws wherever the pregnant minors of those States travel within the country.

This is not even how these State parental consent laws were drafted: They do not say that they do not hinge on residency. They do not say that they apply to the residents of the State no matter where those residents may travel. These State laws were drafted to apply only to conduct occurring within the State's borders and to provide restrictions on abortions to be performed on minors within the State.

Ironically, even if a State does not enforce its own parental involvement law, due to a court injunction or determination of a State Attorney General, this bill may still make it a federal crime to help a minor cross State lines for an abortion without complying with that unenforced or unenforceable State law. Despite the sponsors' intention that S. 1645 not apply in those circumstances, the language of the bill is simply not clear on that issue.

S. 1645 AND DRED SCOTT

I can think of only one other instance in which the federal government applied its resources to enforce one State's policy, absent a State judgment or charge, against the residents of that State even when the resident found refuge in another State: fugitive slave laws before the Civil War. While none of us—and certainly not the sponsors of this legislation—would ever condone slavery. I know they would join with me and the other opponents of this legislation in condemning that heinous part of our country's history. Yet, unfortunately, that is the only legislative

precedent we have for a bill that would use federal law to enforce a particular State's laws against its citizens wherever those citizens may travel.

Thankfully, the Thirteenth Amendment to the Constitution outlawed slavery and repealed article IV, section 2, paragraph 3 of the Constitution, which authorized return of runaway slaves to their owners. That authority, and congressional implementing laws [The Fugitive Slave Act of 1793], enabled slave owners to reclaim slaves who managed to escape to ''free States or territories.

In fact, the notorious Dred Scott decision relied on this since-repealed constitutional provision to decide that slaves were not citizens of the United States entitled to the privileges and immunities granted to the white citizens of each State. This is why Dred Scott, born a slave, was deemed by the Supreme Court to continue to be a slave, even when he traveled to a ''free'' territory that prohibited slavery.

In 1858, Abraham Lincoln, who was at the time running for the U.S. Senate, criticized the Dred Scott decision, ''because it tends to nationalize slavery.'' Indeed, the dissenting opinion in Dred Scott, made plain that ''the principle laid down [in the opinion] will enable the people of a slave state to introduce slavery into a free State * * *; and by returning the slave to the State whence he was brought, by force or otherwise, the status of slavery attaches, and protects the rights of the master, and defies the sovereignty of the free State.''

So, too, with S. 1645. It tends to nationalize parental consent laws, even in those States that have declined to adopt that policy. Fugitive slave laws are no model to emulate with respect to our daughters and granddaughters.

Make no mistake, despite the sponsors' contention that this bill does not ''attempt to regulate any purely intrastate activities related to the procurement of abortion services,'' the effect of this bill would be to impose the parental consent policies in the minority of States on the residents of the majority of States. For example, Vermont has no parental consent or notification law, though a neighboring State—Massachusetts—does. In the early 1980's, press reports indicated that a two percent increase in abortions in Vermont were attributable to minors from Massachusetts coming across the border to avoid telling their parents under that State's parental consent law.

If this bill becomes law, Vermont health care providers could be put in the position of enforcing Massachusetts' parental involvement laws before any abortion procedures are performed on minors from Massachusetts; otherwise these health care providers run the risk of criminal or civil liability. In other words, when confronted with a nonresident pregnant minor, who may be from Massachusetts, a Vermont health care provider would not be able to perform procedures that are legal in Vermont and protected by the United States Constitution. Instead, that Vermont health care provider would be forced to import and enforce another State's law.

Since it is not always easy to tell where a minor's ''home'' State is, health care providers would end up bearing the burden, in terms of time, cost and resources, of checking on the residency of every minor who comes to them for abortion services. This may be the only way to ensure that there are no nonresident minors among them who have not complied with their ''home state'' parental involvement laws. This is not the policy that the majority of States have chosen for the minors within their borders, yet the bill would force the laws and policies of the minority of States on them.

Health care professionals share this concern. Dr. Renee Jenkins, testified before the Judiciary Committee about the effect of this bill on clinics, doctors and other health care providers. She told us:

> I am concerned about the effect on and responsibilities to the health care providers involved: the doctor's responsibility when providing abortion services to women of any age from out-of-state. . . . I am very concerned that Congress may put health care providers in the position where they must violate their state's confidentiality statutes in order to meet the obligations of a neighboring state.

Moreover, the Federal Government would be in the unfortunate position of prosecuting people differently, depending on the State in which that person has established residence. This disparate treatment would result from the non-uniformity of State parental involvement laws. State statutes on parental involvement in a minor's abortion decision vary widely and, as noted, a number of States have no such requirement at all. Thus, under the bill, whether a person is subject to Federal prosecution would depend upon the vagaries of State law.

Just because some in Congress may prefer the policies of some States over those in the majority of the States does not mean we should give those policies federal enforcement authority across the nation. Doing so sets a dangerous precedent.

We should think about how this policy might impact additional settings. For example, some states, such as Vermont, allow the carrying of concealed weapons without a permit, while other States bar that practice. Should Congress authorize federal intervention that would allow residents of States, like Vermont, to enjoy the privilege of carrying their concealed weapons into States, like Massachusetts, with more restrictive concealed weapons laws?

Or what about State laws governing the sale of fireworks? Vermont bars the sale of all kinds of consumer fireworks, including roman candles and sky rockets. These fireworks are perfectly legal in other States, including New Hampshire. What would we think about making it a federal crime for a Vermonter to go to New Hampshire to buy consumer fireworks because they are illegal in Vermont? I believe we would view such a law—even if it were constitutional and even if it would promote the ''safer'' State fireworks law—as overreaching in the exercise of our federal power.

It is the nature of our Federal system that when residents of a State travel to neighboring States or across the Nation, they must conform their behavior to the laws of the States they visit. When residents of each State are forced to carry with then only the laws of their own State, they may be advantaged or disadvantaged but one thing is clear: We will have turned our federal system on its ear.

Significantly, the Department of Justice, in a July 8 letter to me, has described the myriad of practical enforcement problems with this bill. According to the Department, this bill would be ''notably difficult to investigate and prosecute, and would involve significant, and largely unnecessary, outlays of federal resources.''

For example, the Department points out that since this bill is predicated on conduct that may be perfectly lawful under the law of the State where the conduct occurred, local law enforcement may be unable to assist. This will leave the detection and investigation of violations of S.1645 entirely to the FBI and ''place a great burden on the FBI.''

Practically speaking, if this bill becomes law, FBI agents may have to serve as ''State Border Patrols'' to ensure that pregnant minors crossing State lines with another person is not doing so to have an abortion without complying with her home State's parental consent law.

Just last week, we held a hearing on counter-terrorism policies and heard from the FBI Director about the challenges the Bureau is already facing both here and abroad to protect the safety of Americans. They are currently investigating the deaths of 19 U.S. servicemen in Khoban Towers bombing in Saudi Arabia, and the deaths of over 250 people, including 12 Americans, caused by the recent bombings in Kenya and Tanzania. If this bill becomes law, how much of the FBI's attention will be diverted to help enforce the parental consent laws of 20 States? I think the FBI already has a full plate of duties that should not be diverted by this new federal enforcement authority called for in this bill.

In addition, the bill would sweep into its criminal and civil liability reach family members, including grandparents or aunts and uncles, who respond to a cry for help from a young relative by helping her travel across State lines to get an abortion, without telling her parents as required by the laws of her home State. Even the sponsors of this bill acknowledged the overbroad reach of the criminal liability provision in the original bill and took steps, with a substitute amendment

adopted during the Committee's consideration of the bill, to exclude parents, but only parents, from the threat of criminal prosecution and civil suit.

The purported goal of this bill, to foster closer familial relationships, will not be served by threatening to throw into jail any grandmother or aunt or sibling who helps a young relative travel out-of-State to obtain an abortion without telling her parents, as required by her home State law. The real result of this bill will be to discourage young women from turning to a trusted adult for advice and assistance. Instead, these young women may be forced then into the hands of strangers or into isolation. In fact, a 1996 report by the American Academy of Pediatrics, cites surveys showing that pregnant minors who do not involve a parent in their decision to have an abortion, often involve other responsible adults, including other relatives.

Keep in mind what this bill does not do: it does not prohibit pregnant minors from traveling across State lines to have an abortion, even if their purpose is to avoid telling their parents as required by their home State law. Thus, this bill would merely lead to more young women traveling alone to obtain abortions or seeking illegal ''back alley'' abortions locally, hardly a desirable policy result. Young pregnant women who seek the counsel and involvement of close family members when they cannot confide in their parents—for example where a parent has committed incest or there is a history of child abuse—would subject those same close relatives to the risk of criminal prosecution and civil suit, if the young woman subsequently travels across State lines for an abortion.

Threatening an FBI investigation and a criminal prosecution of any loving family member who helps a young pregnant relative in distress to go out of state to obtain an abortion, would be a short-sighted and drastic mistake.

In addition to close family members, any other person to whom a young pregnant woman may turn for help, including her minor friends, health care providers, and counselors, could be dragged into court on criminal charges or in a civil suit. The criminal law's broad definitions of conspiracy, aiding and abetting, and accomplice liability, in conjunction with the bill's strict liability, could have the result of indiscriminately sweeping within the bill's criminal prohibition a number of unsuspecting persons having only peripheral involvement in a minor's abortion—even if they were unaware of the fact that a minor was crossing state lines to seek an abortion without complying with her home State's parental involvement law. As a result, the law could apply to clinic employees, bus drivers, and emergency medical personnel.

I also fear that the bill may have the unintended consequence of encouraging young women in trouble to abandon their family, friends and homes. If they are willing to travel across State lines to obtain an abortion, will this bill effectively force them to move their domicile across State lines to avoid engendering criminal and civil liability? If becoming a resident of another State will eviscerate the hold of a home State's restrictive parental consent law, moving, or running away from home may be the only choice that passage of this bill may leave to them if a young woman is determined not to tell her parents. And, what of those young woman who intend to move or those who tell others that they intend to move, does that defeat the claims the bill is intended to create to deter abortions?

No law—and certainly not this bill—will force a young pregnant woman to involve her parents in her abortion decision if she is determined to keep that fact secret from her parents. Indeed, according to the American Academy of Pediatrics, the percentages of minors who inform parents about their intent to have abortions are essentially the same in States with and without notification laws. Yet, while doing nothing to achieve the goal of protecting parental rights to be involved in the actions of their minor children, S. 1645 would isolate young pregnant women forcing them to run away from home or drive them into the hands of strangers at a time of crisis, and do damage to important federalism and constitutional principles.

Finally, because the bill imposes significant new burdens on a woman's right to choose and impinges on the right to travel and the privileges and immunities due under the Constitution to every citizen, constitutional scholars who have examined the proposal have concluded that it is unconstitutional.

I am particularly struck by Harvard University Law School Professor Laurence Tribe's statement that that ''the Constitution protects the right of each citizen of the United States to travel freely from state to state for the very purpose of taking advantage of the laws in those states that he or she prefers.'' He concluded.

A vote against this bill is a vote for preserving a young woman's ability to turn to a close relative or friend, in what may be the toughest decision she has ever faced, without fear that her trusted grandmother, stepparent, or best friend would be fined or jailed. A vote against this bill is a vote for preserving the important federalism principles.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I want to acknowledge that the Senator from Vermont and others on the Judiciary Committee, who are on the minority side, have worked with us. I think we did have, as the Presiding Officer knows, a very fair and I think thoughtful debate about the Child Custody Protection Act in committee. Let me just make a couple of points as to where, it seems to me, the situation currently stands.

First of all, we have had a list of potential amendments submitted. We have not seen language for any of those that are new. Some were in fact offered in committee. But the new ones we have not seen, and it would be very helpful, from the standpoint of moving the process forward, if we could get a better sense of what those are and how many, therefore, might be acceptable.

Second, I point out to all Members that amendments that were offered in committee, a number of which constitute the list we have seen, would remain relevant amendments postcloture on the bill because in fact they would stay in play. So even if cloture were invoked on the bill, it would not preclude those amendments from being considered and voted on here.

The fundamental problem is the Presiding Officer and, frankly, all Members are aware that what we confront now is a time problem. And if we can come up with an agreed upon list of amendments with reasonable time limits, I think we can move forward on this bill in the same productive way here in the full Senate that we did in the committee. But I think to get there we really require a couple of things. One is a little more information about some of the amendments that have been offered, particularly those that do not appear to be relevant amendments, and then some cooperation with respect to reaching an agreement on time limits for the amendments.

I do not think this is a situation that has to go to a cloture vote if we can resolve some of this. I again urge my colleagues to note, to the extent of the amendments that have been proposed, at least the ones we do know about because of they having been offered in committee, they will remain relevant amendments postcloture.

I think the majority leader and the full Senate understand the limited time we have. We cannot have this legislation on the floor for too long a period of time given all the other important pieces of legislation that demand our attention. But if we can limit the time and move to the amendments, I think it is possible to move forward. But even if we were to invoke cloture, it would not preclude many of these amendments. It would presumably eliminate some that truly are not relevant to the bill. And this is, I think, where we find ourselves.

So our staff, certainly on the majority side, is anxious to continue working with the ranking member and his staff to see if we can come to some agreement, hopefully, by the end of the day on Tuesday.

Mr. President, I yield the floor.

CONSUMER BANKRUPTCY REFORM ACT OF 1998

Mr. NICKLES. I ask unanimous consent that the Senate resume consideration of the bankruptcy bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1301) to amend title 11, United States Code, to provide for consumer bankruptcy protection, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Lott (for Grassley/Hatch) amendment No. 3559, in the nature of a substitute.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. For the information of all of our colleagues, the Senate has resumed consideration of the bankruptcy bill and will hopefully make some progress on the remaining amendments to that bill. However, no further votes will occur during today's session. The Senate, as previously ordered, will have a tabling vote on the minimum wage issue on Tuesday. That vote will occur at 2:20 p.m. The vote at 2:20 on Tuesday will be the first vote of the week in observance of the Jewish holiday, Rosh Hashanah, which occurs on Monday. It is my hope that other amendments will be stacked in sequence to occur after the 2:20 p.m. vote. I appreciate all of my colleagues' consideration.

AMENDMENT NO. 3602 TO AMENDMENT NO. 3559

(Purpose: To ensure payment of trustees' costs under chapter 7 of title 11, United States Code, of abusive motions, without encouraging conflicts of interest between attorneys and clients)

Mr. FEINGOLD. Mr. President, I rise to offer this amendment for myself and Senator SPECTER, and I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] for himself, and Mr. SPECTER, proposes an amendment numbered 3602 to amendment no. 3559.

Mr. FEINGOLD. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, strike Section 102(3)(A) on lines 18 through 25.

On page 5 on line 17 after ''bad faith,'' insert:

''(3)(A) If a panel trustee appointed under section 586(a)(1) of title 28 brings:

(i) a motion for dismissal under this subsection and the court grants that motion and finds that the action of the debtor in filing under this chapter was not substantially justified, the court shall order the debtor to reimburse the trustee for all reasonable costs in prosecuting the motion, including reasonable attorneys' fees; or

(ii) a motion for conversion under this subjection and the court grants that motion the court shall award reasonable costs in prosecuting the motion, including reasonable attorneys' fee, which shall be treated as an administrative expense under Section 503(b) in a case under this title that is converted to a case under another chapter of this title.''

Mr. FEINGOLD. Mr. President, section 102(A)(3) of S. 1301, the section of the bill that would make a debtor's attorney responsible for the costs and the fees of the trustee if the attorney loses a 707(b) motion and the chapter 7 filing if it is found not to be ''substantially justified'' is a very troubling provision.

As we know, a 707(b) motion does allow the court to dismiss or convert a bankruptcy petition. This is an important safeguard that protects the bankruptcy system from having abusive chapter 7 filings. There certainly is some abuse by some debtors' attorneys. However, this provision does not punish the attorneys. It actually punishes their clients.

This provision, Mr. President, in effect, will deny debtors their right to be represented by counsel. What it will do is deny debtors any meaningful access to chapter 7 of the bankruptcy code. Therefore, ultimately, this provision will have the effect of denying debtors equal access to justice.

This bill makes the debtor's attorney responsible for the costs and fees of the trustee—not if the bankruptcy filing was brought in bad faith, not if the bankruptcy was frivolous, but only if the motion was ''not substantially justified.''

I believe this is unprecedented in American law. Parties—not their lawyers—are sometimes assessed fees under fee shifting statutes that are designed to level the playing field or encourage certain types of suits. However, unlike section 102(A)(3), every other provision in which lawyers are assessed fees requires affirmative wrongdoing by the lawyer. In every other case the lawyer has to be found to, in effect, have been guilty of affirmative wrongdoing.

As we all know, the standard of ''not substantially justified'' is a significantly lesser standard than a ''frivolous'' standard. Indeed, the Supreme Court held in Pierce v. Underwood that ''not substantially justified'' is a standard ''greater than general reasonableness,'' but a standard which ''falls short of that necessary to issue sanctions for frivolousness.''

Given the vaguely defined contours of this standard, it is likely that cases would be dismissed in which there was a good-faith argument that the chapter 7 filing was proper. Indeed, in other contexts, courts have interpreted that the ''not substantially justified'' standard is widely varying.

The impact in this provision will be, in effect, to eliminate the filing of chapter 7 cases by debtors' attorneys except in the most clear-cut cases, regardless of whether a chapter 7 filing would actually be in the best interest of the client. Obviously, very few, if any, debtors' attorneys are likely to put their own finances and welfare on the line for such a filing. Or if a few debtors' attorneys do continue to handle such cases, they will likely raise their fees to account for this tremendous risk, thereby pricing themselves out of the market except for the most wealthy of debtors. It is an oxymoron to talk about the wealthiest of debtors.

In the end, the result of this attorney's fees provision is that many debtors will be denied the benefit of counsel if they wish to file for chapter 7. In other words, many chapter 7 debtors will be forced to proceed pro se. As we have recently seen in the well-publicized abuses by Sears and others, many pro se debtors, due to their lack of knowledge about the system, suffer abuse under existing bankruptcy law.

The bill, as a whole, supplies potentially unprincipled creditors with many new tools to take advantage of pro se debtors. The bill would allow an unscrupulous creditor to make threats of 707(b) motions, threats of discharge ability complaints, and threats of repossessing household goods, which may ultimately result in debtors signing ill-advised reaffirmation agreements.

In addition, the attorney's fees provision, because it will compel many debtors now to file pro se, will likely result in a number of debtors having their petitions dismissed for even trivial or procedural mistakes.

As you know, pro se cases are frequently dismissed because debtors file papers incorrectly and cannot correct them quickly enough. And, of course, this bill, by forcing more and more debtors to go with pro se representation, simply exacerbates this problem.

Mr. President, Section 303 of the bill creates a presumption of bad faith when a case is dismissed for failure to file the required papers in the proper form. This provision, coupled with the fact that significantly more debtors will be forced to file pro se, will mean that many people who filed in good faith will have their petitions dismissed and, thus, will never receive their rightful bankruptcy relief.

Moreover, in this the bill's current attorney's fees provision is maintained; it will have the perverse effect of increasing abuses in this area. As previously noted, this provision will cause attorney fees to increase; therefore, more people will be unable to pay attorneys. In addition to catalyzing the pro se problems that I have already discussed, the provision will also cause nonattorney petition preparers to proliferate and they—much more so than debtors' attorneys—have, unfortunately, historically been the No. 1 source of the abusive bankruptcy filings, which this entire bill is so focused upon.

Indeed the nonattorney petition preparers have always been most prevalent where bankruptcy attorney's fees are the highest, notably in southern California and, to a lesser extent, in cities like New York. Very few pro se debtors actually prepare their own papers. Most have to seek help from these petition preparers who sometimes do a terrible job for them, give faulty legal advice, and file cases that often prejudice the debtor as well as landlords, mortgage companies, and other creditors.

Mr. President, in the end, on an issue like this, we have to be honest with ourselves. These attorney fees provisions are designed to intimidate lawyers into counseling against a chapter 7, plain and simple; that is the goal. This is inherently troubling, but such a provision, Mr. President, creates a blatant conflict of interest between the debtor's attorney and his or her client. What if the client has a valid chapter 7 case and would be better served by a chapter 7? Under this new rule, if we don't change it with this amendment, the attorney will have the perverse incentive to counsel his or her client to enter into chapter 13 in order to protect the attorney's financial interests.

This issue was actually raised at one of the hearings called by the Senator from Iowa, Senator GRASSLEY. A powerful and troubling example was offered to illustrate the dilemmas that bankruptcy lawyers will potentially face under this bill.

The scenario presented was that of a client who supports an elderly relative. Since a lawyer could not be sure if supporting an elderly relative would be considered a ''reasonable living expense,'' the lawyer would be taking a risk, a personal risk, by filing for chapter 7 and zealously arguing—as the attorney is required to do—her or his client's case. Indeed, rule 1.7(b) of the Rules of Professional Conduct specifically prohibit a lawyer from handling a case ''if representation of that client may be materially limited by the lawyer's * * * own interests.'' Mr. President, this bill would institute a scenario in which a debtor's attorney would arguably violate this rule whenever chapter 7 is at issue.

The amendment I am offering aims to prevent the inevitable conflicts of interest, perverse incentives, and harm to vulnerable good-faith debtors that this provision would create. My amendment would simply make all reasonable costs of prosecuting a 707(b) motion incurred by a trustee an administrative expense. Characterization of trustees' fees as an administrative expense would then ensure that the trustee receive reimbursement if the debtor's case is dismissed or converted; but what it would do, also, is prevent the conflict of interest specifically prohibited by the Rules of Professional Conduct that I just mentioned.

Senator SPECTER and I offered in committee an amendment that would have amended the bill to provide that the debtor's attorney would only be liable if his or her chapter 7 filing was frivolous. This amendment would have simply placed debtors' attorneys in the same position as all other attorneys. That is, they would only be held personally liable if they engaged in some kind of affirmative wrongdoing.

This proposed amendment was, however, defeated in committee, but it was defeated by a 9–9 vote. Those Senators who voted no on our amendment claimed they were doing so because they wanted to maintain the financial incentive for panel trustees to challenge allegedly abusive chapter 7 filings. We have carefully, and in response to that, recrafted our amendment to retain this financial incentive. Under this amendment, the panel trustee who successfully challenges a chapter 7 filing will be rewarded for their efforts.

In addition, if the debtor's attorney does file a frivolous chapter 7, that attorney will be punished. Just as every other attorney can be sanctioned for frivolous filings, the bankruptcy code already provides for sanctions to be assessed against an attorney who has actually acted in bad faith.

So, Mr. President, in sum, my amendment seeks to equitably reimburse the panel trustee if he or she is forced to prosecute a party who inappropriately filed for chapter 7; but it also tries to strike the right balance by striving to protect a debtor's right to counsel. Nothing is more fundamental to our legal system than the right of every American to be represented by a qualified and zealous attorney. We should not risk compromising this right, particularly for vulnerable parties who often seek protection under the bankruptcy system.

I strongly urge my colleagues to make this change, which I think would be in the spirit of improving this piece of legislation that both the Senator from Iowa and the Senator from Illinois have worked so diligently on.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I thank the Senator from Wisconsin for bringing this issue up. It is one that had a close vote in the committee. I presume it has a legitimate place in discussion on the floor of the Senate because of the very close vote. However, I opposed it in committee, and I intend to oppose it here on the floor of the Senate.

I would say that in this area, Senator DURBIN and I have tried to respond to some of the concerns that Senator FEINGOLD has had. We did include in our legislation, as a result of his proposals in committee, that when a lawyer was substantially justified in feeling that this person should be placed in chapter 7, the penalties that we have in the bill otherwise applicable to lawyers who would put people in 7 that should be in 13, would not be applicable if the judge found so.

But this amendment—and I apologize to the distinguished Senator from Wisconsin—just goes too far. I think we need to look at some of the basic reasons why we have legislation. Not everybody would agree with my long list of reasons that we ought to have legislation; but, obviously, I have talked about the lack of personal responsibility.

Second, we have had Congress for 30 years setting a bad example for the individuals of America because we have had 30 years of deficit spending. What sort of a signal does that send to the people of this country? If the government can do it, surely they can do it. Hopefully, we will get over that hurdle this year. For the first time in 30 years, we will have a balanced budget. Hopefully, I think we are going to pay down something like $63 billion on the national debt, and hopefully even more than that.

We also have the credit card industry that we have talked about here in the last several days on this bill. Maybe they are not careful enough about who they encourage to use credit cards and go into debt with the credit card purchase of goods and services. But we have a very aggressive bar. That is my feeling—that the bankruptcy bar is not counseling their clients like they used to of whether or not they could go into bankruptcy. We even hear that it isn't the lawyer that can get people into bankruptcy, it is a legal aid, a legal assistant, who can, through the forms that are made and the electronic filing of collecting a fee, very quickly get people into chapter 7. We are trying to deal with the behavior of the bankruptcy bar in the sense that we want them to get to the point where they are counseling people. Should they be in bankruptcy at all? And, second, should they be in chapter 7, or chapter 13?

So, obviously, if we feel that there has been some abuse of the present practices of the bar, we want to make sure that we have disincentives for people to go into 7, if they go into 13. And we have used disincentive penalties against the legal profession, if they should have been in 13 against the lawyers, I should say, who advise.

We have responded to some of those concerns that Senator FEINGOLD has already raised. But we can't respond to all of them.

I strongly oppose this amendment, because one of the key features of our bill is that it holds debtor lawyers accountable for their actions. We do this by imposing fines when they steer clients into chapter 7 who otherwise can repay their debts.

We all have heard stories about the bankruptcy mills which recklessly send people into bankruptcy and process people in bankruptcy like sometimes we process cattle. Any meaningful reform must address the issue. The Grassley-Durbin bill does that—S. 1301, the bill before us.

This amendment by Senator FEINGOLD, in my estimation, would effectively nullify the new financial incentives for debtor lawyers to act responsibly. This amendment completely takes away the fines that bankruptcy lawyers must pay when they recklessly steer people to have the ability to repay their debts into chapter 7 and away from chapter 13. These fines will be an effective and meaningful way to ensure that lawyers advise clients responsibly.

If adopted, this amendment will allow bankruptcy mills to continue

turning out knew bankruptcy cases. Under this amendment, a debtor's lawyer who is deliberately ignorant of a debtor's ability to repay his debt gets off scot-free. Perhaps we should call this amendment the ''Bankruptcy Mills Protection Act.''

I oppose this amendment and urge my colleagues to do so.

The amendment will not provide true financial incentives for chapter 7 trustees to go over all of the filings that are in chapter 7 and find out which ones can be removed to chapter 13, because this work of the public trustees—chapter 7 trustees—is one of the two major tools that we have to make sure that people who have the ability to repay debt do it rather than getting off scot-free, as most often happens in chapter 7.

The Feingold amendment won't provide a penny when a 707(b) motion is acceptable and the case is then dismissed. In that case, there won't be a chapter 13 case to allow trustees to collect expenses.

I ask my friends to help us keep this bill tightly written so that there is, in fact, a change of behavior among bankruptcy lawyers to advise clients to be responsible for debt—to maybe not go into bankruptcy at all, or if bankruptcy would be charted to chapter 13 as opposed to chapter 7.

I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I enjoy and appreciate working with the Senator from Iowa on many issues, and I have enjoyed all of his remarks except for the suggestion that somehow this is going to be a bad-faith attempt to try to improve the bill, or somehow attempt to benefit attorneys.

I feel like I identified some very specific arguments that are real and that are important to the legal system; and, that, although I share the concerns of the Senator about the general system, in fact I think there are abuses in chapter 7. There is no question about that. But what I tried to do is craft an amendment that creates a fair balance. I am not trying to prevent punishment of an attorney who does something wrong.

But let me just quickly review the arguments about why this is a reasonable amendment and I don't think was responded to.

First of all, I heard nothing about my argument that this creates a conflict of interest. A lawyer has a responsibility under the rules of professional conduct to zealously advocate on behalf of their client. Therefore, it is very rare that our legal system would function well and that attorneys would zealously advocate for their clients if they are afraid that their family and their house could possibly be taken away because they might be assessed with the entire cost of litigation. That is the conflict of interest that this creates.

The Senator suggested in an attempt to suggest that we are going to leave no opportunity to punish a wrongdoing lawyer that there is nothing left. That isn't true. Under the Federal Rules of Civil Procedure and under the Bankruptcy Code there are rules about filing frivolous claims. In fact, I remember when I was a young attorney. The first thing I learned when I came into the office as a young associate was you had better not file a pleading that is frivolous or you might be personally assessed for having done so. That is applicable to these situations and would be effective.

There is no truth to the suggestion by the Senator from Iowa that the attorney can go off scot-free, if he brings up a ridiculous claim.

Furthermore, in fairness to the Senator from Iowa, he did make a point about whether a trustee would be protected in getting his fees in a situation where the case is dismissed. We sent a modified version of this to the desk which addresses that issue. We understood the point of the Senator from Iowa. We listened to him and modified our amendment from committee, because it was pointed out in that there was a conversion from a chapter 7 to a chapter 13; that in that case the trustee would be protected, but not if the chapter proceeding was actually dismissed. That is a fair point. We changed it. It applies to both the dismissal as well as the conversion.

I hope it is clear from the Record that the Senator's comments about that provision relates to the amendment we originally proposed, but not the amendment that was sent to the desk.

Finally, Mr. President, let's talk for just one second about the real effect of this.

The provisions that are in the bill relate only to ''counsel''—an attorney, a licensed attorney. If this goes through and attorneys feel a fear of being assessed these fees in a case where they can't bring a case that they know is airtight, and they don't represent the client, who do they go to? They go to these petition preparers. These petition preparers are the very people who are most likely to do a sloppy job and not care if they bring a frivolous proceeding.

But guess what, Mr. President? The petition preparer isn't responsible. The petition preparer would not be under this standard. So what you are doing is pushing these debtors from legitimately licensed attorneys, who know what they are doing, hopefully, to people who are basically in many cases scamming people, and they would have no responsibility at all. That is bad for the debtor. It is bad for the creditor. That is bad for the legal system. That is bad for the congestion in the courts as a result of the bankruptcy system. For all of these reasons, we have a frivolous standard.

We make sure that the trustee is protected, whether it is a dismissal, or a conversion. And we try to address the inherent conflict of interest that exists when an attorney has to wonder if their own personal finances are going to be affected because they think they have addressed the best interests in arguments on behalf of a client but they are not certain. This goes too far, and I really hope in good faith that the Senator takes a look at these arguments and the modifications we have made, and considers that this really is a reasonable balance in the context of the larger bill.

I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The Senator from Alabama.

Mr. SESSIONS. I thank the Chair.

I thank Senator GRASSLEY and Senator DURBIN for the great work they have done in building bipartisan support for this bankruptcy bill. I think this is a historic step forward in bringing integrity and fairness and efficiency to the bankruptcy system. It came out of the committee with a 16-to-2 positive vote, and I think that reflects the strong bipartisan support this bill has.

With regard to Senator FEINGOLD's concerns about this provision, it is not for punishment of a lawyer who files these bankruptcy petitions. It simply defines the standard of care they ought to adhere to. We are always having the plaintiff lawyers tell us that they cannot do anything to reduce the standard of care on the part of private businesses. For example, they argue that we must not lower the standard of care for doctors because it might result in a patient or user of their product being injured or somehow being harmed. Nothing can reduce that, but yet at the same time the bar will take as much protection as they can get for anything they do in their professional capacity for which they were hired.

Bankruptcy lawyers are not mere clerks, although the truth is, for those of us who know what is going on, most of the bankruptcy filings in America are done by lawyers who run bankruptcy mills, who advertise in phone books and newspapers and on television and radio, which just a few years ago lawyers could not do. In fact, there is some indication that the dramatic rise in bankruptcy is derived more from attorney advertising and the encouraging of people to file bankruptcy than any other factor. Particularly this appears to be true in light of the fact we have more bankruptcies in a time of strong economic growth and prosperity in this country.

So I say to you, these lawyers have to comfort to some standard of care.

What does Senator GRASSLEY's bill say? It says they ought to be substantially justified in filing their bankruptcy under chapter 7. That is all. What is bad about that kind of standard? And if they are not substantially justified, what happens?

Take for example, a person with a $100,000 income, and let's assume someone sues that person for an automobile accident and wins a $25,000 judgment

against them. Although the judgment need not be that high, it could be any amount that the person does not want to pay. So they go to their lawyer and ask him how they can get out of paying it, and he says ''file bankruptcy.'' This will wipe out the debt, although he could have paid it on the income level he has.

When the case comes to the bankruptcy court, they file under chapter 7, which would eliminate all debts. The chapter 7 trustee objects, and they hold a hearing. They present evidence, and they say: ''No, you should go into chapter 13 because you do not qualify for chapter 7.'' And then the judge must go further. Under the Grassley version, the judge must find not that the lawyer made a mistake but he was not substantially justified in filing the petition under chapter 7. Then he can assess the attorney the cost of that hearing—not huge amounts of attorney's fees, just the cost of the hearing that had to be held on the complaint of the chapter 7 trustee.

Let me ask you—it comes down to this—who pays? Who pays for the expense of having to challenge this chapter 7 petition which was not substantially justified? Under Senator FEINGOLD's proposal, it would be an administrative expense. That sounds OK, but we know in this country that there ''ain't no free lunches.'' You have heard that saying. Somebody always pays. Who pays, in this case, the administrative expense? The people who pay will be the ones who are owed money, the creditors, the ones who have not and probably will not be paid all they are owed, and it comes out of the money that goes to them. They pay for the lawyer filing a petition that is substantially unjustified.

When we come down to the choice of who ought to pay, I say the lawyer ought to pay. He ought to be sure of what he is doing when he files the petition. He should know where it ought to be filed. I do not think that presents a conflict of interest. I understand that you could conjure that up as some theoretical possibility, but the truth is, under ethical rules of practice today, a lawyer cannot file a complaint he does not believe to be justified. He is required to do some preliminary work before he files it.

So I do not believe that this would be contrary to the standards that are required currently of lawyers in what they do. And, again, it requires the action of a judge. And a bankruptcy judge knows these lawyers. There is usually a small group of lawyers that file the overwhelming number of bankruptcy cases in their courts, and many are not going to be unfairly abusing these lawyers. However, when a judge sees one who is consistently filing chapter 7 petitions that ought to have been filed in chapter 13, and his trustee has to have hearings and challenge it, and there are not sufficient facts to justify it, then he is going to have the opportunity under this bill to assess some costs against that attorney.

This is not going to bankrupt the attorney. I know of attorneys in Alabama who are running advertisements, who are making $1,000 per bankruptcy case and filing 1,000 cases a year. They are making big bucks off this system. Maybe they are justified in doing that, but they ought to on occasion, when they make the point to go to great expense to hold a hearing, have the trustee challenge what they have done, and then find out they are not substantially justified—they ought to pay.

I hope we will keep the Grassley amendment. The other alternative is to keep the present standard of assessing costs against an attorney, and that is the standard of frivolousness. That is a very high standard, and the net effect of the frivolousness standard is that nobody will ever recover, because it is just very, very difficult to meet that standard.

The bankruptcy judges are not going to abuse these attorneys. It will give the bankruptcy judges a little leverage, a little power to say to these attorneys who are filing cases recklessly without enough thought, causing the creditors to lose money and otherwise abuse the system, that they can bring a little integrity to and have some watchfulness over the system and maintain discipline on the lawyers who practice there.

I understand the Senator's concern about it, but I do not see this as an extreme position at all. I think it is quite consistent with the bankruptcy court. I believe it will help, as Senator GRASSLEY said, make sure people file their petition right the first time. If it is chapter 13, they ought to file in chapter 13, not in chapter 7 on a theory that, well, we will just have a hearing and maybe we will win or maybe they won't object. We need it filed right the first time so we will have fewer proceedings to transfer the action. That is the purpose behind this and I think the Feingold amendment would undermine that purpose.

I thank the Chair for this time. I yield the floor.

Mr. FEINGOLD. Mr. President, it is fairly easy to try to make the words ''not substantially justified'' sound like a reasonable standard. But what really is going on here is an intrusion into the attorney-client relationship that is very dangerous.

I practiced law for several years before running for the Wisconsin State Senate, and I remember always when looking at a client's argument—first of all, I obviously didn't think I could file any argument that was frivolous. That was prohibited both under the Federal Rules of Civil Procedure and under the Wisconsin Rules of Civil Procedure. But there would be a number of occasions where we would have two or three possible arguments to make. One we might think was our strongest argument, and then another might be our sort of middle argument, and then there might be a third legal argument where it was a long shot but we thought the facts were strong. Any good lawyer would bring all three of those arguments, in most cases, because if a judge found any one of the three to be persuasive, that could be the basis.

I like to think I would have had the courage as a young attorney to go forward with that third argument, even with this provision. But I didn't have any money, and if I thought that bringing that third argument could cause me to be assessed with attorney's fees that would make it impossible for me to pay my mortgage—I am human. I wonder if I would have done what is right, which is to counsel that client: This one is about a 25-percent possibility, but under the right facts, and I think you might have the right facts here, sir, you ought to bring it.

Lawyers should not be put in a position where they believe, except for cases where there is a frivolous claim, that bringing an argument will cause them to have personal harm come to them. That destroys the whole notion of zealous advocacy. This is a serious problem for the relationship between attorney and client, and I really do think to suggest that the ''not substantially justified'' standard is simply a reasonable restraint does not show an understanding of what really goes on in a situation where a lawyer and client sit down and try to come up with the best argument possible. So I reject that suggestion and again urge the adoption of the amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I inquire of the proponent of the amendment, and the floor manager on the Democratic side, how much more time will be consumed on the bankruptcy matter this morning? I have a speech which I should have gotten up and offered 15 or 20 minutes ago, before we started this.

Mr. FEINGOLD. Mr. President, I am merely responding to arguments made in response to my arguments. When that ceases, I will cease. I was asked to come down here and offer two amendments this morning. This is the first. If it is in the interests of the Senate that I defer the second to next week, I will be happy to do that, as long as I am assured my opportunity to present it at that time.

I have nothing further to say on this amendment, unless somebody wants to debate it further.

Mr. DOMENICI. I have no desire to prolong the amendments. I will come when you are all finished. I will be here today.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI. Mr. President, I ask unanimous consent that when the amendments are complete I be granted 15 minutes for a floor speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Chair and thank the Senator.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I rise to offer another amendment for myself and Senator SPECTER.

The PRESIDING OFFICER. Without objection, the first amendment offered by the Senator will be set aside.

AMENDMENT NO. 3565 TO AMENDMENT NO. 3559

(Purpose: To provide for a waiver of filing fees in certain bankruptcy cases, and for other purposes)

Mr. FEINGOLD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself and Mr. SPECTER, proposes an amendment numbered 3565 to amendment No. 3559.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title IV, insert the following:

SEC. 4___. BANKRUPTCY FEES.

Section 1930 of title 28, United States Code, is amended—

(1) in subsection (a), by striking ''Notwithstanding section 1915 of this title, the parties'' and inserting ''Subject to subsection (f), the parties''; and

(2) by adding at the end the following:

''(f)(1) The Judicial Conference of the United States shall prescribe procedures for waiving fees under this subsection.

''(2) Under the procedures described in paragraph (1), the district court or the bankruptcy court may waive a filing fee described in paragraph (3) for a case commenced under chapter 7 of title 11 if the court determines that an individual debtor is unable to pay that fee in installments.

''(3) A filing fee referred to in paragraph (2) is—

''(A) a filing fee under subsection (a)(1); or

''(B) any other fee prescribed by the Judicial Conference of the United States under subsection (b) that is payable to the clerk of the district court or the clerk of the bankruptcy court upon the commencement of a case under chapter 7 of title 11.

''(4) In addition to waiving a fee described in paragraph (3) under paragraph (2), the district court or the bankruptcy court may waive any other fee prescribed under subsection (b) or (c) if the court determines that the individual is unable to pay that fee in installments.''.

Mr. FEINGOLD. Mr. President, when I heard that bankruptcy was the only Federal Court proceeding in which a poor person is not entitled to file an in forma pauperis petition, I thought there must be some mistake. I found it somewhat surprising, counterintuitive, that bankruptcy, which by definition deals with people who are broke or have very limited funds, does not provide even the poorest of debtors a waiver of the filing fee.

The filing fee for consumer bankruptcy is $175. Mr. President, $175 is more than the take home pay of an employee working 40 hours a week at the minimum wage. Tell me, how are the indigent—those who desperately need bankruptcy protection—going to afford $175 simply to file for such protection?

Congress acknowledged that the bankruptcy system may need an in forma pauperis proceeding when it directed the Judicial Conference to implement a pilot program in six judicial districts around the nation. This pilot program operated from October 1, 1994, through September 30, 1997, in the following six districts: the Southern District of Illinois, the District of Montana, the Eastern District of New York, the Eastern District of Pennsylvania, the Western District of Tennessee, and the District of Utah. The pilot program was clearly a success. Many of the judges who administered the program, and who were initially skeptical, now support it. In particular the pilot program revealed the following information:

An application for waiver of the filing fee was filed in only 3.4% of all Chapter 7 cases, and the large majority of those waivers were granted. Indeed, the U.S. Trustees Office filed objections to less than 1% of the applications. In other words, only those very few individuals who really needed the fee-waiver applied for it.

The fee-waiver program enhanced access to the bankruptcy system for indigent single women more than any other group. We have heard a great deal about how this bill, S. 1301, will hurt women and children. We cannot strike another blow against single mothers and their children by denying them access to the bankruptcy system because they cannot even afford the filing fee.

The nature of the debt for those who filed for the fee-waiver differed from that of other debtors in that their debts more often related to basic subsistence—education, health, utility services and housing. Moreover, 63 percent of the housing-related debts of those who filed for the fee-waiver owed their debts to public housing authorities. Only one of the debtors who owed a debt to a housing authority did not file for a fee waiver. These findings show that indigent debtors were not filing bankruptcy to escape paying for their boats or their fancy entertainment systems. They were filing bankruptcy merely to subsist. Oftentimes these people use the bankruptcy system simply to prevent homelessness.

There was only a minimal increase in the number of filings, and there was no indication that debtors filed for Chapter 7 rather than Chapter 13 just to obtain the benefit of the fee-waiver program. Simply stated, the debtors typically did not abuse the system.

A nation-wide program would cost between $4 and $5 million in lost filing fees. Projections state that there will be 1.5 million Chapter 7 filings next year. We can, therefore, off-set the cost of a nation-wide program by merely raising the price of Chapter 7 filings by between $2.70 and $3.40. If we increase filing fees for all bankruptcy filings we can reduce that cost to about $2 per filing fee—a negligible amount.

In short, the pilot program was a resounding success.

I offered this amendment in committee, where it was defeated by a 9–9 vote, with all the Democrats supporting it. One concern articulated by Senators who voted against the amendment in committee involved the possibility that, if we implement a fee waiver program, unscrupulous lawyers would advertise ''free filings'' and make a profit. However, under the program, debtors cannot obtain fee waivers if they can pay their lawyers; therefore, private lawyers would have no incentive to encourage in forma pauperis cases.

Let me repeat that point: debtors who can pay their lawyers cannot obtain fee waivers. Only truly indigent people, those who need bankruptcy protection the most, can have their fees waived.

The Specter-Feingold amendment would build upon the strong foundation established in the pilot program, and direct the Judicial Conference to establish a nation-wide in forma pauperis program for the bankruptcy court system. If we examine the findings of the pilot program we find that: (1) only those who really needed the assistance of the program used it; (2) that there was little to no abuse of the fee-waiver program; and (3) that the program in large measure helped those who needed it to subsist and, in many cases, avoid homelessness.

Given these findings, how can we choose not to implement a nation-wide program? Why did we direct the Judicial Conference to conduct a pilot program if we were not going to use the results to shape public policy? How, in good faith, can we deny bankruptcy relief to those who truly need it—those who cannot even afford the filing fee? I urge my colleagues to support this amendment to restore some fairness in the bankruptcy filing process for the most financially strapped filers. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I rise in strong support of this amendment by the Senator from Wisconsin. He is correct. We tried this across the United States in, I think, six different jurisdictions, to see what would happen. What is at issue here is a person is about to file for bankruptcy and is so penniless that they cannot even afford the filing fee of $175, then in these six different court jurisdictions we waived it. That is what this is all about. We found as a result of that experience they didn't open the floodgates to people coming in filing for bankruptcy. In fact, just the opposite was true. A lot of very serious cases, and those called out for justice, were served by this program.

One of the judges in my home State of Illinois, the southern district, who tried this, Judge Meyers, has written a letter to me and said it was quite a success and he encouraged it be done on a national basis.

If there is anything that distinguishes American jurisprudence from some other countries, it is the fact that we have basically said the court system is open to the rich and poor alike. It is an oddity in our law that we don't allow those who are truly poor to have a waiver of the filing fee so that they can come into bankruptcy court.

Senator FEINGOLD has a good amendment. I was happy to support it in committee. I hope now, because of the evidence of its success across the country that has been shared on both sides of the aisle, it ultimately will be adopted.

I yield the floor.

The PRESIDING OFFICER (Mr. GORTON). Who seeks recognition?

Mr. DURBIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that Senator KERREY of Nebraska and I be allowed to proceed for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

A MESSAGE FOR CANDIDATES IN BOTH PARTIES AND THE AMERICAN PEOPLE

Mr. MCCONNELL. Mr. President, I note for my colleagues that the chairman of the Democratic Senatorial Committee and the chairman of the Republican Senatorial Committee are on the floor at this moment, and we have a message for candidates in both our parties and for the American people.

Having served as chairman of the Senate Ethics Committee during the Packwood investigation, and having offered the first resolution of expulsion in the history of the Senate in a case involving sexual misconduct, I am well aware of the bright line that exists between private failings and public wrongs. And, of course, that line is blurred, as it was in that case, and is again in the allegations made against President Clinton when one's public office is used to pursue private misconduct and shield it from legal inquiry.

But if we start turning every instance of past personal misconduct into cannon fodder for our political campaigns, we risk turning our democracy into a nuclear waste dump of slander, gossip, innuendo, and cheap moralizing about other people's problems.

Even without this threat, the multifaceted scandal that currently engulfs the White House represents a crisis of national and constitutional proportions. Our only hope of guiding this country through the next several months without a major catastrophe in our Government, or in our financial markets, or in the world, absolutely depends on our ability to resist the subtly escalating arms race of dirt digging, garbage searching, mudslinging, and poison leaking that is currently swirling around the Nation's Capital.

Where that awful trend must be resisted first is in our political campaigns. For better or for worse, campaigns are the most direct expression of our Government that people see.

This election, let's make it for the better, not for the worse. Everyone in this body certainly knows that I believe in robust, pointed, hard-hitting campaigns. And I believe those kinds of campaigns are good for our democracy and good for the voters, but only when political campaigns are focused on issues and not on purely private behavior.

So to set the standard, I want to make it clear that the national Republican Senatorial Committee will not fund—will not fund—any candidate who engages in personal attacks on the private problems and past failings of his or her opponent. Digging through their record is one thing, digging through their garbage is quite another. Criticizing someone for their vote on the marriage tax is fair game. Attacking someone for a failed marriage certainly is not.

Let us prove over the next 6 weeks at least that this Congress is capable of fairly and responsibly executing the solemn constitutional duty that may await us in the months ahead.

Mr. President, I yield the floor. I note the presence of my friend and colleague from Nebraska.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I come to the floor, as the distinguished Senator from Kentucky said—as chairman of the Democratic Senatorial Campaign Committee—to make the same commitment that the Senator from Kentucky just made, that our committee will not fund any candidate who uses the personal problems or past failures of their opponent to win their election.

The objective in a campaign is not just to win an office. And we all know in campaigns that there is a temptation to justify every means by the end that is in sight. As the Senator from Kentucky described himself, I describe myself the same way. I am not reluctant or shy to have full contact sport when it comes to campaigns, but I do believe that the ultimate objective of the candidate needs to be to not just acquire the office, but also to serve the larger good of preserving our Democratic institutions, in this case the U.S. Congress.

I have been asked many times, and suspect the Senator from Kentucky has as well, Is this going to have a negative impact on your chances in the fall? He has probably been asked more times, Is this going to have a positive impact on your chances in the fall?

But my answer has always been that my chief concern is that there are good men and women in America today who have thought about running for office—it may be the Senate or a local school board—and they have said, ''Gosh, I don't want to go through what I see HENRY HYDE going through. And if I run for office, that is exactly what is going to happen to me. I don't want everything that I have done since I was an infant to be drug out and paraded before the people of my district or the people of my city or the people of my State.''

Far be it from me to say that any vote or statement or belief I have should be withheld. They should not be withheld and should be subject to the review and debate and discussion of the people. But my concern and why it is important that my colleague from Kentucky, whose suggestion this was, and I do this in this campaign is that if we do not exercise restraint and show American citizens that we will not fund candidates who use personal problems or past failures to win their office, the institutions of democracy will suffer.

Forget the impact upon political parties. Neither party is going to do very well if citizens increasingly turn off and withdraw and say that ''I may do many things for my country, but one of them will not be to be a candidate for any office'' because of the fear that they have that something that happened 30 years ago or 40 years ago or 20 years ago—that is irrelevant to the campaign itself and that they have dealt with their family and their friends and their God, in whatever way that they felt was necessary—now becomes drug out into the open.

So I join enthusiastically in making the commitment that we will not fund any candidates who do that. I appreciate that very much because what the Senator from Kentucky suggested serves the interests of democracy, and I am willing, as well, on the part of the DSCC to do the same.

Mr. MCCONNELL. I commend my friend from Nebraska for his statement. We see this matter precisely the same. As for my side of the aisle, I intend to convey this statement to our candidates, both incumbents and challengers, this afternoon with the message that I mean every single word of this statement.

I thank my friend from Nebraska.

I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

CONSUMER BANKRUPTCY REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3565

Mr. SESSIONS. Mr. President, with regard to the Feingold amendment that deals with the waiver of filing fees for those who file bankruptcy, I think we need to be very cautious about that amendment. It has very serious implications. It has been considered by this Senate numerous times and rejected.

It has been the argument that this is somehow unfair and denies access to

the court system. Courts themselves have denied this argument repeatedly. In fact, the United States Supreme Court has rejected this position. Fees run from around $110 to $160. By that time, the filer would have already hired a lawyer, probably for much more than that.

I have here an ad of a lawyer in Texas who says: ''Bankruptcy can be a smart financial move.'' He does not say that bankruptcy is a way to take care of unacceptable debts that you have no chance of paying. This is the what we used to think bankruptcy was for: to help those who, through various circumstances, have found themselves hopelessly in debt. This man says: ''Bankruptcy can be a smart financial move.''

It can be a smart financial move. You can legally—under the current law—defeat legitimate debts. You can just walk away from them, as this man says ''For $350 total.'' And the truth is, that is why we have increased filings of these kinds of advertisements in phone books, in newspapers, in magazines, in the yard sale publications that are passed out free in this country.

These people go to their lawyers and they quit paying all their debts, and they then file for bankruptcy. Virtually every court filing in America requires a fee. And this is a reasonable fee. This fee has so been upheld by the courts. Somebody will pay for the cost of these filings, if it is not going to be those who use this system, then the taxpayers will pay for it. We are talking about a large amount of money and a drain on the system. Also, it would create a large number of court hearings, adding to an already crowded docket.

I am a critic of our court systems on occasion, but I must say that the bankruptcy courts have, done an outstanding job, Mr. President, in handling an ever-increasing caseload. The caseload has doubled. We have not had a doubling of the judges, but they have used computers, they have used staff people, they have used sophisticated measurement techniques, and they have been able to keep up with their caseloads without a massive expansion of the number of bankruptcy judges. If bankruptcy courts are going to have a hearing on everybody that comes before them to determine whether or not there is any way they can pay their filing fee, then we are going to have to add severe costs to the system and more overloading. Judges, along with lawyers and clerks representing people on both sides will run up expenses that could, in fact, exceed the real cost of the filing fee in this matter.

I understand the sentiments behind this amendment. It is something that has been considered for years, rejected consistently, and upheld by the courts. It is a road we should not go down.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The pending question is the Feingold amendment to the bankruptcy bill.

Mr. BYRD. I thank the Chair.

Mr. President, has the Pastore rule expired for today?

The PRESIDING OFFICER. The Pastore rule will expire at 12:32 p.m.

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

GETTING BACK TO THE CLASSICS

Mr. BYRD. Mr. President, I was pleased to read an article in the September 15 edition of the Washington Times, titled, ''Classics Back in Fashion at Some Schools.''

Speaking precisely to the point that I have made countless times during my years in the Senate, this article reiterates the need to get back to the basics in education. I would like to get back to the little two-room schoolhouse in which I started along about 1923. I laud those schools that have taken this valuable step back and are getting back to the basics in order to reintroduce classical education into their classrooms.

Who better to teach our students today than the true historians, the poets, and the playwrights of yesteryear. I long for the old McGuffey readers—I still have a set of those old McGuffey readers in my personal library—where the students read poems and wholesome stories that taught them good morals, how to act, how to grow up and be good citizens. The old McGuffey readers. The historians, the poets, and the playwrights of yesteryear, such as Euripides, Aeschylus, Shakespeare, and Sophocles, who were the four great master poets of tragedy throughout the years and were outstanding as writers of tragic plays, their works were among the classics that have built history, influenced the framers of our Constitution, and can serve to enhance our ability to better understand the present and to set goals for the future.

Today, our students are caught up in the MTV generation—some of them—watching mind-polluting television sitcoms, listening to shock radio, and repeating the degrading language that they acquire by digesting this steady diet of unhealthy perversity.

Sadly, many modern classrooms often offer nothing to counteract this flood of popular junk and ignorance, which are smothering our country's students. The classics have been ignored in recent years and replaced by psuedoliterature filled with profanity and violence, and textbooks which do a better job of teaching I don't know what than basic algebra. It alarms me to think that students cannot even begin to identify the great heroes of our past or the authors of the Federalist Papers.

If our Nation hopes to produce better students, students who can match or outperform the competition in international exams, we must return to the basics, return to the great books and history, such as ''Plutarch's Lives,'' Milton's ''Paradise Lost,'' Milton's ''Paradise Regained,'' Daniel Defoe's ''Robinson Crusoe,'' Emerson's essays, Carlyle's ''History of the French Revolution,'' the Bible, the ''Iliad'' and the ''Odyssey.'' Alexander the Great kept a copy of The Iliad under his pillow.

It was called the ''casket copy''. He submitted Homer's ''Iliad'' to Aristotle, and asked Aristotle to critique it. Then Alexander the Great prized it above all other literature.

Shakespeare's 37 plays: I quoted extracts from Shakespeare's 37 plays one year in the Senate.

These are all replete with the history and philosophy that are integral elements in a well-rounded, uplifting education.

When I talk about an education, I mean one that goes through one's lifetime. It doesn't stop with graduating from high school or from college or from getting a Ph.D. in physics, as two of my grandsons have done. It means continuing to educate one's self throughout one's life.

Solon, one of the seven wise men of Greece, said, ''I grow old in the pursuit of learning.'' That is a goal that all of us should emulate: ''I grow old in the pursuit of learning.''

I try to follow in Solon's footsteps in that regard. During the last break I read Cicero's ''Republic''—not Plato's ''Republic.'' I had already done that some time ago, but Cicero's ''Republic,'' and Cicero's ''Law''—and De Tocqueville's ''Democracy in America''—two excellent volumes.

Ours is not a democracy. We are talking about a form of government. Ours is not a democracy. We live in a democratic society and we promote democratic principles. But, as for our form of government, it is not a democracy. So many people loosely and glibly refer to it as a ''democracy.''

One needs only to read the Federalist Papers No. 10 and No. 14, to get a good definition of what is a ''democracy'' and what is a ''republic.'' Madison, in both of those essays, defines and distinguishes between a democracy, as a form of government, and a republic.

So let us continue to study and to learn. Learning can be one of the most rewarding of the human activities. But it must be a lifelong journey.

It ought to be a lifelong journey which carries one across the rivers of changes in events and into the recesses of man's immortal spirit. There is no better way to build upon shallow and superficial knowledge than to ponder the lessons of the past. There is no better way. As Cicero said, ''To be ignorant of what occurred before you were born, is to remain always a child.''

I encourage all schools to give their students this opportunity to grow, to share the lessons of the past, to share history, to read ancient history. Herodotus who wrote about Persia, and who wrote about Egypt, lived somewhere between 484 and 424 B.C.—Xenophon, Thucydides, Sallustius, Polybius, Zosimus, Orosius, Ammianus, Appianus, Arrianus, Caesar himself who wrote the Gallic Wars, Florus, Procopius, Eutropius, Cassius Dio Cocceianus, Livius, Tacitus, Plutarch, Gibbon on The Decline and Fall of the Roman Empire. Read histories of England. Of Rome and Greece.

Read these histories, and read American history, and read the history of the U.S. Senate. These are illuminating. They are uplifting. And we can learn by past events how, in many instances, to deal with current events.

Napoleon said, ''Teach my son to study history. It is the only true philosophy.''

Enjoy the vision of the poets and the philosophers and begin to shape leaders, who can take us confidently into the future because they so well understand the past.

Mr. President, I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I would like to express my appreciation for the remarks of the Senator from West Virginia, and to take this moment to repeat again to him how much I appreciated his remarkable address earlier this week in the Old Senate Chamber in the majority leader's Lecture Series on the History of the Senate. He had the largest crowd I can remember. He had the rapt attention of virtually every Senator as he shared with us the great traditions of this body. Of course, we know that he has written a three-volume history on the U.S. Senate. On Fridays, I am often in the Chair that the Presiding Officer is in today, and I had the occasion to hear him address this body.

I have written two letters congratulating Senators on speeches, and they have both been to Senator BYRD. I remember one of his speeches talked about education. He referred to our textbooks as ''touchy, feely twaddle.'' Too often, I think, they don't have or possess the power of the great historians to uplift, causing us to think and dream about heroic acts. He shared with us on one of those occasions his experience in the two-room schoolhouse where he grew up. I thought then of my grandmother who taught in a one-room schoolhouse. I remember the schoolhouse as I was growing up. Although it has been torn down now, I remember in her library—I don't know how she obtained it—was Macauley's ''History of England,'' Gibbon's ''The Decline and Fall of the Roman Empire,'' Shakespeare, and other great literary works. She shared those with the elementary schoolchildren in those schoolrooms.

I am of a belief that they were richly educated in that one-room schoolhouse. There is something more significant than color pictures and videos in transmitting what it is that we are about as a people.

I taught in the sixth grade 1 year, and we used what they called Basil Readers. They wrote stories in little pieces, and at the end of them were a lot of questions, and in each story they would add new words. It was all scientifically done, you see. It was to teach them vocabulary and things of that nature. But the children hated them and would not read those books. And around the classroom—it was an old class school—there were a lot of books like I had in my schoolroom—Daniel Boone, the old bluecoat, the Hardy Boys, Tom Swift. And so I started encouraging them to read those books, and they loved them because they were stories that had some meaning and some adventure and showed people in situations which required courage.

At any rate, I say to Senator BYRD, thank you for sharing your opinions with us. You can have a $500 textbook, but if it has no moral message, no meaning to it, does not uplift the spirit and no one wants to read it, then that textbook is not worth very much. Too often I think that is the problem with modern education.

I, again, say how much I appreciate the Senator's remarks and the Senator's leadership in this Senate.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I express my deep appreciation to the distinguished Senator for his comments. It has been my privilege to serve over these 40 years in the Senate with some great Senators from Alabama.

Senator James Allen was an expert in the rules and procedures. He had been Lieutenant Governor of Alabama, and I believe he told me that as presiding officer over the Alabama lower house, I believe it was, he used the rules of the U.S. Senate. He certainly was very conversant with the U.S. Senate rules, a master of the rules of the Senate, a very able man, and courageous. He had no difficulty in taking a stand even if he stood alone. We were sorry at his untimely passing.

There were other great Senators from Alabama—John Sparkman, who promoted and wrote important legislation dealing with housing; Lister Hill. I can see Lister Hill—that is his desk, I believe it was that desk right there—speaking. He had a fine way of speaking. I believe he told me that he had been named after Dr. Lister—a great English surgeon, Dr. Lister. Senator Hill told me, if I am not mistaken in my recollection, that Dr. Lister had performed an operation on a man who had gangrene in one of his legs. They didn't have the anesthetics in that day and time that they have today. This man went through this excruciating experience and then wrote the poem ''Invictus.'' And the surgeon was a Dr. Lister. Senator Hill was given the name Lister, after that great English surgeon.

I am proud to recall these fine Senators from Alabama who were here when I came to the Senate. I have lately come to appreciate the work of the distinguished Senator who is now standing at the desk of the majority leader, and I appreciate his kind words. I have treasured his letters, and I know that ours is a friendship which will be a lasting one. I shall cherish it.

I thank him for relating his experiences in the little country schoolhouse. It doesn't have to be a massive building with beautiful columns and hallways decorated with shining pieces of furniture. The teacher makes the school. James A. Garfield, hearkening back to his schooldays, said that if he had his old teacher, Mark Hopkins, on one end of the log and he himself on the other there was a university. Those are not the exact words, but they were well spoken.

I am trying to remember a poem about a teacher. It doesn't come back to me just now, except in part:

A Teacher builded a temple
With loving and infinite care,
Planning each arch with patience,
Laying each stone with prayer.

* * * * *

But the temple the teacher builded
Will last while the ages roll
For that beautiful unseen temple
Was a child's immortal soul.

I thank the distinguished Senator.

I yield the floor.

Mr. SESSIONS. Mr. President, I thank the Senator from West Virginia for his comments. I do share his views about teachers. My grandmother, in her first job—and I have a photograph of the class—had a real rough looking group of poor kids, no doubt. But in that group was an individual who may have been somewhat inspired by her and who went on to become a U.S. Congressman, Frank Boykin, a man of some note. I always claim that whatever he learned, he learned in that first through sixth grade schoolroom when she taught there.

So I think teachers do inspire us. Good teachers understand and are knowledgeable and learned people themselves, and they can then share that. Sometimes I think we spend too much time on process rather than on substance.

I again express my appreciation to Senator BYRD for his leadership of this body, this Senate, for reminding us on a regular basis of what we are about, our heritage here, and calling us to our best and highest instincts.

Thank you, Senator BYRD.

Mr. BYRD. I thank the Senator.

Mr. SESSIONS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PREVENTING CUTOFFS OF SATELLITE TV SERVICE

Mr. LEAHY. Mr. President, I have heard from scores of Vermonters lately who are steaming mad. They have been told by their home satellite signal providers they are going to lose some of their home network satellite channels just as the new TV season starts. They have every right to be upset, because it is within the ability of Congress to unmuddle the mess that satellite viewers are facing. The public has every reason to expect Congress to get its act together to do that, and to do it quite promptly.

Under a court order, thousands of viewers, many of them living in my home State of Vermont, are going to be cut off from receiving TV stations. These are TV stations, incidentally, that they are paying to receive. We have 65,000 home satellite dishes in Vermont. The court order directly affects only those subscribers who signed up for service after March 11, 1997, but most subscribers are being warned by the signal providers they are going to soon lose several of the network channels they now receive, several of the network channels they expected to receive, several of the network channels they are paying to receive.

In a rural State like mine, there are many, many areas where the only way you can receive television is by satellite dish. This huge policy glitch is intruding right now into hundreds of thousands of homes throughout the country. It is a royal mess, and Congress and the FCC need to fix it.

I introduced a bill in March of this year with Chairman HATCH of the Judiciary Committee so we could try to resolve this issue before it became a major problem. We have tried since then to push Congress to find a solution. But many viewers have lost their signals already. We are trying to get these bills passed in the next couple of weeks to restore service and to keep other households from losing their satellite TV signals, not just in Vermont but in every State in this country.

I am pleased Senator HATCH and I have worked out arrangements with the chairman of the Commerce Committee and other Senators who have been active on this issue, including Senators DEWINE and KOHL, and what we have worked out significantly raises the prospect that Congress can soon pass a bill to prevent the cutoff of thousands of viewers this month and in October. The good news is that we hope and believe that all Senators can support our approach.

Our legislation would keep signals available to Vermonters and subscribers in other States until the FCC has a chance to address these issues by the end of next February. Our legislation will direct the FCC to address this problem for the future. In fact, our proposal ultimately will mean, as technology advances, that Vermonters will be able to receive satellite TV for all Vermont full-power TV stations, and viewers in other States will be similarly protected. Where this helps all of us is that this effort will eventually promote head-to-head competition between cable and satellite TV providers.

The goal is to provide satellite TV viewers at home in Vermont with more choices, more channel selections, and at lower rates. The evidence is so clear from our hearings: In the areas of the country where there is full competition between cable providers, rates to customers are considerably lower. The same is going to be true when there is greater effective competition between cable providers and satellite signal providers. Over time, the effort will permit satellite TV providers to offer a full selection of local TV channels to viewers—even those living near Burlington, VT, where local signals are now blocked.

I live about 25 miles from Burlington. I get 1½ channels. There are three stations, three network stations, in Burlington. But because I am out on the side of a mountain, I get 1½ channels. Under the rules they are talking about, I would not be allowed to get satellite TV to have those same networks. It is ridiculous. It defies reality. But our legislation will cure that.

Under current law, those families have to get their local TV systems over an antenna. If their situation is like mine, it does not give you a clear picture. These bills we now have before us will remove that legal limitation that prohibits satellite carriers from offering local TV signals to viewers.

What we want is this: That over time, satellite carriers will have to follow the rules that cable providers have to follow, which means they will have to carry, in our case, all local Vermont TV stations—and the same in other States. In addition, Vermont stations will be available over satellite to many areas in Vermont like my own that today are unserved by satellite or by cable. And the second major improvement offered through our legislation is satellite carriers that offer local Vermont channels in their mix of programs will be able to reach Vermonters throughout our State.

People who have spent money on satellite dishes do not know how this thing could become as fouled up as it is. Frankly, I do not either. But I do know that we can correct it, and our legislation will. It is time for this Congress to step up to the plate and solve this policy nightmare. It is now at the door of countless homes, not only in Vermont but throughout the country. Constituents should know they should not have to take, ''Well, not now,'' as an acceptable answer. We have plenty time left in this Congress to correct this.

I commend Senators HATCH and MCCAIN for the leadership they have shown in solving this problem. I am going to continue working with them and I think we are going to get somewhere. I certainly hope we are going to get somewhere, because I don't want to have to tell my neighbors that the Congress has so much time for so many other things but cannot take some time to fix something that directly affects so many hundreds of thousands of people throughout the country.

FORTIETH RATIFICATION OF THE OTTAWA LANDMINE TREATY

Mr. LEAHY. Mr. President, in October of 1996, I was privileged to participate in a conference in Ottawa hosted by Canada's Foreign Minister Lloyd Axworthy. I was there with Tim Rieser of my staff who has done so much work on the issue of banning landmines. We were also accompanied by Bobby Muller, the head of the Vietnam Veterans of America Foundation, a man who was way ahead of most of us in pushing for a ban on antipersonnel landmines.

The purpose of the conference in 1996 was to chart a strategy culminating in a global treaty banning antipersonnel landmines. The Ottawa process was conceived of by Canada and a number of other governments that were fed up with the failure of previous efforts to seriously deal with the mine problem.

Over 70 governments and dozens of nongovernmental organizations accepted Minister Axworthy's invitation to Ottawa. At that conference, to the surprise of everyone present—but certainly to my delight—Minister Axworthy took the courageous step of challenging the world's governments to return in a year's time to sign a treaty that would accomplish nothing less than a total ban on antipersonnel landmines.

It was that bold challenge which enabled the international community to finally move from rhetoric to action. In December 1997, just barely over a year later, 122 governments returned to Ottawa to sign a treaty banning the production, transfer, and use of antipersonnel mines forever.

During the previous year, the United States had refused to participate in the treaty-drafting process. In fact, some U.S. officials dismissed the Ottawa process as a ''sideshow.'' They predicted that without U.S. support, the Canadian effort would eventually run out of steam. They predicted that this treaty would never take effect.

In fact, Mr. President, the opposite happened. A few days ago, Burkina Faso, one of so many African countries whose people have been maimed and killed by landmines, became the 40th state to deposit its papers of ratification with the United Nations, triggering the 6-month period before the treaty formally comes into force.

What many once dismissed as a naive and far-fetched dream is now a reality. In fact, today the treaty has some 129

signatories, including every NATO country, except the United States and Turkey, and every Western Hemisphere country, except the United States and Cuba.

Mr. President, this is a historic achievement. It is, I am told, by far the shortest period of time that any humanitarian law or arms control treaty has come into force. It is indicative of the tremendous sense of urgency and determination that has grown around the world to stop the carnage caused by landmines.

But more than anything, it is a tribute to Minister Axworthy, the Government of Canada, the International Campaign to Ban Landmines, landmine survivors, and all the other governments, the U.N. Secretary General, and U.N. agencies like UNICEF and UNDP. It indicates the commitment of people like the late Princess Diana, Queen Noor of Jordan, the former coordinator of the International Campaign to Ban Landmines, Jody Williams, and so many others who have worked so hard to end this scourge.

The treaty's significance is in its simplicity. It establishes a new, unambiguous international norm. The 20th century saw large portions of the globe contaminated by landmines. Two days ago, a process was formally set in motion to reverse that legacy in the first years of the next century. It is a gift to the next generation, and generations beyond.

The treaty is a beginning. There are still many millions of mines buried in the ground waiting to be triggered by an innocent footstep or a curious child. Many of the treaty's signatories were once producers, exporters and users of landmines. They are no longer. The parties to the treaty have also pledged to get rid of the mines in the ground, and the United States, to its credit, and many other governments and organizations are already hard at work at demining.

I had hoped that the United States would be among the 40 original parties to the treaty. That was not to be, but I have no doubt that the United States will yet sign, and I resolve to work with the administration to reach that goal as soon as possible.

Mr. President, I have traveled throughout the world and have seen the damage caused by landmines. I have been impressed by the dedication of Tim Rieser in my own office who has given so much of himself to this. My wife is a registered nurse, and she has gone into the hospitals and to the clinics run and funded by the Leahy War Victims Fund. She, too, has seen the damage caused by landmines.

This is a weapon that is often used against civilians. It is a weapon that stays in the ground long after the peace agreements are signed, the armies have left the field and the soldiers have been disarmed. It is a weapon that waits for its victim to pull the trigger by stepping on it, stumbling on it or brushing up against it. It is a weapon that is no longer needed, certainly not by the United States, the most powerful nation on Earth.

We have to understand that in the end, whether it is a child in Honduras, a farmer in Mozambique, or an American peacekeeper in Bosnia, we all stand to gain in a world in which landmines are banned and their use is a war crime.

Mr. President, I have been privileged to do many things in my time as a Member of the U.S. Senate on issues that involve us both domestically and worldwide. It is hard to think of anything that has been more of a privilege than working on the landmine issue. Certainly nothing has made me more proud than authoring the first piece of legislation passed anywhere in the world banning the export of landmines—the export moratorium.

Today, Mr. President, I compliment those who have gotten us this far. As I told Minister Axworthy when I talked to him on the phone a couple evenings ago, we would not be here if he had not made the brave, bold move that he did in Ottawa in 1996. I still recall the reaction when Lloyd Axworthy launched the treaty effort in the Fall of 1996. He said, ''Let us come back in a year with a landmine treaty.'' Indeed, they did. Indeed, that is where the world is now. Indeed, we are all better for it.

Mr. President, I see nobody else seeking recognition, so I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SESSIONS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

COMPLIMENTING SENATORS RICK SANTORUM AND BOB SMITH

Mr. NICKLES. Mr. President, I wish to compliment my colleague from Pennsylvania, Senator SANTORUM, for his leadership in trying to override the President's veto of the partial-birth abortion ban; also, Senator BOB SMITH from New Hampshire. Both of those individuals put a lot of energy, a lot of their heart, in an effort to overturn a very cruel practice which, unfortunately, continues today because of the President's veto.

Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I ask the Senator, how long do you intend to speak?

Mr. BAUCUS. Very, very short, I say to my friend from New Mexico—4 or 5 minutes.

Mr. DOMENICI. I thank the Senator very much.

ENDANGERED SPECIES RECOVERY ACT

Mr. BAUCUS. Mr. President, I would like to report briefly on the effort to bring up the Endangered Species Recovery Act, S. 1180.

When we were debating the Interior appropriations bill on Wednesday, Senator KEMPTHORNE, the Senator from Idaho, indicated that he planned to offer an amendment that would largely embody the substance of S. 1180.

I strongly support S. 1180. But we are no longer considering the Interior appropriations bill, and it is not clear whether we will again. I think the far better approach is to take up S. 1180 as a freestanding bill. After all, that bill was reported on October 31, 1997, almost 1 year ago. It is a solid bill, it is balanced, it is good for endangered species, and it is good for private landowners. It has bipartisan support. The vote in the Environment and Public Works Committee was 15–3. The bill was supported by every Republican member of the committee and by a majority of the Democratic members. The bill is also strongly supported by the Clinton administration.

To my mind, there is no good reason why we cannot bring up S. 1180 for debate on the Senate floor. Moreover, that approach has two important advantages over trying to attach it to the Interior appropriations bill.

First, we do not have the Interior appropriations bill. That is one big difficulty. In addition, bringing up S. 1180 as a freestanding bill assures full and fair debate and an opportunity for amendments. We are likely to get amendments from the left, from the right, from the middle, and who knows where. I am sure that we can work out most of them.

Of course, I will oppose amendments that would disrupt the balance of the bill. That is the agreement I reached with Senator KEMPTHORNE and Senator CHAFEE, Interior Secretary Babbitt, those of us who put this bill together; that is, oppose amendments that would disrupt the balance achieved in the bill. But every Senator should have a shot. In the end, such a process, I believe, will increase support for the bill.

In addition, this approach—bringing it up as a freestanding bill—assures that the bill will be taken up under the leadership and jurisdiction of the Environment and Public Works Committee, and that includes any conference with the House.

Members of the committee have worked long and worked hard—over several years, I might add—to develop this legislation. We should follow through rather than hand the bill off to an Appropriations Committee that is already bearing such heavy burdens as the fiscal clock winds down.

S. 1180, I say to my good friend, the Presiding Officer, is on the calendar. Here is the calendar. S. 1180 is on it. It has been on the calendar for almost a year. It is a good bill. We can be proud of it. We should take it up as a freestanding bill.

So where do things stand today? Yesterday, both Cloakrooms asked Senators whether they wished to offer any amendments. On our side there are about 20. I am now beginning to review the amendments and discuss them with Members and their staff to see if we can reduce that number. The majority is doing the same.

It is my hope, Mr. President, that, working with the chairman of the committee, Senator CHAFEE, and the majority and minority leaders, we will be in a position to bring the bill up, for debate and for amendment, within a matter of days. For my part, I will do whatever I can to make this possible.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

MORNING BUSINESS

Mr. DOMENICI. Mr. President, on behalf of the leader, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

OPPORTUNITY FOR PEACE—ELIMINATING TONS OF WEAPONS GRADE PLUTONIUM

Mr. DOMENICI. Mr. President, I traveled to the recent Summit meeting in Moscow. At that Summit, a protocol was signed that will, if successfully implemented, safeguard 50 tons of Russian weapons-grade plutonium and transform it into new forms that should ensure that it is never again used in nuclear weapons.

I've placed special emphasis on this agreement for many months, and I invested a great deal of personal effort to achieve success. I welcome these recent steps. At the same time, I recognize that this protocol only creates an opportunity for real progress, we have to go far beyond just signing the protocol to secure the benefits that it can provide.

I've spoken out in the past on the need to ensure that Russian stocks of weapons-grade materials do not find their way to terrorists or rogue states. The current financial crisis in Russia only adds further emphasis to these concerns. The former Soviet Union relied on guards and guns to safeguard their fissile materials. Now those guards may not have been paid for months—that has to increase our concerns. At the Summit we certainly heard about the tremendous burdens being borne by the Russian people from the current economic uncertainties and rampant inflation.

Some programs already exist to improve the protection of nuclear materials. The Materials Protection Control and Accounting program is demonstrating some real successes in improving this situation. But the current opportunity to remove 50 tons of weapons-grade material from potential weapons use is most unique. I've worked to be sure that we quickly seize it. In fact, my visit to Russia in July with Senators THOMPSON and GRAMS was motivated largely by my interest in finding ways to progress more rapidly with this 50 tons.

After that visit in July, I spoke with you about my misgivings with the Administration's plan to couple the rate of weapons dismantlement to the rate at which the weapons-grade plutonium could be used in reactors, as mixed-oxide or MOX fuel. At that time, the Administration was planning for Russia to use about 1.3 tons of this material per year in a set of Russian reactors. I argued that this was far too slow a rate. It would take 35 years to dispose of the 50 tons at that rate—none of us can be the least bit sure that the current window of opportunity for progress with Russia will stay open anywhere near that long.

In July, I proposed that we structure an agreement that decouples the initial steps in dismantlement from the final step of reactor use. Specifically, I believed that the Russians would accept a program that targets a goal for moving 10 tons per year of weapons-grade plutonium through the weapons dismantlement step, through conversion of classified shapes into unclassified ones, and into safeguarded storage. These steps have the effect of significantly reducing the risk that this material will be re-used in weapons.

We still need to proceed with the final disposition of the Russian plutonium in reactors, and I want to accomplish that step as rapidly as possible as part of our overall integrated program on plutonium disposition. But construction of MOX fuel fabrication facilities, plus limitations on the number of reactors in Russia that can accept MOX fuel, will lead to slower progress for this final step.

I discussed this approach with President Clinton in late July and encouraged that plutonium disposition be a focus of his next Summit. I appreciate his willingness to include this subject at the Moscow meetings.

I've just recently corresponded again with the President to outline my suggestions on key principles that should guide our negotiations of the detailed agreements required to implement the new plutonium disposition protocol. In that letter, I repeated my strong advice that he appoint a special envoy charged with the entire plutonium disposition effort. This program requires coordination across multiple federal agencies, as well as negotiations with Russia and the G–7 countries. In my view, an envoy who commands domestic and international respect, and who clearly has Presidential authority, is essential to expedite success.

I listed six key negotiating points in my letter to the President. First, I emphasized that agreements must focus on rapid progress for the initial steps of the process, the dismantlement, conversion of classified shapes, and the safeguarded storage. These steps can and should be targeted at a rate of 10 tons per year.

Second, all milestones that we establish to gauge progress must include sufficient transparency that we can be positive that agreed-upon steps are accomplished.

Third, Russian plutonium must eventually be used in MOX fuel, but the rate for this step will be much slower than 10 tons per year. Nevertheless, we need to make progress toward this ultimate goal and this step must be part of the overall integrated program. I also noted that in my conversations with Russian leadership, they are very sensitive to achieving the best utilization of their plutonium. They believe that new generations of reactors can best utilize some of their plutonium. I believe that we should respect their interests, as long as the weapons material is always stored under effective safeguards while awaiting eventual use.

Fourth, we should minimize the construction of new Russian facilities. We should seek and perhaps help to convert some existing Russian facilities. For example, some of their weapon production facilities should be converted to weapon dismantlement.

Fifth, it is important to involve the other G–7 countries. Plutonium represents a global risk prior to disposition and careful disposition of plutonium is a global benefit. For that reason, we should encourage meaningful participation from our G–7 friends as we work together on these goals.

And finally, we should assure that any U.S. resources that subsidize the Russian Federation's program are provided only upon assurance that tasks and milestones were satisfactorily completed.

It will be a challenge to negotiate agreements that follow these six points, but it is essential that we promptly start serious negotiations. I'm pleased to be informed by the Administration that the first discussions with the Russians on this subject will occur very soon.

In closing, I want to note that this current emphasis on disposition of excess weapons materials is only one action in what I hope will be a long series of important steps toward dramatic reductions in global risks and tensions. This agreement is important, but it has to be followed by more agreements. Each of these subsequent agreements must be carefully and fully implemented, and should target further reductions in the large world-wide stocks of weapons materials.

In order to achieve these reductions, new agreements have to be in place to inventory global sources of fissile materials; and obviously all nations will eventually have to participate to achieve real success. Other future agreements need to provide reliable counts of actual warheads, and eventually to dramatic reductions in the numbers of such warheads.

Our long term goal should be a world without nuclear weapons, but that goal will only be achieved by many many years of patient progress toward intermediate goals. Each step along this journey must be focused on further reductions in global tensions and in risks of international conflicts.

In the near term, I am committed to the importance of the disposition of the current 50 tons of Russian excess weapons-grade plutonium. We have a golden window of opportunity to rid the world of materials for thousands of nuclear weapons, we must not squander the chance.

I thank the Chair and I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank the Senator from New Mexico. He is truly a treasure for this Senate and the country in his knowledge of matters involving nuclear power and weapons. His leadership in this crucial area could in fact help us to avoid a tragedy in the future, and I think it is wonderful that he is continuing to show leadership on this important issue. I express my appreciation to the Senator.

Mr. DOMENICI. I thank the Senator.

THE INCREASE IN BANKRUPTCIES

Mr. SESSIONS. Mr. President, there are a number of problems that have contributed to the increase in bankruptcies in this country. We are now considering what I believe to be a historic and exceptionally fine bankruptcy bill. It came out of the Judiciary Committee with a 16–2 vote, demonstrating overwhelming support from Democrats and Republicans. This legislation is something that we need to pass. But in some ways, the filing of a bankruptcy petition is the cleaning up of spilled milk. The milk has already been spilled, and it is difficult then to have any kind of fair and just determination or allocation of assets, and many problems arise from it.

What we need today is more people who manage their money well. The generation that grew up during the Depression, like my father and mother, knew how to manage their money. They were cautious. Maybe they didn't make great sums of money and great investments, but they took care of themselves and their families through frugal living—and I mean frugal living. In my background, oftentimes it was very tough for us to fund the things that we felt we would like to have. However, what we have is a generation that has not been taught how to manage money.

Today, more people have credit available to them. Frankly, I am not one of those who says the problem is that you can get access to credit. It would be a terrible thing in this country if you could not get a credit card, if you had to have a $40,000-a-year income before anybody would give you a credit card. A credit card is a very valuable thing for a person on a low income when they are trying to work and take care of their families. When they have a flat tire or a $400 car repair bill and they don't have $400 in their pocket, they can use a credit card to pay for it now and the pay it off over a period of months. This way they would not have to deny their family food, or not be able to get to work because of an automobile that he does not have the money to fix. Those are the kinds of things that are good.

I don't see how we need to be critical of the fact that many credit card companies are offering cards. For the first time, credit card companies are beginning to get competitive. I have been very displeased with the high rates of interest some of these cards charge. For the first time now, they are soliciting business and offering lower interest rates. I think that is a good thing, also.

But, fundamentally, we get into trouble because we don't have enough discipline and ability to manage the debt that we face. The way to deal with bankruptcy, fundamentally, is to educate the public on how to manage money. So this bill, for the first time in history, provides debtor education. It provides it both before filing and before you can be discharged from bankruptcy.

I was pleased to offer the consumer credit counseling amendment. I was very pleased, and thrilled, actually, that it received so much support and was made a part of this bill.

Let me just say this, Mr. President. I live in Mobile, AL, and I began to talk with people I know and respect about debt matters. I served with and go to church with an individual who is a bankruptcy administrator in Mobile. I know some of the bankruptcy judges. I have spent time talking with them about the problems with bankruptcy. Mr. Travis Bedsole and I both taught the same Sunday school class together over the years. We had some heart-to-hearts about what we really ought to do that would help people. When you have the ads that you see in the newspapers and on television, ''Come down, and, for $350, we will wipe out all your debt,'' that may work just like that advertising lawyer says, but it will not leave that debtor with a better understanding of how to manage his money.

What I found was that there are alternatives to bankruptcy. Mr. Bedsole and I went to meet Sandra Dunaway in Mobile, who has a credit counseling agency. Families, married individuals, people in trouble, go to credit counseling agencies. Then, counselors sit down with the people who need assistance and help prepare a household budget; the lawyers don't do that. They look at all their debts and interest rates and figure out a way to save interest rates.

Credit counseling agencies even have the ability—because of their prior relationships with banks and credit card companies and other financing companies—to call those institutions and say, ''This person is in credit card debt; they are paying 16 percent interest to you. We believe we can work them through this if you will cut your interest rate to 7 percent.'' They can actually reduce payments in various ways through negotiations with creditors. Often, creditors will cooperate with that. Then they help the debtor develop a family budget. Sometimes they will have them put their paycheck into the credit counseling department's account, and the counselor will pay the checks to the creditors and give the family what is left over for their normal needs and make sure they have enough to meet their household needs in that fashion.

If they can't absolutely work their way out of this debt crisis, then they advise them to seek an attorney and file for bankruptcy. What we have discovered is that this sytem works. They tell me that there are a number of different things that are at work here. One of them is gambling. Many people are filing bankruptcy today because of the proliferation of gambling. They are addicted to gambling, and they are losing large sums of money gambling, and their families are suffering from it. So sometimes the way to help a family is to make sure they are connected with Gamblers Anonymous or some other State agency or private organization that can help those addicted to gambling. Sometimes there is a drug problem or an alcohol problem in the family, and these credit counseling agencies, who are United Way agencies, for the most part filled with people who care about the individuals, in a service mentality, not just to get the money and file bankruptcy, but help them go to Alcoholics Anonymous or to drug treatment and get in contact with mental health agencies if there is a mental health problem in the family, and seek other forms of assistance that are already available in the community and then help that family develop a plan to get through this financial crisis.

It is a good thing and a lot of people see these ads: ''Bankruptcy Can Be a Smart Financial Move''—from $350 and up. This ad has another thing in there, by the way. ''Divorce, $300, including court appearance.'' ''Injuries, sexual harassment at work, call us. $350.'' So they test that. They have a paralegal administrative assistant who meets with the person and they fill out all the bankruptcy forms. The lawyer may never even see them. He takes the forms. It looks OK. He takes them down to the court, files the forms, and, boom. They go to bankruptcy. There has been nothing done to deal with the fundamental problem that causes them to be in the circumstance they were. So credit agencies are really good. People do not realize it. They are in almost every city and midsized town in America. Credit counseling agencies are readily available.

This bill says before you file bankruptcy we require that you go by and

talk with a credit counseling agency. But before you commit yourself to the lawyer and filing of the bankruptcy and paying his fee, go talk to that credit counseling agency. You just may find that they have the ability to help you work through this thing, that they will help you get some creditors to withhold demands of payment, allow you to get caught up, help you set up a budget, and help you figure a way to get a side job, or to do the kind of things that most families do to work their way out of debt. When they do that, it can actually strengthen the family.

Mr. President, there are some very dramatic numbers on this. But it is a major reality that a very large number—in fact, I think the highest number of divorces in this country are caused by financial disputes and arguments over finances. So this can help strengthen families and hold families together.

I am a real believer in credit counseling. It convinced me. I spent several hours talking with them about precisely how they do that. We got a number of people from my church together. We met three or four times. We want to develop a program that helps train people even more in depth about how to manage their property and finances as well so that bankruptcy won't be facing them.

Some have said that this amendment was opposed by the Federation of Credit Counselors, a national federation that has crediting standards, and that sort of thing. But that is not true. We have met with them. This amendment has been refined so that it has, I think, broad-based support by now virtually everyone. I am convinced that it has the potential for the first time to reduce the ever-increasing number of bankruptcies being filed, and for the first time they will have the government move more people from a strictly legal situation into a situation in which people care about them personally, who will be working with them personally, who confront their problems that exist within their family, and to help them figure a way out of it. I am really excited about that. It does not require a judge to order this to happen. If there are no legitimate or effective credit counseling agencies in the local communities, the amendment would not apply. But I am confident that in most areas it would apply.

Another thing this new bankruptcy bill does that is excellent is it requires that those who file bankruptcy complete a financial management course prior to receiving their discharge from bankruptcy. This is going to put a new burden on the bankruptcy courts. But many of them have already moved in this direction and are working in this direction.

I believe we owe a responsibility to those who had a circumstance in which they were unable to meet their debt to give them some training and education in how not to come back again. The truth is we have found a very large number of repeat filers in bankruptcies. Some districts have reported that 40 percent of their consumer bankruptcies are repeat filers. We know that it comprises more than 10 percent nationally. This problem will not go away if we don't do something to confront them in this process when they are seeking this relief. We want to confront them with their difficulties and help them establish a way to avoid coming back to bankruptcy.

That is the kind of thing that I think would deal with the fundamental problem of debt in America.

Mr. President, I believe that the Grassley-Durbin bankruptcy bill is an excellent bill. I believe that the 16-to-2 vote that it achieved coming out of committee is a strong testament to its fairness and objectivity and its ability to improve the bankruptcy court system.

I believe for the first time we will be reaching out to these individuals and families who are in credit difficulties in helping them change their lifestyle and helping them find ways to deal with the problems—sometimes the fundamental, root causes of their financial difficulties so that they won't have to face this problem again; in fact, perhaps to be able to live in a family that is not always squabbling over money, that maybe does not break up because the family has figured out a way to handle its resources in a wise and good manner that would benefit children and the entire family.

Mr. President, I believe that we are on the cusp of the opportunity of a great bill. I thank the Members of this body who have worked so hard to achieve it. I believe that we will pass it, that it will be law soon, and that this Nation will benefit from it.

I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

THE MULTICHANNEL VIDEO COMPETITION ACT OF 1998

Mr. JEFFORDS. Mr. President, I rise today to announce my full support for and co-sponsorship of legislation introduced yesterday by the Commerce Committee Chairman, Senator MCCAIN, that will fix a vexing problem that is causing citizens in my state of Vermont and throughout the country to lose their access to television network programming.

Mr. President, Vermonters are contacting me saying they are very frustrated to be caught in the middle of a legal battle between broadcast and satellite television providers. In many parts of Vermont, and especially in the winter, television is our access to the world. As a satellite dish owner myself, I know that in many parts of Vermont, it is impossible to view television progamming without cable or satellite television service. Vermont's many mountains and valleys can enable one homeowner at the top of a hollow to receive a broadcast signal just fine, but his neighbor down in the hollow needs a satellite dish to receive anything at all.

I am hopeful that this legislation will fix these problems quickly and fairly. I believe Senator MCCAIN's bill will both protect the rights of local broadcasters while ensuring that Vermonters do not have their satellite service unfairly cutoff. I urge its quick passage.

Thank you, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BANKRUPTCY BILL

Mr. SESSIONS. Mr. President, we have spent most of the morning talking primarily about the bankruptcy bill that will be before us. We have done a lot of work on that bill, and there are some complicated and difficult issues involved. People have raised many objections and questions. The managers have done an outstanding job in trying to confront those objections and questions and tried to modify the bill, often on the spur of the moment, to deal with the potential objections. I have supported that. I have supported the managers' amendment that deals with many of these things. But there are a number of issues that still perhaps need more evaluation.

I think one of the things we need to discuss is a mandate that we have now in the bill which tells the credit card companies a lot of new information that they must provide on their financial statements, including how many months a person would need to pay at the minimum payment before the credit card debt would be fully paid off. That may be a good idea, but I wonder, Have we actually asked these private companies how difficult that is going to be for them? Will we get the kind of benefit from it that we hope to get? Will it be worth the additional numbers that are required to be put on the form? Have was asked them how much will it cost? That cost, of course, will ultimately be passed on to the consumers.

Some of those financial statements have become so complicated that you hardly know how to look at them when you get them. It may be that this is the kind of amendment we want to have. But I did want to suggest that, regarding this requirement that we have added without any hearings having taken place, we might need to ask the conferees to look at it. There may be a number of other issues of like note that need to be looked at in conference as well.

Fundamentally, I believe the managers' amendment is a healthy thing,

and I certainly support Senator GRASSLEY in his efforts to move this bill forward.

LOUISIANA REQUEST FOR DISASTER ASSISTANCE

Ms. LANDRIEU. Mr. President, over the past several weeks the senior Senator from Louisiana, Senator BREAUX, and I have expressed grave concerns about the pending economic crisis that Louisiana and other Southern states face as a result of the worst drought in Louisiana and the South's history. Earlier this week, more disturbing information was brought to our attention by Terry Smith, a second generation farmer, cotton gin manager and marketing consultant from Jonesville, Louisiana who testified before a hearing called by Senator DASCHLE on the farm crisis. The plea by Mr. Smith and others in Louisiana is a wake up call. If the Congress fails to respond to the natural disaster crisis in the South for this crop year, not only will farmers be forced into bankruptcy, but banks, hundreds of small businesses and the rural economy that is supported by the agriculture industry will suffer greatly.

Mr. President, Louisiana began the year with record rainfall during the Winter and early Spring followed by the hottest Summer on record. Just during the last three months, Louisiana has had 71 days of 97 degree or higher temperatures with 36 days higher than 100 degrees. Things are not looking any better and we are told that with the past and current extreme weather conditions the current loss estimates of $450 million are expected to increase even more during the coming weeks. This is not good news especially for Louisiana corn, cotton, soybean and livestock producers in North Louisiana who have been hit hardest.

To explain the difficulties that Louisiana farmers are experiencing I would like to take a few moments to highlight some of the high points of Terry's remarks. His recent statement very clearly tells the story of the projected impact this natural disaster has had on thousands of family farms and the future economy of some of the poorest areas in Louisiana. Specifically, his testimony focuses on the economic losses projected for Louisiana's major row crops—corn, cotton and soybeans.

Mr. President, corn farmers in Louisiana under normal weather patterns are able to produce about 100–200 bushels per acre for non-irrigated corn. To date, the best corn yields in Louisiana have been in the 40–50 bushel per acre range. In addition, a large percentage of Louisiana's corn crop is infested with aflatoxin, a toxic mold that results from heat stress and is harmful to humans and animals at certain levels. Due to the toxic nature of this mold, corn harvested with aflatoxin in excess of 20 parts per billion can not be sold to most grain elevators. The grain elevators that will except infested corn is only paying $1.00 per bushel—less than half of what is needed to cover the farmer's production costs. Therefore, the farmer has two options—(1) sell the crop at discounted price of $1.00 an acre or (2) leave it in the field to rot and collect about the same amount, if the farmer has Catastrophic Crop Insurance. Most farmers with aflatoxin in their corn above 20 billion parts per million are finding it unpractical to even harvest. Those farmers who are lucky enough to have corn without aflatoxin will not be able to cover even half of their production costs due to low yields and low prices. What is the result of this situation? The Louisiana Cooperative Extension Service recently estimated that corn farmers in one North Louisiana Parish will lose about $154 per acre or about $3.85 million this year.

Our cotton farmers just began their harvest last week, but the outlook is not much better. Cotton yields in Louisiana generally average about 800 to 1000 pounds per acre. As of last week, cotton yields have been averaging 100 to 650 pounds per acre, one third to one half of normal production yields. Also, the quality has been extremely poor due to the hot dry summer and will discount the price the farmer gets for his crop by several cents per pound. With production costs of cotton in Louisiana ranging from $500 to $600 per acre, it is estimated that the average cotton farmer will lose approximately $131,000 this year.

Soybean harvest has also just begun. Yields thus far are less than 10 bushels per acre, which is down approximately 65% from normal. Most fields in North Louisiana are averaging about 4–5 bushels per acre. Also, because of the hot, dry weather, chemicals have not been preforming and weeds have been a tremendous problem. With the extreme low prices of soybeans and low yields, farmers in hardest hit areas can expect to lose approximately $85 per acre or about $42,500 this year.

These are just a few examples of how the major row crops will be impacted. In addition, our larger agriculture lending institutions are expecting very low repayments this year. One of the larger banks in the state says that of $18 million in crop loans, they are expecting to be repaid only 30–35% of the outstanding loans. Another bank expects that 40–50% of the agricultural loans will not be totally paid this year. Not only will crop loans not be repaid, but outstanding bills for crop inputs such as chemicals, fertilizer and fuel may not be paid in full. In the words of one banker ''spendable income will be down 75% of normal. This is the money used to buy clothing, household goods and for paying the utilities.''

Mr. President, these are real examples of the economic hardships facing farmers, their families and the rural communities they support. Many farm families do not know what they are going to do in order to make it another year. Many may end up in the local unemployment office. I hope that this Congress does not let this happen.

Farmers in Louisiana and other Southern states need disaster assistance, and they need it before the Congress adjourns. They need this assistance delivered in a manner that is fair. Thus, this relief should only be provided to those farmers with demonstrated crop losses. I urge my colleagues on both sides of the aisle to join me in support of direct disaster payments to the thousands of farmers who provide us with three square meals a day. This source is so often taken for granted every day when we feed our families.

Mr. President, before I conclude my remarks, I would like to talk about some specific relief measures needed to address the 1998 crop losses in Louisiana and other Southern states that have lost a large portion of their crops due to the drought and associated disease. These measures include:

1. The Secretary should deliver direct disaster payments to compensate all farmers for 1998 crop losses through the Farm Service Agency (FSA).
2. Payments should be based on actual farm yields using the past five years of actual production history, excluding the crop year with the lowest yields per harvested acre and any crop year in which the crop was not planted on the farm. Actual production losses should be adjusted because of quality losses caused by damaging weather and related conditions, including diseases such as aflatoxin. If no five year history is available, the Secretary should use the average county yields.
3. With respect to livestock producers, direct payments should cover the cost of feed, the establishment of supplemental pastures and other losses due to natural disasters, including livestock and poultry weight losses, poultry mortality and livestock milk production losses.
4. With respect to tree farmers, direct payments should cover the cost of replanting seedlings and cover production costs of pecan and peach farmers who suffered losses due to a natural disaster during the 1998 crop year.
5. Presently, any farmer who collected a Catastrophic Crop Insurance Payment (CAT) or Non-Insured Crop Insurance Payment (NAP) is ineligible for a low-interest Emergency Loan. This should be amended.
6. Also, there is presently a seven year limit on the amount of credit that can be extended through the USDA Farm Service Agency (FSA). On an emergency basis, the Secretary of Agriculture should be granted the authority to waive the current limitation.
7. Finally, Mr. President, all the farmers that I have spoken with tell me the crop insurance program is not working. I think we do have some serious problems that can not be addressed in three weeks and should be revisited next year. However, one valid problem that can be addressed this year is to require USDA not to exclude from coverage approved existing planting methods. Currently, all broadcast soybeans planted in Louisiana are ineligible for crop insurance coverage due to the fact that they are seeded by broadcasting means such as aerial application. This is wrong and should be amended.

Mr. President, this concludes my remarks and I ask unanimous consent that the crop damages as reported by the Louisiana State University Agricultural Center be printed in the RECORD.

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

Louisiana State University (LSU) Agricultural Center's crop damage estimate for Louisiana

[August 14, 1998]

Total state reduction in farm income for the reporting Louisiana parishes:	
Corn	$64,355,717
Silage	3,026,790
Cotton Lint	45,402,308
Seed	5,090,964
Soybeans	72,053,920
Rice	14,053,920
Sugar	44,828,210
Molasses	1,399,613
Sorghum	4,034,161
Total crops	254,231,853
Sweet Potatoes	8,054,100
Commercial Vegetables	3,995,561
Est. Pine Seedling Mortality	10,000,000
Pasture	90,000,000
Hay	24,750,000
Additional damages reported as of September 1, 1998:	
Aflatoxin in Corn	29,000,000
Livestock	30,000,000
Current estimated total	450,031,514

NEED FOR BIPARTISAN CONSENSUS ON FOREIGN POLICY AT A TIME OF DOMESTIC CRISIS

Mr. BIDEN. Mr. President, this is a time of serious political turmoil in the United States.

The House of Representatives is currently considering impeachment proceedings. The President of the United States has admitted to serious moral indiscretions.

The public is divided on what punishment should be meted out to a President who has performed such despicable and indefensible actions.

While the House of Representatives is considering impeachment the Senate is waiting to determine whether it may have to sit in judgment with respect to these actions.

Clearly this is a difficult time for the nation domestically.

It is a perilous time for the nation internationally.

We have four weeks left in this Congress and to date we have failed to address some critical foreign policy issues.

Notwithstanding that failure and the political disarray on the domestic front, there should be no disagreement as to the need to face up to these issues.

This challenge, and our unfinished business, is the subject of my remarks today.

Throughout our nation's history, Americans have understood that no matter what was happening in this country's internal political life, America's survival depends on presenting a strong, united front to the world. Now, in the middle of a domestic political crisis, we must overcome partisan differences to focus on urgent matters in United States foreign policy.

Especially now, in the face of major world crises, we must not allow ourselves to be distracted from our task of protecting America's security, leadership, and credibility abroad.

With time running short in the Congressional session, the ability to reach out to find the necessary consensus which could permit our country to speak in one voice is threatened by the entire debate over the future of this President.

No matter how we feel about the actions of President Clinton and whether impeachment proceedings should begin in the House of Representatives, Bill Clinton is still President of the United States with constitutional responsibilities for the conduct of our foreign policy and national security.

We in the Congress share that constitutional responsibility and I call on my colleagues on both sides of the aisle to come together and work closely with the President and his national security team to address these issues together.

The security threats facing us are urgent and complex: international terrorism; weapons of mass destruction in Iraq; nuclear weapons programs in India, Pakistan, and North Korea; a fragile Middle East peace; drug trafficking and international crime; the financial crises in Russia and Asia; and impending humanitarian disasters in Kosovo and the Horn of Africa.

RUSSIAN ECONOMIC CRISIS

The unfolding crisis in Russia, for example, could hold serious threats to the national economic and military security of the United States. An even greater danger than the economic meltdown is the threat of a total collapse of Russia's political system.

With the Yeltsin era about to end, the only thing worse than an economically paralyzed Yeltsin government would be a coup d'etat that installed an authoritarian government.

It takes little imagination to see the dangers of a new, extremist Russian regime that would have access to thousands of leftover Cold War missiles armed with nuclear warheads. Because of the deep structural problems in Russia's political and economic system, there is very little that the United States can do to turn this situation around quickly.

But with thousands of former Soviet nuclear weapons experts out of work and rogue states such as Libya, Iran, and Iraq eager to offer them paychecks, we must keep our eye on the first priority of preventing the collapse of Russian democracy along with the economy if we want to protect our own national security.

KOSOVO

In Kosovo, the Serbian special police are continuing their terrorist policy that has driven more than 300,000 Kosovo Albanians from their homes and into the forests and mountains. With the onset of the Balkan winter only one month away, a humanitarian catastrophe of enormous proportions looms. The West must compel the Serbs to cease military operations at once and provide unrestricted access to international aid organizations.

The Administration must immediately formulate a policy on Kosovo and present it to the Congress so we can be united in strong action to address yet another Balkan tragedy.

IRAQ SANCTIONS POLICY

Iraq's decision last month to prevent U.N. inspections reminds us of the continuing threat posed by Saddam Hussein to our national interest. At that time, U.N. weapons inspector Scott Ritter resigned his post because he believed that the U.N. Security Council and the United States were unwilling to use force against Iraq to compel it to cooperate with U.N. weapons inspectors.

Ritter's resignation has forced both the Administration and Congress to decide on a clear Iraq policy: do we rely on the immediate, unilateral use of force to back U.N. inspections?

Do we seek to maintain consensus on the Security Council before using force? Do we abandon the threat of the use of force and rely on sanctions to contain Iraq? These are tough choices, but we need to make a decision and be prepared to stick with it. And we need to remember that big nations can't bluff.

THE MIDDLE EAST

Another test of United States leadership abroad is our continued support for the delicate peace process in the Middle East. My recent visit to the Middle East has reconfirmed my belief that both the Israeli and Palestinian leadership are committed to the success of the peace talks. It is important that Congress support the President's intensive efforts to revive a process that has remained stalled for much too long.

Continued drift in the peace process benefits no one but the terrorists and extremists.

INDIA/PAKISTAN

Equally critical is our support of the Administration's continued diplomatic efforts to de-escalate the nuclear tensions between India and Pakistan. In the wake of their nuclear tests, the President was forced by existing sanctions law to impose sweeping economic penalties against these countries, even though this made resolution of the crisis more difficult.

The Senate quickly moved to repeal part of the sanctions law to make exceptions for food and other humanitarian supplies. The Senate Sanctions Task Force, which I co-chair with Senator MCCONNELL, also recommended changes in the existing sanctions regime to give the President flexibility in negotiating with India and Pakistan.

The Senate adopted these changes as an amendment to the Agricultural Appropriations bill. We need to complete

action on this legislation before we adjourn.

These are only some of the foreign policy issues we face together, the Congress and our President, in this dangerous world of borderless threats and transnational security challenges.

Our foreign policy initiatives could have tragic consequences—as we've seen in the past—if the President, Congress, and the American people fail to forge a common consensus on our foreign policy goals.

As I said at the outset, Bill Clinton is President of the United States. The situation requires a bipartisan effort to address these issues.

We have failed thus far in meeting that responsibility with respect to several very specific issues. Working with the President, we must act on these issues before we adjourn.

EMBASSY FUNDING

First among these is consideration of emergency embassy security legislation, which the President is expected to submit to the Congress this week. The embassy bombings in East Africa were tragic reminders of the long-term war against terrorism. They were also a reminder that maintaining a strong diplomatic presence around the globe cannot be done on a shoestring budget.

I believe the Congress will act quickly on the Administration's request for emergency funding to rebuild the destroyed embassies in Kenya and Tanzania and to meet urgent security needs of our other diplomatic facilities around the world. As the world's leading superpower, we cannot afford to pinch pennies in countering the new breed of international terrorist.

Under the leadership of the Chairman of the Foreign Relations Committee, Senator HELMS, and the Chairman and Ranking Minority Member of the Appropriations Committee, I am confident that this issue will be acted upon in an expeditious and bipartisan manner.

Engaging in a debate about whether Congress or the Executive had failed to provide adequate security funding would distract us from working together in a bipartisan manner to provide the funds needed to protect our people serving abroad.

IMF FUNDING

America's own economic security may also very well depend on Congress's ability to provide strong international leadership at this critical time for the international economy. The Asian financial crisis has sent shock waves as far as Russia and Latin America. To protect our economy and to keep the crisis from spreading, Congress must act quickly to help replenish its share of the IMF's resources, which now have reached dangerously low levels.

But while the Senate has supported full funding for the IMF in a strong bipartisan manner, the House yesterday voted to provide only a fraction of our total share of the IMF's emergency funds.

With the outcome of the financial crisis still to be determined, Congress must act decisively before we adjourn to maintain both the financial strength of the IMF and to help end the global economic crisis before our own interests are jeopardized.

CWC

In a world beset with many dangers, the threat posed by weapons of mass destruction is also among our greatest concerns. Chemical weapons, among the world's oldest weapons of mass destruction, are truly horrific—as we learned when Iraq's Saddam Hussein gassed whole villages of his own people.

Partly in response to Saddam Hussein, the world has moved to adopt the Chemical Weapons Convention, or CWC, to outlaw chemical weapons and to verify compliance with the Treaty. In May of last year, the Senate passed bi-partisan legislation necessary to implement the Treaty. But the CWC remains in limbo. Why?

Because House Republicans failed to act on the Senate's CWC Implementation Act for six months, finally choosing to attach it to unrelated, vetoed legislation in a political confrontation with the President. Failure to act has put our country in violation of this treaty leaving us unable to demand compliance by others.

If the CWC implementation bill is not passed by the House in the next four weeks, we will continue to be in violation of the CWC Treaty and have to start all over again in a new Congress. It is time for the House of Representatives to step forward and put the national interest above political considerations.

U.N. ARREARS/STATE DEPARTMENT REORGANIZATION

The issue of United States arrears to the United Nations is another challenge we have yet to resolve. Chairman HELMS and I worked hard to craft a bipartisan plan to pay $926 million in our arrears if the United Nations agreed to make reforms. Those plans are contained in the State Department Conference Report that has yet to be sent to the President.

Unfortunately, our payment to the UN has been weighed down with an unrelated, controversial abortion provision. We need to come to grips with this problem before we adjourn. Our arrears are harming our interests at the United Nations, where other countries are raising the issue at every opportunity to curtail U.S. influence on other matters.

Our failure to resolve serious differences over the Mexico City abortion language—or agree to strip it from this conference report—is also holding back additional legislation in the conference report authorizing the reorganization of the U.S. foreign affairs agencies—a long-awaited plan to help the Department streamline its operations to increase our diplomatic effectiveness.

We need to take a fresh look at the continuing impasse over this conference report. We in the Congress and the President need to set out a new road map to get these issues signed into law. As I said, we need, together, to resolve our differences over the Mexico City language or strip it off and fight that issue again next year.

Mr. President, at this point I would like to say a few words about the Committee on Foreign Relations, where I serve as Ranking Minority Member.

During this Congress the Chairman of the Foreign Relations Committee, Senator HELMS, and I have worked together to address serious and difficult issues. We have not always agreed, though I am sure many have been surprised at the large number of issues the Chairman and I have come to agreement on.

Overriding all the issues, however, has been a strong commitment, equally shared, to our responsibility to discharge our responsibilities on the Committee on Foreign Relations.

Consequently it is no surprise that the Chairman, immediately upon our return in September, initiated plans for the Committee to act on over thirty legal assistance treaties and a large number of nominations important to the conduct of our foreign policy.

I applaud the Chairman for his commitment at this time of political crisis.

I regret, however, that the Committee has not been able to consider the Comprehensive Test Ban Treaty this year. The Chairman and I disagree on the importance of this treaty and he has indicated a need to address other treaties first.

Although we will be unable to act before we adjourn, we do need to consider how and when the Senate will be able to take this treaty up next year.

Mr. President, as I said earlier, our time is short. We must work together to resolve these outstanding foreign policy issues.

Most important is the need for a bipartisan commitment to work with our President at this time of crisis, as he leads our country as Commander-in-Chief.

If ever there was a time for a President to provide leadership, overseas and the Congress to rise above a serious domestic political crisis to support the President, now is that time!

Mr. President, John F. Kennedy once remarked that ''our domestic policy can defeat us, but our foreign policy can kill us.''

He was right, of course. And in the coming weeks, Congress and the President have the responsibility to step up to the plate and address our unfinished foreign policy business—or risk allowing these neglected issues to jeopardize our national security interests.

THE IMPORTANCE OF IMF FUNDING

Mr. BIDEN. Mr. President, I rise today to express my deep concern about our country's ability to lead at this crucial moment for the international economy.

Yesterday, the House of Representatives refused to provide the resources that the International Monetary Fund needs to deal with the most serious international financial crisis in years. What makes this failure even more inexcusable is that our participation in a stronger IMF would not cost American taxpayers a dime.

As the President reminded us earlier this week, this is a time when we alone—with the most important economy in the world—are in a position to lead. And two days ago, Treasury Secretary Rubin and Federal Reserve Chairman Alan Greenspan told us just how dangerous the current situation really is.

At this critical juncture, those who weaken our standing in key international financial institutions are playing a reckless game. By failing to provide the $14.5 billion U.S. ''quota'' increase—our share in an expanded capital reserve for the IMF—the House has increased the threat to our economy from the current international financial turmoil.

This is just the kind of situation that can get out of control if no one steps in to steer a course through these troubled times. Right now, the Europeans are turned inward, concerned with the next stage in their economic integration—the introduction of a common currency that puts strict limits on its members' budget and interest rate policies.

Japan remains in the grip of a political paralysis that has allowed its financial problems—centered in a banking system that is crumbling from the weight of bad loans—to fester for almost a decade.

The Tigers of the Asian financial miracle have been declawed, and with their collapse the world has lost a major engine for growth.

And our increasingly important trading partners in Latin America are catching their own version of the Asian flu. They face the threat of a chain of devaluations, budget crunches, and slower growth.

Quite literally, Mr. President, we are in a world of hurt.

The robust American economy of recent years—with strong job growth, rising incomes, healthy profits, high levels of investment in new technologies—has been the wonder and the envy of the rest of the world. And the fundamentals here, as Treasury Secretary Rubin and Fed Chairman Greenspan have stressed, remain strong.

But in recent weeks, we have watched as wild swings in our stock market reveal profound anxiety and uncertainty about the effects of international events on our own country.

Those international events have their ultimate origins in the particular circumstances of many different nations as they have entered today's global economy. But they have common threads—chief among them, a trend in those emerging economies toward excessive borrowing from other countries, debt denominated in dollars and other strong currencies. A lot of this international cash flowed into economies whose banking systems lacked fundamental rules for safety, soundness, and just plain honest bookkeeping.

As those debt burdens reached unsustainable levels for many important emerging economies, investors were convinced that assets they held in the currencies of those countries were no longer as valuable, and that those countries were no longer in a position to prop up their currencies with shrinking reserves of hard currencies. Once that idea took hold, the flight from those currencies was as swift as it was inevitable.

As the agonizing reappraisal of international lending grew to encompass other emerging economies, the currencies of countries as widely dispersed—and as different—as Russia, Venezuela, Brazil, and Argentina have come under increasing pressure. In the case of Russia, that pressure has resulted in the virtual collapse of the ruble and the evaporation of the nascent Russian stock market.

What does this all have to do with us, Mr. President? A lot.

First, as these emerging markets lose steam, they buy fewer finished goods from us and from other advanced economies, taking a bite out of our export sector, a major component of our recent growth. Facing shrinking markets and low-cost competition from the weakened emerging economies, American firms will no longer enjoy the kind of corporate earnings—or the kind of stock prices—that until just recently lifted Wall Street indexes into the stratosphere.

Without those profits and those stock values, our companies will not be able to sustain the level of investment that has been a cornerstone of our recent booming economy. Ultimately, this must lead to lower job growth and thinner pay checks. And the decline in our stock market will affect many individual investors' willingness to continue the level of spending that has been the real backbone of our economy.

Another key feature of this global slump is depressed prices for basic commodities like grain and oil. There is no need for me to remind my colleagues here that our farmers now face a serious crisis because of the loss of important export markets. I know I hear from my poultry farmers in Delaware, for whom Russia is a key export market, about their concerns.

The latest numbers show that our trade deficit soared by more than 20 percent in the second quarter of this year, and its gives every sign of getting worse before it gets better. Some projections show our exports declining in ways we haven't seen in more than a decade, while we continue to pull in cheap imports from the weakened economies around the world.

We are in the middle of a major global economic transformation, Mr. President, and there is much we don't know about the workings of the evolving system of increased trade and increased international investment. But we can see from here that international financial problems—particularly foreign exchange crises—have a strong potential to spread, and that our economy, for all its fundamental strengths, will be hurt more the longer those problems persist.

As we survey the wreckage from this global crisis, and consider the very real potential for deeper trouble, we cannot hesitate to use every tool at our disposal to restore confidence to financial markets. The International Monetary Fund is the institution that we created, along with the other major economies, at the end of World War II to inject a measure of stability into the management of international currency markets.

Time and events have overtaken the problems for which the IMF was originally created. And while there are important and useful reforms of the IMF included in both House and Senate legislation this session, I am concerned that we are demanding too much of the IMF—expanding its responsibilities instead of focusing its energies where they can do the most good—and too little from such forums as the G–7 and others where the major economies of the world should be seeking a sense of common concern and a coordinated response.

But that is a topic for another day, Mr. President.

Today, we need look no farther than today's front page to see that the need for an international lender of last resort is essential to the stability of today's financial markets. Only such a lender can step in to keep a country from complete financial and political meltdown when private investment retreats. Only such a lender can work to limit the contagion of a currency collapse to more and more countries.

But the vastly increased size of international financial markets now dwarfs the resources of the IMF relative to the problems it confronts.

Last year, even before the meltdown in Asia, the IMF—with our agreement—concluded that the size and repercussions of foreign exchange crises in today's world justify an increase in the basic reserves of the IMF, the ''quota'' paid in by each of its 182 members. And we have also agreed, with the other senior members of the IMF, to make available a larger emergency fund, the New Arrangements to Borrow, for use when the quota funds get too low.

Today, with the funds already committed to Asia and Russia, the IMF's resources are now dangerously low—so low that they call into question its ability to meet the next major run on an emerging economy's currency. So the rest of the world is looking to us to take the lead in providing those resources to the IMF. Our share of the quota increase would be $14.5 billion;

our share of the New Arrangements to Borrow would be $3.5 billion.

But while we must go through the appropriations process to make those funds available to the IMF, we get in return an interest bearing asset, so the overall budget effect is a wash. Let me repeat that—there is no budget outlay involved when we meet our commitment to increase the capacity of the IMF to meet international financial crises.

And yet, Mr. President, we face the very real threat that the United States will simply flub this chance to maintain its leadership. With the failure of the House to act on the quota, providing only the $3.5 billion for the New Arrangements to borrow, we leave the rest of the world to wonder about our commitment to deal with the very serious problems that afflict our global economy.

Here in the Senate, we have been fortunate to have the benefit of real leadership on the issue of IMF funding. Senator STEVENS has made use of two opportunities to put the Senate on record in support of full funding for our participation in the IMF. My colleagues on the Foreign Relations Committee, Senator HAGEL and Senator SARBANES, have lent their considerable energies and reputations to this effort.

There are few opportunities left in this session for us to put this right, Mr. President. The Congress is already seen by the rest of the world as reluctant to take an easy—and, I repeat, costless—step to increase the resources of the one institution we have that is in a position to intervene in this crisis. This can only add to the uncertainty that is at the bottom of the current market unrest.

Mr. President, there is every indication that we have a long, hard road between us and the end of the current financial turmoil. I hope that in the few weeks remaining to us this session we will take this one small step to start that journey.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, September 17, 1998, the federal debt stood at $5,514,091,417,890.65 (Five trillion, five hundred fourteen billion, ninety-one million, four hundred seventeen thousand, eight hundred ninety dollars and sixty-five cents).

One year ago, September 17, 1997, the federal debt stood at $5,394,894,000,000 (Five trillion, three hundred ninety-four billion, eight hundred ninety-four million).

Five years ago, September 17, 1993, the federal debt stood at $4,389,958,000,000 (Four trillion, three hundred eighty-nine billion, nine hundred fifty-eight million).

Twenty-five years ago, September 17, 1973, the federal debt stood at $460,362,000,000 (Four hundred sixty billion, three hundred sixty-two million) which reflects a debt increase of more than $5 trillion—$5,053,729,417,890.65 (Five trillion, fifty-three billion, seven hundred twenty-nine million, four hundred seventeen thousand, eight hundred ninety dollars and sixty-five cents) during the past 25 years.

CHILD NUTRITION AND WIC REAUTHORIZATION AMENDMENTS OF 1998

(During consideration of S. 2286, the Child Nutrition and WIC Reauthorization Amendments of 1998, on September 17, 1998, statements by Mr. LUGAR and Mr. SANTORUM were inadvertently omitted. The permanent RECORD will be corrected to include the following:)

Mr. SANTORUM. Mr. President, I rise today in support of the Child Nutrition Reauthorization, but also to express disappointment with the manner in which it is being considered by the Senate. While I support the reauthorization of the federal nutrition and feeding programs, I had hoped for the opportunity to offer an amendment to the bill.

The amendment I had hoped to offer would enable the United States Department of Agriculture to purchase lower-priced, non-quota peanuts for use in school feeding programs. Adoption of this amendment would make school feeding programs more cost effective and free up funds to buy additional peanuts and other foods for both the school lunch program and other federal food assistance programs. The amendment would save $14 million for the federal nutrition programs, money that could be put to use feeding more children and families.

I want to offer an explanation for why the amendment will not be considered and also to express my appreciation to those who were prepared to support it. Several Senators were ready to debate the merits of the amendment, and I appreciate their support. Other supporters include nutrition advocacy groups who have worked very hard on behalf of the amendment.

After our return from the August break, the Senate tried to clear this bill for action. Several Senators executed holds on the bill as a result of the amendment I intended to offer. Given the inability to remove those holds and given the few days that remain in the legislative calendar, I asked my Agriculture Committee Chairman, Senator LUGAR, to proceed with the bill so that he may get it to conference and hopefully enacted before adjournment in October.

For the benefit of my colleagues who know my longstanding opposition to the peanut program, let me make clear that my amendment would have done nothing to improve the price of peanuts for manufacturers of peanut products. Instead, it simply aimed to improve the operation of the school nutrition programs.

Generally speaking, peanuts cannot be grown and sold for human consumption in the United States unless the grower has a quota. This quota is really a license, and it enables growers to obtain a premium price for their production. Non-quota peanuts grown in America are no different than their quota cousins, except for the price. Non-quota peanuts that are grown in the U.S. for the export market have an approximate price of $350 per ton, whereas quota peanuts run as much as $650 per ton.

My amendment would simply allow the United States government to buy non-quota peanuts at the same price that we sell American peanuts to foreign countries.

This step is not without precedent. In fact, the Northeast Interstate Dairy Compact, which Congress authorized in 1996, has a similar provision to allow schools to be exempt from paying the artificially higher milk prices that are the result of the dairy compact.

Additionally, Congress has weighed this step in the past. The House Committee on Appropriations twice called attention to this problem in FY 1994 and FY 1995 Agriculture Appropriation Subcommittee Reports. The Subcommittee found that USDA would save approximately $14.4 million in peanut and peanut product purchases for the food assistance program if USDA purchased non-quota peanuts.

In these two committee reports for the FY 1994 and FY 1995 Agriculture Appropriations' bills, the Committee directed the USDA to prepare and submit legislation to the appropriations committees of Congress to amend the peanut program. That legislation would require USDA to purchase non-quota peanuts at world prices for use in domestic feeding programs. To this point, I am not aware that the USDA has ever responded to the Committee's direction.

Mr. President, passage of this amendment makes sense. Peanut products are an extremely popular and nutritious food for millions of people, especially children. High concentrations of important minerals and valuable nutrients make this food an especially important one. If we provide a means for the federal government to buy peanuts for American school children for the same price that we sell American peanuts to consumers in other countries, we can save millions of dollars and enable the government to purchase nutritious food to help additional people.

Moreover, we can improve the school nutrition programs with a minimal cost to growers. Despite the suggestion of doom and gloom from the defenders of the peanut program, the amount of quota peanuts purchased for government food assistance programs is less than 2 percent of the national peanut quota production. Thus, this amendment would have a negligible effect on peanut quota holders—many of whom, I hasten to add, do not grow peanuts themselves.

Mr. President, federal feeding programs are very price sensitive. In times of high prices for specific commodities,

it is not uncommon for USDA to seek substitutes for even the most popular food items. in the early 1990s, for example, USDA temporarily suspended feeding program purchases of peanut butter because peanut prices had risen sharply. If the primary goal of the National School Lunch Program and food assistance programs is to alleviate this nation's malnutrition and hunger, it is wrong for the federal government to waste limited financial resources on buying quota peanuts to further support a small special interest group of peanut quota holders who are already subsidized by the American consumer.

Again, Mr. President, I support passage of the child nutrition reauthorization, but am disappointed in not being able to offer my amendment. I thank those that have worked so hard on its behalf. While the opportunity is not available today to offer the amendment, I have every intention of offering this proposal to relevant legislation in the future.

Mr. LUGAR. Mr. President, I rise today in support of S. 2286, the Child Nutrition and WIC Reauthorization Amendments of 1998. The child nutrition programs have been critically important in helping meet the nutritional needs of our children. The bill before us, which was unanimously reported out of the Senate Committee on Agriculture, Nutrition, and Forestry, is a bipartisan effort to reauthorize and improve these successful programs. Nutrition programs in the Congress have a long history of bipartisan support and cooperation and I am pleased to report that this bill is no exception.

As an Indianapolis school board member and the city's mayor in the 1960's and 1970's, I saw firsthand the need to provide nutritional assistance to children. Since that time, the child nutrition programs have changed in many ways. Although the programs may need some fine tuning, today's programs have been successful in ensuring that our nation's children have access to nutritious foods, providing a critical nutrition safety net.

In 1997, approximately 89,000 schools enrolling 46 million children participated in the National School Lunch program. Although participation in the school breakfast program is not as large as that in the school lunch program, it has continued to grow. Since 1994, school breakfast participation has increased about 13 percent so that now over 70 percent of schools operating a school lunch program also operate a school breakfast program.

The WIC program, which provides nutritious foods and other support to lower-income infants and children (up to age 5), and pregnant, postpartum, and breast-feeding women, has been successful at reducing the number of low-birth-weight babies. Its success has led to strong support over the years. In 1997, average monthly WIC participation was 7.4 million persons. In many states, the program has reached the long sought after goal of full funding.

The bill before us makes improvements to the child nutrition programs. Recently we have seen reports on fraud and abuse in the WIC and Child and Adult Care Food Programs. S. 2286 strengthens the anti-fraud provisions in both programs. The bill requires WIC recipients to be physically present when being certified or recertified for the program. The bill also requires that recipients provide documentation of their income to prove that they are in fact eligible to participate in the program. The legislation cracks down on fraudulent vendors participating in the WIC program. Under most circumstances, WIC vendors who are convicted of trafficking will be permanently disqualified unless it can be proven that the disqualification will cause undue hardship for WIC recipients. In the Child and Adult Care Food Program, State agencies will be required to visit child care sites prior to approving participation by a provider.

The bill also makes amendments to streamline school food service operations. Specifically, S. 2286 allows schools to operate after-school snack programs through the National School Lunch Program rather than separately through the Child and Adult Care Food Program. Without this change, those schools choosing to operate an after-school program, along with the school lunch program, would have to submit paperwork for two separate programs. Streamlining these operations will free up precious time so that school food service personnel can better serve our nation's children. The bill also improves access, for low-income children up to age 18, to the after-school snack and the summer food service programs.

The bill creates a new universal school breakfast pilot program that will evaluate the effect of providing free breakfasts to elementary school children, regardless of income, on school performance and dietary intake. The new spending in this bill is fully offset by rounding down reimbursement rates to the nearest whole cent for meals served by schools and child care centers.

Finally, the bill reauthorizes the child nutrition programs through fiscal year 2003.

Mr. President, S. 2286 was unanimously reported out of the Senate Committee on Agriculture, Nutrition, and Forestry on June 25, 1998. I urge my colleagues to support this bill, thus ensuring that our nation's children continue to have access to these important programs.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

MEASURES REFERRED

The Committee on Agriculture, Nutrition, and Forestry was discharged from further consideration of the following measure which was referred to the Committee on Energy and Natural Resources:

S. 2402. A bill to direct the Secretary of Agriculture to convey certain lands in San Juan County, New Mexico, to San Juan College.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–7008. A communication from the Executive Director of the Presidio Trust, transmitting, pursuant to law, the report of a rule entitled ''Management of the Presidio'' (RIN3212–AA01) received on September 15, 1998; to the Committee on Energy and Natural Resources.

EC–7009. A communication from the Executive Director of the State Justice Institute, transmitting, pursuant to law, the Institute's report under the rules of the Inspector General Act and the Federal Managers' Financial Integrity Act for fiscal year 1996 and 1997; to the Committee on Governmental Affairs.

EC–7010. A communication from the Secretary of Veterans Affairs, transmitting, the Department's report entitled ''Plain Language Action Plan''; to the Committee on Veterans' Affairs.

EC–7011. A communication from the President and the Chairman of the John F. Kennedy Center for the Performing Arts, transmitting, pursuant to law, the Center's annual report for fiscal year 1997; to the Committee on Rules and Administration.

EC–7012. A communication from the Secretary of Defense, transmitting, notice of routine military retirements; to the Committee on Armed Services.

EC–7013. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Eligible Basis Reduced by Federal Grants'' (Rev. Rul. 98–49) received on September 16, 1998; to the Committee on Finance.

EC–7014. A communication from the Regulatory Policy Officer, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Commerce in Explosives'' (RIN1512–AB55) received on August 28, 1998; to the Committee on Finance.

EC–7015. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Status of Certain Additional Over-the-Counter Drug Category II and III Active Ingredients'' (Docket 98N–0636) received on September 16, 1998; to the Committee on Labor and Human Resources.

EC–7016. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services,

transmitting, pursuant to law, the report of a rule entitled ''Pediculicide Drug Products for Over-the-Counter Human Use; Final Monograph; Technical Amendment; Correction'' (Docket 81N–0201) received on September 16, 1998; to the Committee on Labor and Human Resources.

EC–7017. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Irradiation in the Production, Processing and Handling of Food; Correction'' (Docket 98N–0392) received on September 16, 1998; to the Committee on Labor and Human Resources.

EC–7018. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Specifically Approved States Authorized to Receive Mares and Stallions Imported From Regions Where CEM Exists'' (Docket 98–059–1/2) received on September 16, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7019. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Almonds Grown in California; Increased Assessment Rate'' (Docket FV98–981–2 FR) received on September 16, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7020. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Tuna Fisheries; Atlantic Bluefin Tuna Fishery'' (I.D. 071098I) received on September 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7021. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Use of Radio Frequencies Above 40GHz for New Radio Applications'' (Docket 94–124) received on September 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7022. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding a radio astronomy coordination zone in Puerto Rico (Docket 96–2) received on September 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7023. A communication from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Stone Crab Fishery of the Gulf of Mexico; Amendment 6'' (I.D. 041698G) received on September 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7024. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of two rules regarding final flood elevation determinations (63 FR 42264, 63 FR 45737) received on September 16, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7025. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''List of Communities Eligible for the Sale of Flood Insurance'' (63 FR 42257) received on September 16, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7026. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' (63 FR 42259) received on September 16, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7027. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of three rules regarding changes in flood elevation determinations (63 FR 45729, 45732, 42262) received on September 16, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7028. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''An Approach for Plant–Specific, Risk-Informed Decisionmaking: Inservice Testing'' (Guide 1.175) received on September 16, 1998; to the Committee on Environment and Public Works.

EC–7029. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''An Approach for Plant-Specific, Risk-Informed Decisionmaking: Graded Quality Assurance'' (Guide 1.176) received on September 16, 1998; to the Committee on Environment and Public Works.

EC–7030. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''An Approach for Plant-Specific, Risk-Informed Decisionmaking: Technical Specifications'' (Guide 1.177) received on September 16, 1998; to the Committee on Environment and Public Works.

EC–7031. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Chapter 3.9.7 Risk-Informed Inservice Testing'' (NUREG–0800) received on September 16, 1998; to the Committee on Environment and Public Works.

EC–7032. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Chapter 16.1 Risk-Informed Decisionmaking: Technical Specifications'' (NUREG–0800) received on September 16, 1998; to the Committee on Environment and Public Works.

EC–7033. A communication from the Deputy Administrator of the General Services Administration, transmitting, pursuant to law, the Administration's report entitled ''Federal Space Situation Report for Chattanooga, TN''; to the Committee on Environment and Public Works.

EC–7034. A communication from the Director of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Imidacloprid; Pesticide Tolerances'' (FRL6027–1) received on September 16, 1998; to the Committee on Environment and Public Works.

EC–7035. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a payment to Rewards Program Participant 98–21; to the Committee on Foreign Relations.

EC–7036. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice that the President has authorized the use of funds under the U.S. Emergency Refugee and Migration Assistance Fund to meet the needs of persons at risk due to the Kosovo crisis; to the Committee on Foreign Relations.

EC–7037. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Documentation of Nonimmigrants Under the Immigration and Nationality Act, As Amended—Fees for Application and Issuance of Nonimmigrant Visas'' (Notice 2894) received on September 16, 1998; to the Committee on Foreign Relations.

EC–7038. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, the text of agreements between the American Institute in Taiwan and the people on Taiwan concluded during calendar year 1997; to the Committee on Foreign Relations.

EC–7039. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, the text of international agreements other than treaties entered into by the United States (98–131—98–138); to the Committee on Foreign Relations.

EC–7040. A communication from the Assistant Secretary of Labor, transmitting, pursuant to law, the report of a rule regarding application of the Prevailing Conditions of Work requirement (UIPL No. 41–98) received on September 17, 1998; to the Committee on Labor and Human Resources.

EC–7041. A communication from the Executive Director of the Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, a notice of additions and deletions to the Committee's Procurement List dated September 8, 1998; to the Committee on Governmental Affairs.

EC–7042. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of a rule entitled ''Final Authorization of State Hazardous Waste Management Program Revisions'' (FRL6160–9) received on September 17, 1998; to the Committee on Environment and Public Works.

EC–7043. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of a rule entitled ''National Priorities List for Uncontrolled Hazardous Waste Management Sites'' (FRL6161–2) received on September 17, 1998; to the Committee on Environment and Public Works.

EC–7044. A communication from the Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Tuna Fisheries; Atlantic Bluefin Tuna Fishery; Inseason Adjustment; Closure'' (I.D. 080698A) received on September 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7045. A communication from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Regulations to Implement a Stand Down Requirement for Trawl Catcher Vessels Transiting Between the Bering Sea and Aleutian Islands Management Area and Gulf of Alaska'' (I.D. 051898A) received on September 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7046. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Opening Directed Fishing for Pollock in Statistical Area 610 in the Gulf of

Alaska'' (I.D. 090998A) received on September 17, 1998; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

H.R. 10. A bill to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes (Rept. No. 105–336).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2493. A bill to establish a mechanism by which the Secretary of Agriculture and the Secretary of the Interior can provide for uniform management of livestock grazing on Federal lands.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Robert Bruce King, of West Virginia, to be United States Circuit Judge for the Fourth Circuit.

(The above nomination was reported with the recommendation that he be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. DURBIN (for himself, Ms. SNOWE, Ms. COLLINS, Mr. TORRICELLI, Ms. MIKULSKI, Mr. GRAHAM, Ms. LANDRIEU, Mr. LIEBERMAN, Mr. BINGAMAN, and Mr. INOUYE):

S. 2497. A bill to ban certain abortions; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself and Ms. MOSELEY-BRAUN):

S. 2498. A bill to amend the Internal Revenue Code of 1986 to clarify the tax treatment of agricultural cooperatives and to allow declaratory judgment relief for such cooperatives; to the Committee on Finance.

By Mr. GLENN:

S. 2499. A bill to provide for a transition to market-based rates for power sold by the Federal Power Marketing Administrations and the Tennessee Valley Authority, and for other purposes; to the Committee on Energy and Natural Resources.

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

S. 2500. A bill to protect the sanctity of contracts and leases entered into by surface patent holders with respect to coalbed methane gas; to the Committee on Energy and Natural Resources.

By Ms. MOSELEY-BRAUN (for herself and Mr. GRASSLEY):

S. 2501. A bill to amend the Internal Revenue Code of 1986 to exempt small issue bonds for agriculture from the State volume cap; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself, Ms. SNOWE, Ms. COLLINS, Mr. TORRICELLI, Ms. MIKULSKI, Mr. GRAHAM, Ms. LANDRIEU, and Mr. LIEBERMAN):

S. 2497. A bill to ban certain abortions; to the Committee on the Judiciary.

THE LATE-TERM ABORTION LIMITATION ACT OF 1998

Mr. DURBIN. Mr. President, today the Senate is beginning consideration of a very controversial and contentious issue, the veto override of the Partial-Birth Abortion Ban Act.

I will vote to sustain the President's veto of this bill, which I believe is seriously flawed. But to make my position clear and state in positive terms what I believe we should do to address this troubling issue, I am introducing legislation today known as the Late-Term Abortion Limitation Act of 1998.

I am pleased to have a bipartisan group of Senators as original cosponsors of this legislation, including Senators SNOWE, COLLINS, TORRICELLI, MIKULSKI, GRAHAM, LANDRIEU, and LIEBERMAN.

We believe that post-viability abortions should be allowed in only two types of situations—when the life of the mother is in danger or when she faces a medically certified risk of grievous physical injury.

Senators DASCHLE and SNOWE put forward a measure last year that reflected this principle. I support them, and our legislation builds on what they did.

Our bill has one significant difference from the Daschle proposal, an addition that we believe enhances the Daschle amendment. Our legislation would require a second non-treating doctor's certification that the abortion is medically necessary to protect the life of the mother or prevent grievous physical injury. This second certification could be waived only in the case of a medical emergency, and the physician would have to document the nature of the medical emergency.

We believe this approach is one that can be passed in the United States Senate. It is backed by a substantial and bipartisan group of Senators. It is a compromise approach that can bring to a reasonable conclusion the long-running debate over late-term abortion procedures. I urge my colleagues to read the language closely and give it careful consideration as a good faith effort to resolve this troubling issue in a fair and humane manner.

Unlike the Partial Birth Abortion Ban Act, this legislation would actually reduce the number of late-term abortions because, instead of banning only one procedure, the measure would ban all post-viability abortions except when a continuation of the pregnancy risks grievous physical injury to the mother or poses a threat to her life.

At the same time, the legislation holds to the Roe versus Wade standard which makes a clear distinction between abortions occurring before and after viability. Unlike the partial birth abortion ban, our bill preserves this important distinction and is thus more likely to pass court scrutiny. Before viability, a decision to have an abortion must be made by a woman, her doctor, her family, and her conscience. But in the closing weeks of a pregnancy, the court affirms a role for addressing the public concern about late-term abortions and makes it clear that the State can draw the line limiting abortions to the most serious circumstances.

I hope the legislation we are introducing today can help us resolve this debate once and for all, in a manner that is consistent with our laws and the views of most of the American people.

I ask unanimous consent that a summary of the bill and the text of the measure be printed in the RECORD.

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

S. 2297

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 ''Late Term Abortion Limitation Act of 1998''.

SEC. 2. BAN ON CERTAIN ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

''CHAPTER 74—BAN ON CERTAIN ABORTIONS

''Sec.
''1531. Prohibition of post-viability abortions.
''1532. Penalties.
''1533. Regulations.
''1534. State law.
''1535. Definitions

''§ 1531. Prohibition of Post-Viability Abortions.

''(a) IN GENERAL.—It shall be unlawful for a physician to intentionally abort a viable fetus unless the physician prior to performing the abortion—

''(1) certifies in writing that, in the physician's medical judgment based on the particular facts of the case before the physician, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health; and

''(2) an independent physician who will not perform nor be present at the abortion and who was not previously involved in the treatment of the mother certifies in writing that, in his or her medical judgment based on the particular facts of the case, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health.

''(b) NO CONSPIRACY.—No woman who has had an abortion after fetal viability may be prosecuted under this chapter for conspiring to violate this chapter or for an offense under section 2, 3, 4, or 1512 of title 18.

''(c) MEDICAL EMERGENCY EXCEPTION.—The certification requirements contained in subsection (a) shall not apply when, in the medical judgment of the physician performing the abortion based on the particular facts of the case before the physician, there exists a medical emergency. In such a case, however, after the abortion has been completed the physician who performed the abortion shall certify in writing the specific medical condition which formed the basis for determining that a medical emergency existed.

"§ 1532. Penalties.

''(a) ACTION BY THE ATTORNEY GENERAL.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney specifically designated by the Attorney General may commence a civil action under this chapter in any appropriate United States district court to enforce the provisions of this chapter.

''(b) FIRST OFFENSE.—Upon a finding by the court that the respondent in an action commenced under subsection (a) has knowingly violated a provision of this chapter, the court shall notify the appropriate State medical licensing authority in order to effect the suspension of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(b), or shall assess a civil penalty against the respondent in an amount not to exceed $100,000, or both.

''(c) SECOND OFFENSE—Upon a finding by the court that the respondent in an action commenced under subsection (a) has knowingly violated a provision of this chapter and the respondent has been found to have knowingly violated a provision of this chapter on a prior occasion, the court shall notify the appropriate State medical licensing authority in order to effect the revocation of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(b), or shall assess a civil penalty against the respondent in an amount not to exceed $250,000, or both.

''(d) HEARING.—With respect to an action under subsection (a), the appropriate State medical licensing authority shall be given notification of and an opportunity to be heard at a hearing to determine the penalty to be imposed under this section.

''(e) CERTIFICATION REQUIREMENTS.—At the time of the commencement of an action under subsection (a), the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney who has been specifically designated by the Attorney General to commence a civil action under this chapter, shall certify to the court involved that, at least 30 calendar days prior to the filing of such action, the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney involved—

''(1) has provided notice of the alleged violation of this chapter, in writing, to the Governor or Chief Executive Officer and Attorney General or Chief Legal Officer of the State or political subdivision involved, as well as to the State medical licensing board or other appropriate State agency; and

''(2) believes that such an action by the United States is in the public interest and necessary to secure substantial justice.

"§ 1533. Regulations.

''(a) FEDERAL REGULATIONS.—

''(1) IN GENERAL.—Not later than 60 days after the date of enactment of this chapter, the Secretary of Health and Human Services shall publish proposed regulations for the filing of certifications by physicians under this chapter.

''(2) REQUIREMENTS.—The regulations under paragraph (1) shall require that a certification filed under this chapter contain—

''(A) a certification by the physician performing the abortion, under threat of criminal prosecution under section 1746 of title 28, that, in his or her best medical judgment, the abortion performed was medically necessary pursuant to this chapter;

''(B) a description by the physician of the medical indications supporting his or her judgment;

''(C) a certification by an independent physician pursuant to section 1531(a)(2), under threat of criminal prosecution under section 1746 of title 28, that, in his or her best medical judgment, the abortion performed was medically necessary pursuant to this chapter; and

''(D) a certification by the physician performing an abortion under a medical emergency pursuant to section 1531(c), under threat of criminal prosecution under section 1746 of title 28, that, in his or her best medical judgment, a medical emergency existed, and the specific medical condition upon which the physician based his or her decision.

''(3) CONFIDENTIALITY.—The Secretary of Health and Human Services shall promulgate regulations to ensure that the identity of a mother described in section 1531(a)(1) is kept confidential, with respect to a certification filed by a physician under this chapter.

''(b) STATE REGULATIONS.—A State, and the medical licensing authority of the State, shall develop regulations and procedures for the revocation or suspension of the medical license of a physician upon a finding under section 1532 that the physician has violated a provision of this chapter. A State that fails to implement such procedures shall be subject to loss of funding under title XIX of the Social Security Act.

"§ 1534. State Law.

''(a) IN GENERAL.—The requirements of this chapter shall not apply with respect to post-viability abortions in a State if there is a State law in effect in that State that regulates, restricts, or prohibits such abortions to the extent permitted by the Constitution of the United States.

''(b) DEFINITION.—In subsection (a), the term 'State law' means all laws, decisions, rules, or regulations of any State, or any other State action, having the effect of law.

"§ 1535. Definitions.

''In this chapter:

''(1) GRIEVOUS INJURY.—

''(A) IN GENERAL.—The term 'grievous injury' means—

''(i) a severely debilitating disease or impairment specifically caused by the pregnancy; or

''(ii) an inability to provide necessary treatment for a life-threatening condition.

''(B) LIMITATION.—The term 'grievous injury' does not include any condition that is not medically diagnosable or any condition for which termination of the pregnancy is not medically indicated.

''(2) PHYSICIAN.—The term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions, except that any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs an abortion in violation of section 1531 shall be subject to the provisions of this chapter.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

''74. Ban on certain abortions ..... 1531.''.

THE LATE-TERM ABORTION LIMITATION ACT OF 1998—SUMMARY

The Late-Term Abortion Limitation Act of 1998 would ban all post-viability abortions except in cases where both the attending physician and an independent non-treating physician certify in writing that, in their medical judgment, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health. Grievous injury is defined, as in last year's Daschle-Snowe alternative to the partial-birth abortion ban bill, as (1) a severely debilitating disease or impairment specifically caused by the pregnancy of (2) an inability to provide necessary treatment for a life-threatening condition, and is limited to conditions for which termination of the pregnancy is medically indicated. The certification requirements could be waived in a medical emergency, but the physician would subsequently have to certify in writing what specific medical condition formed the basis for determining that a medical emergency existed.

This legislation provides a more effective and constitutional approach to this difficult issue than the partial-birth abortion ban:

This legislation will actually reduce the number of late-term abortions. In contrast, the partial-birth abortion ban will not stop a single abortion at any stage of gestation. The partial-birth abortion ban, by prohibiting only one particular procedure, will merely induce physicians to switch to a different procedure that is not banned. The Late-Term Abortion Limitation Act will stop abortions by any method after a fetus is viable, except when medical necessity indicates otherwise.

This legislation fits clearly within the constitutional parameters set forth by the U.S. Supreme Court for government restriction of abortion. In contrast, the partial-birth abortion ban, by prohibiting certain types of abortions before viability, breaches the court's standard that the government does not have a compelling interest in restricting abortions prior to viability.

This legislation retains the abortion option for mothers facing extraordinary medical conditions such as breast cancer, preeclampsia, uterine rupture, or non-Hodgkin's lymphoma, for which termination of the pregnancy may be recommended by the woman's physician due to the risk of grievous injury to the mother's physical health or life. In contrast, the partial-birth abortion ban provides no such exception to protect the mother from grievous injury to her physical health.

At the same time, by clearly limiting the medical circumstances where post-viability abortions are permitted, this legislation protects fetal life in cases where the mother's health is not at such high risk.

The Late-Term Abortion Limitation Act is similar to the legislation proposed by Senators Daschle, Snowe, and others last year as an alternative to the partial-birth abortion ban bill, with one significant change:

The legislation requires a second doctor to certify the medical need for a post-viability abortion, to ensure that post-viability abortions take place only when continuing the pregnancy would prevent the woman from receiving treatment for a life-threatening condition related to her physical health or would cause a severely debilitating disease or impairment to her physical health.

Enforcement of the legislation is identical to the enforcement mechanism in the Daschle-Snowe alternative. The Justice Department could initiate a civil action against a physician who knowingly violated this law, with penalties of up to $100,000 and/or loss of medical license (up to $250,000 and/or loss of medical license for repeat offenses).

Ms. COLLINS. Mr. President, I am pleased to be joining with my colleagues, Senators DURBIN and SNOWE, in introducing this bill to ban all late-term abortions, including partial birth abortions, that are not necessary to save the mother's life or to protect her from grievous physical harm.

Let me be clear from the outset. I am strongly opposed to all late-term abortions, including partial birth abortions. I agree that they should be banned. However, I believe that an exception must be made for those rare cases when it is necessary to save the life of the mother or to protect her from grievous physical harm. Fortunately, these procedures are extremely rare in my State, where there were just two late-term abortions between 1984 and 1996.

We believe that this debate should not be about one particular method of abortion, but rather about the larger question of under what circumstances should late-term, or post-viability, abortions be legally available. We believe that all late-term abortions—regardless of the procedure used—should be banned, except in those rare cases where the life or the physical health of the mother is at serious risk.

In my view, Congress is ill-equipped to make judgments on specific medical procedures. As the American College of Obstetricians and Gynecologists—which represents over 90 percent of ob-gyns and which opposes the partial birth abortion ban—has said, ''the intervention of legislative bodies into medical decision-making is inappropriate, ill advised, and dangerous.'' Most politicians have neither the training nor the experience to decide which procedure is most appropriate in a given case. These medically difficult and highly personal decisions should be left for families to make in consultation with their doctors.

The Supreme Court, in Roe v. Wade, has identified ''viability''—the point at which the fetus is capable of sustaining life outside the womb with or without support—as the defining point in determining the constitutionality of restrictions on abortion. While I don't believe that it is appropriate for us to dictate medical practice, I do believe that it is appropriate for Congress to determine the circumstances under which access to late-term abortions—by any procedure—should be restricted.

That is what the legislation we are introducing today would do. Our bill goes beyond the partial birth abortion ban, which simply prohibits a specific medical procedure and will not prevent a single abortion. Let me emphasize that point. The partial birth legislation would not prevent a single late-term abortion. A physician could simply use another, perhaps more dangerous method to end the pregnancy.

By contrast, our bill would prohibit the abortion of any viable fetus, by any method, unless that abortion is necessary to preserve the life of the mother or to prevent ''grievous injury'' to her physical health. We have taken great care to tightly limit the health exception in this bill to ''grievous injury'' to the mother's physical health. It would not allow late-term abortions to be performed simply because the woman is depressed or feeling stressed or has a minor health problem because of the pregnancy.

''Grievous injury'' is narrowly and strictly defined by our bill as either a ''severely debilitating disease or impairment specifically caused by the pregnancy,'' or ''an inability to provide necessary treatment for a life-threatening condition.'' Moreover, ''grievous injury'' does not include any condition that is not medically diagnosable or any condition for which termination of the pregnancy is not medically indicated.

This bill includes an additional safeguard. The initial opinion of the treating physician that the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health must be confirmed by a ''second opinion.'' This second opinion must come from an independent physician who will not be involved in the abortion procedure and who has not been involved in the treatment of the mother. This second physician must also certify—in writing—that, in his or her medical judgment, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health.

What we are talking about are the severe, medically diagnosable threats to a woman's physical health that are sometimes brought on or aggravated by pregnancy.

Let me give you a few examples: primary pulmonary hypertension, which can cause sudden death or intractable congestive heart failure; severe pregnancy-aggravated hypertension with accompanying kidney or liver failure; complications from aggravated diabetes such as amputation or blindness; or an inability to treat aggressive cancers such as leukemia, breast cancer, or non-Hodgkins lymphoma.

These are all obstetric conditions that are cited in the medical literature as possible indications for pregnancy terminations. In these extremely rare cases—where the mother has been certified by two physicians to be at risk of losing her life or suffering grievous physical harm—I believe that we should leave the very difficult decisions about what should be done to the best judgment of the women, families and physicians involved.

Mr. President, the legislation we are introducing today is a fair and compassionate compromise on this extremely difficult issue. It would ensure that all late-term abortions—including partial birth abortions—are strictly limited to those rare and tragic cases where the life or the physical health of the mother is in serious jeopardy, and I urge my colleagues to join me in supporting it. This legislation presents an unusual opportunity for both ''pro-choice'' and ''pro-life'' advocates to work together on a reasonable approach.

I also ask unanimous consent that a recent editorial from the Bangor Daily News endorsing our approach be included in the CONGRESSIONAL RECORD at the conclusion of my remarks.

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

[From the Bangor Daily News, Sept. 11, 1998]

ABORTION VOTE

Back when the subject of abortion was debated on moral and religious grounds, opponents could disagree while understanding how each arrived at a position. Now that abortion is a vehicle for fund raising there is no room for understanding because understanding doesn't bring in the bucks or whip up the membership.

With the Senate's vote next week on late-term abortion, the Christian Coalition, according to The Washington Post, has directed at five senators radio advertisements, 300,000 postcards and countless automated telephone calls. Two of the five senators are Maine's Olympia Snowe and Susan Collins. The purpose of this extensive campaign is to harass these senators into dropping their support for a compromise measure that allowed late-term abortions to protect against ''grievous injury'' to the physical health of the mother.

But the vote is more about power than pregnancy—Maine had only two third-term abortions between 1984 and 1996, consistent with other states. If abortions were the primary concern, the coalition could with one magazine ad extolling the effectiveness of condoms do more to reduce unwanted pregnancies than this entire Senate campaign. As a bonus, the condom ad might also help reduce sexually transmitted diseases.

The coalition's main goal is to remain relevant now that its best-known leader, Ralph Reed, has moved on. The group has two themes, abortion and gay rights, and even Mr. Reed says gay rights is a sure loser. That leaves the coalition trying to override a presidential veto of a ban on so-called partial-birth abortions, but its lack of sincerity is evident in its refusal to accept an exemption for the physical health of the mother.

Assuming for a moment that telling doctors what procedures they may use to perform an abortion is constitutionally legal—and the court's 1976 Danforth decision says it isn't—this compromise should be seen as a fair way for opponents to agree. The grievous injury provision is not the large loophole that the coalition claims. It is narrowly defined to cover either a ''severely debilitating disease or impairment specifically caused by the pregnancy'' or an ''inability to provide necessary treatment for a life-threatening condition.'' It does not include any condition that is not medically diagnosable or any condition that can be treated without ending a pregnancy.

The grievous injury exemption would allow treatment for such illnesses as leukemia or non-Hodgkins lymphoma, primary pulmonary hypertension, which can cause sudden death or congestive heart failure, and pregnancy-aggravated hypertension, which can cause kidney or liver failure.

Instead of recognizing the humanity in allowing for abortions under the threat of these illnesses, the coalition continues to demand an end to the partial-birth procedure, with an exemption only for the near-certain death of the mother. Banning a procedure, of course, doesn't reduce the number of abortions; it forces physicians to use riskier procedures.

Sens. Snowe and Collins have supported a fair and compassionate compromise in the extremely difficult issue of abortion. They deserve support from constituents who recognize the coalition's agenda as having little to do with unwanted pregnancies and everything to do with power.

By Mr. GRASSLEY (for himself and Ms. MOSELEY-BRAUN):

S. 2498. A bill to amend the Internal Revenue Code of 1986 to clarify the tax

treatment of agricultural cooperatives and to allow declaratory judgment relief for such cooperatives; to the Committee on Finance.

By Ms. MOSELEY-BRAUN (for herself and Mr. GRASSLEY):

S. 2501. A bill to amend the Internal Revenue Code of 1986 to exempt small issue bonds for agriculture from the State volume cap; to the Committee on Finance.

AGRICULTURAL TAX LEGISLATION

● Mr. GRASSLEY. Mr. President, today we introduce two bills that will help farmers. These bills take another step in insuring the viability of family farming into the next century.

This first bill clarifies the laws regarding both Section 521 and Subchapter T agricultural cooperatives. Recent action by the Internal Revenue Service hinders farmers' attempts to form value-added cooperatives and to use these cooperatives as a source of income and stability. Specifically, the IRS changed its position of allowing cooperatives, in connection with their marketing functions, to manufacture or otherwise change the basic form of their members' products without jeopardizing the cooperatives' status.

Farmers value-added cooperatives were designed to encourage farmers to own the businesses that process their products, and to give them the benefit of the finished product. These cooperatives help create new products that benefit farmers. The IRS is choosing to differentiate between using a machine process and using a biological process to manufacture the finished product. There should be no difference—there isn't for business, there isn't for farmers, so there shouldn't be for the IRS.

The second bill that we are introducing today will take Aggie bonds out from under the private activity bond cap. Aggie bonds are an important tool for first time farmers. Removing them from the existing cap will greatly enhance the opportunities for beginning and less established farmers and ranchers to acquire affordable, low cost credit for agricultural purchases. Most industrial revenue bonds are typically issued for millions of dollars, underwritten, rated and sold to investors. Aggie bonds, which cannot exceed $250,000, are not underwritten, are not rated, and are not sold to investors. Rather, they are sold to local lenders who finance beginning farmers with a lower than normal interest rate. Several states would like to start offering Aggie bonds but cannot because their volume cap is already used for non-agricultural projects. Many other states, including my state of Iowa, cannot meet the demand for Aggie bonds.

These are two bills that will help farmers now, and always. These offer immediate help, and are part of the tax code restructuring that we must enact to make the playing field fair to America's farmers. I want to thank Senator MOSELEY-BRAUN for working with me on these important pieces of legislation.●

● Ms. MOSELEY-BRAUN. Mr. President, I am pleased to introduce two bills today with my distinguished colleague from Iowa, Senator GRASSLEY, that will benefit farmers in rural America.

As my colleagues may be aware, farmer-owned cooperatives play a major role in providing food and fiber to consumers. These cooperatives also provide their farmer-owners with additional market stability and help to strengthen farm income.

Current tax law states that farmers, fruit growers, or ''like associations'' that are organized and operated on a cooperative basis for the purpose of marketing the products of its members or other producers shall be exempt from federal income tax if those cooperatives are developed for the purpose of marketing the products of the members or other producers, and turning back to the members proceeds of the sales, less marketing expenses.

Farmers nationwide are joining together in self-help efforts to develop cooperatives and to develop new uses for the commodities that they grow, but recently the Internal Revenue Service (IRS) ruled that in certain instances, some forms of value-added farmer-owned cooperatives are not tax exempt. The Grassley/Moseley-Braun bill would overturn that IRS ruling and amend the current section of the tax code to explicitly cover these types of cooperatives.

Another concern that farmers have shared with me is the future of agriculture and the ability of their children and other beginning farmers to enter into farming as a way of life. I have worked in the Senate to change federal policies that will lower the obstacles for younger farmers who enter into farming as a profession.

One such program is the ''Aggie Bonds'' program. In the 103rd Congress, I cosponsored the law that granted a permanent tax exemption for these bonds. I also worked to include provisions in the Small Business Tax Relief Act of 1996 to widen eligibility for the bonds, increasing the amount of land a beginning farmer may own to qualify for the loan.

Today my Iowa colleague and I introduce a bill that further improves this successful program by exempting aggie bonds from the volume cap on industrial revenue bonds. Currently, Federal law allows states to issue tax exempt industrial revenue bonds that are earmarked for purchases of farmland, equipment, breeding livestock, as well as farm improvements by new or beginning farmers. The Farm Service Agency (FSA) also has authorized State chartered, non-profit corporations to make guaranteed mortgage and farm operating loans. Unfortunately, the aggie bond program and the FSA guaranteed farm mortgage programs have size limits of $250,000 and $300,000 respectively.

Given the rise in property costs, these limits fail to provide meaningful funds for small farm purchase or often time prevent certain classes of farmers from obtaining credit. In addition, aggie bonds are subject to statewide ''caps'' applicable to both small farmers and established users.

Most industrial revenue bonds are typically issued for million of dollars, underwritten, rated and sold to investors. Aggie bonds, which cannot exceed $250,000, are not underwritten, are not rated, and are not sold to investors; they are sold to local lenders who finance beginning farmers with a lower than normal interest rate. Most of the private-activity bond volume is used by large corporations for manufacturing or for multi-family housing. Aggie bonds are used by beginning farmers and ranchers.

Several states, such as Illinois, has discovered that the volume cap is already used up by non-agricultural projects, and many states cannot meet the demand for Aggie Bonds.

Exempting Aggie Bonds from the volume cap would greatly enhance the opportunities for young or beginning, less established farmers and ranchers to acquire affordable, low cost credit for agricultural purchases such as land, livestock, machinery, and farm improvements. The Moseley-Braun/Grassley bill exempts aggie bonds from the volume cap.

These two bills will help farmers in Illinois, Iowa, and all of rural America. I hope my colleagues will join us in supporting these bills and I urge their swift passage in the United States Senate.●

By Mr. GLENN:

S. 2499. A bill to provide for a transition to market-based rates for power sold by the Federal Power Marketing Administrations and the Tennessee Valley Authority, and for other purposes; to the Committee on Energy and Natural Resources.

POWER MARKETING ADMINISTRATIONS REFORM ACT

● Mr. GLENN. Mr. President, today, I introduce the Power Marketing Administration Reform Act, a bill that will require the Power Marketing Administrations, or PMAs, to sell power at market rates. The Tennessee Valley Authority, or TVA, will also be included in the bill's requirements. My bill is a companion to H.R. 3518, introduced by Representatives BOB FRANKS (R–NJ) and MARTY MEEHAN (D–MA) in the House.

PMAs have failed to recover their operating costs for too long. My colleagues in the Senate are well aware of my activities to rectify this discrepancy that has brought about a fiscal shortfall and significant environmental damage. I have been joined by many in this Chamber in requesting reports from the Government Accounting Office, the Congressional Budget Office, and the Inspector General of the U.S. Department of Energy, the federal department that oversees the operation of the PMAs. All of the reports on the

PMAs and the TVA have indicated severe financial problems.

According to the Congressional Budget Office, in a report released in March, 1997, selling PMA electricity at market rates rather than at the currently subsidized rates will raise approximately $200 million per year, money that will be returned to the U.S. Treasury. Later in 1997, CBO concluded that eliminating this costly subsidy would complement steps already taken by Congress to deregulate energy markets and to reduce government interference in market operations.

When the PMAs were established during Franklin Roosevelt's administration, they served a useful and necessary purpose. Jobs were created for a nation that was struggling out of a horrible depression. Areas that could not afford the cost of purchasing power lines and generators for their residents were provided electricity at below market rates. At that time, below market sales were a good idea that allowed many more Americans than could afford electricity to enjoy its benefits. CBO concludes that over the past sixty years, many of the concerns that brought about the federal government's role in supplying power have diminished greatly. Nearly 60% of federal sales go to just four states: Tennessee, Alabama, Washington, and Oregon. In fact, nonfederal dams produced an average of 20% more electricity per unit of capacity than did dams supplying the PMAs.

According to a General Accounting Office report entitled, ''Federal Electricity Activities,'' released in October, 1997, in fiscal 1996, Bonneville, the three other PMAs, and the Rural Utilities Service cost the American taxpayer $2.5 billion. In the four year period from 1992 to 1996, the government's net costs were $8.6 billion. In March, 1998, the GAO released an additional study entitled, ''Federal Power: Options for Selected Power Marketing Administrations' Role in a Changing Electricity Industry.'' Among the conclusions in this report were that for that same four year period from 1992–1996, the federal government incurred a net cost of $1.5 billion from its involvement in the electricity-related activities of Southeastern, Southwestern, and Western. Up to $1.4 billion of nearly $7.2 billion of the federal investment in assets derived from these activities is at some risk of nonrecovery.

As for fairness in lending, the GAO found that the interest paid by the PMAs on their outstanding debt (3.5%) is often substantially below the rate that the U.S. Treasury incurred while providing funding to the PMAs (9%), resulting in a shortfall on interest alone of 5.5%. And rates charged by these PMAs were 40% or more below market rates.

Mr. President, it is important to note that my bill does not close the PMAs or the TVA. Rather, it helps them to transition to a market-based operation whereby the vast majority of consumers who do not benefit from PMA below-cost power sales will no longer be penalized so that a few large power companies can purchase cheap, bulk power. My bill will provide for full cost recovery rates for power sold by the PMAs and the TVA. To accomplish this goal, PMA and TVA rates will be recalculated and resubmitted to the Federal Energy Regulatory Commission (FERC) for approval.

In addition, the bill requires that PMA and TVA transmission facilities are subject to open-access regulation by the FERC, and that regulation will be strengthened by authorizing FERC to revise such rates. Cooperatives and public power entities will be given the right of first refusal of PMA and TVA power at market prices. Revenue accrued from the revisal of these rates will go first to the U.S. Treasury to cover all costs. The residual amount will then be disbursed by formula to the Treasury to mitigate damage to fish and wildlife and other environmental damage attributed to the operation of PMAs and the TVA, and to support renewable electricity generating resources.

Mr. President, these figures speak for themselves. In an era where the Congress has taken great strides toward eliminating the government's involvement in private industry, the PMAs are a white elephant. Sixty years after its inception, public power is less expensive, more accessible, and more widely available than ever before. There is no reason for the government to continue this wasteful subsidy to the fiscal detriment of the American people and the U.S. Treasury. I urge my colleagues to join me and my colleagues, Senators MOYNIHAN and REED of Rhode Island, in supporting this bill.

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

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

S. 2499

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 ''Power Marketing Administration Reform Act of 1998''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the use of fixed allocations of joint multipurpose project costs and the failure to provide for the recovery of actual interest costs and depreciation have resulted in—

(A) substantial failures to recover costs properly recoverable through power rates by the Federal Power Marketing Administrations and the Tennessee Valley Authority; and

(B) the imposition of unreasonable burdens on the taxpaying public;

(2) existing underallocations and underrecovery of costs have led to inefficiencies in the marketing of Federally generated electric power and to environmental damage; and

(3) with the emergence of open access to power transmission and competitive bulk power markets, market prices will provide the lowest reasonable rates consistent with—

(A) sound business principles;

(B) maximum recovery of costs properly allocated to power production; and

(C) encouraging the most widespread use of power marketed by the Federal Power Marketing Administrations and the Tennessee Valley Authority.

(b) PURPOSES.—The purposes of this Act are to provide for—

(1) full cost recovery rates for power sold by the Federal Power Marketing Administrations and the Tennessee Valley Authority; and

(2) a transition to market-based rates for the power.

SEC. 3. SALE OR DISPOSITION OF FEDERAL POWER BY FEDERAL POWER MARKETING ADMINISTRATIONS AND THE TENNESSEE VALLEY AUTHORITY.

(a) ACCOUNTING.—Notwithstanding any other provision of law, as soon as practicable after the date of enactment of this Act, the Secretary of Energy, in consultation with the Federal Energy Regulatory Commission, shall develop and implement procedures to ensure that the Federal Power Marketing Administrations and the Tennessee Valley Authority use the same accounting principles and requirements (including the accounting principles and requirements with respect to the accrual of actual interest costs during construction and pending repayment for any project and recognition of depreciation expenses) as are applied by the Commission to the electric operations of public utilities.

(b) DEVELOPMENT AND SUBMISSION OF RATES TO THE COMMISSION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, not later than 1 year after the date of enactment of this Act and periodically thereafter but not less frequently than once every 5 years, each Federal Power Marketing Administration and the Tennessee Valley Authority shall submit to the Federal Energy Regulatory Commission a description of proposed rates for the sale or disposition of Federal power that will ensure the recovery of all costs incurred by the Federal Power Marketing Administration or the Tennessee Valley Authority, respectively, for the generation and marketing of the Federal power.

(2) COSTS TO BE RECOVERED.—The costs to be recovered under paragraph (1)—

(A) shall include all fish and wildlife expenditures required under treaty and legal obligations associated with the construction and operation of the facilities from which the Federal power is generated and sold; and

(B) shall not include any cost of transmitting the Federal power.

(c) COMMISSION REVIEW, APPROVAL, OR MODIFICATION.—

(1) IN GENERAL.—The Federal Energy Regulatory Commission shall review and either approve or modify rates for the sale or disposition of Federal power submitted to the Commission by each Federal Power Marketing Administration and the Tennessee Valley Authority under this section, in a manner that ensures that the rates will recover all costs described in subsection (b)(2).

(2) BASIS FOR REVIEW.—The review by the Commission under paragraph (1) shall be based on the record of proceedings before the Federal Power Marketing Administration or the Tennessee Valley Authority, except that the Commission shall afford all affected persons an opportunity for an additional hearing in accordance with the procedures established for ratemaking by the Commission under the Federal Power Act (16 U.S.C. 791a et seq.).

(d) APPLICATION OF RATES.—

(1) IN GENERAL.—Beginning on the date of approval or modification by the Commission of rates under this section, each Federal

Power Marketing Administration and the Tennessee Valley Authority shall apply the rates, as approved or modified by the Commission, to each existing contract for the sale or disposition of Federal power by the Federal Power Marketing Administration or the Tennessee Valley Authority to the maximum extent permitted by the contract.

(2) APPLICABILITY.—This section shall cease to apply to a Federal Power Marketing Administration or the Tennessee Valley Authority as of the date of termination of all commitments under any contract for the sale or disposition of Federal power that were in existence as of the date of enactment of this Act.

(e) ACCOUNTING PRINCIPLES AND REQUIREMENTS.—In developing or reviewing the rates required by this section, the Federal Power Marketing Administrations, the Tennessee Valley Authority, and the Commission shall rely on the accounting principles and requirements developed under subsection (a).

(f) INTERIM RATES.—Until market pricing for the sale or disposition of Federal power by a Federal Power Marketing Administration or the Tennessee Valley Authority is fully implemented, the full cost recovery rates required by this section shall apply to—

(1) a new contract entered into after the date of enactment of this Act for the sale of power by a Federal Power Marketing Administrator or the Tennessee Valley Authority; and

(2) a renewal after the date of enactment of this Act of an existing contract for the sale of power by a Federal Power Marketing Administration or the Tennessee Valley Authority.

(g) TRANSITION TO MARKET-BASED RATES.—

(1) IN GENERAL.—If the transition to full cost recovery rates would result in rates that exceed market rates, the Secretary of Energy may approve rates for power sold by Federal Power Marketing Administrations at market rates, and the Tennessee Valley Authority may approve rates for power sold by the Tennessee Valley Authority at market rates, if—

(A) operation and maintenance costs are recovered, including all fish and wildlife costs required under existing treaty and legal obligations;

(B) the contribution toward recovery of investment pertaining to power production is maximized; and

(C) purchasers of power under existing contracts consent to the remarketing by the Federal Power Marketing Administration or the Tennessee Valley Authority of the power through competitive bidding not later than 3 years after the approval of the rates.

(2) COMPETITIVE BIDDING.—Competitive bidding shall be used to remarket power that is subject to, but not sold in accordance with, paragraph (1).

(h) MARKET-BASED PRICING.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Energy shall develop and implement procedures to ensure that all power sold by Federal Power Marketing Administrations and the Tennessee Valley Authority is sold at prices that reflect demand and supply conditions within the relevant bulk power supply market.

(2) BID AND AUCTION PROCEDURES.—The Secretary of Energy shall establish by regulation bid and auction procedures to implement market-based pricing for power sold under any power sales contract entered into by a Federal Power Marketing Administration or the Tennessee Valley Authority after the date that is 2 years after the date of enactment of this Act, including power that is under contract but that is declined by the party entitled to purchase the power and remarketed after that date.

(i) USE OF REVENUE COLLECTED THROUGH MARKET-BASED PRICING.—

(1) IN GENERAL.—Revenue collected through market-based pricing shall be disposed of as follows:

(A) REVENUE FOR OPERATIONS, FISH AND WILDLIFE, AND PROJECT COSTS.—Revenue shall be remitted to the Secretary of the Treasury to cover—

(i) all power-related operations and maintenance expenses;

(ii) all fish and wildlife costs required under existing treaty and legal obligations; and

(iii) the project investment cost pertaining to power production.

(B) REMAINING REVENUE.—Revenue that remains after remission to the Secretary of the Treasury under subparagraph (A) shall be disposed of as follows:

(i) FEDERAL BUDGET DEFICIT.—50 percent of the revenue shall be remitted to the Secretary of the Treasury for the purpose of reducing the Federal budget deficit.

(ii) FUND FOR ENVIRONMENTAL MITIGATION AND RESTORATION.—35 percent of the revenue shall be deposited in the fund established under paragraph (2)(A).

(iii) FUND FOR RENEWABLE RESOURCES.—15 percent of the revenue shall be deposited in the fund established under paragraph (3)(A).

(2) FUND FOR ENVIRONMENTAL MITIGATION AND RESTORATION.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the ''Fund for Environmental Mitigation and Restoration'' (referred to in this paragraph as the ''Fund''), consisting of funds allocated under paragraph (1)(B)(ii).

(ii) ADMINISTRATION.—The Fund shall be administered by a Board of Directors consisting of the Secretary of the Interior, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, or their designees.

(B) USE.—Amounts in the Fund shall be available for making expenditures—

(i) to carry out project-specific plans to mitigate damage to, and restore the health of, fish, wildlife, and other environmental resources that is attributable to the construction and operation of the facilities from which power is generated and sold; and

(ii) to cover all costs incurred in establishing and administering the Fund.

(C) PROJECT-SPECIFIC PLANS.—

(i) IN GENERAL.—The Board of Directors of the Fund shall develop a project-specific plan described in subparagraph (B)(i) for each project that is used to generate power marketed by the Federal Power Marketing Administration or the Tennessee Valley Authority.

(ii) USE OF EXISTING DATA, INFORMATION, AND PLANS.—In developing plans under clause (i), the Board, to the maximum extent practicable, shall rely on existing data, information, and mitigation and restoration plans developed by—

(I) the Commissioner of the Bureau of Reclamation;

(II) the Director of the United States Fish and Wildlife Service;

(III) the Administrator of the Environmental Protection Agency; and

(IV) the heads of other Federal, State, and tribal agencies.

(D) MAXIMUM AMOUNT.—

(i) IN GENERAL.—The Fund shall maintain a balance of not more than $200,000,000 in excess of the amount that the Board of Directors of the Fund determines is necessary to cover the costs of project-specific plans required under this paragraph.

(ii) SURPLUS REVENUE FOR DEFICIT REDUCTION.—Revenue that would be deposited in the Fund but for the absence of such project-specific plans shall be used by the Secretary of the Treasury for purposes of reducing the Federal budget deficit.

(3) FUND FOR RENEWABLE RESOURCES.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the ''Fund for Renewable Resources'' (referred to in this paragraph as the ''Fund''), consisting of funds allocated under paragraph (1)(B)(iii).

(ii) ADMINISTRATION.—The Fund shall be administered by the Secretary of Energy.

(B) USE.—Amounts in the Fund shall be available for making expenditures—

(i) to pay the incremental cost (above the expected market cost of power) of nonhydroelectric renewable resources in the region in which power is marketed by a Federal Power Marketing Administration; and

(ii) to cover all costs incurred in establishing and administering the Fund.

(C) ADMINISTRATION.—Amounts in the Fund shall be expended only—

(i) in accordance with a plan developed by the Secretary of Energy that is designed to foster the development of nonhydroelectric renewable resources that show substantial long-term promise but that are currently too expensive to attract private capital sufficient to develop or ascertain their potential; and

(ii) on recipients chosen through competitive bidding.

(D) MAXIMUM AMOUNT.—

(i) IN GENERAL.—The Fund shall maintain a balance of not more than $50,000,000 in excess of the amount that the Secretary of Energy determines is necessary to carry out the plan developed under subparagraph (C)(i).

(ii) SURPLUS REVENUE FOR DEFICIT REDUCTION.—Revenue that would be deposited in the Fund but for the absence of the plan shall be used by the Secretary of the Treasury for purposes of reducing the Federal budget deficit.

(j) PREFERENCE.—

(1) IN GENERAL.—In making allocations or reallocations of power under this section, a Federal Power Marketing Administration and the Tennessee Valley Authority shall provide a preference for public bodies and cooperatives by providing a right of first refusal to purchase the power at market prices.

(2) USE.—

(A) IN GENERAL.—Power purchased under paragraph (1)—

(i) shall be consumed by the preference customer or resold for consumption by the constituent end-users of the preference customer; and

(ii) may not be resold to other persons or entities.

(B) TRANSMISSION ACCESS.—In accordance with regulations of the Federal Energy Regulatory Commission, a preference customer shall have transmission access to power purchased under paragraph (1).

(3) COMPETITIVE BIDDING.—If a public body or cooperative does not purchase power under paragraph (1), the power shall be allocated to the next highest bidder.

(k) REFORMS.—The Secretary of Energy shall require each Federal Power Marketing Administration to implement—

(1) program management reforms that require the Federal Power Marketing Administration to assign personnel and incur expenses only for authorized power marketing, reclamation, and flood control activities and not for ancillary activities (including consulting or operating services for other entities); and

(2) annual reporting requirements that clearly disclose to the public, the activities of the Federal Power Marketing Administration (including the full cost of the power projects and power marketing programs).

(l) CONTRACT RENEWAL.—Effective beginning on the date of enactment of this Act, a Federal Power Marketing Administration shall not enter into or renew any power marketing contract for a term that exceeds 5 years.

(m) RESTRICTIONS.—Except for the Bonneville Power Administration, each Federal Power Marketing Administration shall be subject to the restrictions on the construction of transmission and additional facilities that are established under section 5 of the Act entitled ''An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes'', approved December 22, 1944 (commonly known as the ''Flood Control Act of 1944'') (58 Stat. 890)).

SEC. 4. TRANSMISSION SERVICE PROVIDED BY FEDERAL POWER MARKETING ADMINISTRATIONS AND TENNESSEE VALLEY AUTHORITY.

(a) IN GENERAL.—Subject to subsection (b), a Federal Power Marketing Administration and the Tennessee Valley Authority shall provide transmission service on an open access basis, and at just and reasonable rates approved or established by the Federal Energy Regulatory Commission under part II of the Federal Power Act (16 U.S.C. 824 et seq.), in the same manner as the service is provided under Commission rules by any public utility subject to the jurisdiction of the Commission under that part.

(b) EXPANSION OF CAPABILITIES OR TRANSMISSIONS.—Subsection (a) does not require a Federal Power Marketing Administration or the Tennessee Valley Authority to expand a transmission or interconnection capability or transmission.

SEC. 5. INTERIM REGULATION OF POWER RATE SCHEDULES OF FEDERAL POWER MARKETING ADMINISTRATIONS.

(a) IN GENERAL.—During the date beginning on the date of enactment of this Act and ending on the date on which market-based pricing is implemented under section 3 (as determined by the Federal Energy Regulatory Commission), the Commission may review and approve, reject, or revise power rate schedules recommended for approval by the Secretary of Energy, and existing rate schedules, for power sales by a Federal Power Marketing Administration.

(b) BASIS FOR APPROVAL.—In evaluating rates under subsection (a), the Federal Energy Regulatory Commission, in accordance with section 3, shall—

(1) base any approval of the rates on the protection of the public interest; and

(2) undertake to protect the interest of the taxpaying public and consumers.

(c) COMMISSION ACTIONS.—As the Federal Energy Regulatory Commission determines is necessary to protect the public interest in accordance with section 3 until a full transition is made to market-based rates for power sold by Federal Power Marketing Administrations, the Federal Energy Regulatory Commission may—

(1) review the factual basis for determinations made by the Secretary of Energy;

(2) revise or modify those findings as appropriate;

(3) revise proposed or effective rate schedules; or

(4) remand the rate schedules to the Secretary of Energy.

(d) REVIEW.—An affected party (including a taxpayer, bidder, preference customer, or affected competitor) may seek a rehearing and judicial review of a final decision of the Federal Energy Regulatory Commission under this section in accordance with section 313 of the Federal Power Act (16 U.S.C. 825*l*).

(e) PROCEDURES.—The Federal Energy Regulatory Commission shall by regulation establish procedures to carry out this section.

SEC. 6. CONFORMING AMENDMENTS.

(a) TRANSFERS FROM THE DEPARTMENT OF THE INTERIOR.—Section 302(a)(3) of the Department of Energy Organization Act (42 U.S.C. 7152(a)(3)) is amended by striking the last sentence.

(b) USE OF FUNDS TO STUDY NONCOST-BASED METHODS OF PRICING HYDROELECTRIC POWER.—Section 505 of the Energy and Water Development Appropriations Act, 1993 (42 U.S.C. 7152 note; 106 Stat. 1343) is repealed.

SEC. 7. APPLICABILITY.

Except as provided in section 3(l), this Act shall take apply to a power sales contract entered into by a Federal Power Marketing Administration or the Tennessee Valley Authority after July 23, 1997.●

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

S. 2500. A bill to protect the sanctity of contracts and leases entered into by surface patent holders with respect to coalbed methane gas; to the Committee on Energy and Natural Resources.

COALBED METHANE PATENT HOLDERS PROTECTION LEGISLATION

Mr. ENZI. Mr. President, I rise today, with my colleagues, Senator CRAIG THOMAS of Wyoming, and Senator JEFF BINGAMAN of New Mexico, to introduce a very important bill for our western States and for others that have a lot of federally-owned coal. We have been working with other members, members of the Energy Committee, and with the Department of Interior to put together a good consensus bill.

On July 20, the 10th Circuit Court of Appeals, in a final en banc decision, ruled that methane gas produced out of coal seams is part of the coal itself, and not actually a gas. That means instead of belonging to the owner of the oil and gas, as it has for the past 80 years, it may now belong to the owner of the coal. In Wyoming, the owner of the oil and gas is often different from the owner of the coal—which in most cases is the Federal Government.

What does that mean? In my home county, the Federal Government owns only about 55% of the oil and gas, but it owns 95% of the coal. That means, in many places where these two resources occur together, there are separate owners. This decision is poised to strip away a majority of the private ownership of gas in Campbell County. It could be an immediate transfer of $250 million over thirty years from private owners to the government—a loss of income and economic activity that will destroy the economy in my home town.

The effects will be widespread because this decision would overturn a decades-old U.S. Government policy. This Interior policy has acted as the basis for thousands of gas contracts across the west. People have been using since 1981 to govern the development of their contracts and leases. Today, the Circuit Court's decision places all of those contracts in legal limbo. That limbo threatens the livelihood of entire regions in the States like Wyoming, Colorado, Utah and New Mexico.

WHO CURRENTLY OWNS THE GAS?

For those of my colleagues who haven't been deeply involved in western public lands energy issues—across the west, oil and gas is often owned separately from the coal. It may also be separate from hardrock minerals, and over time through sale, can also be separate from the surface rights. This system of split mineral estates is the result of many layers of Federal statutes that granted varying levels of patents to homesteaders.

The particular problem before us, arises out of the Coal Land Acts of 1909 and 1910. Those statutes specified that homesteaders could retain surface rights (including the oil and gas) but reserved the coal to the U.S. Government. Now the question about whether methane is a gas, or coal, leads to questions of ownership.

In Wyoming today, gas producers—through lease agreements with federal, state and private owners in Wyoming—produce over a billion cubic feet of methane gas per month. These leases are between the producers and the owners of the gas and many of them have been in effect for as long as twenty years and more. In New Mexico and Colorado, they are producing over 75 billion cubic feet of gas per month under the same system. This Court decision—which would attach the methane to the coal owner or lessee—jeopardizes all of the gas leases that govern these wells—including the federal gas leases.

HOW SERIOUS IS IT?

The effect of this decision will have a profound impact in certain regions. Consider some of these effects:

1. For the farm families who have secured mortgages with their royalties, this invalidation could deprive them of much needed lease income and force them into bankruptcy.

2. For the small community banks who hold those loans, a number of bankruptcies could jeopardize their solvency.

3. For the producing companies operating—or planning to operate—on those leases, this could delay their production—and all the jobs that come with it—for a year or more. So while the judicial system is sorting out the ownership issue, drilling and servicing companies are going to go belly up. Oil exploration has stalled because of low prices, so if they can't drill for cheap gas, there isn't much business.

I received a letter in my office the other day from a small bank in Buffalo, Wyoming. In the letter, they discussed the effects this decision may have on interest owners and various trusts held by their bank. The advisory committee for one particular trust voted to suspend all further royalty payments to the trust beginning September 1. That decision was made based on the tax consequences and on the potential liability of having to repay royalties should any retrospective decisions be made.

Another constituent contacted me to tell me that his multi-million lease agreement—that he had worked on for more than a year—had just fallen apart because this court decision had clouded the title. The investors had been unwilling to go through with the deal.

These stories are just the start of a devastating series of consequences that will arise out of this decision. Each breakdown will have a multiplying effect on unemployment and loss of confidence in western states.

This is a very serious situation, Mr. President, but it is one that can be stabilized.

Today, we are offering a bill that would grandfather the leases that have been negotiated, in good faith, according to the explicit policies of the U.S. Government. The amendment would ensure that existing leases to produce methane—or natural gas out of the coalseam, as some of the older leases read—remain valid and that there is no future assertion of ownership by the Federal Government on these parcels.

The amendment applies only to federally owned coal. It would not have any effect on tribally owned or state-owned coal. We have worked this out with the Chairman of the Indian Affairs Committee, Senator CAMPBELL from Colorado.

Furthermore, we have worked with the coal companies, who have valid concerns about their existing and future leases to mine federal coal. We have made it clear that nothing in this bill should be construed to limit their ability to mine federal coal under valid leases, nor should anything be construed to expand their liabilities to coalbed methane owners covered by the bill.

The timing of the decision means we will be working to move this bill as soon as possible. Next year, we will pursue a more in-depth review of the situation. This body will need to conduct hearings and look at ways to work out problems with future leases and with conflicting resource use issues. These are details that demand very careful consideration.

For now, however, we should take this opportunity to provide some certainty for people with existing agreements. This is a statement of support for the sanctity of those contracts—and a statement of support for the economies in our states.

In closing, I would like to thank the Republican and Democratic members of the Senate who have been so important in helping us to work out this legislation. A special thanks to the Indian Affairs Committee for helping us craft language to accommodate tribal lands and a special thanks to the Department of Interior, who is helping us to protect eighty years of doing business. They have also helped us remove the possibility of devastating private property takings, retroactive liabilities, and mountains of litigation.

Mr. THOMAS. Mr. President, I rise today to strongly support this legislation designed to protect contracts and leases of surface patent holders for coalbed methane. This legislation, which my colleague Senator ENZI and I are jointly introducing along with our House colleague Congresswoman CUBIN, is vitally important to coalbed methane producers and lease holders in Wyoming and will address a problem which arose due to an appellate court decision rendered earlier this summer.

On July 20, 1998, the Tenth Circuit Court of Appeals turned years of precedent and practice on its head by ruling that coalbed methane should be classified as a coal-by-product rather than a form of natural gas. That decision was completely contrary to past interpretation, and will severely impact coaled methane lease holders in Wyoming and throughout the nation. The ruling will also delay completion of leases and drilling, which will negatively impact our state's economy.

The court's decision is particularly troubling for producers because the Office of the Solicitor at the Department of Interior had issued two earlier opinions regarding ownership of coalbed methane in federally-owned coal, which were directly opposite to the appellate court's ruling. Both in 1981 and in 1990, the Solicitor's office issued options which stated that coalbed methane was not part of the federally-reserved coal protected under the 1909 and 1910 Coal Lands Acts. Now, leaseholders and producers, who believed they were acting in good faith and compliance with federal law, are faced with the troubling possibility that their leases may be revoked.

The legislation that we are introducing today is designed to remedy many of the problems caused by the appellate court's decision. This bill would protect current contracts and leases of surface patent holders for coalbed methane gas. The measure does not address future leases or contracts and only deals with folks who are already engaged in the production of coalbed methane gas or who have leased land for drilling and exploration. It is a fair and reasonable proposal and would simply protect people who acted in compliance with the law as it was interpreted by the Department of Interior.

Mr. President, I hope the Senate will take quick action on this measure and approve it as quickly as possible. Coalbed methane production is a growing and vibrant part of Wyoming's economy and we need to take action to ensure that the lives of folks who rely on stable production of coalbed methane are not completely disrupted. Producers acted in good faith and in compliance with the law as they knew it. We should not punish them for actions beyond their control and should work to ensure that the blood and sweat which they invested into their businesses is not swept away by the actions of the court.

ADDITIONAL COSPONSORS

S. 555

At the request of Mr. ALLARD, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 555, a bill to amend the Solid Waste Disposal Act to require that at least 85 percent of funds appropriated to the Environmental Protection Agency from the Leaking Underground Storage Tank Trust Fund be distributed to States to carry out cooperative agreements for undertaking corrective action and for enforcement of subtitle I of that Act.

S. 712

At the request of Mr. MOYNIHAN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 712, a bill to provide for a system to classify information in the interests of national security and a system to declassify such information.

S. 751

At the request of Mr. SHELBY, the name of the Senator from Minnesota (Mr. GRAMS) 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. 2049

At the request of Mr. KERREY, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2049, a bill to provide for payments to children's hospitals that operate graduate medical education programs.

S. 2180

At the request of Mr. LOTT, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2180, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 2208

At the request of Mr. FRIST, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2208, a bill to amend title IX of the Public Health Service Act to revise and extend the Agency for Healthcare Policy and Research.

S. 2341

At the request of Mr. DEWINE, the names of the Senator from New York (Mr. D'AMATO), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of S. 2341, a bill to support enhanced drug interdiction efforts in the major transit countries and support a comprehensive supply eradication and crop substitution program in source countries.

SENATE CONCURRENT RESOLUTION 108

At the request of Mr. DORGAN, the names of the Senator from Kentucky (Mr. FORD) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of Senate Concurrent Resolution 108, a concurrent resolution recognizing the 50th anniversary of the

National Heart, Lung, and Blood Institute, and for other purposes.

SENATE RESOLUTION 259

At the request of Mr. THURMOND, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of Senate Resolution 259, a resolution designating the week beginning September 20, 1998, as ''National Historically Black Colleges and Universities Week,'' and for other purposes.

SENATE RESOLUTION 274

At the request of Mr. FORD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of Senate Resolution 274, a resolution to express the sense of the Seante that the Louisville Festival of Faiths should be commended and should serve as model for similar festivals in other communities throughout the United States.

AMENDMENTS SUBMITTED— SEPTEMBER 17, 1998

CONSUMER BANKRUPTCY REFORM ACT OF 1998

GRASSLEY (AND DURBIN) AMENDMENT NO. 3595

Mr. GRASSLEY (for himself and Mr. DURBIN) proposed an amendment to amendment No. 3559 proposed by Mr. GRASSLEY to the bill (S. 1301) to amend title 11, United States Code, to provide for consumer bankruptcy protection, and for other purposes; as follows:

(1) In section 102(a)(5) strike ''a party in interest'' and insert ''only the judge, United States trustee, bankruptcy administrator or panel trustee'';

(2) In section 102(a)95) strike ''not''.

Strike 317 and replace with:

''Not later than 180 days after the date of enactment of this Act, the Federal Trade Commission shall promulgate regulations defining ''household goods'' under Section 522(c)(3) in a manner suitable and appropriate for cases under Title 11 of the United States Code. If new regulations are not effective within 180 days of enactment of this Act, then ''household goods'' under Section 522(c)(3) shall have the meaning given that term in section 444.1(i) of Title 16, of the Code of Federal Regulations, except that the term shall also include any tangible personal property reasonably necessary for the maintenance or support of a dependent child.''

At the end of Title III, insert:

11 U.S.C. 507(a) to add a new section 507(a)(10) to read:

''Tenth, allowed claims for death or personal injury resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug or another substance.''

Strike existing 315 and add the following:

SEC. 315. NONDISCHARGEABLE DEBTS.

Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

''(14A) incurred to pay a debt that is nondischargeable by reason of section 727, 1141, 1228 (a) or (b), or 1328(b), or any other provision of this subsection, where the debtor incurred the debt to pay such a nondischargeable debt with the intent to discharge in bankruptcy the newly-created debt.''

At the appropriate place in Title II, insert the following:

SEC. ___. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY DWELLING.

(a) OPEN-END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1637a(a)(13)) is amended—

(A) by striking ''CONSULTATION OF TAX ADVISOR.—A statement that the'' and inserting the following: ''TAX DEDUCTIBILITY.—A statement that—

''(A) the''; and

(B) by striking the period at the end and inserting the following: ''; and

''(B) in any case in which the extension of credit exceeds the fair market value of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.''.

(2) CREDIT ADVERTISEMENTS.—Section 147(b) of the Truth in Lending Act (15 U.S.C. 1665b(b)) is amended—

(A) by striking ''If any'' and inserting the following:

''(1) IN GENERAL.—If any''; and

(B) by adding at the end the following:

''(2) CREDIT IN EXCESS OF FAIR MARKET VALUE.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling shall include a clear and conspicuous statement that—

''(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(B) the consumer may want to consult a tax advisor for further information regarding the deductibility of interest and charges.''.

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

''(15) In the case of a consumer credit transaction that is secured by the principal dwelling of the consumer, in which the extension of credit may exceed the fair market value of the dwelling, a clear and conspicuous statement that—

''(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(B) the consumer should consult a tax advisor for further information regarding the deductibility of interest and charges.''; and

(B) in subsection (b), by adding at the end the following:

''(3) In the case of a credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.''.

(2) CREDIT ADVERTISEMENTS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

''(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling shall clearly and conspicuously state that—

''(1) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(2) the consumer may want to consult a tax advisor for further information regarding the deductibility of interest and charges.''.

This section shall become effective one year after the date of enactment.

At the appropriate place in Title II, insert the following:

SEC. ___. DUAL-USE DEBIT CARD.

(a) CONSUMER LIABILITY.—

(1) IN GENERAL.—Section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g) is amended—

(A) by redesignating subsections (b) through (e) as subsections (d) through (g), respectively;

(B) in subsection (a)—

(i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(ii) by inserting ''CARDS NECESSITATING UNIQUE IDENTIFIER.—

''(1) IN GENERAL.—'' after ''(a)'';

(iii) by striking ''other means of access can be identified as the person authorized to use it, such as by signature, photograph,'' and inserting ''other means of access can be identified as the person authorized to use it by a unique identifier, such as a photograph, retina scan,''; and

(iv) by striking ''Notwithstanding the foregoing,'' and inserting the following:

''(2) NOTIFICATION.—Notwithstanding paragraph (1),''; and

(C) by inserting before subsection (d), as so designated by this section, the following new subsections:

''(b) CARDS NOT NECESSITATING UNIQUE IDENTIFIER.—A consumer shall be liable for an unauthorized electronic fund transfer only if—

''(1) the liability is not in excess of $50;

''(2) the unauthorized electronic fund transfer is initiated by the use of a card that has been properly issued to a consumer other than the person making the unauthorized transfer as a means of access to the account of that consumer for the purpose of initiating an electronic fund transfer;

''(3) the unauthorized electronic fund transfer occurs before the card issuer has been notified that an unauthorized use of the card has occurred or may occur as the result of loss, theft, or otherwise; and

''(4) such unauthorized electronic fund transfer did not require the use of a code or other unique identifier (other than a signature), such as a photograph, fingerprint, or retina scan.

''(c) NOTICE OF LIABILITY AND RESPONSIBILITY TO REPORT LOSS OF CARD, CODE, OR OTHER MEANS OF ACCESS.—No consumer shall be liable under this title for any unauthorized electronic fund transfer unless the consumer has received in a timely manner the notice required under section 905(a)(1), and any subsequent notice required under section 905(b) with regard to any change in the information which is the subject of the notice required under section 905(a)(1).''.

(2) CONFORMING AMENDMENT.—Section 905(a)(1) of the Electronic Fund Transfer Act (15 U.S.C. 1693c(a)(1)) is amended to read as follows:

''(1) the liability of the consumer for any unauthorized electronic fund transfer and the requirement for promptly reporting any loss, theft, or unauthorized use of a card, code, or other means of access in order to limit the liability of the consumer for any such unauthorized transfer;''.

(b) VALIDATION REQUIREMENT FOR DUAL-USE DEBIT CARDS.—

(1) IN GENERAL.—Section 911 of the Electronic Fund Transfer Act (15 U.S.C. 1693i) is amended—

(A) by redesignating subsection (c) as subsection (d); and

(B) by inserting after subsection (b) the following new subsection:

''(c) VALIDATION REQUIREMENT.—No person may issue a card described in subsection (a),

the use of which to initiate an electronic fund transfer does not require the use of a code or other unique identifier other than a signature (such as a fingerprint or retina scan), unless—

''(1) the requirements of paragraphs (1) through (4) of subsection (b) are met; and

''(2) the issuer has provided to the consumer a clear and conspicuous disclosure that use of the card may not require the use of such code or other unique identifier.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 911(d) of the Electronic Fund Transfer Act (15 U.S.C. 1993i(d)) (as redesignated by subsection (a)(1) of this section) is amended by striking ''For the purpose of subsection (b)'' and inserting ''For purposes of subsections (b) and (c)''.

On page 6, line 23 insert ''or United States Trustee'' after ''trustee''.

At the end of Title III:

''If requested by the United States trustee or a trustee serving in the case, the debtor provide a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor and such other personal identifying information relating to the debtor that establishes the identity of the debtor.''.

At the appropriate place in title VII, insert the following:

SEC. 7___. ROLLING STOCK EQUIPMENT.

(a) IN GENERAL.—Section 1168 of title 11, United States Code, is amended to read as follows:

''§ 1168. Rolling stock equipment.

''(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court, except that that right to take possession and enforce those other rights and remedies shall be subject to section 362, if—

''(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

''(B) any default, other than a default of a kind described in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

''(i) that occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period;

''(ii) that occurs or becomes an event of default after the date of commencement of the case and before the expiration of such 60-day period is cured before the later of—

''(I) the date that is 30 days after the date of the default or event of the default; or

''(II) the expiration of such 60-day period; and

''(iii) that occurs on or after the expiration of such 60-day period is cured in accordance with the terms of such security agreement, lease, or conditional sale contract, if cure is permitted under that agreement, lease, or conditional sale contract.

''(2) The equipment described in this paragraph—

''(A) is rolling stock equipment or accessories used on rolling stock equipment, including superstructures or racks, that is subject to a security interest granted by, leased to, or conditionally sold to a debtor; and

''(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, that is to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

''(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

''(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

''(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(2), if at any time after the date of commencement of the case under this chapter such secured party, lessor, or conditional vendor is entitled pursuant to subsection (a)(1) to take possession of such equipment and makes a written demand for such possession of the trustee.

''(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(2), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

''(d) With respect to equipment first placed in service on or prior to October 22, 1994, for purposes of this section—

''(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

''(2) the term 'security interest' means a purchase-money equipment security interest.

''(e) With respect to equipment first placed in service after October 22, 1994, for purposes of this section, the term 'rolling stock equipment' includes rolling stock equipment that is substantially rebuilt and accessories used on such equipment.''.

(b) AIRCRAFT EQUIPMENT AND VESSELS.—Section 1110 of title 11, United States Code, is amended to read as follows:

''§ 1110. Aircraft equipment and vessels

''(a)(1) Except as provided in paragraph (2) and subject to subsection (b), the right of a secured party with a security interest in equipment described in paragraph (3), or of a lessor or conditional vendor of such equipment, to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies, under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court.

''(2) The right to take possession and to enforce the other rights and remedies described in paragraph (1) shall be subject to section 362 if—

''(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the approval of the court, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

''(B) any default, other than a default of a kind specified in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

''(i) that occurs before the date of the order is cured before the expiration of such 60-day period;

''(ii) that occurs after the date of the order and before the expiration of such 60-day period is cured before the later of—

''(I) the date that is 30 days after the date of the default; or

''(II) the expiration of such 60-day period; and

''(iii) that occurs on or after the expiration of such 60-day period is cured in compliance with the terms of such security agreement, lease, or conditional sale contract, if a cure is permitted under that agreement, lease, or contract.

''(3) The equipment described in this paragraph—

''(A) is—

''(i) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 40102 of title 49) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that, at the time such transaction is entered into, holds an air carrier operating certificate issued pursuant to chapter 447 of title 49 for aircraft capable of carrying 10 or more individuals or 6,000 pounds or more of cargo; or

''(ii) a documented vessel (as defined in section 30101(1) of title 46) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that, at the time such transaction is entered into, holds a certificate of public convenience and necessity or permit issued by the Department of Transportation; and

''(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

''(4) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

''(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the approval of the court, to extend the 60-day period specified in subsection (a)(1).

''(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(3), if at any time after the date of the order for relief under this chapter such secured party, lessor, or conditional vendor is entitled pursuant to subsection (a)(1) to take possession of such equipment and makes a written demand for such possession to the trustee.

''(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(3), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

''(d) With respect to equipment first placed in service on or before October 22, 1994, for purposes of this section—

''(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to

be treated as a lease for Federal income tax purposes; and

''(2) the term 'security interest' means a purchase-money equipment security interest.''.

At the appropriate place in title VII, insert the following:

SEC. 7___. CURBING ABUSIVE FILINGS.

(a) IN GENERAL.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real estate, if the court finds that the filing of the bankruptcy petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

''(A) transfer of all or part ownership of, or other interest in, the real property without the consent of the secured creditor or court approval; or

''(B) multiple bankruptcy filings affecting the real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered pursuant to this subsection shall be binding in any other case under this title purporting to affect the real property filed not later than 2 years after that recording, except that a debtor in a subsequent case may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing.''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 709, is amended—

(1) in paragraph (24), by striking ''or'' at the end;

(2) in paragraph (25) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(26) under subsection (a) of this section, of any act to enforce any lien against or security interest in real property following the entry of an order under section 362(d)(4) as to that property in any prior bankruptcy case for a period of 2 years after entry of such an order. The debtor in a subsequent case, however, may move the court for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing; or

''(27) under subsection (a) of this section, of any act to enforce any lien against or security interest in real property—

''(A) if the debtor is ineligible under section 109(g) to be a debtor in a bankruptcy case; or

''(B) if the bankruptcy case was filed in violation of a bankruptcy court order in a prior bankruptcy case prohibiting the debtor from being a debtor in another bankruptcy case.''.

At the appropriate place in title VII, insert the following:

SEC. 7___. STUDY OF OPERATION OF TITLE 11 OF THE UNITED STATES CODE WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of the enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General, the Director of the Administrative Office of United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11 of the United States Code and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

After section 104(b)(3) add a new section 104(b)(4) reading:

''The dollar amount in section 101(18) shall be adjusted at the same times and in the same manner as the dollar amounts in paragraph (1) of this subsection, beginning with the adjustment to be made on April 1, 2001.''

In section 101(19)(A) strike: ''more than 50 percent of such individual's or such individual and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed'' and replace it with:

''Such individual has had or such individual and spouse have had more than 50 percent of her/his/their income from such farming operation in at least one of the three calendar years preceding the year in which the case concerning such individual or such individual or spouse was filed.''

After section 1225(b)(2) add a new section 1225(b)(3) reading:

If the plan provides for specific amounts of property to be distributed on account of allowed unsecured claims as required by paragraph (1)(b) of this subsection, those amounts equal or exceed the debtor's projected disposable income for that period, and the plan meets the requirements for confirmation other than those of this subsection, the plan shall be confirmed.

After section 1229(c) add a new section 1229(d) reading:

(1) A modification of the plan under this section may not increase the amount of payments that were due prior to the date of the order modifying the plan;

(2) A modification of the plan under this section to increase payments based on an increase in the debtor's disposable income may not require payments to unsecured creditors in any particular month greater than the debtor's disposable income for that month unless the debtor proposes such a modification;

(3) A modification of the plan in the last year of the plan shall not require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed unless the debtor proposes such a modification.

At the end of the III, insert:

SEC. 2___. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) by striking ''(2)(A) any property'' and inserting:

''(3) Property listed in this paragraph is—

''(A) any property'';

(ii) in subparagraph (A), by striking ''and'' at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.'';

(B) by striking paragraph (1) and inserting:

''(2) Property listed in this paragraph is property that is specified under subsection (d) of this section, unless the State law that is applicable to the debtor under paragraph (3)(A) of this subsection specifically does not so authorize.'';

(C) in the matter preceding paragraph (2)—

(i) by striking ''(b)'' and inserting ''(b)(1)'';

(ii) by striking ''paragraph (2)'' both places it appears and inserting ''paragraph (3)'';

(iii) by striking ''paragraph (1)'' each place it appears and inserting ''paragraph (2)''; and

(iv) by striking ''Such property is—''; and

(D) by adding at the end of the subsection the following:

''(4) For purposes of paragraph (3)(C), the following shall apply:

''(A) If the retirement funds are in a retirement fund that has received or is eligible to receive a favorable determination pursuant to section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the commencement of the case under section 301, 302, or 303, those funds shall be presumed to be exempt from the estate.

''(B) If the retirement funds are in a retirement fund that is not eligible to receive a favorable determination pursuant to such section 7805, those funds shall be presumed to be exempt from the estate if—

''(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

''(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

''(II) the retirement fund fails to be in substantial compliance with such applicable requirements, the debtor is not materially responsible for that failure.

''(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, pursuant to section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) by reason of that direct transfer.

''(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) by reason of that distribution.

''(ii) A distribution described in this clause is an amount that—

''(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

''(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of that amount.''; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking ''subsection (b)(1)'' and inserting ''subsection (b)(2)''; and

(B) by adding at the end the following:

''(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking ''or'' at the end;

(2) in paragraph (18), by striking the period and inserting ''; or'';

(3) by inserting after paragraph (18) the following:

''(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, pursuant to the debtor's agreement authorizing that withholding and collection for the benefit of a

pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986 that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

''(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan that satisfies the requirements of section 408(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)); or

''(B) in the case of a loan from a thrift savings plan described in subchapter III of title 5, that satisfies the requirements of section 8433(g) of that title.''; and

(4) by adding at the end of the flush material following paragraph (19) the following: ''Paragraph (19) does not apply to any amount owed to a plan referred to in that paragraph that is incurred under a loan made during the 1-year period preceding the filing of a petition. Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d) of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.''.

(c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, as amended by section 202, is amended—

(1) by striking ''or'' at the end of paragraph (17);

(2) by striking the period at the end of paragraph (18) and inserting ''; or''; and

(3) by adding at the end the following:

''(19) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, pursuant to—

''(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)); or

''(B) a loan from the thrift savings plan described in subchapter III of title 5, that satisfies the requirements of section 8433(g) of that title.

Paragraph (19) does not apply to any amount owed to a plan referred to in that paragraph that is incurred under a loan made during the 1-year period preceding the filing of a petition. Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d) of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.''.

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

''(f) A plan may not materially alter the terms of a loan described in section 362(b)(19).''.

(e) PLAN CONFIRMATION.—Section 1325 of title 11, United States Code, is amended—

(1) in subsection (b)(2), in the matter preceding subparagraph (A), by striking ''debtor and'' and inserting ''debtor (not including income that is withheld from the debtor's wages for the purposes described in section 362(b)(19)) and''; and

(2) in subsection (c), by striking ''income to'' and inserting ''income (except income that is withheld after confirmation of a plan from a debtor's wages for the purposes described in section 362(b)(19)) to''.

On page 48, line 15, insert ''as amended by section 207(a)'' after ''Code,''.

On page 48, line 17, strike ''(b)(2)(A)'' and insert ''(b)(3)(A)''.

On page 48, line 22, strike ''subsection (b)(2)(A)'' and insert ''subsection (b)(3)(A)''.

On page 62, line 20, insert '', as amended by section 207(b),'' after ''362(b) of title 11, United States Code''.

On page 62, line 22, strike ''(17)'' and insert ''(18)''.

On page 62, line 24, strike ''(18)'' and insert ''(19)''.

On page 63, line 1, strike ''by adding at the end the following:'' and insert ''by inserting after paragraph (19) the following:''.

On page 63, line 2, strike ''(19)'' and insert ''(20)''.

On page 63, line 6, strike ''(20)'' and insert ''(21)''.

On page 80, strike lines 4 through 6, and insert the following:

ment;'';

(D) in paragraph (20), by striking ''or'' at the end;

(E) in paragraph (21), by striking the period and inserting ''; or'';

On page 80, line 7, strike ''(E)'' and insert ''(F)''.

On page 80, line 9, strike ''(19)'' and insert (22)''.

On page 80, line 21, strike ''(19)'' and insert (22)''.

On page 131, line 3, strike ''section 326'' and insert ''sections 326 and 401''.

On page 50, line 7–8 strike ''chief judge'' and insert ''United States Trustee or Bankruptcy Administrator''.

On page 50, line 10, after ''not'' insert ''reasonably''.

On page 50, line 14, strike ''chief judge'' and insert ''United States Trustee or Bankruptcy Administrator''.

On page 50, line 16, strike ''180 days'' and insert ''one year''.

On page 50, line 17–18, strike ''180 days'' and insert ''one year''.

In Section 312, in amended section 707(c)(3), strike ''20'' and replace with ''50''.

At the appropriate place in title IV, insert the following:

SEC. 4 . FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking ''dwelling'' the first place it appears;

(2) by striking ''ownership or'' and inserting ''ownership,'';

(3) by striking ''housing'' the first place it appears; and

(4) by striking ''but only'' and all that follows through ''such period,'', and inserting ''or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,''.

At the appropriate place, insert the following new section:

Sec. . ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.

(a) AMENDMENTS TO THE TRUTH IN LENDING ACT.—

(1) ENHANCED DISCLOSURE OF REPAYMENT TERMS.—

(A) IN GENERAL.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

''(11)(A) Repayment information that would apply to the outstanding balance of the consumer under the credit plan in a clear and conspicuous manner, including—

''(i) the required minimum monthly payment on that balance, represented as both a dollar figure and as a percentage of that balance,

''(ii) the number of months (rounded to the nearest month) that it would take to pay the entire amount of that balance, if the consumer pays only the required minimum monthly payments and if no further advances are made;

''(iii) the total cost to the consumer, including interest and principal payments, of paying that balance in full, if the consumer pays only the required minimum monthly payments and if no further advances are made.

(B) PUBLICATION OF MODEL FORMS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish model disclosure forms in accordance with section 195 of the Truth in Lending Act for the purpose of compliance with section 127(b)(II) of the Truth in Lending Act, as added by this paragraph.

(2) ENHANCED DISCLOSURES IN CONNECTION WITH SOLICITATIONS.—

(A) IN GENERAL.—Section 127(c)(I)(B) of the Truth in Lending Act (15 U.S.C. 1637(c)(1)(B)) is amended by adding at the end the following:

''(iv) CREDIT WORKSHEET.—An easily understandable worksheet designed to aid consumers in determining their ability to assume more debt, including consideration of the personal expenses of the consumer and a simple formula for the consumer to determine whether the assumption of additional debt is advisable.

''(v) BASIS OF PREAPPROVAL.—In any case in which the application or solicitation states that the consumer has been preapproved for an account under an open end consumer credit plan, the following statement clearly and conspicuously: ''Your pre-approval for this credit card does not mean that we have reviewed your individual financial circumstances. You should review your own budget before accepting this offer of credit.''.

''(vi) AVAILABILITY OF CREDIT REPORTS.—That the consumer is entitled to a copy of his or her credit report, in accordance with the Fair Credit Reporting Act.''.

(B) PUBLICATION OF MODEL FORM.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish worksheet forms in accordance with section 195 on the Truth in Lending Act for the purpose of compliance with section 127(c)(1)(B)(iv) of the Truth in Lending Act, as added by this paragraph. This section shall be effective no later than January 1, 2001.

Strike section 307 and insert:

SEC. 307. AUDIT PROCEDURES.

(a) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), as amended by section 301 of this Act, by striking paragraph (6) and inserting the following:

''(6) make such reports as the Attorney General directs, including the results of audits performed under subsection (f); and''; and

(2) by adding at the end the following: ''(f)(1)(A) The Attorney General shall establish procedures to determine the accuracy and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322 of title 11, and, if applicable, section 111 of title 11, in individual cases filed under chapter 7 or 13 of such title.

Those procedures shall—

''(i) establish a method of selecting appropriate qualified persons to contract to perform those audits;

''(ii) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 500 cases in each Federal judicial district shall be selected for audit;

''(iii) require audits for schedules of income and expenses which reflect greater than average variances from the statistical norm of the district in which the schedules were filed; and

''(iv) establish procedures for—

providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a

material misstatement of income or expenditures is reported.

''(2) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee according to the procedures established under paragraph (1).

(A) The report of each audit conducted under this subsection shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case where a material misstatement of income or expenditures or of assets has been reported, the clerk of the bankruptcy court shall give notice of the misstatement to the creditors in the case.

''(B) If a material misstatement of income or expenditures or of assets is reported the United States trustee shall—

''(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 3057 of title 18, United States Code;

''(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor's discharge pursuant to section 727(d) of title 11, United States Code.

(b) AMENDMENTS.—Section 521 of title 11, United States Code is amended in subsections (3) and (4) by adding ''or an auditor appointed pursuant to section 586 of title 28, United States Code'' after ''serving in the case.''

(c) AMENDMENTS.—Section 727(d) of title II, United States Code is amended—

(1) By deleting ''or'' at the end of paragraph (2);

(2) By substituting ''; or'' for the period at the end of paragraph (3); and

(3) Adding the following at the end of paragraph (3)—

''(4) the debtor has failed to explain satisfactorily—

''(A) a material misstatement in an audit performed pursuant to section 586(f) of title 28, United States Code; or

''(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files and all other papers, things, or property belonging to the debtor that are requested for an audit conducted pursuant to section 586(f) of title 28, United States Code.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

In section 102, in the new section 707(j)(2)(A), strike ''20'' and replace with ''30''.

At the appropriate place in title II, insert the following:

SEC. 2 . VIOLATIONS OF THE AUTOMATIC STAY

(a) Sec. 362(a) is amended by adding after subsection (8) the following:

''(9) any communication threatening a debtor, at any time after the commitment and before the granting of a discharge in a case under this title, an intention to file a motion to determine the dischargeability of a debt, or to file a motion under 11 U.S.C. Section 707(b) to dismiss or convert a case, or to repossess collateral from the debtor to which the stay applies.''

At the appropriate place in title II, insert the following:

SEC. 2 . DISCOURAGING ABUSIVE REAFFIRMATION PRACTICES.

Sec. 524 of title 11, United States Code, is amended—

(1) in subsection (c)(2)(B) by adding at the end the following:

''(C) such agreement contains a clear and conspicuous statement which advises the debtor what portion of the debt to be reaffirmed is attributable to principal, interest, late fees, creditor's attorneys fees, expenses or other costs relating to the collection of the debt.''

(2) in subsection (c)(6)(B), by inserting after ''real property'' the following: ''or is a debt described in subsection (c)(7).''

(7) in a case concerning an individual, if the consideration for such agreement is based in whole or in part on an unsecured consumer debt, or is based in whole or in part upon a debt for an item of personalty the value of which at point of purchase was $250 or less, and in which the creditor asserts a purchase money security interest, the court approves such agreement as—

(i) in the best interest of the debtor in light of the debtor's income and expenses;

(ii) not imposing an undue hardship on the debtor's future ability of the debtor to pay for the needs of children and other dependents (including court ordered support);

(iii) not requiring the debtor to pay the creditor's attorney's fees, expenses or other costs relating to the collection of the debt;

(iv) not entered into to protect property that is necessary for the care and maintenance of children or other dependents that would have nominal value on repossession;

(v) not entered into after coercive threats or actions by the creditor in the creditor's course of dealings with the debtor.

(3) in subsection (d)(2) by adding after ''subsections (c)(6)'' ''and (c)(7)'', and after ''of this section,'' by striking ''if the consideration for such agreement is based in whole or in part on a consumer debt that is not secured by real property of the debtor'' and adding at the end: ''as applicable;''

At the appropriate place insert the following:

SEC. . ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.

(a) AMENDMENTS TO THE TRUTH IN LENDING ACT.—

(1) ENHANCED DISCLOSURE OF REPAYMENT TERMS.—

(A) IN GENERAL.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

''(11)(A) In a clear and conspicuous manner, repayment information that would apply to the outstanding balance of the consumer under the credit plan, including—

''(i) the required minimum monthly payment on that balance, represented as both a dollar figure and a percentage of that balance;

''(ii) the number of months (rounded to the nearest month) that it would take to pay the entire amount of that current balance if the consumer pays only the required minimum monthly payments and if no further advances are made; and

''(iii) the total cost to the consumer, including interest and principal payments, of paying that balance in full if the consumer pays only the required minimum monthly payments and if no further advances are made.

''(B) In making the disclosures under subparagraph (A) the creditor shall apply the annual interest rate that applies to that balance with respect to the current billing cycle for that consumer in effect on the date on which the disclosure is made.

(B) PUBLICATION OF MODEL FORMS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish model disclosure forms in accordance with Section 195 of the Truth in Lending Act for the purpose of compliance with section 127(b)(11) of the Truth in Lending Act, as added by this paragraph.

(C) CIVIL LIABILITY.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended, in the undesignated paragraph following paragraph (4), by striking the second sentence and inserting the following: ''In connection with the disclosures referred to in subsections (a) and (b) of section 1637 of this title, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 1635, 1637(a), or of paragraphs (4), (5), (6), (7), (8), (9), (10), or (11) of section 1637(b) or for failing to comply with disclosure requirements under State law for any term or item that the Board has determined to be substantially the same in meaning under section 1610(a)(2) as any of the terms or items referred to in section 1637(a), paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 1637(b) of this title.''

(2) DISCLOSURES IN CONNECTION WITH SOLICITATIONS.—

(A) IN GENERAL.—Section 127(c)(1)(B) of the Truth in Lending Act (15 U.S.C. 1637(c)(1)(B) is amended by adding the following:

''(iv) CREDIT WORKSHEET.—An easily understandable credit worksheet designed to aid consumers in determining their ability to assume more debt, including consideration of the personal expenses of the consumer and a simple formula for the consumer to determine whether the assumption of additional debt is advisable.

(v) BASIS OF PREAPPROVAL.—In any case in which the application or solicitation states that the consumer has been preapproved for an account under an open end consumer credit plan, the following statement clearly and conspicuously: ''Your pre-approval for this credit card does not mean that we have reviewed your individual financial circumstances. You should review your own budget before accepting this offer of credit.''

(vi) AVAILABILITY OF CREDIT REPORT.—That the consumer is entitled to a copy of his or her credit report, in accordance with the Fair Credit Reporting Act.''

(B) PUBLICATION OF MODEL FORMS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish model disclosure forms in accordance with Section 195 of the Truth in Lending Act for the purpose of compliance with section 127(c)(1)(B) of the Truth in Lending Act, as amended by this paragraph.

(b) EFFECTIVE DATE.—The provisions of this section shall become effective on January 1, 2001.

Insert at an appropriate place:

Amend 11 U.S.C. Section 1325(6)(a), insert, after ''received by the debtor,'' ''(other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable non-bankruptcy law and which is reasonably necessary (to be expended)''.

Insert at an appropriate place:

11 U.S.C. 507(a) to add a new section 507(a)(10) to read:

''Tenth, allowed claims for injuries resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug or another substance.''

In 523(a)(9), insert ''or vessel'' after ''vehicle''.

Strike sections 323 through 329 and insert the following:

SEC. 323. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Section 101 of title 11, United States Code, as amended by section 321(g) of this Act, is amended—

(1) by striking paragraph (12A); and

(2) by inserting after paragraph (14) the following:

''(14A) 'domestic support obligation' means a debt (that accrues before or after the entry of an order for relief under this title) that is—

''(A) owed to or recoverable by—

''(i) a spouse, former spouse, or child of the debtor or that child's legal guardian; or

''(ii) a governmental unit;

''(B) in the nature of alimony, maintenance, or support (including assistance provided by a govermental unit) of such spouse, former spouse, or child, without regard to whether such debt is expressly so designated;

''(C) established or subject to establishment before or after entry of an order for relief under this title, by reason of applicable provisions of—

''(i) a separation agreement, divorce decree, or property settlement agreement;

''(ii) an order of a court of record; or

''(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

''(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child, or parent solely for the purpose of collecting the debt.''.

SEC. 324. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(3) in paragraph (2), as redesignated, by striking ''First'' and inserting ''Second'';

(4) in paragraph (3), as redesignated, by striking ''Second'' and inserting ''Third'';

(5) in paragraph (4), as redesignated, by striking ''Third'' and inserting ''Fourth'';

(6) in paragraph (5), as redesignated, by striking ''Fourth'' and inserting ''Fifth'';

(7) in paragraph (6), as redesignated, by striking ''Fifth'' and inserting ''Sixth'';

(8) in paragraph (7), as redesignated, by striking ''Sixth'' and inserting ''Seventh''; and

(9) by inserting before paragraph (2), as redesignated, the following:

''(1) First, allowed claims for domestic support obligations to be paid in the following order on the condition that funds received under this paragraph by a governmental unit in a case under this title be applied:

''(A) Claims that, as of the date of entry of the order for relief, are owed directly to a spouse, former spouse, or child of the debtor, or the parent of such child, without regard to whether the claim is filed by the spouse, former spouse, child, or parent, or is filed by a governmental unit on behalf of that person.

''(B) Claims that, as of the date of entry of the order for relief, are assigned by a spouse, former spouse, child of the debtor, or the parent of that child to a governmental unit or are owed directly to a governmental unit under applicable nonbankruptcy law.''.

SEC. 325. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—

(1) in section 1129(a), by adding at the end the following:

''(14) If the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that become payable after the date on which the petition is filed.'';

(2) in section 1325(a)—

(A) in paragraph (5), by striking ''and'' at the end;

(B) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(7) if the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order for such obligation that become payable after the date on which the petition is filed.''; and

(3) in section 1328(a), as amended by section 314 of this Act, in the matter preceding paragraph (1), by inserting '', and with respect to a debtor who is required by a judicial or administrative order to pay a domestic support obligation, certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before or after the petition was filed) have been paid'' after ''completion by the debtor of all payments under the plan''.

SEC. 326. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) under subsection (a)—

''(A) of the commencement or continuation of an action or proceeding for—

''(i) the establishment of paternity as a part of an effort to collect domestic support obligations; or

''(ii) the establishment or modification of an order for domestic support obligations; or

''(B) the collection of a domestic support obligation from property that is not property of the estate;'';

(2) in paragraph (17), by striking ''or'' at the end;

(3) in paragraph (18), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(19) under subsection (a) with respect to the withholding of income pursuant to an order as specified in section 466(b) of the Social Security Act (42 U.S.C. 666(b)); or

''(20) under subsection (a) with respect to—

''(A) the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses pursuant to State law, as specified in section 466(a)(16) of the Social Security Act (42 U.S.C. 666(a)(16)) or with respect to the reporting of overdue support owed by an absent parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act (42 U.S.C. 666(a)(7));

''(B) the interception of tax refunds, as specified in sections 464 and 466(a)(3) of the Social Security Act (42 U.S.C. 664 and 666(a)(3)); or

''(C) the enforcement of medical obligations as specified under title IV of the Social Security Act (42 U.S.C. 601 et seq.).''.

SEC. 327. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

(a) IN GENERAL.—Section 523 of title 11, United States Code, as amended by section 202 of this Act, is amended—

(1) in subsection (a), by striking paragraph (5) and inserting the following:

''(5) for a domestic support obligation;'';

(2) in subsection (c), by striking ''(6), or (15)'' and inserting ''or (6)''; and

(3) in paragraph (15), by striking ''governmental unit'' and all through the end of the paragraph and inserting a semicolon.

SEC. 328. CONTINUED LIABILITY OF PROPERTY.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

''(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable bankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5);''; and

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting ''of a kind that is specified in section 523(a)(5); or''.

SEC. 329. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows:

''(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation; or''.

SEC. 709. AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, as amended by section 326 of this Act, is amended—

(1) in paragraph (21), by striking ''or'' at the end;

(2) in paragraph (22), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (22) the following:

''(23) under subsection (a) of this section of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;

''(24) under subsection (a)(3) of this section, of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement and the debtor has not paid rent to the lessor pursuant to the terms of the lease agreement or applicable state law after the commencement and during the course of the case; or

''(25) under subsection (a)(3) of this section, of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement that has terminated pursuant to the lease agreement or applicable State law.''.

(26) under subsection (a)(3) of this section, of any eviction, unlawful detainer action, or similiar proceeding, if the debtor has previously filed within the last year and failed to pay post-petition rent during the course of that case.

(27) under subsection (a)(3) of this section, of eviction actions based on endangerment to property or person or the use of illegal drugs.

At the appropriate place in title VII, insert the following:

SEC. 7___. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) SALE OF PROPERTY OF ESTATE.—Section 363(d) of title 11, United States Code, is amended—

(1) by striking ''only'' and all that follows through the end of the subsection and inserting ''only—

''(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

''(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362''.

(b) CONFIRMATION OF PLAN FOR REORGANIZATION.—Section 1129(a) of title 11, United States Code, is amended by adding at the end the following:

''(14) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.''.

(c) TRANSFER OF PROPERTY.—Section 541 of title 11, United States Code, is amended by adding at the end the following:

''(e) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section

501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.''.

(d) APPLICABILITY.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, except that the court shall not confirm a plan under Chapter 11 of this title without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the state in which the debtor is incorporated, was formed, or does business.

REED AMENDMENT NO. 3596

Mr. REED proposed an amendment to amendment No. 3559 proposed by Mr. GRASSLEY to the bill (S. 1301) to amend title 11, United States Code, to provide for consumer bankruptcy protection, and for other purposes; as follows:

At the appropriate place in title IV, insert the following:

SEC. 4___. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

Section 106 of the Truth in Lending Act (15 U.S.C. 1605) is amended by adding at the end the following:

''(g) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor may not, solely because a consumer has not incurred finance charges in connection with an extension of credit—

''(1) refuse to renew or continue to offer the extension of credit to that consumer; or

''(2) charge a fee to that consumer in lieu of a finance charge.''.

D'AMATO (AND OTHERS) AMENDMENT NO. 3597

Mr. D'AMATO (for himself, Mr. CHAFEE, Mr. DODD, Mr. BRYAN, Ms. MOSELEY-BRAUN, and Mrs. BOXER) proposed an amendment to amendment No. 3559 proposed by Mr. GRASSLEY to the bill, S. 1301, supra; as follows:

At the appropriate place, insert the following new section:

SEC. ___. PROHIBITION OF CERTAIN ATM FEES.

(a) DEFINITION.—Section 903 of the Electronic Fund Transfer Act (15 U.S.C. 1693a) is amended—

(1) in paragraph (10), by striking ''and'' at the end;

(2) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(12) the term 'electronic terminal surcharge' means a transaction fee assessed by a financial institution that is the owner or operator of the electronic terminal; and

''(13) the term 'electronic banking network' means a communications system linking financial institutions through electronic terminals.''.

(b) CERTAIN FEES PROHIBITED.—Section 905 of the Electronic Fund Transfer Act (12 U.S.C. 1693c) is amended by adding at the end the following new subsection:

''(d) LIMITATION ON FEES.—With respect to a transaction conducted at an electronic terminal, an electronic terminal surcharge may not be assessed against a consumer if the transaction—

''(1) does not relate to or affect an account held by the consumer with the financial institution that is the owner or operator of the electronic terminal; and

''(2) is conducted through a national or regional electronic banking network.''.

DODD AMENDMENT NO. 3598

Mr. DODD proposed an amendment to amendment No. 3559 proposed by Mr. GRASSLEY to the bill, S. 1301, supra; as follows:

At the appropriate place, insert the following new section:

SEC. ___. EXTENSIONS OF CREDIT TO UNDERAGE CONSUMERS.

(a) IN GENERAL.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

''(5) APPLICATIONS FROM UNDERAGE CONSUMERS.—

''(A) PROHIBITION ON ISSUANCE.—No credit card may be issued to, or open end credit plan established on behalf of, a consumer who has not reached the age of 21 unless the consumer has submitted a written application to the card issuer that meets the requirements of subparagraph (B).

''(B) APPLICATION REQUIREMENTS.—An application to open a credit card account by an individual who has not reached the age of 21 as of the date of submission of the application shall require—

''(i) the signature of the parent or guardian of the consumer indicating joint liability for debts incurred by the consumer in connection with the account before the consumer has reached the age of 21; or

''(ii) submission by the consumer of financial information indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account.''.

(b) REGULATORY AUTHORITY.—The Board of Governors of the Federal Reserve System may issue such rules or publish such model forms as it considers necessary to carry out section 127(c)(5) of the Truth in Lending Act, as amended by this section.

KOHL AMENDMENT NO. 3599

Mr. KOHL proposed an amendment to amendment No. 3559 proposed by Mr. GRASSLEY to the bill, S. 3559, supra; as follows:

At the appropriate place, insert the following new section:

SEC. ___. SENSE OF THE SENATE REGARDING THE HOMESTEAD EXEMPTION.

(a) FINDINGS.—The Senate finds that—

(1) one of the most flagrant abuses of the bankruptcy system involves misuse of the homestead exemption, which allows a debtor to exempt his or her home, up to a certain value, as established by State law, from being sold off to satisfy debts;

(2) while the vast majority of States responsibly cap the exemption at not more than $40,000, 5 States exempt homes regardless of their value;

(3) in the few States with unlimited homestead exemptions, debtors can shield their assets in luxury homes while legitimate creditors get little or nothing;

(4) beneficiaries of the homestead exemption include convicted insider traders and savings and loan criminals, while short-changed creditors include children, spouses, governments, and banks; and

(5) the homestead exemption should be capped at $100,000 to prevent such high-profile abuses.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) meaningful bankruptcy reform cannot be achieved without capping the homestead exemption; and

(2) bankruptcy reform legislation should include a cap of $100,000 on the homestead exemption to the bankruptcy laws.

HATCH (AND OTHERS) AMENDMENT NO. 3600

Mr. HATCH (for himself, Mr. GRAHAM, Mr. DURBIN, and Mr. GRASSLEY) proposed an amendment to amendment No. 3559 proposed by Mr. GRASSLEY to the bill, S. 3559, supra; as follows:

On page 60, after line 22, insert the following:

SEC. 2___. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) by striking ''(2)(A) any property'' and inserting:

''(3) Property listed in this paragraph is—

''(A) any property'';

(ii) in subparagraph (A), by striking ''and'' at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986 and which has not been pledged or promised to any person in connection with any extension of credit.'';

(B) by striking paragraph (1) and inserting:

''(2) Property listed in this paragraph is property that is specified under subsection (d) of this section, unless the State law that is applicable to the debtor under paragraph (3)(A) of this subsection specifically does not so authorize.'';

(C) in the matter preceding paragraph (2)—

(i) by striking ''(b)'' and inserting ''(b)(1)'';

(ii) by striking ''paragraph (2)'' both places it appears and inserting ''paragraph (3)'';

(iii) by striking ''paragraph (1)'' each place it appears and inserting ''paragraph (2)''; and

(iv) by striking ''Such property is—''; and

(D) by adding at the end of the subsection the following:

''(4) For purposes of paragraph (3)(C), the following shall apply:

''(A) If the retirement funds are in a retirement fund that has received a favorable determination pursuant to section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the commencement of the case under section 301, 302, or 303, those funds shall be presumed to be exempt from the estate.

''(B) If the retirement funds are in a retirement fund that has not received a favorable determination pursuant to such section 7805, those funds are to be exempt from the estate if the debtor demonstrates that—

''(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

''(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

''(II) the retirement fund fails to be in substantial compliance with such applicable requirements, the debtor is not materially responsible for that failure.

''(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414,

457, or 501(a) of the Internal Revenue Code of 1986, pursuant to section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) by reason of that direct transfer.

''(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) by reason of that distribution.

''(ii) A distribution described in this clause is an amount that—

''(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

''(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of that amount.''; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking ''subsection (b)(1)'' and inserting ''subsection (b)(2)''; and

(B) by adding at the end the following:

''(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking ''or'' at the end;

(2) in paragraph (18), by striking the period and inserting ''; or'';

(3) by inserting after paragraph (18) the following:

''(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, pursuant to the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986 that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

''(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan that satisfies the requirements of section 408(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)); or

''(B) in the case of a loan from a thrift savings plan described in subchapter III of title 5, that satisfies the requirements of section 8433(g) of that title.''; and

(4) by adding at the end of the flush material following paragraph (19) the following: ''Paragraph (19) does not apply to any amount owed to a plan referred to in that paragraph that is incurred under a loan made during the 1-year period preceding the filing of a petition. Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d) of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.''.

(c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, as amended by section 202, is amended—

(1) by striking ''or'' at the end of paragraph (17);

(2) by striking the period at the end of paragraph (18) and inserting ''; or''; and

(3) by adding at the end the following:

''(19) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, pursuant to—

''(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)); or

''(B) a loan from the thrift savings plan described in subchapter III of title 5, that satisfies the requirements of section 8433(g) of that title.

Paragraph (19) does not apply to any amount owed to a plan referred to in that paragraph that is incurred under a loan made during the 1-year period preceding the filing of a petition. Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d) of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.''.

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

''(f) A plan may not materially alter the terms of a loan described in section 362(b)(19).''.

On page 48, line 15, insert ''as amended by section 207(a)'' after ''Code,''.

On page 48, line 17, strike ''(b)(2)(A)'' and insert ''(b)(3)(A)''.

On page 48, line 22, strike ''subsection (b)(2)(A)'' and insert ''subsection (b)(3)(A)''.

On page 62, line 20, insert '', as amended by section 207(b),'' after ''362(b) of title 11, United States Code''.

On page 62, line 22, strike ''(17)'' and insert ''(18)''.

On page 62, line 24, strike ''(18)'' and insert ''(19)''.

On page 63, line 1, strike ''by adding at the end the following:'' and insert ''by inserting after paragraph (19) the following:''.

On page 63, line 2, strike ''(19)'' and insert ''(20)''.

On page 63, line 6, strike ''(20)'' and insert ''(21)''.

On page 80, strike lines 4 through 6, and insert the following:

ment;'';

(D) in paragraph (20), by striking ''or'' at the end;

(E) in paragraph (21), by striking the period and inserting ''; or'';

On page 80, line 7, strike ''(E)'' and insert ''(F)''.

On page 80, line 9, strike ''(19)'' and insert (22)''.

On page 80, line 21, strike ''(19)'' and insert (22)''.

On page 131, line 3, strike ''section 326'' and insert ''sections 326 and 401''.

TRADEMARK LAW TREATY IMPLEMENTATION ACT

HATCH AMENDMENT NO. 3601

Mr. SANTORUM (for Mr. HATCH) proposed an amendment to the bill (S. 2193) to implement the provisions of the Trademark Law Treaty; as follows:

Strike all after the enacting clause and insert the following:

TITLE I—TRADEMARK LAW TREATY IMPLEMENTATION

SEC. 101. SHORT TITLE.

This title may be cited as the ''Trademark Law Treaty Implementation Act''.

SEC. 102. REFERENCE TO THE TRADEMARK ACT OF 1946.

For purposes of this title, the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.), shall be referred to as the ''Trademark Act of 1946''.

SEC. 103. APPLICATION FOR REGISTRATION; VERIFICATION.

(a) APPLICATION FOR USE OF TRADEMARK.—Section 1(a) of the Trademark Act of 1946 (15 U.S.C. 1051(a)) is amended to read as follows:

''SECTION 1. (a)(1) The owner of a trademark used in commerce may request registration of its trademark on the principal register hereby established by paying the prescribed fee and filing in the Patent and Trademark Office an application and a verified statement, in such form as may be prescribed by the Commissioner, and such number of specimens or facsimiles of the mark as used as may be required by the Commissioner.

''(2) The application shall include specification of the applicant's domicile and citizenship, the date of the applicant's first use of the mark, the date of the applicant's first use of the mark in commerce, the goods in connection with which the mark is used, and a drawing of the mark.

''(3) The statement shall be verified by the applicant and specify that—

''(A) the person making the verification believes that he or she, or the juristic person in whose behalf he or she makes the verification, to be the owner of the mark sought to be registered;

''(B) to the best of the verifier's knowledge and belief, the facts recited in the application are accurate;

''(C) the mark is in use in commerce; and

''(D) to the best of the verifier's knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive, except that, in the case of every application claiming concurrent use, the applicant shall—

''(i) state exceptions to the claim of exclusive use; and

''(ii) shall specify, to the extent of the verifier's knowledge—

''(I) any concurrent use by others;

''(II) the goods on or in connection with which and the areas in which each concurrent use exists;

''(III) the periods of each use; and

''(IV) the goods and area for which the applicant desires registration.

''(4) The applicant shall comply with such rules or regulations as may be prescribed by the Commissioner. The Commissioner shall promulgate rules prescribing the requirements for the application and for obtaining a filing date herein.''.

(b) APPLICATION FOR BONA FIDE INTENTION TO USE TRADEMARK.—Subsection (b) of section 1 of the Trademark Act of 1946 (15 U.S.C. 1051(b)) is amended to read as follows:

''(b)(1) A person who has a bona fide intention, under circumstances showing the good faith of such person, to use a trademark in commerce may request registration of its trademark on the principal register hereby established by paying the prescribed fee and filing in the Patent and Trademark Office an application and a verified statement, in such form as may be prescribed by the Commissioner.

''(2) The application shall include specification of the applicant's domicile and citizenship, the goods in connection with which the applicant has a bona fide intention to use the mark, and a drawing of the mark.

''(3) The statement shall be verified by the applicant and specify—

''(A) that the person making the verification believes that he or she, or the juristic person in whose behalf he or she makes the verification, to be entitled to use the mark in commerce;

''(B) the applicant's bona fide intention to use the mark in commerce;

''(C) that, to the best of the verifier's knowledge and belief, the facts recited in the application are accurate; and

''(D) that, to the best of the verifier's knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive.

Except for applications filed pursuant to section 44, no mark shall be registered until the applicant has met the requirements of subsections (c) and (d) of this section.

''(4) The applicant shall comply with such rules or regulations as may be prescribed by the Commissioner. The Commissioner shall promulgate rules prescribing the requirements for the application and for obtaining a filing date herein.''.

(c) CONSEQUENCE OF DELAYS.—Paragraph (4) of section 1(d) of the Trademark Act of 1946 (15 U.S.C. 1051(d)(4)) is amended to read as follows:

''(4) The failure to timely file a verified statement of use under paragraph (1) or an extension request under paragraph (2) shall result in abandonment of the application, unless it can be shown to the satisfaction of the Commissioner that the delay in responding was unintentional, in which case the time for filing may be extended, but for a period not to exceed the period specified in paragraphs (1) and (2) for filing a statement of use.''.

SEC. 104. REVIVAL OF ABANDONED APPLICATION.

Section 12(b) of the Trademark Act of 1946 (15 U.S.C. 1062(b)) is amended in the last sentence by striking ''unavoidable'' and by inserting ''unintentional''.

SEC. 105. DURATION OF REGISTRATION; CANCELLATION; AFFIDAVIT OF CONTINUED USE; NOTICE OF COMMISSIONER'S ACTION.

Section 8 of the Trademark Act of 1946 (15 U.S.C. 1058) is amended to read as follows:

''DURATION

''SEC. 8. (a) Each registration shall remain in force for 10 years, except that the registration of any mark shall be canceled by the Commissioner for failure to comply with the provisions of subsection (b) of this section, upon the expiration of the following time periods, as applicable:

''(1) For registrations issued pursuant to the provisions of this Act, at the end of 6 years following the date of registration.

''(2) For registrations published under the provisions of section 12(c), at the end of 6 years following the date of publication under such section.

''(3) For all registrations, at the end of each successive 10-year period following the date of registration.

''(b) During the 1-year period immediately preceding the end of the applicable time period set forth in subsection (a), the owner of the registration shall pay the prescribed fee and file in the Patent and Trademark Office—

''(1) an affidavit setting forth those goods or services recited in the registration on or in connection with which the mark is in use in commerce and such number of specimens or facsimiles showing current use of the mark as may be required by the Commissioner; or

''(2) an affidavit setting forth those goods or services recited in the registration on or in connection with which the mark is not in use in commerce and showing that any such nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark.

''(c)(1) The owner of the registration may make the submissions required under this section within a grace period of 6 months after the end of the applicable time period set forth in subsection (a). Such submission is required to be accompanied by a surcharge prescribed by the Commissioner.

''(2) If any submission filed under this section is deficient, the deficiency may be corrected after the statutory time period and within the time prescribed after notification of the deficiency. Such submission is required to be accompanied by a surcharge prescribed by the Commissioner.

''(d) Special notice of the requirement for affidavits under this section shall be attached to each certificate of registration and notice of publication under section 12(c).

''(e) The Commissioner shall notify any owner who files 1 of the affidavits required by this section of the Commissioner's acceptance or refusal thereof and, in the case of a refusal, the reasons therefor.

''(f) If the registrant is not domiciled in the United States, the registrant shall designate by a written document filed in the Patent and Trademark Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.''.

SEC. 106. RENEWAL OF REGISTRATION.

Section 9 of the Trademark Act of 1946 (15 U.S.C. 1059) is amended to read as follows:

''RENEWAL OF REGISTRATION

''SEC. 9. (a) Subject to the provisions of section 8, each registration may be renewed for periods of 10 years at the end of each successive 10-year period following the date of registration upon payment of the prescribed fee and the filing of a written application, in such form as may be prescribed by the Commissioner. Such application may be made at any time within 1 year before the end of each successive 10-year period for which the registration was issued or renewed, or it may be made within a grace period of 6 months after the end of each successive 10-year period, upon payment of a fee and surcharge prescribed therefor. If any application filed under this section is deficient, the deficiency may be corrected within the time prescribed after notification of the deficiency, upon payment of a surcharge prescribed therefor.

''(b) If the Commissioner refuses to renew the registration, the Commissioner shall notify the registrant of the Commissioner's refusal and the reasons therefor.

''(c) If the registrant is not domiciled in the United States, the registrant shall designate by a written document filed in the Patent and Trademark Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.''.

SEC. 107. RECORDING ASSIGNMENT OF MARK.

Section 10 of the Trademark Act of 1946 (15 U.S.C. 1060) is amended to read as follows:

''ASSIGNMENT

''SEC. 10. (a) A registered mark or a mark for which an application to register has been filed shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Notwithstanding the preceding sentence, no application to register a mark under section 1(b) shall be assignable prior to the filing of an amendment under section 1(c) to bring the application into conformity with section 1(a) or the filing of the verified statement of use under section 1(d), except for an assignment to a successor to the business of the applicant, or portion thereof, to which the mark pertains, if that business is ongoing and existing. In any assignment authorized by this section, it shall not be necessary to include the good will of the business connected with the use of and symbolized by any other mark used in the business or by the name or style under which the business is conducted. Assignments shall be by instruments in writing duly executed. Acknowledgment shall be prima facie evidence of the execution of an assignment, and when the prescribed information reporting the assignment is recorded in the Patent and Trademark Office, the record shall be prima facie evidence of execution. An assignment shall be void against any subsequent purchaser for valuable consideration without notice, unless the prescribed information reporting the assignment is recorded in the Patent and Trademark Office within 3 months after the date of the subsequent purchase or prior to the subsequent purchase. The Patent and Trademark Office shall maintain a record of information on assignments, in such form as may be prescribed by the Commissioner.

''(b) An assignee not domiciled in the United States shall designate by a written document filed in the Patent and Trademark Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.''.

SEC. 108. INTERNATIONAL CONVENTIONS; COPY OF FOREIGN REGISTRATION.

Section 44 of the Trademark Act of 1946 (15 U.S.C. 1126) is amended—

(1) in subsection (d)—

(A) by striking ''23, or 44(e) of this Act'' and inserting ''or 23 of this Act or under subsection (e) of this section''; and

(B) in paragraphs (3) and (4) by striking ''this subsection (d)'' and inserting ''this subsection''; and

(2) in subsection (e), by striking the second sentence and inserting the following: ''Such applicant shall submit, within such time period as may be prescribed by the Commissioner, a certification or a certified copy of the registration in the country of origin of the applicant.''.

SEC. 109. TRANSITION PROVISIONS.

(a) REGISTRATIONS IN 20-YEAR TERM.—The provisions of section 8 of the Trademark Act of 1946, as amended by section 105 of this Act, shall apply to a registration for trademark issued or renewed for a 20-year term, if the expiration date of the registration is on or after the effective date of this Act.

(b) APPLICATIONS FOR REGISTRATION.—This title and the amendments made by this title shall apply to any application for registration of a trademark pending on, or filed on or after, the effective date of this Act.

(c) AFFIDAVITS.—The provisions of section 8 of the Trademark Act of 1946, as amended by section 105 of this Act, shall apply to the filing of an affidavit if the sixth or tenth anniversary of the registration, or the sixth anniversary of publication of the registration

under section 12(c) of the Trademark Act of 1946, for which the affidavit is filed is on or after the effective date of this Act.

(d) RENEWAL APPLICATIONS.—The amendment made by section 106 shall apply to the filing of an application for renewal of a registration if the expiration date of the registration for which the renewal application is filed is on or after the effective date of this Act.

SEC. 110. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect—

(1) on the date that is 1 year after the date of the enactment of this Act, or

(2) upon the entry into force of the Trademark Law Treaty with respect to the United States,

whichever occurs first.

TITLE II—TECHNICAL CORRECTIONS

SEC. 201. TECHNICAL CORRECTIONS TO TRADEMARK ACT OF 1946.

(a) IN GENERAL.—The Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the Trademark Act of 1946), is amended as follows:

(1) Section 1(d)(1) (15 U.S.C. 1051(d)(1)) is amended—

(A) by inserting ''and,'' after ''specifying the date of the applicant's first use of the mark in commerce''; and

(B) by striking ''and, the mode or manner in which the mark is used on or in connection with such goods or services''.

(2) Section 2 (15 U.S.C. 1052) is amended—

(A) in subsection (e)—

(i) in paragraph (3) by striking ''or'' after ''them,''; and

(ii) by inserting before the period at the end the following: '', or (5) comprises any matter that, as a whole, is functional''; and

(B) in subsection (f), by striking ''paragraphs (a), (b), (c), (d), and (e)(3)'' and inserting ''subsections (a), (b), (c), (d), (e)(3), and (e)(5)''.

(3) Section 7(a) (15 U.S.C. 1057(a)) is amended in the first sentence by striking the second period at the end.

(4) Section 14(3) (15 U.S.C. 1064(3)) is amended by inserting ''or is functional,'' before ''or has been abandoned''.

(5) Section 23(c) (15 U.S.C. 1091(c)) is amended by striking ''or device'' and inserting '', device, any matter that as a whole is not functional,''.

(6) Section 26 (15 U.S.C. 1094) is amended by striking ''7(c),,'' and inserting '', 7(c),''.

(7) Section 31 (15 U.S.C. 1113) is amended—

(A) by striking—

''§ 31. Fees'';

and

(B) by striking ''(a)'' and inserting ''SEC. 31. (a)''.

(8) Section 32(1) (15 U.S.C. 1114(1)) is amended by striking ''As used in this subsection'' and inserting ''As used in this paragraph''.

(9) Section 33(b) (15 U.S.C. 1115(b)) is amended—

(A) by redesignating paragraph (8) as paragraph (9); and

(B) by inserting after paragraph (7) the following:

''(8) That the mark is functional; or''.

(10) Section 39(a) (15 U.S.C. 1121(a)) is amended by striking ''circuit courts'' and inserting ''courts''.

(11) Section 42 (15 U.S.C. 1124) is amended by striking ''the any domestic'' and inserting ''any domestic''.

(12) The Act is amended by striking ''trademark'' each place it appears in the text and the title and inserting ''trademark''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, and shall apply only to any civil action filed or proceeding before the United States Patent and Trademark Office commenced on or after such date relating to the registration of a mark.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. USE OF CERTIFICATION MARKS FOR ADVERTISING OR PROMOTIONAL PURPOSES.

Section 14 of the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1064) (commonly referred to as the Trademark Act of 1946) is amended by adding at the end the following: ''Nothing in paragraph (5) shall be deemed to prohibit the registrant from using its certification mark in advertising or promoting recognition of the certification program or of the goods or services meeting the certification standards of the registrant. Such uses of the certification mark shall not be grounds for cancellation under paragraph (5), so long as the registrant does not itself produce, manufacture, or sell any of the certified goods or services to which its identical certification mark is applied.''.

SEC. 302. OFFICIAL INSIGNIA OF NATIVE INDIAN TRIBES.

(a) IN GENERAL.—The Commissioner of Patents and Trademarks shall study the issues surrounding the protection of the official insignia of federally and State recognized Native American tribes. The study shall address at least the following issues:

(1) The impact on Native American tribes, trademark owners, the Patent and Trademark Office, any other interested party, or the international legal obligations of the United States, of any change in law or policy with respect to—

(A) the prohibition of the Federal registration of trademarks identical to the official insignia of Native American tribes;

(B) the prohibition of any new use of the official insignia of Native American tribes; and

(C) appropriate defenses, including fair use, to any claims of infringement.

(2) The means for establishing and maintaining a listing of the official insignia of federally or State recognized Native American tribes.

(3) An acceptable definition of the term ''official insignia'' with respect to a federally or State recognized Native American tribe.

(4) The administrative feasibility, including the cost, of changing the current law or policy to—

(A) prohibit the registration, or prohibit any new uses of the official insignia of State or federally recognized Native American tribes; or

(B) otherwise give additional protection to the official insignia of federally and State recognized Native American tribes.

(5) A determination of whether such protection should be offered prospectively or retrospectively and the impact of such protection.

(6) Any statutory changes that would be necessary in order to provide such protection.

(7) Any other factors which may be relevant.

(b) COMMENT AND REPORT.—

(1) COMMENT.—Not later than 60 days after the date of enactment of this Act, the Commissioner shall initiate a request for public comment on the issues identified and studied by the Commissioner under subsection (a) and invite comment on any additional issues that are not included in such request. During the course of the public comment period, the Commissioner shall use any appropriate additional measures, including field hearings, to obtain as wide a range of views as possible from Native American tribes, trademark owners, and other interested parties.

(2) REPORT.—Not later than September 30, 1999, the Commissioner of Patents and Trademarks shall complete the study under this section and submit a report including the findings and conclusions of the study to the chairman of the Committee on the Judiciary of the Senate and the chairman of the Committee on the Judiciary of the House of Representatives.

AMENDMENTS SUBMITTED—SEPTEMBER 18, 1998

CONSUMER BANKRUPTCY REFORM ACT OF 1998

FEINGOLD (AND SPECTER) AMENDMENT NO. 3602

Mr. FEINGOLD (for himself and Mr. SPECTER) proposed an amendment to the bill (S. 1301) to amend title 11, United States Code, to provide for consumer bankruptcy protection, and for other purposes; as follows:

On page 5, strike Section 102(3)(A) on lines 18 through 25.

On page 5 on line 17 after ''bad faith,'' insert:

''(3)(A) If a panel trustee appointed under section 586(a)(1) of title 28 brings:

(i) a motion for dismissal under this subsection and the court grants that motion and finds that the action of the debtor in filing under this chapter was not substantially justified, the court shall order the debtor to reimburse the trustee for all reasonable costs in prosecuting the motion, including reasonable attorneys' fees; or

(ii) a motion for conversion under this subjection and the court grants that motion the court shall award reasonable costs in prosecuting the motion, including reasonable attorneys' fee, which shall be treated as an administrative expense under Section 503(b) in a case under this title that is converted to a case under another chapter of this title.''

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will be held in Espanola, New Mexico at the Mission Convento on Saturday, September 26, 1998, at 9:00 a.m. The Mission Convento is located at the Plaza de Espandola, Number 1 Calle de Espanola, New Mexico.

The purpose of this hearing is to receive testimony on the issues surrounding the determination of the validity of certain land claims arising out of the Treaty of Guadalupe-Hidalgo of 1848 and the two bills introduced to date on this subject, S. 2155 and H.R. 2538.

The Subcommittee will invite witnesses representing a cross-section of views and organizations to testify at the hearing. Others who wish to testify may, as time permits, made a brief statement of not more than 2 minutes. Those wishing to testify please contact Tony Benavidec of Senator DOMENICI's office at (505) 988–6511 or Joe Ruiz of Senator BINGAMAN's office at (505) 988–6647. The deadline for signing up to testify is Thursday, September 24, 1998. Every attempt will be made to accommodate as many witnesses as possible, while ensuring that all views are represented.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Mike Menge at (202) 224–6170.

ADDITIONAL STATEMENTS

NATIONAL POW/MIA RECOGNITION DAY

● Mr. D'AMATO. Mr. President, I rise to remind everyone that today is National POW/MIA Recognition Day. On this day, we should remember, give tribute to, and stand in solidarity with the loved ones and families of the thousands of Soldiers, Sailors, Marines and Airmen who were or are Prisoners of War and Missing in Action. I am humbled by and grateful for their love of country and their sense of duty and honor.

Amidst the somber thoughts, the feelings of gratitude and pride that this day brings, as a Nation we must be uneasy. Uneasy because while we are a nation at peace and the wars in which these men fought are long over, they have not all returned home and we should not rest until their families have their loved ones back.

These Americans swore an oath to support and defend the constitution and carried that promise through to the ultimate sacrifice for this great nation. While thousands died, many others endured years in starved, tortured, isolated misery before regaining the freedoms we enjoy. Their persistence, integrity and heroism are shining examples of the core values on which this nation was founded and became great.

Mr. President, we need to produce results. Headway is being made, but there is still a long way to go before we have the fullest possible accounting of all POW/MIA personnel.

Over the past six years, 136 Americans have been accounted for from Laos, Vietnam and Cambodia thanks to extensive field work. Earlier this month, thanks to the US-Russia Joint Commission on POW/MIAS established in 1991, seventeen airmen were at long last identified, returned to their native soil laid to rest at Arlington National Cemetery. These brave airmen were shot down over Soviet Armenia in 1958, during the height of the Cold War. For their loved ones and family members, the long wait is over, but by no means will their loss or sacrifices be forgotten. For many, however, the anguish continues.

While much of the focus on POW/MIAs has rightly been on Southeast Asia where 2081 personnel remain unaccounted for, we must also honor those who were held prisoner and who are missing in action in other remote parts of the globe. More than 80,000 Americans remain missing and unaccounted for from World War I, World War II and the Korean conflict, and countless others from the Cold War.

These great Americans and their families have the gratitude of a great and free nation, but we in the Senate shall not rest until all are returned or accounted for. I urge you, Mr. President, the Administration, the Departments of Defense and State, the Joint Chiefs of Staff and the National Security Agency to redouble their efforts to bring our boys hone as quickly as possible. Let us all take to heart the motto from the POW/MIA flag, which flies over the Capitol today, and which is displayed every day in the Capitol rotunda: ''YOU ARE NOT FORGOTTEN.''●

NATIONAL POW/MIA RECOGNITION DAY

● Mr. SMITH of New Hampshire. Mr. President, Friday, September, 18, 1998 has been designated this year by our Federal and State Governments as National POW/MIA Recognition Day. As we have done for nearly 20 years, we reaffirm today our national commitment to obtaining the fullest possible accounting for America's POWs and MIAs. This is also a day to remember and pay tribute to the ultimate sacrifices that have been made by America's finest and bravest service personnel—our unaccounted for prisoners of war and missing in action personnel who never returned from wartime enemy territory.

It has been an honor and privilege for me, since my election to the Congress in 1984, to assist the POW/MIA families, our veterans, and their friends and supporters, with the many efforts that have been undertaken to try to achieve a proper accounting for so many of our nation's heroes whose fate remains unknown. It has been a difficult and emotional task, complicated by on and off-again cooperation by foreign governments

As many of my colleagues know, I served as Vice-Chairman of the Senate Select Committee on POW/MIA Affairs in 1992, and I currently serve as the U.S. Chairman of the Vietnam War Working Group of the Joint U.S./Russian Commission on POWs and MIAs. I have traveled to North Korea, Vietnam, Russia, Laos, Cambodia, Poland, and the Czech Republic trying to assist our Government's efforts to open archives and interview people knowledgeable about the fate of our unaccounted for captured and missing personnel. I have also made efforts over the last year to prod our own U.S. Intelligence Community to provide the analysis and support necessary to help shape our policy toward nations that hold the answers we seek. Finally, I continue to work to ensure that U.S. Government records on this issue are declassified and made available to the public.

Mr. President, today, as I have every year in this Chamber, I urge the Administration to take the opportunity National POW/MIA Recognition Day provides to rededicate itself to the fullest possible accounting mission. I also urge all Americans to continue expressing their concerns on this national issue because public awareness is critical to the accounting effort.

In closing, I again want to assure my constituents in New Hampshire, my fellow veterans, the POW/MIA families, and the countless Americans who have contacted me through the years, that I remain absolutely committed to doing everything I can to learn the truth about our POWs and MIAs to whom we pay tribute on this special day.●

THE CHILD NUTRITION REAUTHORIZATION ACT AND THE SCHOOL BREAKFAST RESEARCH PROPOSAL

● Mr. JOHNSON. Mr. President, I rise today to give my full support for the Child Nutrition Reauthorization Act. This important legislation funds important child nutrition programs for the next five years until the year 2003.

I want to commend Agriculture Committee Chairman LUGAR and Ranking Member HARKIN and my colleagues on the Agriculture Committee for working cooperatively, in a bipartisan spirit, to unanimously pass this bill out of Committee. Also, I want to thank my Senate colleagues for passing this vital legislation unanimously last evening. Clearly, this demonstrates our commitment to feeding our nation's children.

The Child Nutrition Reauthorization bill provides funding for the National School Lunch and Breakfast Programs, the Child and Adult Care Food Program, the Summer Food Service Program, the Women, Infant and Children (WIC) program along with many other nutritious food programs to feed our nation's youth.

One of the provisions in this legislation that I worked closely on during the creation of this legislation was a $20 million provision that provides for detailed research on how school breakfast impacts a child's academic success.

This research provision is a modified version of S. 1396, the Meals for Achievement Act that I introduced last November. The research provision provides for the mandatory funding for a $20 million school breakfast research project to further test the impacts of school breakfast on children's academic and behavioral skills.

This provision will require the Secretary of Agriculture to conduct a five

year school breakfast study in six different school districts throughout the United States—involving approximately 15,000 school children.

As I've stated before, the research on the impacts of children eating school breakfast speaks for itself. Not only do academic scores in reading, writing, and math improve, levels of hyperactivity and tardiness are greatly reduced.

The purpose of this study is to further analyze the existing data and to provide additional research and data at the national level and to prove the positive impacts of eating a school breakfast. It is important to note that the funding for the research provision will require no new additional expenses and maintains our balanced budget discipline. It is not my intention with this research project to create a whole new federal bureaucracy that only deals with the implementation of school breakfast program. Furthermore, after the researchers have completed the five-year study and find school breakfast does indeed improve a child's academic success, we, as federal lawmakers, can work with local and state school authorities to create guidelines of how school breakfasts can improve a child's academic success.

The rationale for this provision of the Child Nutrition Reauthorization Act is very simple. In order for the United States to compete effectively in the world, we must have an educated and productive workforce. In order to have an educated and productive workforce, we must prepare our children to learn. In order to prepare our children to learn they must be well nourished, and that begins with a good healthy breakfast.

The best teachers in the world, with the best standards, cannot teach a hungry child. A child who begins his or her school day with their stomach growling because they either did not have time to eat breakfast or there was no breakfast to be served, is simply too distracted to focus on the lessons being provided by the teacher.

In 1994, the Minnesota legislature directed the Minnesota Department of Children, Families and Learning to implement a universal breakfast pilot program integrating breakfast into the education schedule for all students. The evaluation of the pilot project, performed by the Center for Applied Research and Educational Improvement at the University of Minnesota, showed that when all students are involved in school breakfast, there is a general increase in learning and achievement.

Researchers at Harvard and Massachusetts General Hospital recently completed a study on the results of universal free breakfast at one public school in Philadelphia and two in Baltimore. The study, published this week in the Archives of Adolescent and Pediatric Medicine which is a journal of the American Medical Association, found that students who ate the breakfast showed great improvement in math grades, attendance, and punctuality. The researchers also observed that students displayed fewer signs of depression, anxiety, hyperactivity, and other behavioral problems.

If we are serious about improving our education system in America, we must first prepare our children to learn. The time has come, therefore, to build upon the pilot program in Minnesota, Philadelphia, Baltimore, and other cities, and integrate school breakfast into the education day, at least at the elementary school level.

I believe that ensuring a nutritious breakfast for our school kids will help close this ''opportunity deficit.'' As America enters the 21st century, we cannot afford to allow a single child to be left behind. As Robert Kennedy once wrote, ''We need the best of many—not of just a few. We must strive for excellence.'' Clearly, the Meals for Achievement provision in the Child Nutrition Reauthorization Act is a step in that direction.●

LET'S ENCOURAGE BROWNFIELDS DEVELOPMENT AND GET THE LITTLE GUY OUT OF SUPERFUND LITIGATION AT CO-DISPOSAL SITES

● Mr. LAUTENBERG. Mr. Mr. President, yesterday the Majority Leader made a long statement on behalf of Senate action on S. 2180, the ''Superfund Recycling Equity Act,'' which he introduced earlier this year. This legislation would clarify that persons who merely recycle certain specified materials, but did not dispose of those materials, are not subject to Superfund liability.

Today, Mr. President, I join as a cosponsor of this legislation. And, I note for the record, that I was the author of the recycling provision in 1993. I included it in comprehensive Superfund reform legislation, S.1834, which I introduced when I was Chairman of the Senate Superfund Subcommittee. As Senator LOTT noted yesterday, this provision has reappeared in every major, comprehensive Superfund bill since then, whether authored by Democrat or Republican. And it has been introduced in every Congress, by Democrats and Republicans, as stand-alone legislation. There is broad-based, bipartisan support for this legislation which would remove impediments to recycling efforts. It now appears that some type of liability relief for recyclers will be considered by the Environment and Public Works Committee next week, although it is not clear exactly which of several proposals will be considered.

For this reason, Mr. President, I would like to bring to the Senate's attention two other very similar provisions which I believe should be considered in conjunction with S. 1280. They are designed to expedite the revitalization of communities all across this country, and to provide relief to untold numbers of small business owners, small non-profits, and individuals who sent only ordinary household trash to landfills that are now Superfund sites.

Mr. President, once it became clear that the Congress would not act on comprehensive Superfund legislation this year, and the Majority Leader expressed his interest in enacting a liability exemption for certain recyclers, I suggested that we also take the very modest step of enacting a similar exemption for brownfields development and for those who innocently disposed of municipal solid waste at landfills that later became Superfund sites. I wrote to the Chairman of the Environment and Public Works Committee, asking that the Committee consider exemptions for brownfields and municipal solid waste (MSW) disposal, should it take up any liability exemptions—because brownfields and MSW exemptions also enjoy broad, bi-partisan support and have been regarded as noncontroversial. The Chairman responded that he opposed so-called piecemeal reform of Superfund, and that the Committee would not be considering such legislation this year. In deference to this judgement, I deferred introducing separate legislation. Now that the Committee apparently will be considering liability exemptions for recyclers, I hope we will also have an opportunity to consider exemptions for brownfields and MSW.

Mr. President, as is the case for recyclers, provisions to clarify the law on liability for brownfields development and MSW have been included, with bipartisan support, in every comprehensive Superfund bill since 1993. In virtually every regard, they meet the same criteria that have been offered to justify enacting exemptions for recyclers. They are simple clarifications of existing law to correct unintended consequences of the Superfund liability scheme. They have gained the support of all stakeholders, the Environmental Protection Agency, the Department of Justice, and the national environmental community. The brownfields and MSW ''fixes'' are minor, but are critical for successful brownfields development, or to those subjected to unfair and unintended litigation. They do not involve cleanup standards or natural resource damages. They do not deal with orphan shares or municipal liability. And they offer significant economic and environmental benefits.

Why, then, should the Senate reject consideration of these ''fixes?'' Only one reason is offered: that they should be held hostage to comprehensive Superfund reform! Mr. President, it is argued they are so popular, and enjoy such broad ranging support, and provide such significant benefits to the nation, that we should hold them hostage to see if they provide a stimulus for action on comprehensive legislation in the next Congress. It is argued that they should be held as ''sweeteners'' to try to sweeten the sour pot of proposed changes to the Superfund program that

have been rejected by three successive Congresses.

Mr. President, with all due respect to those making this argument, I think it is wrong to prevent enactment of legislation that enjoys broad support, and would reap acknowledged benefits, as a tactical matter to achieve unrelated goals. I think this disserves the public and adds to public cynicism. For a variety of reasons, efforts to radically change Superfund, the nation's toxic waste cleanup program, have failed for six years running. Toward the end of each of the past two congresses, many Senators, including this Senator, have argued that we should move ahead with achievable reforms that are non-controversial and permit our people, our communities, and our economy to benefit from their enactment. Today, as we head into the final weeks of this Congress, I make the same plea. Just as holding recyclers hostage to comprehensive Superfund reform has not worked, so holding brownfields development and persons who disposed of household trash hostage to other legislative goals is a failed strategy. It will not mitigate the controversy intrinsic to the broader issues raised by comprehensive legislation. Yet, it robs communities across the country of the jobs and tax ratables that flow from revitalized brownfields and imposes severe penalties on the individuals and small businesses caught up in a litigation nightmare through no fault of their own.

Mr. President, in the last Congress, the Majority party insisted on an all or nothing Superfund strategy. But, when that failed, lender liability legislation was passed in response to a strong lobbying effort by lenders who, understandably, wanted relief from liabilities that were unfair and made no sense. I supported lender liability relief because I thought it had public benefits and corrected an injustice.

In these last weeks of the 105th Congress, a similar game plan is unfolding. Thousands of recyclers around the country are asking for liability relief—relief they deserve, in legislation I support. They have skilled representatives making their case, and I do not fault them for that. In fact, I support their efforts. But, as a Senator from a state with literally thousands of brownfields sites, as well as altogether too many instances of homeowners and small businesses mired in litigation at landfill sites, it is my responsibility to lobby for those communities and individuals who don't have lobbyists representing them here in the Congress. We, as their elected representatives, are their lobbyists. We are their voice. There is no reason in the world why this Senate, and this Congress, should not move forward to make the minor, non-controversial, and eminently sensible changes to Superfund law that impede brownfields development and rob small businesses of their hard earned profits.

Mr. President, I hope my colleagues will consider the plight of persons who disposed of household waste, or office trash, such as cafeteria waste or paper waste, at the local town dump. I am talking about homeowners, pizza parlor owners, and Girl Scouts who, as unbelievable as it may sound, have been dragged into Superfund litigation. They have not been sued by EPA. They have been sued, primarily, by large corporations who disposed of toxic waste, some by dark of night, at a dump alongside solid waste from homes and small businesses and restaurants.

Through two Congresses now, the Senate Environment and Public Works Committee has heard testimony from Barbara Williams, the owner of Sunny Ray Restaurant, who was named as a fourth-party defendant in litigation concerning the Keystone Sanitation Company, Inc. Superfund Site, in Harrisburg, Pennsylvania. Indeed, the whole country heard her saga, when she was interviewed on ''60 Minutes.''

How did Barbara Williams get ensnared in Superfund litigation? EPA sued 11 companies that dumped hazardous waste from industrial processes at the Keystone Landfill for a period of years, but did not want to clean it up. These 11 companies sued 180 third-party defendants, who in turn sued 590 fourth-party defendants, including Barbara Williams. But Mrs. Williams sent only mashed potatoes and other restaurant waste to the Keystone Site. Those suing her told her she could get out of the lawsuit if she would pay them $75,000.

Mr. President, a $75,000 assessment is a lot of money for most small businesses, and Barbara Williams is no exception. Further, Barbara Williams is not a polluter. No one at the Department of Justice, the EPA or in the Congress believes she should be liable under Superfund for sending mashed potatoes to the local garbage dump. Nor does anyone believe she should have to pay staggering lawyers' fees to get herself out of this litigation nightmare. Congress could, and should, act now to free Mrs. Williams and get all those like her out of the litigation web. Mrs. Williams, her business, and her family should not be held hostage to some notion that if we wait to grant her justice another two years, or four years, we will enact highly controversial changes to the Superfund program. Comprehensive Superfund legislation will have to rise or fall on its own merits. Barbara Williams should not become a pawn in this legislative battle.

Likewise, Mr. President, this body should ask the same questions about removing obstacles to brownfields development. Brownfields are often in cities, but also are located in many, many suburban and even rural areas. They are abandoned, or idle, former industrial properties. Some of these are contaminated, some are not. But it is the fear that these properties are contaminated that some say deters investors from buying them and redeveloping them.

Mr. President, there are more than 500,000 brownfields staining this country's landscape. The nation's Mayors estimate they lose between $200 and $500 million a year in tax revenues from these properties sitting idle. Returning these sites to productive use could create some 236,000 new jobs. Our nation's Mayors, as well as developers and bankers, say immediate action is imperative, since new tax laws provide incentives for brownfields redevelopment, but expire in 2001.

Congress should act before we adjourn to remove the unintended burden of Superfund liability that deters investors from buying and developing brownfields properties. Brownfields development results in significant economic benefits. It creates jobs and tax ratables for communities, which lowers local tax burdens on residents. The cleanup of brownfields also removes contaminants from our environment. These cleanup initiatives are win/win opportunities that make good environmental sense and good business sense.

Mr. President, if this body takes steps to encourage recycling, which I support, I urge my colleagues to also take steps to encourage brownfields development and to free our nation's small business owners from the unfair and punitive penalties being assessed on them. It is in the interest of good government, and clearly in the interest of millions of Americans, that we do so. Let's act now to revitalize our communities. And let's act now, and let Mrs. Williams discharge her lawyer.

Mr. President, the legislative language which would provide relief from brownfields and MSW liability is well known to all who have followed this debate. But, for the convenience of my colleagues, I ask that a summary be printed in the RECORD.

The summary follows:

Summary of Senator FRANK R. LAUTENBERG's ''CERCLA Liability Exemptions Act of 1998'', containing a total of four exemptions, three in the brownfields arena and one in the municipal solid waste (MSW) arena.

The proposed legislation would relieve the following persons from Superfund liability:

(1) Brownfields—

(a) Bona fide prospective purchasers—persons who seek to buy contaminated properties, and can show that they did not cause the contamination;

(b) Innocent landowners—persons who already own property that they did not know was contaminated; and

(c) Contiguous landowners—persons who own property that becomes contaminated as a result of contaminants migrating from neighboring properties or areas; and

(2) Municipal Solid Waste—

individuals; small businesses (less than 100 employees); and small non-profit organizations (less than 100 employees)

who disposed only municipal solid waste (ordinary household trash, or house-hold-like trash, such as cafeteria or office paper waste) at a landfill.

The exemptions were replicated, almost verbatim, in S.8, except that S.8 would have shifted the exempt MSW party's share to the Trust Fund. Our Democratic substitute did not assign a share to the exempt MSW party, nor did S. 1834, the consensus bill reported out of EPW on an 11:4 vote in the 103rd Congress.●

75TH ANNIVERSARY OF THE COLUMBIA UNIVERSITY SCHOOL OF PUBLIC HEALTH

● Mr. MOYNIHAN. Mr. President, I want to take this opportunity to bring to the attention of my colleagues the generous gift by the Mailman Foundation to the Columbia University School of Public Health (CSPH). This represents the largest single gift ever made to a school of public health.

CSPH is one of our nation's first schools of public health and is currently celebrating its 75th anniversary. In its recent history, CSPH has distinguished itself on the local, national, and global levels in a variety of public health areas. The Mailman Foundation endowment will help to strengthen and expand areas such as: (1) access to and quality of health care; (2) prevention of childhood poverty; (3) the enhancement of women's reproductive health, including STD prevention services, and reduction in pregnancy-related deaths in developing countries; (4) the identification of environmental factors such as air and water quality as a cause of disease; (5) the prevention of community and household violence; and (6) AIDS research and treatment.

In addition to these important areas of program and research support, the gift will also be used to provide financial aid to students and for faculty support.

The family-run Mailman Foundation was created by the late Joseph Mailman, the founder of Mailman Corporation, one of the earliest conglomerates in North America. The Foundation has been an important benefactor to numerous institutions devoted to education, medicine, and the arts.

I commend the Mailman Foundation for its remarkable act of philanthropy and for recognizing Columbia's leadership in the field of public health. This gift to Columbia University's internationally known graduate school, now known as the Joseph L. Mailman School of Public Health, will advance the cause of health promotion and disease prevention, through education, research, and direct service.●

TRIBUTE TO MAYOR ROBERT L. ALBRITTEN OF DAWSON, GEORGIA THE 1998 AMERICAN HOMETOWN LEADERSHIP WINNER

● Mr. CLELAND. Mr. President, I rise today to honor Mayor Robert L. Albritten of Dawson, Georgia on receiving the 1998 American Hometown Leadership Award, which is the only national award that recognizes leaders from small communities whose community service exhibits the highest standards of dedication, ability, creativity and leadership.

Mayor Albritten was nominated by Dawson's Better Hometown Task Force and chosen from a field of 400 national leaders for his pacesetting efforts to save jobs at Almark Mills, a local textile plant employing 250 people that shut its doors last Fall leaving Dawson on the brink of a major unemployment problem.

Faced with a potential devastating blow to the town of 5,000 people and following days of feverish brainstorming, late-night phone calls and hours-long meetings with community leaders, rural development experts and a local accountant, Mayor Albritten and other community leaders emerged with an audacious plan— the plant would become a cooperative, in which each worker would be an owner, and all would have a say and a financial stake in the running of the plant.

However, Mayor Albritten was not satisfied with just creating jobs, he also set out to better the lives of all of those living in Dawson. He changed the city seal to read ''The City of Dawson, Committed to a Better Quality of Life for All.''

Mayor Robert Albritten has been an innovator and leader, and his determination is truly commendable. He has devoted countless hours of his time and energy to improve the town of Dawson and to better the lives of all of its citizens, never hesitating to help in any way he could. He has not only led the people of Dawson, but he has inspired them. His efforts have also been recognized by having the Robert L. Albritten Neighborhood Community Center named in his honor.

In addition to his endless work on behalf of the citizens of Dawson, Mayor Albritten continues his work as a funeral service practitioner. He and his wife Arna have three daughters, Andrea, Alisha and Ariana.

Mr. President, I ask that you join me and our colleagues in recognizing and honoring Mayor Robert L. Albritten for his remarkable achievements and accomplishments as a citizen and as a leader which have culminated with his selection as the 1998 American Hometown Leadership recipient. Mayor Albritten is truly a remarkable man and a first-rate American richly deserving of such an honor.●

IN SUPPORT OF ANTI-CRIME LEGISLATION

● Mrs. MURRAY. Mr. President, I rise to address a bill introduced earlier this week called the Safe Schools, Safe Streets, and Secure Borders Act of 1998. This bill takes the best ideas and puts them to work providing Americans with the tools they need to make their families safer, their communities healthier, and their schools freer from violence.

I know all of us would like a simple solution to the crime problems facing this great nation. But all of us know, in our hearts, that there is no easy solution. We must come together, join with our neighbors, our police, our leaders, and our children to tackle the terrifying problems facing us.

We must be tough on criminals. We need to continue to send the message that if you do the crime, you will be doing time—hard time. No one can accuse the U.S. justice system of coddling criminals. We have among the highest percentage of our population in prison, more than almost any other country in the world.

In the Violent Crime Control Act of 1994, which I supported, we strengthened penalties for violent, and drug-related crime. We also provided grants to states to build jails and prisons if they required serious violent offenders to serve at least 75 percent of their sentences. We've hired more than 75,000 new police officers to implement to time-tested program of community policing. Our crime bill has worked.

Now we need more of the same. We need to extend the Violent Crime Reduction Trust fund to pay for these important community-policing and grants to state and local government.

We need to extend the Violence Against Women Act. Preventing domestic violence and providing a safe haven for victims of domestic violence has been a top priority for me. I intend to introduce legislation to ensure victims of domestic violence are not further victimized through insurance, job or social security discrimination. Should this bill be considered by the Senate, I would seek to amend it by adding provisions of my Battered Women Economic Security Act to it.

Another top priority for me in this bill is reducing crime in our schools. As a parent and former educator, I share America's horror that our children are not safe in their schools. We simply must invest time and resources into solving this fundamental problem. This bill will provide an additional $10 million for the Safe and Drug Free School program and establish partnerships between schools and local law enforcement. Through my Senate Advisory Youth Involvement team, I am learning from students how they believe we can best solve school violence problems. I will be sharing those ideas with my colleagues when we debate this bill.

In my meetings with law enforcement officers around my state, I learned we have some critical problems in our juvenile justice system. While I believe juvenile justice is fundamentally an issue for our state legislatures to address, there is a federal role in several areas. First, we often should treat those 16 and 17-year-olds who commit violent federal offenses as adults. This bill gives prosecutors important discretion to prosecute these offenders as adults.

In addition to getting tough on our most hardened young criminals, we must replicate successful juvenile crime reduction strategies. There are

many efforts in my state of Washington that bring out the best in kids and communities and they are truly making a dent in the juvenile crime problem. Best SELF in Skagit county; Teamchild in King county; community justice in Spokane county and on the Colville Indian Reservation; Safestreets in Seattle; and TOGETHER! in Thurston county are several examples of communities joining together to make a difference with their youth. It's amazing how far just a few thousand dollars can go in these community-based programs; they need our continued support.

Mr. President, this bill also targets gangs, illegal drugs, and domestic and international terrorism. It extends a recently-passed bill I strongly supported, the Bulletproof Vest Partnership Grant Act, and provides other safeguards for our law enforcement officers. It reauthorizes the Drug Czar's office, which coordinates the High Intensity Drug Trafficking Area program that is helping establish a coordinated campaign against drug importation and use while also focusing resources of prevention and treatment of abuse.

No bill is perfect and I cannot say I agree with every provision included in this 1220-page bill. However, the Safe Schools, Safe Streets, and Secure Borders Act of 1998 continues to move this country in the right direction. Violent crime must continue to drop. With all of us joining together to fight crime and embrace healthy communities and schools, America can again become a safe place to raise and educate all of our children.

I thank Senator LEAHY for his fine leadership on this bill and encourage all Senators to work to pass comprehensive, bi-partisan legislation to prevent crime and strengthen families and communities.●

CONSUMER BANKRUPTCY REFORM ACT OF 1998—AMENDMENT NO. 3600

Amendment No. 3600, sent to the desk by Mr. HATCH on September 17, is printed in today's RECORD under ''Amendments Submitted—September 17, 1998.''

SATELLITE COMPULSORY LICENSE REFORM PROCESS AND S. 1720 CHAIRMAN'S MARK

The Chairman's mark substitute for S. 1720, not available for printing on September 17, 1998, is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Copyright Compulsory License Improvement Act''.

SEC. 2. LIMITATIONS ON EXCLUSIVE RIGHTS; SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS WITHIN LOCAL MARKETS.

(a) IN GENERAL.—Chapter 1 of title 17, United States Code, is amended by adding after section 121 the following new section:

''§ 122. Limitations on exclusive rights; secondary transmissions by satellite carriers within local markets

''(a) SECONDARY TRANSMISSIONS OF TELEVISION BROADCAST STATIONS BY SATELLITE CARRIERS.—A secondary transmission of a primary transmission of a television broadcast station into the station's local market shall be subject to statutory licensing under this section if—

''(1) the secondary transmission is made by a satellite carrier to the public;

''(2) the secondary transmission is permissible under the rules, regulations, or authorizations of the Federal Communications Commission; and

''(3) the satellite carrier makes a direct or indirect charge for the secondary transmission to—

''(A) each subscriber receiving the secondary transmission; or

''(B) a distributor that has contracted with the satellite carrier for direct or indirect delivery of the secondary transmission to the public.

''(b) REPORTING REQUIREMENTS.—

''(1) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station under subsection (a) shall, within 90 days after commencing such secondary transmissions, submit to that station a list identifying (by name and street address, including county and zip code) all subscribers to which the satellite carrier currently makes secondary transmissions of that primary transmission.

''(2) SUBSEQUENT LISTS.—After the list is submitted under paragraph (1), the satellite carrier shall, on the 15th of each month, submit to the station a list identifying (by name and street address, including county and zip code) any subscribers who have been added or dropped as subscribers since the last submission under this subsection.

''(3) USE OF SUBSCRIBER INFORMATION.—Subscriber information submitted by a satellite carrier under this subsection may be used only for the purposes of monitoring compliance by the satellite carrier with this section.

''(4) REQUIREMENTS OF STATIONS.—The submission requirements of this subsection shall apply to a satellite carrier only if the station to whom the submissions are to be made places on file with the Register of Copyrights a document identifying the name and address of the person to whom such submissions are to be made. The Register shall maintain for public inspection a file of all such documents.

''(c) NO ROYALTY FEE REQUIRED.—A satellite carrier whose secondary transmissions are subject to statutory licensing under subsection (a) shall have no royalty obligation for such secondary transmissions.

''(d) NONCOMPLIANCE WITH REPORTING REQUIREMENTS.—Notwithstanding subsection (a), the willful or repeated secondary transmission to the public by a satellite carrier of a television broadcast station and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided under sections 502 through 506 and 509, if the satellite carrier has not complied with the reporting requirements of subsection (b).

''(e) WILLFUL ALTERATIONS.—Notwithstanding subsection (a), the secondary transmission to the public by a satellite carrier into the local market of a television broadcast station of a primary transmission made by that television broadcast station and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and sections 509 and 510, if the content of the particular program in which the performance or display is embodied, or any commercial advertising or station announcement transmitted by the primary transmitter during, or immediately before or after, the transmission of such program, is in any way willfully altered by the satellite carrier through changes, deletions, or additions, or is combined with programming from any other broadcast signal.

''(f) DEFINITIONS.—In this section—

''(1) The term 'distributor' means an entity which contracts to distribute secondary transmissions from a satellite carrier and, either as a single channel or in a package with other programming, provides the secondary transmission either directly to individual subscribers or indirectly through other program distribution entities.

''(2) The term 'local market' for a television broadcast station has the meaning given that term in section 337(h)(2) of the Communications Act of 1934.

''(3) The terms 'satellite carrier' and 'secondary transmission' have the meaning given such terms under section 119(d).''.

''(4) The term 'subscriber' means an entity that receives a secondary transmission service by means of a secondary transmission from a satellite and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

''(5) The term 'television broadcast station' means an over-the-air, commercial or noncommercial television broadcast station licensed by the Federal Communications Commission under subpart E of part 73 of title 47, Code of Federal Regulations.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 1 of title 17, United States Code, is amended by adding after the item relating to section 121 the following:

''122. Limitations on exclusive rights; secondary transmissions by satellite carriers within local market.''.

SEC. 3. EXTENSION OF EFFECT OF AMENDMENTS TO SECTION 119 OF TITLE 17, UNITED STATES CODE.

Section 4(a) of the Satellite Home Viewer Act of 1994 (17 U.S.C. 119 note; Public Law 103–369; 108 Stat. 3481) is amended by striking ''December 31, 1999'' and inserting ''December 31, 2003''.

SEC. 4. TRANSITION.

Section 119(a)(5) of title 17, United States Code, is amended by adding at the end the following:

''(E) TRANSITION.—Notwithstanding subparagraphs (A) and (B), a satellite carrier shall not be required to terminate service of a network station to a subscriber until February 28, 1999.''.

SEC. 5. COMPUTATION OF ROYALTY FEES FOR SATELLITE CARRIERS.

Section 119(c) of title 17, United States Code, is amended by adding at the end the following new paragraph:

''(4)(A) The rate of the royalty fee payable in each case under subsection (b)(1)(B)(i) as adjusted by a royalty fee established under paragraph (2) or (3) of this subsection shall be reduced by 30 percent.

''(B) The rate of the royalty fee payable under subsection (b)(1)(B)(ii) as adjusted by a royalty fee established under paragraph (2) or (3) of this subsection shall be reduced by 45 percent.''.

SEC. 6. DEFINITIONS.

Section 119(d) of title 17, United States Code, is amended—

(1) by striking paragraph (10) and inserting the following:

''(10) UNSERVED HOUSEHOLD.—The term 'unserved household', with respect to a particular television network, means a household that cannot receive, through the use of a conventional outdoor rooftop receiving antenna, an over-the-air signal of grade B intensity (as defined by the Federal Communications Commission) of a primary network station affiliated with that network.''; and

(2) by adding at the end the following:

''(12) LOCAL NETWORK STATION.—The term 'local network station' means a network station that is secondarily transmitted to subscribers who reside within the local market in which the network station is located.''.

SEC. 7. PUBLIC BROADCASTING SERVICE SATELLITE FEED.

(a) SECONDARY TRANSMISSIONS.—Section 119(a)(1) of title 17, United States Code, is amended—

(1) by striking the paragraph heading and inserting ''(1) SUPERSTATIONS AND PBS SATELLITE FEED.—''; and

(2) by inserting ''or by the Public Broadcasting Service satellite feed'' after ''superstation''.

(b) DEFINITION.—Section 119(d) of title 17, United States Code, is amended by adding at the end the following:

''(12) PUBLIC BROADCASTING SERVICE SATELLITE FEED.—The term 'Public Broadcasting Service satellite feed' means the national satellite feed distributed by the Public Broadcasting Service consisting of educational and informational programming intended for private home viewing, to which the Public Broadcasting Service holds national terrestrial broadcast rights.''.

SEC. 8. APPLICATION OF FEDERAL COMMUNICATIONS COMMISSION REGULATIONS.

Section 119(a) of title 17, United States Code, is amended—

(1) in paragraph (1), by inserting ''is permissible under the rules, regulations, and authorizations of the Federal Communications Commission,'' after ''satellite carrier to the public for private home viewing,''; and

(2) in paragraph (2), by inserting ''is permissible under the rules, regulations, and authorizations of the Federal Communications Commission,'' after ''satellite carrier to the public for private home viewing,''.

SEC. 9. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on January 1, 1999, except section 4 shall take effect on the date of enactment of this Act.

TRADEMARK LAW TREATY IMPLEMENTATION ACT—AMENDMENT NO. 3601

Amendment No. 3601, sent to the desk by Mr. HATCH on September 17, is printed in today's RECORD under ''Amendments Submitted—September 17, 1998.''

S. 2491—THE PROTECTION OF CHILDREN FROM SEXUAL PREDATORS ACT OF 1998

S. 2491, introduced by Mr. HATCH, for himself, Mr. LEAHY, and Mr. DEWINE on September 17, is as follows:

S. 2491

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 ''Protection of Children From Sexual Predators Act of 1998''.

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

Sec. 1. Short title; table of contents.

TITLE I—PROTECTION OF CHILDREN FROM PREDATORS

Sec. 101. Use of interstate facilities to transmit identifying information about a minor for criminal sexual purposes.
Sec. 102. Coercion and enticement.
Sec. 103. Increased penalties for transportation of minors or assumed minors for illegal sexual activity and related crimes.
Sec. 104. Repeat offenders in transportation offense.
Sec. 105. Inclusion of offenses relating to child pornography in definition of sexual activity for which any person can be charged with a criminal offense.
Sec. 106. Transportation generally.

TITLE II—PROTECTION OF CHILDREN FROM CHILD PORNOGRAPHY

Sec. 201. Additional jurisdictional base for prosecution of production of child pornography.
Sec. 202. Increased penalties for child pornography offenses.

TITLE III—SEXUAL ABUSE PREVENTION

Sec. 301. Elimination of redundancy and ambiguities.
Sec. 302. Increased penalties for abusive sexual contact.
Sec. 303. Repeat offenders in sexual abuse cases.

TITLE IV—PROHIBITION ON TRANSFER OF OBSCENE MATERIAL TO MINORS

Sec. 401. Transfer of obscene material to minors.

TITLE V—INCREASED PENALTIES FOR OFFENSES AGAINST CHILDREN AND FOR REPEAT OFFENDERS

Sec. 501. Death or life in prison for certain offenses whose victims are children.
Sec. 502. Sentencing enhancement for chapter 117 offenses.
Sec. 503. Increased penalties for use of a computer in the sexual abuse or exploitation of a child.
Sec. 504. Increased penalties for knowing misrepresentation in the sexual abuse or exploitation of a child.
Sec. 505. Increased penalties for pattern of activity of sexual exploitation of children.
Sec. 506. Clarification of definition of distribution of pornography.
Sec. 507. Directive to the United States Sentencing Commission.

TITLE VI—CRIMINAL, PROCEDURAL, AND ADMINISTRATIVE REFORMS

Sec. 601. Pretrial detention of sexual predators.
Sec. 602. Criminal forfeiture for offenses against minors.
Sec. 603. Civil forfeiture for offenses against minors.
Sec. 604. Reporting of child pornography by electronic communication service providers.
Sec. 605. Civil remedy for personal injuries resulting from certain sex crimes against children.
Sec. 606. Administrative subpoenas.
Sec. 607. Grants to States to offset costs associated with sexually violent offender registration requirements.

TITLE VII—MURDER AND KIDNAPPING INVESTIGATIONS

Sec. 701. Authority to investigate serial killings.
Sec. 702. Kidnapping.
Sec. 703. Morgan P. Hardiman Child Abduction and Serial Murder Investigative Resources Center.

TITLE VIII—RESTRICTED ACCESS TO INTERACTIVE COMPUTER SERVICES

Sec. 801. Prisoner access.
Sec. 802. Recommended prohibition.
Sec. 803. Survey.

TITLE IX—STUDIES

Sec. 901. Study on limiting the availability of pornography on the Internet.
Sec. 902. Study of hotlines.

TITLE I—PROTECTION OF CHILDREN FROM PREDATORS

SEC. 101. USE OF INTERSTATE FACILITIES TO TRANSMIT IDENTIFYING INFORMATION ABOUT A MINOR FOR CRIMINAL SEXUAL PURPOSES.

(a) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

''§ 2425. Use of interstate facilities to transmit information about a minor

''Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, knowingly initiates the transmission of the name, address, telephone number, social security number, or electronic mail address of another individual, knowing that such other individual has not attained the age of 16 years, with the intent to entice, encourage, offer, or solicit any person to engage in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title, imprisoned not more than 5 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

''2425. Use of interstate facilities to transmit information about a minor.''.

SEC. 102. COERCION AND ENTICEMENT.

Section 2422 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ''or attempts to do so,'' before ''shall be fined''; and

(B) by striking ''five'' and inserting ''10''; and

(2) by striking subsection (b) and inserting the following:

''(b) Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both.''.

SEC. 103. INCREASED PENALTIES FOR TRANSPORTATION OF MINORS OR ASSUMED MINORS FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.

Section 2423 of title 18, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

''(a) TRANSPORTATION WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.—A person who knowingly transports an individual who has not attained the age of 18 years in interstate or foreign commerce, or in any territory or possession of the United States, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both.''; and

(2) in subsection (b), by striking ''10 years'' and inserting ''15 years''.

SEC. 104. REPEAT OFFENDERS IN TRANSPORTATION OFFENSE.

(a) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

''§ 2426. Repeat offenders

''(a) MAXIMUM TERM OF IMPRISONMENT.—The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term of imprisonment otherwise provided by this chapter.

''(b) DEFINITIONS.—In this section—

''(1) the term 'prior sex offense conviction' means a conviction for an offense—

''(A) under this chapter, chapter 109A, or chapter 110; or

''(B) under State law for an offense consisting of conduct that would have been an offense under a chapter referred to in paragraph (1) if the conduct had occurred within the special maritime and territorial jurisdiction of the United States; and

''(2) STATE.—the term 'State' means a State of the United States, the District of Columbia, any commonwealth, possession, or territory of the United States.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

''2426. Repeat offenders.''.

SEC. 105. INCLUSION OF OFFENSES RELATING TO CHILD PORNOGRAPHY IN DEFINITION OF SEXUAL ACTIVITY FOR WHICH ANY PERSON CAN BE CHARGED WITH A CRIMINAL OFFENSE.

(a) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

''§ 2427. Inclusion of offenses relating to child pornography in definition of sexual activity for which any person can be charged with a criminal offense

''In this chapter, the term 'sexual activity for which any person can be charged with a criminal offense' includes the production of child pornography, as defined in section 2256(8).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

''2427. Inclusion of offenses relating to child pornography in definition of sexual activity for which any person can be charged with a criminal offense.''.

SEC. 106. TRANSPORTATION GENERALLY.

Section 2421 of title 18, United States Code, is amended—

(1) by inserting ''or attempts to do so,'' before ''shall be fined''; and

(2) by striking ''five years'' and inserting ''10 years''.

TITLE II—PROTECTION OF CHILDREN FROM CHILD PORNOGRAPHY

SEC. 201. ADDITIONAL JURISDICTIONAL BASE FOR PROSECUTION OF PRODUCTION OF CHILD PORNOGRAPHY.

(a) USE OF A CHILD.—Section 2251(a) of title 18, United States Code, is amended by inserting ''if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer,'' before ''or if''.

(b) ALLOWING USE OF A CHILD.—Section 2251(b) of title 18, United States Code, is amended by inserting '', if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer,'' before ''or if''.

(c) INCREASED PENALTIES IN SECTION 2251(d).—Section 2251(d) of title 18, United States Code, is amended by striking ''or chapter 109A'' each place it appears and inserting '', chapter 109A, or chapter 117''.

SEC. 202. INCREASED PENALTIES FOR CHILD PORNOGRAPHY OFFENSES.

(a) INCREASED PENALTIES IN SECTION 2252.—Section 2252(b) of title 18, United States Code, is amended—

(1) in each of paragraphs (1) and (2), by striking ''or chapter 109A'' and inserting '', chapter 109A, or chapter 117''; and

(2) in paragraph (2), by striking ''the possession of child pornography'' and inserting ''aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography''.

(b) INCREASED PENALTIES IN SECTION 2252A.—Section 2252A(b) of title 18, United States Code, is amended—

(1) in each of paragraphs (1) and (2), by striking ''or chapter 109A'' and inserting '', chapter 109A, or chapter 117''; and

(2) in paragraph (2), by striking ''the possession of child pornography'' and inserting ''aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography''.

TITLE III—SEXUAL ABUSE PREVENTION

SEC. 301. ELIMINATION OF REDUNDANCY AND AMBIGUITIES.

(a) MAKING CONSISTENT LANGUAGE ON AGE DIFFERENTIAL.—Section 2241(c) of title 18, United States Code, is amended by striking ''younger than that person'' and inserting ''younger than the person so engaging''.

(b) REDUNDANCY.—Section 2243(a) of title 18, United States Code, is amended by striking ''crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years, or''.

(c) STATE DEFINED.—Section 2246 of title 18, United States Code, is amended—

(1) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(2) by adding at the end the following:

''(6) the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, possession, or territory of the United States.''.

SEC. 302. INCREASED PENALTIES FOR ABUSIVE SEXUAL CONTACT.

Section 2244 of title 18, United States Code, is amended by adding at the end the following:

''(c) OFFENSES INVOLVING YOUNG CHILDREN.—If the sexual contact that violates this section is with an individual who has not attained the age of 12 years, the maximum term of imprisonment that may be imposed for the offense shall be twice that otherwise provided in this section.''.

SEC. 303. REPEAT OFFENDERS IN SEXUAL ABUSE CASES.

Section 2247 of title 18, United States Code, is amended to read as follows:

''§ 2247. Repeat offenders

''(a) MAXIMUM TERM OF IMPRISONMENT.—The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term otherwise provided by this chapter.

''(b) PRIOR SEX OFFENSE CONVICTION DEFINED.—In this section, the term 'prior sex offense conviction' has the meaning given that term in section 2426(b).''.

TITLE IV—PROHIBITION ON TRANSFER OF OBSCENE MATERIAL TO MINORS

SEC. 401. TRANSFER OF OBSCENE MATERIAL TO MINORS.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by adding at the end the following:

''§ 1470. Transfer of obscene material to minors

''Whoever, using the mail or any facility or means of interstate or foreign commerce, knowingly transfers obscene matter to another individual who has not attained the age of 16 years, knowing that such other individual has not attained the age of 16 years, or attempts to do so, shall be fined under this title, imprisoned not more than 10 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 71 of title 18, United States Code, is amended by adding at the end the following:

''1470. Transfer of obscene material to minors.''.

TITLE V—INCREASED PENALTIES FOR OFFENSES AGAINST CHILDREN AND FOR REPEAT OFFENDERS

SEC. 501. DEATH OR LIFE IN PRISON FOR CERTAIN OFFENSES WHOSE VICTIMS ARE CHILDREN.

Section 3559 of title 18, United States Code, is amended by adding at the end the following:

''(d) DEATH OR IMPRISONMENT FOR CRIMES AGAINST CHILDREN.—

''(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, a person who is convicted of a Federal offense that is a serious violent felony (as defined in subsection (c)) or a violation of section 2422, 2423, or 2251 shall, unless the sentence of death is imposed, be sentenced to imprisonment for life, if—

''(A) the victim of the offense has not attained the age of 14 years;

''(B) the victim dies as a result of the offense; and

''(C) the defendant, in the course of the offense, engages in conduct described in section 3591(a)(2).

''(2) EXCEPTION.—With respect to a person convicted of a Federal offense described in paragraph (1), the court may impose any lesser sentence that is authorized by law to take into account any substantial assistance provided by the defendant in the investigation or prosecution of another person who has committed an offense, in accordance with the Federal Sentencing Guidelines and the policy statements of the Federal Sentencing Commission pursuant to section 994(p) of title 28, or for other good cause.''.

SEC. 502. SENTENCING ENHANCEMENT FOR CHAPTER 117 OFFENSES.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal Sentencing Guidelines to provide a sentencing enhancement for offenses under chapter 117 of title 18, United States Code.

(b) INSTRUCTION TO COMMISSION.—In carrying out subsection (a), the United States Sentencing Commission shall ensure that the sentences, guidelines, and policy statements for offenders convicted of offenses described in subsection (a) are appropriately severe and reasonably consistent with other relevant directives and with other Federal Sentencing Guidelines.

SEC. 503. INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines for—

(A) aggravated sexual abuse under section 2241 of title 18, United States Code;

(B) sexual abuse under section 2242 of title 18, United States Code;

(C) sexual abuse of a minor or ward under section 2243 of title 18, United States Code; and

(D) coercion and enticement of a minor under section 2422(b) of title 18, United States Code, contacting a minor under section 2422(c) of title 18, United States Code, and transportation of minors and travel under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to provide appropriate enhancement if the defendant used a computer with the intent to persuade, induce, entice, coerce, or facilitate the transport of a child of an age specified in the applicable provision of law referred to in paragraph (1) to engage in any prohibited sexual activity.

SEC. 504. INCREASED PENALTIES FOR KNOWING MISREPRESENTATION IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a minor under section 2422(b) of title 18, United States Code, contacting a minor under section 2422(c) of title 18, United States Code, and transportation of minors and travel under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to provide appropriate enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, coerce, or facilitate the transport of a child of an age specified in the applicable provision of law referred to in paragraph (1) to engage in a prohibited sexual activity.

SEC. 505. INCREASED PENALTIES FOR PATTERN OF ACTIVITY OF SEXUAL EXPLOITATION OF CHILDREN.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a minor under section 2422(b) of title 18, United States Code, contacting a minor under section 2422(c) of title 18, United States Code, and transportation of minors and travel under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to increase penalties applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

SEC. 506. CLARIFICATION OF DEFINITION OF DISTRIBUTION OF PORNOGRAPHY.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal Sentencing Guidelines as are necessary to clarify that the term ''distribution of pornography'' applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

SEC. 507. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

In carrying out this title, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal Sentencing Guidelines subject to this title, ensure reasonable consistency with other guidelines of the Federal Sentencing Guidelines; and

(2) with respect to an offense subject to the Federal Sentencing Guidelines, avoid duplicative punishment under the Federal Sentencing Guidelines for substantially the same offense.

TITLE VI—CRIMINAL, PROCEDURAL, AND ADMINISTRATIVE REFORMS

SEC. 601. PRETRIAL DETENTION OF SEXUAL PREDATORS.

Section 3156(a)(4) of title 18, United States Code, is amended by striking subparagraph (C) and inserting the following:

''(C) any felony under chapter 109A, 110, or 117; and''.

SEC. 602. CRIMINAL FORFEITURE FOR OFFENSES AGAINST MINORS.

Section 2253 of title 18, United States Code, is amended by striking ''or 2252 of this chapter'' and inserting ''2252, 2252A, or 2260 of this chapter, or who is convicted of an offense under section 2421, 2422, or 2423 of chapter 117,''.

SEC. 603. CIVIL FORFEITURE FOR OFFENSES AGAINST MINORS.

Section 2254(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking ''or 2252 of this chapter'' and inserting ''2252, 2252A, or 2260 of this chapter, or used or intended to be used to commit or to promote the commission of an offense under section 2421, 2422, or 2423 of chapter 117,''; and

(2) in paragraph (3), by striking ''or 2252 of this chapter'' and inserting ''2252, 2252A, or 2260 of this chapter, or obtained from a violation of section 2421, 2422, or 2423 of chapter 117,''.

SEC. 604. REPORTING OF CHILD PORNOGRAPHY BY ELECTRONIC COMMUNICATION SERVICE PROVIDERS.

(a) IN GENERAL.—The Victims of Child Abuse Act of 1990 (42 U.S.C. 13001 et seq.) is amended by inserting after section 226 the following:

''SEC. 227. REPORTING OF CHILD PORNOGRAPHY BY ELECTRONIC COMMUNICATION SERVICE PROVIDERS.

''(a) DEFINITIONS.—In this section—

''(1) the term 'electronic communication service' has the meaning given the term in section 2510 of title 18, United States Code; and

''(2) the term 'remote computing service' has the meaning given the term in section 2711 of title 18, United States Code.

''(b) REQUIREMENTS.—

''(1) DUTY TO REPORT.—Whoever, while engaged in providing an electronic communication service or a remote computing service to the public, through a facility or means of interstate or foreign commerce, obtains knowledge of facts or circumstances that provide probable cause to believe that a violation of section 2251, 2251A, 2252, 2252A, or 2260 of title 18, United States Code, involving child pornography (as defined in section 2256 of that title), has occurred shall, as soon as reasonably possible, make a report of such facts or circumstances to a law enforcement agency or agencies designated by the Attorney General.

''(2) DESIGNATION OF AGENCIES.—Not later than 180 days after the date of enactment of this section, the Attorney General shall designate the law enforcement agency or agencies to which a report shall be made under paragraph (1).

''(3) FAILURE TO REPORT.—A provider of electronic communication services or remote computing services described in paragraph (1) who knowingly and willfully fails to make a report under that paragraph shall be fined—

''(A) in the case of an initial failure to make a report, not more than $50,000; and

''(B) in the case of any second or subsequent failure to make a report, not more than $100,000.

''(c) CIVIL LIABILITY.—No provider or user of an electronic communication service or a remote computing service to the public shall be held liable on account of any action taken in good faith to comply with this section.

''(d) LIMITATION OF INFORMATION OR MATERIAL REQUIRED IN REPORT.—A report under subsection (b)(1) may include additional information or material developed by an electronic communication service or remote computing service, except that the Federal Government may not require the production of such information or material in that report.

''(e) MONITORING NOT REQUIRED.—Nothing in this section may be construed to require a provider of electronic communication services or remote computing services to engage in the monitoring of any user, subscriber, or customer of that provider, or the content of any communication of any such person.

''(f) CONDITIONS OF DISCLOSURE OF INFORMATION CONTAINED WITHIN REPORT.—

''(1) IN GENERAL.—No law enforcement agency that receives a report under subsection (b)(1) shall disclose any information contained in that report, except that disclosure of such information may be made—

''(A) to an attorney for the government for use in the performance of the official duties of the attorney;

''(B) to such officers and employees of the law enforcement agency, as may be necessary in the performance of their investigative and recordkeeping functions;

''(C) to such other government personnel (including personnel of a State or subdivision of a State) as are determined to be necessary by an attorney for the government to assist the attorney in the performance of the official duties of the attorney in enforcing Federal criminal law; or

''(D) as permitted by a court at the request of an attorney for the government, upon a showing that such information may disclose a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such State law.

''(2) DEFINITIONS.—In this subsection, the terms 'attorney for the government' and 'State' have the meanings given those terms in Rule 54 of the Federal Rules of Criminal Procedure.''.

(b) EXCEPTION TO PROHIBITION ON DISCLOSURE.—Section 2702(b)(6) of title 18, United States Code, is amended to read as follows:

''(6) to a law enforcement agency—

''(A) if the contents—

''(i) were inadvertently obtained by the service provider; and

''(ii) appear to pertain to the commission of a crime; or

''(B) if required by section 227 of the Crime Control Act of 1990.''.

SEC. 605. CIVIL REMEDY FOR PERSONAL INJURIES RESULTING FROM CERTAIN SEX CRIMES AGAINST CHILDREN.

Section 2255(a) of title 18, United States Code, is amended by striking ''2251 or 2252'' and inserting ''2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423''.

SEC. 606. ADMINISTRATIVE SUBPOENAS.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended—

(1) in section 3486, by striking the section designation and heading and inserting the following:

''§ 3486. Administrative subpoenas in Federal health care investigations''; and

(2) by adding at the end the following:

''§ 3486A. Administrative subpoenas in cases involving child abuse and child sexual exploitation

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—In any investigation relating to any act or activity involving a violation of section 1201, 2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423 of this title in which the victim is an individual who has not attained the age of 18 years, the Attorney General, or the designee of the Attorney General, may issue in writing and cause to be served a subpoena—

''(A) requiring a provider of electronic communication service or remote computing service to disclose the name, address, local and long distance telephone toll billing records, telephone number or other subscriber number or identity, and length of service of a subscriber to or customer of such service and the types of services the subscriber or customer utilized, which may be relevant to an authorized law enforcement inquiry; or

''(B) requiring a custodian of records to give testimony concerning the production and authentication of such records or information.

''(2) ATTENDANCE OF WITNESSES.—Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

''(b) PROCEDURES APPLICABLE.—The same procedures for service and enforcement as are provided with respect to investigative demands in section 3486 apply with respect to a subpoena issued under this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 223 of title 18, United States Code, is amended by striking the item relating to section 3486 and inserting the following:

''3486. Administrative subpoenas in Federal health care investigations.

''3486A. Administrative subpoenas in cases involving child abuse and child sexual exploitation.''.

SEC. 607. GRANTS TO STATES TO OFFSET COSTS ASSOCIATED WITH SEXUALLY VIOLENT OFFENDER REGISTRATION REQUIREMENTS.

(a) IN GENERAL.—Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) is amended—

(1) by redesignating the second subsection designated as subsection (g) as subsection (h); and

(2) by adding at the end the following:

''(i) GRANTS TO STATES FOR COSTS OF COMPLIANCE.—

''(1) PROGRAM AUTHORIZED.—

''(A) IN GENERAL.—The Director of the Bureau of Justice Assistance (in this subsection referred to as the 'Director') shall carry out a program, which shall be known as the 'Sex Offender Management Assistance Program' (in this subsection referred to as the 'SOMA program'), under which the Director shall award a grant to each eligible State to offset costs directly associated with complying with this section.

''(B) USES OF FUNDS.—Each grant awarded under this subsection shall be—

''(i) distributed directly to the State for distribution to State and local entities; and

''(ii) used for training, salaries, equipment, materials, and other costs directly associated with complying with this section.

''(2) ELIGIBILITY.—

''(A) APPLICATION.—To be eligible to receive a grant under this subsection, the chief executive of a State shall, on an annual basis, submit to the Director an application (in such form and containing such information as the Director may reasonably require) assuring that—

''(i) the State complies with (or made a good faith effort to comply with) this section; and

''(ii) where applicable, the State has penalties comparable to or greater than Federal penalties for crimes listed in this section, except that the Director may waive the requirement of this clause if a State demonstrates an overriding need for assistance under this subsection.

''(B) REGULATIONS.—

''(i) IN GENERAL.—Not later than 90 days after the date of enactment of this subsection, the Director shall promulgate regulations to implement this subsection (including the information that must be included and the requirements that the States must meet) in submitting the applications required under this subsection. In allocating funds under this subsection, the Director may consider the annual number of sex offenders registered in each eligible State's monitoring and notification programs.

''(ii) CERTAIN TRAINING PROGRAMS.—Prior to implementing this subsection, the Director shall study the feasibility of incorporating into the SOMA program the activities of any technical assistance or training program established as a result of section 40152 of this Act. In a case in which incorporating such activities into the SOMA program will eliminate duplication of efforts or administrative costs, the Director shall take administrative actions, as allowable, and make recommendations to Congress to incorporate such activities into the SOMA program prior to implementing the SOMA program.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $25,000,000 for each of fiscal years 1999 and 2000.''.

(b) STUDY.—Not later than March 1, 2000, the Director shall conduct a study to assess the efficacy of the Sex Offender Management Assistance Program under section 170101(i) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(i)), as added by this section, and submit recommendations to Congress.

TITLE VII—MURDER AND KIDNAPPING INVESTIGATIONS

SEC. 701. AUTHORITY TO INVESTIGATE SERIAL KILLINGS.

(a) IN GENERAL.—Chapter 33 of title 28, United States Code, is amended by adding at the end the following:

''§ 540B. Investigation of serial killings

''(a) IN GENERAL.—The Attorney General and the Director of the Federal Bureau of Investigation may investigate serial killings in violation of the laws of a State or political subdivision, if such investigation is requested by the head of a law enforcement agency with investigative or prosecutorial jurisdiction over the offense.

''(b) DEFINITIONS.—In this section:

''(1) KILLING.—The term 'killing' means conduct that would constitute an offense under section 1111 of title 18, United States Code, if Federal jurisdiction existed.

''(2) SERIAL KILLINGS.—The term 'serial killings' means a series of 3 or more killings, not less than 1 of which was committed within the United States, having common characteristics such as to suggest the reasonable possibility that the crimes were committed by the same actor or actors.

''(3) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 33 of title 28, United States Code, is amended by adding at end the following:

''540B. Investigation of serial killings.''.

SEC. 702. KIDNAPPING.

(a) CLARIFICATION OF ELEMENT OF OFFENSE.—Section 1201(a)(1) of title 18, United States Code, is amended by inserting '', regardless of whether the person was alive when transported across a State boundary if the person was alive when the transportation began'' before the semicolon.

(b) TECHNICAL AMENDMENT.—Section 1201(a)(5) of title 18, United States Code, is amended by striking ''designated'' and inserting ''described''.

(c) 24-HOUR RULE.—Section 1201(b) of title 18, United States Code, is amended by adding at the end the following: ''Notwithstanding the preceding sentence, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation of a possible violation of this section before the 24-hour period has ended.''.

SEC. 703. MORGAN P. HARDIMAN CHILD ABDUCTION AND SERIAL MURDER INVESTIGATIVE RESOURCES CENTER.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall establish within the Federal Bureau of Investigation a Child Abduction and Serial Murder Investigative Resources Center to be known as the ''Morgan P. Hardiman Child Abduction and Serial Murder Investigative Resources Center'' (in this section referred to as the ''CASMIRC'').

(b) PURPOSE.—The CASMIRC shall be managed by National Center for the Analysis of Violent Crime of the Critical Incident Response Group of the Federal Bureau of Investigation (in this section referred to as the ''NCAVC''), and by multidisciplinary resource teams in Federal Bureau of Investigation field offices, in order to provide investigative support through the coordination and provision of Federal law enforcement resources, training, and application of other multidisciplinary expertise, to assist Federal, State, and local authorities in matters involving child abductions, mysterious disappearance of children, child homicide, and serial murder across the country. The CASMIRC shall be co-located with the NCAVC.

(c) DUTIES OF THE CASMIRC.—The CASMIRC shall perform such duties as the Attorney General determines appropriate to carry out the purposes of the CASMIRC, including—

(1) identifying, developing, researching, acquiring, and refining multidisciplinary information and specialities to provide for the most current expertise available to advance investigative knowledge and practices used in child abduction, mysterious disappearance of children, child homicide, and serial murder investigations;

(2) providing advice and coordinating the application of current and emerging technical, forensic, and other Federal assistance to Federal, State, and local authorities in child abduction, mysterious disappearances of children, child homicide, and serial murder investigations;

(3) providing investigative support, research findings, and violent crime analysis

to Federal, State, and local authorities in child abduction, mysterious disappearances of children, child homicide, and serial murder investigations;

(4) providing, if requested by a Federal, State, or local law enforcement agency, on site consultation and advice in child abduction, mysterious disappearances of children, child homicide and serial murder investigations;

(5) coordinating the application of resources of pertinent Federal law enforcement agencies, and other Federal entities including, but not limited to, the United States Customs Service, the Secret Service, the Postal Inspection Service, and the United States Marshals Service, as appropriate, and with the concurrence of the agency head to support Federal, State, and local law enforcement involved in child abduction, mysterious disappearance of a child, child homicide, and serial murder investigations;

(6) conducting ongoing research related to child abductions, mysterious disappearances of children, child homicides, and serial murder, including identification and investigative application of current and emerging technologies, identification of investigative searching technologies and methods for physically locating abducted children, investigative use of offender behavioral assessment and analysis concepts, gathering statistics and information necessary for case identification, trend analysis, and case linkages to advance the investigative effectiveness of outstanding abducted children cases, develop investigative systems to identify and track serious serial offenders that repeatedly victimize children for comparison to unsolved cases, and other investigative research pertinent to child abduction, mysterious disappearance of a child, child homicide, and serial murder covered in this section;

(7) working under the NCAVC in coordination with the National Center For Missing and Exploited Children and the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice to provide appropriate training to Federal, State, and local law enforcement in matters regarding child abductions, mysterious disappearances of children, child homicides; and

(8) establishing a centralized repository based upon case data reflecting child abductions, mysterious disappearances of children, child homicides and serial murder submitted by State and local agencies, and an automated system for the efficient collection, retrieval, analysis, and reporting of information regarding CASMIRC investigative resources, research, and requests for and provision of investigative support services.

(d) APPOINTMENT OF PERSONNEL TO THE CASMIRC.—

(1) SELECTION OF MEMBERS OF THE CASMIRC AND PARTICIPATING STATE AND LOCAL LAW ENFORCEMENT PERSONNEL.—The Director of the Federal Bureau of Investigation shall appoint the members of the CASMIRC. The CASMIRC shall be staffed with Federal Bureau of Investigation personnel and other necessary personnel selected for their expertise that would enable them to assist in the research, data collection, and analysis, and provision of investigative support in child abduction, mysterious disappearance of children, child homicide and serial murder investigations. The Director may, with concurrence of the appropriate State or local agency, also appoint State and local law enforcement personnel to work with the CASMIRC.

(2) STATUS.—Each member of the CASMIRC (and each individual from any State or local law enforcement agency appointed to work with the CASMIRC) shall remain as an employee of that member's or individual's respective agency for all purposes (including the purpose of performance review), and service with the CASMIRC shall be without interruption or loss of civil service privilege or status and shall be on a nonreimbursable basis, except if appropriate to reimburse State and local law enforcement for overtime costs for an individual appointed to work with the resource team. Additionally, reimbursement of travel and per diem expenses will occur for State and local law enforcement participation in resident fellowship programs at the NCAVC when offered.

(3) TRAINING.—CASMIRC personnel, under the guidance of the Federal Bureau of Investigation's National Center for the Analysis of Violent Crime and in consultation with the National Center For Missing and Exploited Children, shall develop a specialized course of instruction devoted to training members of the CASMIRC consistent with the purpose of this section. The CASMIRC shall also work with the National Center For Missing and Exploited Children and the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice to develop a course of instruction for State and local law enforcement personnel to facilitate the dissemination of the most current multidisciplinary expertise in the investigation of child abductions, mysterious disappearances of children, child homicides, and serial murder of children.

(e) REPORT TO CONGRESS.—One year after the establishment of the CASMIRC, the Attorney General shall submit to Congress a report, which shall include—

(1) a description of the goals and activities of the CASMIRC; and

(2) information regarding—

(A) the number and qualifications of the members appointed to the CASMIRC;

(B) the provision of equipment, administrative support, and office space for the CASMIRC; and

(C) the projected resource needs for the CASMIRC.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 1999, 2000, and 2001.

(g) CONFORMING AMENDMENT.—Subtitle C of title XVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 5776a et seq.) is repealed.

TITLE VIII—RESTRICTED ACCESS TO INTERACTIVE COMPUTER SERVICES

SEC. 801. PRISONER ACCESS.

Notwithstanding any other provision of law, no agency, officer, or employee of the United States shall implement, or provide any financial assistance to, any Federal program or Federal activity in which a Federal prisoner is allowed access to any electronic communication service or remote computing service without the supervision of an official of the Federal Government.

SEC. 802. RECOMMENDED PROHIBITION.

(a) FINDINGS.—Congress finds that—

(1) a Minnesota State prisoner, serving 23 years for molesting teenage girls, worked for a nonprofit work and education program inside the prison, through which the prisoner had unsupervised access to the Internet;

(2) the prisoner, through his unsupervised access to the Internet, trafficked in child pornography over the Internet;

(3) Federal law enforcement authorities caught the prisoner with a computer disk containing 280 pictures of juveniles engaged in sexually explicit conduct;

(4) a jury found the prisoner guilty of conspiring to trade in child pornography and possessing child pornography;

(5) the United States District Court for the District of Minnesota sentenced the prisoner to 87 months in Federal prison, to be served upon the completion of his 23-year State prison term; and

(6) there has been an explosion in the use of the Internet in the United States, further placing our Nation's children at risk of harm and exploitation at the hands of predators on the Internet and increasing the ease of trafficking in child pornography.

(b) SENSE OF CONGRESS.—It is the sense of Congress that State Governors, State legislators, and State prison administrators should prohibit unsupervised access to the Internet by State prisoners.

SEC. 803. SURVEY.

(a) SURVEY.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall conduct a survey of the States to determine to what extent each State allows prisoners access to any interactive computer service and whether such access is supervised by a prison official.

(b) REPORT.—The Attorney General shall submit a report to Congress of the findings of the survey conducted pursuant to subsection (a).

(c) STATE DEFINED.—In this section, the term ''State'' means each of the 50 States and the District of Columbia.

TITLE IX—STUDIES

SEC. 901. STUDY ON LIMITING THE AVAILABILITY OF PORNOGRAPHY ON THE INTERNET.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall request that the National Academy of Sciences, acting through its National Research Council, enter into a contract to conduct a study of computer-based technologies and other approaches to the problem of the availability of pornographic material to children on the Internet, in order to develop possible amendments to Federal criminal law and other law enforcement techniques to respond to the problem.

(b) CONTENTS OF STUDY.—The study under this section shall address each of the following:

(1) The capabilities of present-day computer-based control technologies for controlling electronic transmission of pornographic images.

(2) Research needed to develop computer-based control technologies to the point of practical utility for controlling the electronic transmission of pornographic images.

(3) Any inherent limitations of computer-based control technologies for controlling electronic transmission of pornographic images.

(4) Operational policies or management techniques needed to ensure the effectiveness of these control technologies for controlling electronic transmission of pornographic images.

(c) FINAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a final report of the study under this section, which report shall—

(1) set forth the findings, conclusions, and recommendations of the Council; and

(2) be submitted by the Committees on the Judiciary of the House of Representatives and the Senate to relevant Government agencies and committees of Congress.

SEC. 902. STUDY OF HOTLINES.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall conduct a study in accordance with subsection (b) and submit to Congress a report on the results of that study.

(b) CONTENTS OF STUDY.—The study under this section shall include an examination of—

(1) existing State programs for informing the public about the presence of sexual predators released from prison, as required in section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071), including the use of CD-ROMs, Internet databases, and Sexual Offender Identification Hotlines, such as those used in the State of California; and

(2) the feasibility of establishing a national hotline for parents to access a Federal Bureau of Investigation database that tracks the location of convicted sexual predators established under section 170102 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072) and, in determining that feasibility, the Attorney General shall examine issues including the cost, necessary changes to Federal and State laws necessitated by the creation of such a hotline, consistency with Federal and State case law pertaining to community notification, and the need for, and accuracy and reliability of, the information available through such a hotline.

S. 2492—THE LONG-TERM CARE AND RETIREMENT SECURITY ACT OF 1998

S. 2492, introduced by Mr. GRASSLEY on September 17, is as follows:

S. 2492

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 ''Long-Term Care and Retirement Security Act of 1998''.

SEC. 2. DEDUCTION FOR LONG-TERM CARE HEALTH INSURANCE COSTS FOR INDIVIDUALS NOT ELIGIBLE TO PARTICIPATE IN EMPLOYER-SUBSIDIZED LONG-TERM CARE HEALTH PLANS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

''SEC. 222. QUALIFIED LONG-TERM CARE INSURANCE COSTS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the amount of the eligible long-term care premiums (as defined in section 213(d)(10)) paid during the taxable year for coverage of the taxpayer and the spouse and dependents of the taxpayer.

''(b) LIMITATION BASED ON OTHER COVERAGE.—Subsection (a) shall not apply to any taxpayer for any calendar month for which the taxpayer is eligible to participate in any subsidized long-term care plan maintained by any employer of the taxpayer or of the spouse of the taxpayer. For purposes of the preceding sentence, the term 'subsidized long-term care plan' means a subsidized health plan which includes primarily coverage for qualified long-term care services (as defined in section 7702B(c)) or is a qualified long-term care insurance contract (as defined in section 7702B(b)).

''(c) SPECIAL RULES.—

''(1) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which subsection (a) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a).

''(2) DEDUCTION NOT ALLOWED FOR SELF-EMPLOYMENT TAX PURPOSES.—The deduction allowable by reason of this section shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2.''

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 162(l)(2) of such Code is amended to read as follows:

''(C) LONG-TERM CARE PREMIUMS.—No deduction shall be allowed under this subsection for premiums on any qualified long-term care insurance contract (as defined in section 7702B(b)).''

(2) Subsection (a) of section 62 of such Code is amended by inserting after paragraph (17) the following new paragraph:

''(18) LONG-TERM CARE INSURANCE COSTS OF CERTAIN INDIVIDUALS.—The deduction allowed by section 222.''

(3) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

''Sec. 222. Qualified long-term care insurance costs.

''Sec. 223. Cross reference.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

S. 2493—THE ANIMAL AGRICULTURE ENVIRONMENTAL INCENTIVES ACT OF 1998

S. 2493, introduced by Mr. HARKIN on September 17, is as follows:

S. 2493

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 ''Animal Agriculture Environmental Incentives Act of 1998''.

SEC. 2. ALLOWANCE OF CREDIT FOR NUTRIENT MANAGEMENT COSTS OF ANIMAL FEEDING OPERATIONS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45D. ANIMAL FEEDING OPERATION EQUIPMENT CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the animal feeding operation equipment credit determined under this section for the taxable year is an amount equal to 25 percent of the eligible nutrient management costs of a taxpayer for the taxable year.

''(b) ELIGIBLE NUTRIENT MANAGEMENT COSTS.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible nutrient management costs' means amounts paid or incurred by a taxpayer to purchase a calibrated manure spreader or eligible processing equipment for use at an animal feeding operation owned by the taxpayer.

''(2) CALIBRATED MANURE SPREADER.—The term 'calibrated manure spreader' means equipment (including any associated geostationary positioning satellite equipment) which is used by the taxpayer exclusively for the precision application of manure to land in accordance with a comprehensive nutrient management plan.

''(3) ELIGIBLE PROCESSING EQUIPMENT.—

''(A) IN GENERAL.—The term 'eligible processing equipment' means equipment or structures used by the taxpayer exclusively for processing manure.

''(B) EXCLUSION.—The term 'eligible processing equipment' does not include equipment used exclusively for the simple containment or transportation of manure.

''(c) OTHER DEFINITIONS.—For purposes of this section—

''(1) ANIMAL FEEDING OPERATION.—The term 'animal feeding operation' means a facility for the milking of dairy cows or the raising of livestock or poultry (including egg production) for commercial sale.

''(2) APPLICATION.—The term 'application' means laying, spreading on, irrigating, injecting, or otherwise placing manure on land by any means.

''(3) COMPREHENSIVE NUTRIENT MANAGEMENT PLAN.—The term 'comprehensive nutrient management plan' means a written plan prepared in accordance with applicable Federal and State laws and regulations.

''(4) MANURE.—The term 'manure' means—

''(A) the excreta of an animal or other organic byproduct of an animal feeding operation, including litter, bedding, dead animals, composted animal carcasses, milk house waste, or other residual organic matter, and

''(B) water or any other material mixed with such excreta or byproduct for purposes of collection, handling, containment, or processing of such excreta or byproduct.

''(5) PRECISION APPLICATION.—The term 'precision application' means the controlled application of manure to land in a manner which distributes a specified amount of manure, as determined by the nitrogen or phosphorous content of the manure, across a specified area of land.

''(6) PROCESSING.—The term 'processing' means any mechanical, physical, or chemical treatment which—

''(A) alters the concentration of nitrogen, phosphorous, water, or other constituents in manure to facilitate—

''(i) manure application on land covered by the requirements of a comprehensive nutrient management plan, or

''(ii) use of manure or processed manure for commercial purposes other than land application on land owned or controlled by the taxpayer,

''(B) enhances the value of manure as a plant fertilizer or soil amendment, or

''(C) utilizes manure as an energy source.

''(d) SPECIAL RULES.—

''(1) REDUCTION IN BASIS.—For purposes of this subtitle, if a credit is determined under this section with respect to any property, the basis of such property shall be reduced by the amount of the credit so determined.

''(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—For purposes of this section, under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—For purposes of this section, in the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.''

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''plus'' at the end of paragraph (11),

(B) by striking the period at the end of paragraph (12), and inserting '', plus'', and

(C) by adding at the end the following new paragraph:

''(13) the animal feeding operation equipment credit determined under section 45D.''

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45D. Animal feeding operation equipment credit.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

ORDER FOR RECORD TO REMAIN OPEN

Mr. SESSIONS. Mr. President, I now ask unanimous consent that the

RECORD remain open today until 2 p.m. for the purpose of introducing bills and statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

HUMAN SERVICES REAUTHORIZATION ACT OF 1998

Mr. SESSIONS. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 2206) to amend the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, and the Community Services Block Grant Act to reauthorze and make improvements to those Acts, to establish demonstration projects that provide an opportunity for persons with limited means to accumulate assets, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2206) entitled ''An Act to amend the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, and the Community Services Block Grant Act to reauthorize and make improvements to those Acts, to establish demonstration projects that provide an opportunity for persons with limited means to accumulate assets, and for other purposes'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Human Services Reauthorization Act of 1998''.

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

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE HEAD START ACT

Sec. 101. Short title.
Sec. 102. Statement of purpose.
Sec. 103. Definitions.
Sec. 104. Financial assistance for Head Start programs.
Sec. 105. Authorization of appropriations.
Sec. 106. Allotment of funds.
Sec. 107. Designation of Head Start agencies.
Sec. 108. Quality standards.
Sec. 109. Powers and functions of Head Start agencies.
Sec. 110. Head Start transition.
Sec. 111. Submission of plans to governors.
Sec. 112. Participation in Head Start programs.
Sec. 113. Early Head Start programs for families with infants and toddlers.
Sec. 114. Technical assistance and training.
Sec. 115. Professional requirements.
Sec. 116. Family literacy services.
Sec. 117. Research and evaluation.
Sec. 118. Reports.
Sec. 119. Repeal of consultation requirement.
Sec. 120. Repeal of Head Start Transition Project Act.
Sec. 121. Effective date; application of amendments.

TITLE II—AMENDMENTS TO THE COMMUNITY SERVICES BLOCK GRANT ACT

Sec. 201. Short title.
Sec. 202. Reauthorization.
Sec. 203. Related amendments.
Sec. 204. Assets for independence.
Sec. 205. Effective date; application of amendments.

TITLE III—AMENDMENTS TO THE LOW-INCOME HOME ENERGY ASSISTANCE ACT OF 1981

Sec. 301. Short title.
Sec. 302. Authorization.
Sec. 303. Definitions.
Sec. 304. Natural disasters and other emergencies.
Sec. 305. State allotments.
Sec. 306. Administration.
Sec. 307. Payments to States.
Sec. 308. Residential energy assistance challenge option.

TITLE I—AMENDMENTS TO THE HEAD START ACT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Head Start Amendments Act of 1998''.

SEC. 102. STATEMENT OF PURPOSE.

Section 636 of the Head Start Act (42 U.S.C. 9831) is amended to read as follows:

''SEC. 636. STATEMENT OF PURPOSE.

''It is the purpose of this subchapter to promote school readiness by enhancing the social and cognitive development of low-income children through the provision, to low-income children and their families, of health, educational, nutritional, social, and other services that are determined, based on family needs assessments, to be necessary.''.

SEC. 103. DEFINITIONS.

Section 637 of the Head Start Act (42 U.S.C. 9832) is amended—

(1) by redesignating paragraphs (3) through (14) as paragraphs (4) through (15), respectively;

(2) in paragraph (2)—

(i) by striking '', and the Commonwealth of the Northern Mariana Islands'';

(ii) by inserting ''of the United States, and the Commonwealth of the Northern Mariana Islands, but for fiscal years ending before October 1, 2001, also means'' after ''Virgin Islands''; and

(iii) by inserting ''and'' after ''Marshall Islands'';

(3) by inserting after paragraph (2) the following:

''(3) The term 'child with a disability' means—

''(A) a child with a disability, as defined in section 602(3) of the Individuals with Disabilities Education Act; and

''(B) an infant or toddler with a disability, as defined in section 632(5) of such Act.'';

(4) by striking paragraph (5) (as redesignated in paragraph (1)) and inserting the following:

''(5) The term 'family literacy services' means services that—

''(A) are provided to participants who receive the services on a voluntary basis;

''(B) are of sufficient intensity, and of sufficient duration, to make sustainable changes in a family (such as eliminating or reducing dependence on income-based public assistance); and

''(C) integrate each of—

''(i) interactive literacy activities between parents and their children;

''(ii) training for parents on being partners with their children in learning;

''(iii) parent literacy training, including training that contributes to economic self-sufficiency; and

''(iv) appropriate instruction for children of parents receiving the parent literacy training.'';

(5) in paragraph (7) (as redesignated in paragraph (1)), by adding at the end the following: ''Nothing in this paragraph shall be construed to require an agency to provide services to a child who has not reached the age of compulsory school attendance for more than the number of hours per day permitted by State law for the provision of services to such a child.'';

(6) by striking paragraph (13) (as redesignated in paragraph (1)) and inserting the following:

''(13) The term 'migrant or seasonal Head Start program' means—

''(A) with respect to services for migrant farmworkers, a Head Start program that serves families who are engaged in agricultural labor and who have changed their residence from 1 geographic location to another in the preceding 2-year period; and

''(B) with respect to services for seasonal farmworkers, a Head Start program that serves families who are engaged primarily in seasonal agricultural labor and who have not changed their residence to another geographic location in the preceding 2-year period.''; and

(7) by adding at the end the following:

''(16) The term 'reliable and replicable', used with respect to research, means an objective, valid, scientific study that—

''(A) includes a rigorously defined sample of subjects, that is sufficiently large and representative to support the general conclusions of the study;

''(B) relies on measurements that meet established standards of reliability and validity;

''(C) is subjected to peer review before the results of the study are published; and

''(D) discovers effective strategies for enhancing the development and skills of children.''.

SEC. 104. FINANCIAL ASSISTANCE FOR HEAD START PROGRAMS.

Section 638(1) of the Head Start Act (42 U.S.C. 9833(1)) is amended—

(1) by striking ''aid the'' and inserting ''enable the''; and

(2) by striking the semicolon and inserting ''and attain school readiness;''.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

Section 639 of the Head Start Act (42 U.S.C. 9834) is amended—

(1) in subsection (a)—

(A) by inserting ''$4,660,000,000 for fiscal year 1999 and'' after ''subchapter''; and

(B) by striking ''1995 through 1998'' and inserting ''2000 through 2003''; and

(2) in subsection (b), by striking paragraphs (1) and (2) and inserting the following:

''(1) for each of the fiscal years 1999 through 2003, not more than $35,000,000 and not less than the aggregate amount made available to carry out section 642(d) of this Act and the Head Start Transition Project Act (42 U.S.C. 9855–9855g) for fiscal year 1998, to carry out activities authorized under section 642A;

''(2) not more than $5,000,000 for each of the fiscal years 1999 through 2003 to carry out impact studies under section 649(g);

''(3) not more than $12,000,000 for fiscal year 1999, and such sums as may be necessary for each of the fiscal years 2000 through 2003, to carry out other research, demonstration, and evaluation activities, including longitudinal studies, under section 649; and

''(4) not less than $5,000,000 for each of the fiscal years 1999 through 2003, to carry out activities authorized under section 648B.''.

SEC. 106. ALLOTMENT OF FUNDS.

(a) ALLOTMENTS.—Section 640(a) of the Head Start Act (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking ''and migrant'' the 1st place it appears and all that follows through ''handicapped children'', and inserting ''Head Start programs and services for children with disabilities and migrant or seasonal Head Start programs''; and

(ii) by striking ''and migrant'' each other place it appears and inserting ''Head Start programs and by migrant or seasonal''; and

(iii) by striking ''1994'' and inserting ''1998'';

(B) in subparagraph (B) by striking ''(B) payments'' and all that follows through ''Virgin Islands'' and inserting the following:

''(B) payments, subject to paragraph (7)—

''(i) to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States; and

''(ii) for fiscal years ending before October 1, 2001, to the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau;'';

(C) in subparagraph (C), by striking ''and'' at the end;

(D) in subparagraph (D), by striking ''related to the development and implementation of quality improvement plans under section

641A(d)(2)).'' and inserting ''carried out under paragraph (1), (2), or (3) of section 641A(d) relating to correcting deficiencies and conducting proceedings to terminate the designation of Head Start agencies); and'';

(E) by inserting after subparagraph (D) the following:

''(E) payments for research and evaluation activities under section 649.''; and

(F) by adding at the end the following: ''In carrying out this subchapter, the Secretary shall continue the administrative arrangement responsible for meeting the needs of children of migrant and seasonal farmworkers and Indian children, and shall ensure that appropriate funding is provided to meet such needs.'';

(2) in paragraph (3)—

(A) in subparagraph (A)(i) by striking ''equal'' and all that follows through ''activities'' and inserting ''subject to subsection (m)'';

(B) in subparagraph (B)—

(i) in clause (ii)—

(I) by striking ''adequate qualified staff'' and inserting ''adequate numbers of qualified staff''; and

(II) by inserting ''and children with disabilities'' before '', when'';

(ii) in clause (iv) by inserting ''and to encourage the staff to continually improve their skills and expertise by informing staff of the availability of State and Federal loan forgiveness programs for professional development'' before the period at the end;

(iii) in clause (v) by inserting ''and collaboration efforts for such programs'' before the period at the end; and

(iv) by amending clause (vi) to read as follows:

''(vi) Ensuring that such programs have adequate numbers of qualified staff that can promote language skills and literacy growth of children and that provide children with a variety of skills that have been identified, through research that is reliable and replicable, as predictive of later reading achievement.''; and

(C) in subparagraph (C)—

(i) in clause (i)(I)—

(I) by striking ''of staff'' and inserting ''of classroom teachers and other staff''; and

(II) by striking ''such staff'' and inserting ''qualified staff, including recruitment and retention pursuant to achieving the requirements set forth in section 648A(a)'';

(ii) by redesignating subclause (II) as subclause (III);

(iii) by inserting after subclause (I) the following:

''(II) Preferences in awarding salary increases, in excess of cost of living allowances, shall be granted to classroom teachers and staff who obtain additional training or education related to their responsibilities as employees of a Head Start program.'';

(iv) by amending clause (ii) to read as follows:

''(ii) Of the amount remaining after carrying out clause (i), the highest priority shall be placed on training classroom teachers and other staff to meet the education performance standards described in section 641A(a)(1)(B), through activities—

''(I) to promote children's language and literacy growth, through techniques identified through reliable, replicable research;

''(II) to promote the acquisition of the English language for non-English background children and families;

''(III) to foster children's school readiness skills through activities described in section 648A(a)(1); and

''(IV) to provide training necessary to improve the qualifications of the staff of the Head Start agencies and to support staff training, child counseling, and other services necessary to address the problems of children participating in Head Start programs, including children from dysfunctional families, children who experience chronic violence in their communities, and children who experience substance abuse in their families.'';

(v) by striking clause (v);

(vi) by redesignating clause (vi) as clause (v); and

(vii) by inserting after clause (v), as so redesignated, the following:

''(vi) To carry out any or all of such activities, but none of such funds may be used for construction or renovation (including nonstructural or minor structural changes).'';

(D) in subparagraph (D)(i)(II) by striking ''and migrant'' and inserting ''Head Start programs and by migrant or seasonal'';

(3) in paragraph (4)—

(A) in subparagraph (A), by striking ''1981'' and inserting ''1998'';

(B) by amending subparagraph (B) to read as follows:

''(B) any amount available after all allotments are made under subparagraph (A) for such fiscal year shall be distributed proportionately on the basis of the number of children less than 5 years of age who live with families whose income is below the poverty line.''; and

(C) by adding at the end the following:

''For each fiscal year the Secretary shall use the most recent data available on the number of children under the age of 5, from families below the poverty level that is consistent with that published for counties, by the Department of Commerce, unless the Secretary and the Secretary of Commerce determine that use of the updated poverty data would be inappropriate or unreliable. If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this paragraph are inappropriate or unreliable, they shall issue a report setting forth their reasons in detail.'';

(4) in paragraph (5)—

(A) in subparagraph (B), by inserting before the period the following ''and encourage Head Start agencies to actively collaborate with entities involved in State and local planning processes in order to better meet the needs of low-income children and families'';

(B) in subparagraph (C)—

(i) in clause (i)(I), by inserting ''the appropriate regional office of the Administration for Children and Families and'' before ''agencies'';

(ii) in clause (iii), by striking ''and'' at the end;

(iii) in clause (iv)—

(I) by striking ''education, and national service activities,'' and inserting ''and education and community service activities,'';

(II) by striking ''and activities'' and inserting ''activities''; and

(III) by striking the period and inserting ''(including coordination with those State officials who are responsible for administering part C and section 619 of the Individuals with Disabilities Education Act (20 U.S.C. 1431–1445, 1419)), and services for homeless children;''; and

(iv) by adding at the end the following:

''(v) include representatives of the State Head Start Association and local Head Start agencies in unified planning regarding early care and education services at both the State and local levels, including collaborative efforts to plan for the provision of full-working-day, full-calendar-year early care and education services for children;

''(vi) encourage local Head Start agencies to appoint a State level representative to speak on behalf of Head Start agencies within the State on collaborative efforts described in subparagraphs (B) and (D), and in clause (v); and

''(vii) encourage Head Start agencies to collaborate with entities involved in State and local planning processes (including the State lead agency administering the financial assistance received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) and the entities providing resource and referral services in the State) in order to better meet the needs of low-income children and families.'';

(C) by redesignating subparagraph (D) as subparagraph (F); and

(D) by inserting after subparagraph (C) the following:

''(D) Following the award of collaboration grants described in subparagraph (B), the Secretary shall provide, from the reserved sums, supplemental funding for collaboration grants—

''(i) to States that develop statewide, regional, or local unified plans for early childhood education and child care that include the participation of Head Start agencies; and

''(ii) to States that engage in other innovative collaborative initiatives, including plans for collaborative training and professional development initiatives for child care, early childhood education and Head Start service managers, providers, and staff.

''(E)(i) The Secretary shall—

''(I) review on an ongoing basis evidence of barriers to effective collaboration between Head Start programs and other Federal child care and early childhood education programs and resources;

''(II) develop initiatives, including providing additional training and technical assistance and making regulatory changes, in necessary cases, to eliminate barriers to the collaboration; and

''(III) develop a mechanism to resolve administrative and programmatic conflicts between such programs that would be a barrier to service providers, parents, or children, related to the provision of unified services in the consolidation of funding for child care services.

''(ii) In the case of a collaborative activity funded under this subchapter and another provision of law providing for Federal child care or early childhood education, the use of equipment and nonconsumable supplies purchased with funds made available under this subchapter or such provision shall not be restricted to children enrolled or otherwise participating in the program carried out under that subchapter or provision, during a period in which the activity is predominantly funded under this subchapter or such provision.'';

(5) by amending paragraph (6) to read as follows:

''(6)(A) From the amounts reserved and allotted pursuant to paragraphs (2) and (4), and except as provided in subparagraph (C)(i), the Secretary shall use for grants for programs described in section 645A(a) a portion of the combined total of such amount equal to—

''(i) 7.5 percent for fiscal year 1999;

''(ii) 8 percent for fiscal year 2000;

''(iii) 8.5 percent for fiscal year 2001;

''(iv) not less than 8.5 and not more than 10 percent for fiscal year 2002; and

''(v) not less than 8.5 and not more than 10 percent for fiscal year 2003;

of the amount appropriated pursuant to section 639(a) for the respective fiscal year.

''(B) If the Secretary does not submit to—

''(i) the Committee on Education and the Workforce and the Committee on Appropriations of the House of Representatives; and

''(ii) to the Committee on Labor and Human Resources and the Committee on Appropriations of the Senate;

by January 1, 2001, a report on the results of the Early Head Start impact study currently being conducted by the Secretary, then the amount required to be used in accordance with subparagraph (A) for fiscal years 2002 and 2003 shall be 8.5 percent of the amount appropriated pursuant to section 639(a) for the respective fiscal year.

''(C)(i) For any fiscal year for which the Secretary determines that the amount appropriated under section 639(a) is not sufficient to permit the Secretary to use the portion described in subparagraph (A) without reducing the number of children served by Head Start programs or negatively impacting the quality of Head Start services, relative to the number of children served and the quality of the services during the preceding fiscal year, the Secretary may reduce

the percentage of funds required to be used as the portion described in subparagraph (A) for the fiscal year for which the determination is made, but not below the percentage required to be so used for the preceding fiscal year.

''(ii) For any fiscal year for which the amount appropriated under section 639(a) requires a reduction in the amount made available under this subchapter to Head Start agencies and entities described in section 645A, relative to the amount made available to the agencies and entities for the preceding fiscal year, adjusted as described in paragraph (3)(A)(ii), the Secretary shall proportionately reduce—

''(I) the amounts made available to the entities for programs carried out under section 645A; and

''(II) the amounts made available to Head Start agencies for Head Start programs.''; and

(6) by redesignating paragraph (7) as paragraph (8); and

(7) by inserting after paragraph (6) the following:

''(7)(A) For purposes of paragraph (2)(A), in determining the need and demand for migrant or seasonal Head Start programs (and services provided through such programs), the Secretary shall consult with appropriate entities, including providers of services for migrant or seasonal Head Start programs. The Secretary shall, after taking into consideration the need and demand for migrant or seasonal Head Start programs (and such services), ensure that there is an adequate level of such services for eligible children of migrant farmworkers before approving an increase in the allocation provided for unserved eligible children of seasonal farmworkers. In serving the children of seasonal farmworkers, the Secretary shall ensure that services provided by migrant or seasonal Head Start programs do not duplicate or overlap with other Head Start services available in the same geographical area.

''(B)(i) Funds available under this subsection for payments to the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau shall be used by the Secretary to make grants on a competitive basis, pursuant to recommendations submitted to the Secretary by the Pacific Region Educational Laboratory of the Department of Education, to the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, for the purpose of carrying out Head Start programs in accordance with this subchapter.

''(ii) Not more than 5 percent of such funds may be used by the Secretary to compensate the Pacific Region Educational Laboratory of the Department of Education for administrative costs incurred in connection with making recommendations under clause (i).

''(iii) Notwithstanding any other provision of law, the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau shall not receive any funds under this subchapter for any fiscal year that begins after September 30, 2001.''.

(b) CHILDREN WITH DISABILITIES.—Section 640(d) of the Head Start Act (42 U.S.C. 9835(d)) is amended—

(1) by striking ''1982'' and inserting ''1999'';

(2) by striking ''(as defined in section 602(a) of the Individuals with Disabilities Education Act)''; and

(3) by adding at the end the following:

''Such policies and procedures shall require Head Start programs to coordinate programmatic efforts with efforts to implement part C and section 619 of the Individuals with Disabilities Education Act (20 U.S.C 1431–1445, 1419).''.

(c) INCREASED APPROPRIATIONS.—Section 640(g) of the Head Start Act (42 U.S.C. 9835(g)) is amended—

(1) in paragraph (1), by inserting at the end the following: ''In awarding funds to serve an increased number of children, the Secretary shall give priority to those applicants that provide full-working-day, full-calendar year Head Start services through collaboration with entities carrying out programs that are in existence on the date of the allocation and with other private, nonprofit agencies. Any such additional funds remaining may be used to make nonstructural and minor structural changes, and to acquire and install equipment, for the purpose of improving facilities necessary to expand the availability of Head Start programs and to serve an increased number of children.'';

(2) in paragraph (2)—

(A) in subparagraph (A), by striking the semicolon and inserting '', and the performance history of the applicant in providing services under other Federal programs (other than the program carried out under this subchapter);'';

(B) in subparagraph (C), by striking the semicolon and inserting '', and organizations and public entities serving children with disabilities;'';

(C) in subparagraph (D), by striking the semicolon and inserting ''and the extent to which, and manner in which, the applicant demonstrates the ability to collaborate and participate with other local community providers of child care or preschool services to provide full-working-day full-calendar-year services;'';

(D) in subparagraph (E), by striking ''program; and'' and inserting ''or any other early childhood program;'';

(E) in subparagraph (F), by striking the period and inserting a semicolon; and

(F) by adding at the end the following:

''(G) the extent to which the applicant proposes to foster partnerships with other service providers in a manner that will enhance the resource capacity of the applicant; and

''(H) the extent to which the applicant, in providing services, will plan to coordinate with the local educational agency serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following such program, regarding the education services provided by such local educational agency.'';

(3) in paragraph (3) by striking ''In'' and inserting ''Subject to subsection (m), in''; and

(4) by adding at the end the following:

''(4) Notwithstanding subsection (a)(2), after taking into account subsection (a)(1), the Secretary may allocate a portion of the remaining additional funds under subsection (a)(2)(A) for the purpose of increasing funds available for activities described in such subsection.''.

(d) REFERENCES.—Section 640(l) of the Head Start Act (42 U.S.C. 9835(l)) is amended by inserting ''or seasonal'' after ''migrant'' each place it appears.

(e) RELATIVE AVAILABILITY OF FUNDS FOR QUALITY AND FOR EXPANSION.—Section 640 of the Head Start Act (42 U.S.C. 9835) is amended by adding at the end the following:

''(m)(1) After complying with the requirement in subsection (g)(1) relating to maintaining the level of services provided during the previous year, the Secretary shall make the amount (if any) by which the funds appropriated under section 639(a) for a fiscal year exceed the adjusted prior year appropriation (as defined in subsection (a)(3)(ii)), available as follows:

''For Fiscal Year:	Percent of Amount Exceeding Adjusted Prior Year Appropriation To Be Available for Quality Activities Under Subsection (a)(3)(C):	Percent of Amount Exceeding Adjusted Prior Year Appropriation To Be Available for Expansion Activities Under Subsection (g):	Percent of Amount Exceeding Adjusted Prior Year Appropriation To Be Available to Qualifying Head Start Programs for Quality and Expansion Activities Under Subsections (a)(3)(C) and (g)
1999	65	25	10
2000	65	25	10
2001	45	45	10
2002	45	45	10
2003	25	65	10.

''(2) For purposes of paragraph (1), the term 'qualifying Head Start program' means a Head Start agency or Head Start program that is—

''(A) in compliance with the quality standards and result-based performance measures applicable under subsections (a) and (b) of section 641A;

''(B) not required under subsection (d) of such section to take a corrective action; and

''(C) making progress toward complying with requirements applicable under section 648A(a)(2).

''(3) Funds required to be made available under this subsection to qualifying Head Start programs shall be made available on the same basis as allotments are determined under subsection (a)(4).''.

(f) CONFORMING AMENDMENT.—Section 644(f)(2) of the Head Start Act (42 U.S.C. 9839(f)(2)) is amended by striking ''640(a)(3)(C)(v)'' and inserting ''640(g)''.

SEC. 107. DESIGNATION OF HEAD START AGENCIES.

Section 641 of the Head Start Act (42 U.S.C. 9836) is amended—

(1) in subsection (a) by inserting ''(in consultation with the chief executive officer of the State involved, if such State expends non-Federal funds to carry out Head Start programs)'' after ''Secretary'' the last place it appears;

(2) in subsection (b) by striking ''area designated by the Bureau of Indian Affairs as near-reservation'' and inserting ''off-reservation area designated by an appropriate tribal government'';

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting '', in consultation with the chief executive officer of the State if such State expends non-Federal funds to carry out Head Start programs,'' after ''shall''; and

(ii) by striking ''makes a finding'' and all that follows through the period at the end, and inserting the following:

''determines that the agency involved fails to meet program and financial management requirements, performance standards described in section 641A(a)(1), results-based performance

measures described in section 641A(b), and other requirements established by the Secretary.'';

(B) in paragraph (2), by inserting '', in consultation with the chief executive officer of the State if such State expends non-Federal funds to carry out Head Start programs,'' after ''shall''; and

(C) by aligning the left margin of paragraphs (2) and (3) with the left margin of paragraph (1); and

(4) in subsection (d)—

(A) in the matter preceding paragraph (1), by inserting after the 1st sentence the following:

''In selecting from among qualified applicants for designation as a Head Start agency, the Secretary shall give priority to any qualified agency that functioned as a Head Start delegate agency in the community and carried out a Head Start program that the Secretary determines met or exceeded such performance standards and such results-based performance measures.'';

(B) in paragraph (3) by inserting ''and programs under part C and section 619 of the Individuals with Disabilities Education Act (20 U.S.C 1431–1445, 1419)'' after ''(20 U.S.C. 2741 et seq.)'';

(C) in paragraph (4)—

(i) in subparagraph (A), by inserting ''(at home and in the center involved where practicable)'' after ''activities'';

(ii) in subparagraph (D)—

(I) in clause (iii) by adding ''or'' at the end;

(II) by striking clause (iv); and

(III) by redesignating clause (v) as clause (iv);

(iii) in subparagraph (E) by striking ''and (D)'' and inserting ''and (E)'';

(iv) by redesignating subparagraphs (D) and (E) and subparagraphs (E) and (F), respectively; and

(v) by inserting after subparagraph (C) the following:

''(D) to offer to parents of participating children substance abuse counseling (either directly or through referral to local entities), including information on drug-exposed infants and fetal alcohol syndrome;'';

(D) by amending paragraph (7) to read as follows:

''(7) the plan of such applicant to meet the needs of non-English background children and their families, including needs related to the acquisition of the English language;'';

(E) in paragraph (8)—

(i) by striking the period at the end and inserting ''; and''; and

(ii) by redesignating such paragraph as paragraph (9);

(F) by inserting after paragraph (7) the following:

''(8) the plan of such applicant to meet the needs of children with disabilities;''; and

(G) by adding at the end the following:

''(10) the plan of such applicant to collaborate with other entities carrying out early childhood education and child care programs in the community.''; and

(5) by amending subsection (e) to read as follows:

''(e) If no agency in the community receives priority designation and if there is no qualified applicant in the community, then the Secretary shall designate an agency to carry out the Head Start program in the community on an interim basis until a qualified applicant from the community is so designated.''.

SEC. 108. QUALITY STANDARDS.

(a) QUALITY STANDARDS.—Section 641A(a) of the Head Start Act (42 U.S.C. 9836a(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting '', including minimum levels of overall accomplishment,'' after ''regulation standards'';

(B) in subparagraph (A), by striking ''education,'';

(C) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(D) by inserting after subparagraph (A) the following:

''(B)(i) education performance standards to ensure the school readiness of children participating in a Head Start program, on completion of the Head Start program and prior to entering school; and

''(ii) additional school readiness performance standards (based on cognitive learning abilities) to ensure that the children participating in the program, at a minimum—

''(I) develop phonemic, print, and numeracy awareness;

''(II) understand and use oral language to communicate for different purposes;

''(III) understand and use increasingly complex and varied vocabulary;

''(IV) develop and demonstrate an appreciation of books; and

''(V) in the case of non-English background children, progress toward acquisition of the English language.'';

(2) by striking paragraph (2);

(3) in paragraph (3)—

(A) in subparagraph (B)(iii) by striking ''child'' and inserting ''early childhood education and''; and

(B) in subparagraph (C)—

(i) in clause (i)—

(I) by striking ''not later than 1 year after the date of enactment of this section,''; and

(II) by striking ''section 651(b)'' and all that follows through ''section'' and inserting ''this subsection''; and

(ii) in subclause (ii), by striking ''November 2, 1978'' and inserting ''the date of enactment of the Head Start Amendments Act of 1998''; and

(4) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) PERFORMANCE MEASURES.—Section 641A(b) of the Head Start Act (42 U.S.C. 9836a(b)) is amended—

(1) in the heading, by inserting ''RESULTS-BASED'' before ''PERFORMANCE'';

(2) in paragraph (1)—

(A) by striking ''Not later than 1 year after the date of enactment of this section, the'' and inserting ''The'';

(B) by striking ''child'' and inserting ''early childhood education and''; and

(C) by striking the period at the end and inserting '', and the impact of the services provided through the programs to children and their families.'';

(3) in paragraph (2)—

(A) in the heading, by striking ''DESIGN'' and inserting ''CHARACTERISTICS'';

(B) in the matter preceding subparagraph (A), by striking ''be designed'' and inserting ''include the education and school-based readiness performance standards described in subsection (a)(1)(B) and shall'';

(C) in subparagraph (A), by striking ''to assess'' and inserting ''assess the impact of'';

(D) in subparagraph (B)—

(i) by striking ''to'';

(ii) by striking ''and peer review'' and inserting '', peer review, and program evaluation''; and

(iii) by inserting ''not later than January 1, 1999'' before the semicolon at the end; and

(E) in subparagraph (C), by inserting ''be developed'' before ''for other'';

(4) in paragraph (3)(A) by striking ''and by region'' and inserting '', regionally, and locally''; and

(5) by adding at the end the following:

''(4) REQUIRED RESULTS-BASED PERFORMANCE MEASURES.—Such results-based performance measures shall ensure that such children—

''(A) know that letters of the alphabet are a special category of visual graphics that can be individually named;

''(B) recognize a word as a unit of print;

''(C) identify at least 10 letters of the alphabet; and

''(D) associate sounds with written words.

''(5) OTHER RESULTS-BASED PERFORMANCE MEASURES.—In addition to other applicable results-based performance measures, Head Start agencies may establish their own results-based school readiness performance measures.''.

(c) MONITORING.—Section 641A(c) of the Head Start Act (42 U.S.C. 9836a(c)) is amended—

(1) in paragraph (1) by inserting ''and results-based performance measures'' after ''standards''; and

(2) in paragraph (2)

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C)—

(i) by inserting ''(including children with disabilities)'' after ''eligible children''; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(D) include as part of the reviews of the programs, a review and assessment of program effectiveness, as measured in accordance with the results-based performance measures developed pursuant to subsection (b) and with the performance standards established pursuant to subparagraphs (A) and (B) of subsection (a)(1); and

''(E) seek information from the community and the State about the performance of the program and its efforts to collaborate with other entities carrying out early childhood education and child care programs in the community.''.

(d) TERMINATION.—Section 641A(d) of the Head Start Act (42 U.S.C. 9836a(d)) is amended—

(1) in paragraph (1)—

(A) by inserting ''or results-based performance measures described in subsection (b)'' after ''subsection (a)''; and

(B) by amending subparagraph (B) to read as follows:

''(B) with respect to each identified deficiency, require the agency—

''(i) to correct the deficiency immediately, if the Secretary finds that the deficiency threatens the health or safety of staff or program participants or poses a threat to the integrity of Federal funds;

''(ii) to correct the deficiency not later than 90 days after the identification of the deficiency if the Secretary finds, in the discretion of the Secretary, that such a 90-day period is reasonable, in light of the nature and magnitude of the deficiency; or

''(iii) in the discretion of the Secretary (taking into consideration the seriousness of the deficiency and the time reasonably required to correct the deficiency) to comply with the requirements of paragraph (2) concerning a quality improvement plan; and''; and

(2) in paragraph (2)(A), in the matter preceding clause (i), by striking ''immediately'' and inserting ''immediately or during a 90-day period under clause (i) or (ii) of paragraph (1)(B)''.

(e) REPORT.—Section 641A(e) of the Head Start Act (42 U.S.C. 9836a(e)) is amended by adding at the end the following: ''Such report shall be widely disseminated and available for public review in both written and electronic formats.''.

SEC. 109. POWERS AND FUNCTIONS OF HEAD START AGENCIES.

Section 642 of the Head Start Act (42 U.S.C. 9837) is amended—

(1) in subsection (b)—

(A) in paragraph (6)—

(i) by striking subparagraph (D); and

(ii) by redesignating subparagraphs (E) and (F) and subparagraphs (D) and (E), respectively;

(B) in paragraph (8) by striking ''and'' at the end;

(C) in paragraph (9) by striking the period at the end and inserting ''; and'';

(D) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10), respectively;

(E) by inserting after paragraph (5) the following:

''(6) offer to parents of participating children substance abuse counseling (either directly or through referral to local entities), including information on drug-exposed infants and fetal alcohol syndrome;''; and

(F) by adding at the end the following:

''(11)(A) inform custodial parents in single-parent families that participate in programs, activities, or services carried out under this subtitle about the availability of child support services for purposes of establishing paternity and acquiring child support;

''(B) refer eligible parents to the child support offices of State and local governments; and

''(C) establish referral arrangements with such offices.'';

(2) in subsection (c)—

(A) by inserting ''and collaborate'' after ''coordinate'';

(B) by inserting ''and part C and section 619 of the Individuals with Disabilities Education Act (20 U.S.C 1431–1445, 1419)'' after ''(20 U.S.C. 2741 et seq.)''; and

(C) by striking ''section 402(g) of the Social Security Act, and other'' and inserting ''the State program carried out under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.), and other early childhood education and development''; and

(3) in subsection (d)—

(A) in paragraph (1)—

(i) by striking ''carry out'' and all that follows through ''maintain'' and inserting ''take steps to ensure, to the maximum extent possible, that children maintain'';

(ii) by inserting ''and educational'' after ''developmental''; and

(iii) by striking ''to build'' and inserting ''build'';

(B) by striking paragraph (2); and

(C) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively.

SEC. 110. HEAD START TRANSITION.

The Head Start Act (42 U.S.C. 9831 et seq.) is amended by inserting after section 642 the following:

''SEC. 642A. HEAD START TRANSITION.

''Each Head Start agency shall take steps to coordinate with the local educational agency serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following such program, including—

''(1) developing and implementing a systematic procedure for transferring, with parental consent, Head Start program records for each participating child to the school in which such child will enroll;

''(2) establishing channels of communication between Head Start staff and their counterparts in the schools (including teachers, social workers, and health staff) to facilitate coordination of programs;

''(3) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start program teachers to discuss the educational, developmental, and other needs of individual children;

''(4) organizing and participating in joint transition-related training of school staff and Head Start staff;

''(5) developing and implementing a family outreach and support program in cooperation with entities carrying out parental involvement efforts under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

''(6) assisting families, administrators, and teachers in enhancing educational and developmental continuity between Head Start services and elementary school classes; and

''(7) linking the services provided in such program with the education services provided by such local education agency.''.

SEC. 111. SUBMISSION OF PLANS TO GOVERNORS.

The first sentence of section 643 of the Head Start Act (42 U.S.C. 9838) is amended—

(1) by striking ''30 days'' and inserting ''45 days'';

(2) by striking ''so disapproved'' and inserting ''disapproved (for reasons other than failure to comply with State health, safety, and child care laws, including regulations applicable to comparable child care programs in the State)''; and

(3) by inserting before the period '', as evidenced by a written statement of the Secretary's findings transmitted to such officer''.

SEC. 112. PARTICIPATION IN HEAD START PROGRAMS.

Section 645(a) of the Head Start Act (42 U.S.C. 9840(a)) is amended—

(1) in the last sentence of paragraph (1)—

(A) by striking ''provide (A) that'' and inserting the following:

''provide—

''(A) that''; and

(B) by amending subparagraph (B) to read as follows:

''(B) pursuant to such regulations as the Secretary shall prescribe, that programs assisted under this subchapter may—

''(i) include a child who has been determined to meet the low-income criteria and who is participating in a Head Start program in a program year shall be considered to continue to meet the low-income criteria through the end of the succeeding program year. In determining, for purposes of this paragraph, whether a child who has applied for enrollment in a Head Start program meets the low-income criteria, an entity may consider evidence of family income during the 12 months preceding the month in which the application is submitted, or during the calendar year preceding the calendar year in which the application is submitted, whichever more accurately reflects the needs of the family at the time of application;

''(ii) permit not more than 25 percent of the children enrolled in a Head Start program to be children (without counting children with disabilities) whose family income does not exceed 140 percent of the poverty line if the Head Start agency carrying out such program—

''(I) has a community needs assessment that demonstrates a need to provide Head Start services to more of such children who are members of families with incomes that exceed the poverty line but do not exceed 140 percent of the poverty line; and

''(II) ensures that, as a result of enrolling a greater percentage of children described in this clause, there will not be a reduction in, or denial of, Head Start services to children who are eligible under subparagraph (A);

''(iii) subject to the approval of the Secretary, permit such Head Start agency that demonstrates to the Secretary that it has made reasonable efforts to enroll children eligible under subparagraph (A) in the Head Start program carried out by such agency, to charge participation fees for children described in clause (ii), consistent with the sliding fee schedule established by the State under section 658E(c)(5) of the of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(5)).'';

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

''(2) A Head Start agency that provides a Head Start program with full-working-day services in collaboration with other agencies or entities may collect a family copayment to support extended day services if a copayment is required in conjunction with the partnership. The copayment shall not exceed the copayment charged to families with similar incomes and circumstances who are receiving the services through participation in a program carried out by another agency or entity.''.

SEC. 113. EARLY HEAD START PROGRAMS FOR FAMILIES WITH INFANTS AND TODDLERS.

(a) PROGRAM.—Section 645A of the Head Start Act (42 U.S.C. 9840a) is amended—

(1) in the section heading, by inserting ''**early head start**'' before ''**programs for**'';

(2) in subsection (a)—

(A) in paragraph (1) by striking ''; and'' and inserting a period;

(B) by striking paragraph (2); and

(C) by striking ''for—'' and all that follows through ''(1)'', and inserting ''for'';

(3) in subsection (b)—

(A) in paragraph (5), by inserting ''(including programs for infants and toddlers with disabilities)'' after ''community'';

(B) in paragraph (7) by striking ''and'' at the end;

(C) by redesignating paragraph (8) as paragraph (9); and

(D) by inserting after paragraph (7) the following:

''(8) ensure formal linkages with the agencies described in section 644(b) of the Individuals With Disabilities Education Act Amendments of 1997 and providers of early intervention services for infants and toddlers with disabilities under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and'';

(4) in subsection (c)—

(A) by striking ''(a)(1)'' and inserting ''(a)''; and

(B) in paragraph (2), by striking ''(or under'' and all that follows through ''(e)(3))'';

(5) in subsection (d)—

(A) in paragraph (1), by inserting ''and'' at the end;

(B) by striking paragraph (2); and

(C) in paragraph (3) by redesignating such paragraph as paragraph (2);

(6) by striking subsection (e);

(7) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively;

(8) in subsection (e) (as redesignated in paragraph (7))—

(A) in the subsection heading, by striking ''OTHER''; and

(B) by striking ''From the balance remaining of the portion specified in section 640(a)(6), after making grants to the eligible entities specified in subsection (e),'' and inserting ''From the portion specified in section 640(a)(6),'';

(9) by striking subsection (h); and

(10) by adding at the end the following:

''(g) MONITORING, TRAINING, TECHNICAL ASSISTANCE, AND EVALUATION.—

''(1) REQUIREMENT.—In order to ensure the successful operation of programs assisted under this section, the Secretary shall use funds from the portion specified in section 640(a)(6) to monitor the operation of such programs, evaluate their effectiveness, and provide training and technical assistance tailored to the particular needs of such programs.

''(2) TRAINING AND TECHNICAL ASSISTANCE ACCOUNT.—

''(A) IN GENERAL.—Of the amount made available to carry out this section for any fiscal year, not less than 5 percent and not more than 10 percent shall be reserved to fund a training and technical assistance account.

''(B) ACTIVITIES.—Funds in the account may be used for purposes including—

''(i) making grants to, and entering into contracts with, organizations with specialized expertise relating to infants, toddlers, and families and the capacity needed to provide direction and support to a national training and technical assistance system, in order to provide such direction and support;

''(ii) providing ongoing training and technical assistance for regional and program staff charged with monitoring and overseeing the administration of the program carried out under this section;

''(iii) providing ongoing training and technical assistance for existing recipients of grants under subsection (a) and support and program planning and implementation assistance for new recipients of such grants; and

''(iv) providing professional development and personnel enhancement activities, including the

provision of funds to recipients of grants under subsection (a) for the recruitment and retention of qualified staff with an appropriate level of education and experience.''.

(b) CONFORMING AMENDMENT.—Section 640(a)(5)(F) of the Head Start Act (42 U.S.C. 9835(a)(5)(F)), as so redesignated by section 106, is amended by striking ''section 645(a)(1)(A)'' and inserting ''section 645(a)''.

SEC. 114. TECHNICAL ASSISTANCE AND TRAINING.

Section 648 of the Head Start Act (42 U.S.C. 9843) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) ensure the provision of technical assistance to assist Head Start agencies, entities carrying out other child care and early childhood programs, communities, and States in collaborative efforts to provide quality full-working-day, full-calendar-year services, including technical assistance related to identifying and assisting in resolving barriers to collaboration.''; and

(2) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

''(1) give priority consideration to—

''(A) activities to correct program and management deficiencies identified through reviews pursuant to section 641A(c) (including the provision of assistance to local programs in the development of quality improvement plans under section 641A(d)(2)); and

''(B) assisting Head Start agencies in—

''(i) ensuring the school readiness of children; and

''(ii) meeting the education and school readiness performance standards described in this subchapter;'';

(B) in paragraph (2) by inserting ''supplement amounts provided under section 640(a)(3)(C)(ii),'' after ''(2)'';

(C) in paragraph (4)—

(i) by inserting ''and implementing'' after ''developing''; and

(ii) by striking ''a longer day'' and inserting the following: ''the day, and assist the agencies and programs in expediting the sharing of information about innovative models for providing full-working-day, full-calendar-year services for children'';

(D) in paragraph (7), by striking ''and'' at the end;

(E) by redesignating paragraphs (3) through (8) as paragraphs (5) through (10), respectively; and

(F) by inserting after paragraph (2) the following:

''(3) assist Head Start agencies in the development of collaborative initiatives with States and other entities within the States, to foster effective early childhood professional development systems;

''(4) assist classroom and non-classroom staff, including individuals in management and leadership capacities, to understand the components of effective family literacy services, gain knowledge about proper implementation of such services within a Head Start program, and receive assistance to achieve successful collaboration agreements with other service providers that allow the effective integration of family literacy services with the Head Start program;''.

SEC. 115. PROFESSIONAL REQUIREMENTS.

Section 648A of the Head Start Act (42 U.S.C. 9843a) is amended—

(1) by amending subsection (a) to read as follows:

''(a) CLASSROOM TEACHERS.—

''(1) PROFESSIONAL REQUIREMENTS.—The Secretary shall ensure that each Head Start classroom in a center-based program is assigned 1 teacher who has demonstrated competency to perform functions that include—

''(A) planning and implementing learning experiences that advance the intellectual and physical development of children, including improving readiness of children for school by developing their literacy and phonemic, print, and numeracy awareness, their understanding and use of oral language, their understanding and use of increasingly complex and varied vocabulary, their appreciation of books and their problem solving abilities;

''(B) establishing and maintaining a safe, healthy learning environment;

''(C) supporting the social and emotional development of children; and

''(D) encouraging the involvement of the families of the children in a Head Start program and supporting the development of relationships between children and their families.

''(2) DEGREE REQUIREMENTS.—The Secretary shall ensure that not later than September 30, 2003, at least 50 percent of all Head Start classrooms in a center-based program are assigned 1 teacher who has an associate, baccalaureate, or an advanced degree in early childhood education or development and shall require Head Start agencies to demonstrate continuing progress each year to reach that result. In the remaining balance of such classrooms, there shall be assigned one teacher who has—

''(A) a child development associate (CDA) credential that is appropriate to the age of the children being served in center-based programs;

''(B) a State-awarded certificate for preschool teachers that meets or exceeds the requirements for a child development associate credential; or

''(C) a degree in a field related to early childhood education with experience in teaching preschool children and a State-awarded certificate to teach in a preschool program.

''(3) ASSESSMENT.—Head Start agencies shall adopt, in consultation with experts in child development and with classroom teachers, an assessment to be used when hiring or evaluating any classroom teacher in a center-based Head Start program. Such assessment shall measure whether such teacher has mastered the functions described in paragraph (1)(A).''; and

(2) in subsection (b)(2)(B)—

(A) by striking ''staff,'' and inserting ''staff or''; and

(B) by striking '', or that'' and all that follows through ''families''.

SEC. 116. FAMILY LITERACY SERVICES.

The Head Start Act (42 U.S.C. 9831 et seq.) is amended by inserting after section 648A the following:

''SEC. 648B. FAMILY LITERACY SERVICES.

''From funds reserved under section 639(b)(4), the Secretary—

''(1) shall provide grants through a competitive process, based upon the quality of the family literacy service proposal and taking into consideration geographic and urban/rural representation, for not more than 100 Head Start agencies to initiate provision of family literacy services through collaborative partnerships with entities that provide adult education services, entities carrying out Even Start programs under part B of chapter 1 of title 1 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 274 et seq.), or entities that provide other services deemed necessary for the provision of family literacy services; and

''(2) may—

''(A) provide training and technical assistance to Head Start agencies that already provide family literacy services;

''(B) designate as mentor programs, and provide financial assistance to, Head Start agencies that demonstrate effective implementation of family literacy services, based on improved outcomes of children and their parents, to enable such agencies to provide training and technical assistance to other agencies that seek to implement, or improve implementation of, family literacy services; and

''(C) award grants or make other assistance available to facilitate training and technical assistance to programs for development of collaboration agreements with other service providers.

In awarding such grants or assistance, the Secretary shall give special consideration to an organization that has experience in the development and operation of successful family literacy services.''.

SEC. 117. RESEARCH AND EVALUATION.

Section 649 of the Head Start Act (42 U.S.C. 9844) is amended—

(1) in subsection (d)—

(A) in paragraph (6), by striking ''and'' at the end;

(B) in paragraph (7) by striking the period at the end and inserting ''; and'';

(C) by redesignating paragraphs (2) through (7) as paragraphs (3) through (8), respectively;

(D) by inserting after paragraph (1) the following:

''(2) over a 5-year period, lead to the development and rigorous evaluation of models for the integration of family literacy services with Head Start programs, that demonstrate the ability to make positive gains for children participating in Head Start programs and their parents, and dissemination of information about such models;''; and

(E) by adding at the end the following:

''(9) study the experiences of small, medium, and large States with Head Start programs in order to permit comparisons of children participating in the programs with eligible children who did not participate in the programs, which study—

''(A) may include the use of a data set that existed prior to the initiation of the study; and

''(B) shall compare the educational achievement, social adaptation, and health status of the participating children and the eligible non-participating children.

The Secretary shall ensure that an appropriate entity carries out a study described in paragraph (9), and prepares and submits to the appropriate committees of the Congress a report containing the results of the study, not later than September 30, 2002.''; and

(2) by adding at the end the following:

''(g) NATIONAL HEAD START IMPACT RESEARCH.—

''(1) ANALYSES OF DATA BASES.—The Secretary shall obtain analyses of the following existing databases to guide the evaluation recommendations of the expert panel appointed under paragraph (2) and to provide Congress with initial reports of potential Head Start outcomes—

''(A) by use of The Survey of Income and Program Participation (SIPP) conduct an analysis of the different income levels of Head Start participants compared to comparable persons who did not attend Head Start;

''(B) by use of The National Longitudinal Survey of Youth (NLSY) which began gathering data on children who attended Head Start from 1988 on, examine the wide range of outcomes measured within the Survey, including cognitive, socio-emotional, behavioral, and academic development;

''(C) by use of The Survey of Program Dynamics, the new longitudinal survey required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, to begin annual reporting, through the duration of the Survey, on Head Start attendees' academic readiness performance and improvements; and

''(D) to ensure that The Survey of Program Dynamics be linked with the NLSY at least once by the use of a common performance test, to be determined by the expert panel, for the greater national usefulness of the NLSY database.

''(2) EXPERT PANEL.—

''(A) IN GENERAL.—The Secretary shall appoint an independent panel consisting of experts in program evaluation and research, education, and early childhood programs—

''(i) to review, and make recommendations on, the design and plan for the research (whether

conducted as a single assessment or as a series of assessments), described in paragraph (3), within 1 year after the date of enactment of the Human Services Reauthorization Act of 1998;

''(ii) to maintain and advise the Secretary regarding the progress of the research; and

''(iii) to comment, if the panel so desires, on the interim and final research reports submitted under paragraph (8).

''(B) TRAVEL EXPENSES.—The members of the panel shall not receive compensation for the performance of services for the panel, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the panel. Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of members of the panel.

''(3) GENERAL AUTHORITY.—After reviewing the recommendations of the expert panel the Secretary shall enter into a grant, contract, or cooperative agreement with an organization to conduct independent research that provides a national analysis of the impact of Head Start programs. The Secretary shall ensure that the organization shall have expertise in program evaluation, and research, education, and early childhood programs.

''(4) DESIGNS AND TECHNIQUES.—The Secretary shall ensure that the research uses rigorous methodological designs and techniques (based on the recommendations of the expert panel), including longitudinal designs, control groups, nationally recognized standardized measures, and random selection and assignment, as appropriate. The Secretary may provide that the research shall be conducted as a single comprehensive assessment or as a group of coordinated assessments designed to provide, when taken together, a national analysis of the impact of Head Start programs.

''(5) PROGRAMS.—The Secretary shall ensure that the research focuses primarily on Head Start programs that operate in the several States, the Commonwealth of Puerto Rico, or the District of Columbia and that do not specifically target special populations.

''(6) ANALYSIS.—The Secretary shall ensure that the organization conducting the research—

''(A)(i) determines if, overall, the Head Start programs have impacts consistent with their primary goal of increasing the social competence of children, by increasing the everyday effectiveness of the children in dealing with their present environments and future responsibilities, and increasing their school readiness;

''(ii) considers whether the Head Start programs—

''(I) enhance the growth and development of children in cognitive, emotional, and physical health areas;

''(II) strengthen families as the primary nurturers of their children; and

''(III) ensure that children attain school readiness; and

''(iii) examines—

''(I) the impact of the Head Start programs on increasing access of children to such services as educational, health, and nutritional services, and linking children and families to needed community services; and

''(II) how receipt of services described in subclause (I) enriches the lives of children and families participating in Head Start programs;

''(B) examines the impact of Head Start programs on participants on the date the participants leave Head Start programs, at the end of kindergarten, and at the end of first grade, by examining a variety of factors, including educational achievement, referrals for special education or remedial course work, and absenteeism;

''(C) makes use of random selection from the population of all Head Start programs described in paragraph (5) in selecting programs for inclusion in the research; and

''(D) includes comparisons of individuals who participate in Head Start programs with control groups (including comparison groups) composed of—

''(i) individuals who participate in other early childhood programs (such as preschool programs and day care); and

''(ii) individuals who do not participate in any other early childhood program.

''(7) CONSIDERATION OF SOURCES OF VARIATION.—In designing the research, the Secretary shall, to the extent practicable, consider addressing possible sources of variation in impact of Head Start programs, including variations in impact related to such factors as—

''(A) Head Start program operations;

''(B) Head Start program quality;

''(C) the length of time a child attends a Head Start program;

''(D) the age of the child on entering the Head Start program;

''(E) the type of organization (such as a local educational agency or a community action agency) providing services for the Head Start program;

''(F) the number of hours and days of program operation of the Head Start program (such as whether the program is a full-working-day full-calendar-year program, a part-day program or a part-year program); and

''(G) other characteristics and features of the Head Start program (such as geographic location, location in an urban or a rural service area, or participant characteristics), as appropriate.

''(8) REPORTS.—

''(A) SUBMISSION OF INTERIM REPORTS.—The organization shall prepare and submit to the Secretary 2 interim reports on the research. The first interim report shall describe the design of the research, and the rationale for the design, including a description of how potential sources of variation in impact of Head Start programs have been considered in designing the research. The second interim report shall describe the status of the research and preliminary findings of the research, as appropriate.

''(B) SUBMISSION OF FINAL REPORT.—The organization shall prepare and submit to the Secretary a final report containing the findings of the research.

''(C) TRANSMITTAL OF REPORTS TO CONGRESS.—

''(i) IN GENERAL.—The Secretary shall transmit, to the committees described in clause (ii), the first interim report by September 30, 1999, the second interim report by September 30, 2001, and the final report by September 30, 2003.

''(ii) COMMITTEES.—The committees referred to in clause (i) are the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

''(9) DEFINITION.—In this subsection, the term 'impact', used with respect to a Head Start program, means a difference in an outcome for a participant in the program that would not have occurred without the participation in the program.

''(h) QUALITY IMPROVEMENT STUDY.—

''(1) STUDY.—The Secretary shall conduct a study regarding the use and effects of use of the quality improvement funds made available under section 640(a)(3) since fiscal year 1991.

''(2) REPORT.—The Secretary shall prepare and submit to Congress not later than September 2000 a report containing the results of the study, including—

''(A) the types of activities funded with the quality improvement funds;

''(B) the extent to which the use of the quality improvement funds has accomplished the goals of section 640(a)(3)(B); and

''(C) the effect of use of the quality improvement funds on teacher training, salaries, benefits, recruitment, and retention.''.

SEC. 118. REPORTS.

Section 650 of the Head Start Act (42 U.S.C. 9846) is amended—

(1) by inserting ''(a) STATUS OF CHILDREN.—'' before ''At'';

(2) by striking ''and Labor'' each place it appears and inserting ''and the Workforce'';

(3) in paragraph (14) by striking ''and seasonal'' and inserting ''or seasonal''; and

(4) by adding at the end the following:

''(b) FACILITIES.—At least once during every 5-year period, the Secretary shall prepare and submit, to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the condition, location, and ownership of facilities used, or available to be used, by Indian Head Start agencies.''.

SEC. 119. REPEAL OF CONSULTATION REQUIREMENT.

Section 657A of the Head Start Act (42 U.S.C. 9852a) is repealed.

SEC. 120. REPEAL OF HEAD START TRANSITION PROJECT ACT.

The Head Start Transition Project Act (42 U.S.C. 9855–9855g) is repealed.

SEC. 121. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall not apply with respect to any fiscal year ending before October 1, 1998.

TITLE II—AMENDMENTS TO THE COMMUNITY SERVICES BLOCK GRANT ACT

SEC. 201. SHORT TITLE.

This title may be cited as the ''Community Services Authorization Act of 1998''.

SEC. 202. REAUTHORIZATION.

The heading for subtitle B, and sections 671 through 680, of the Community Services Block Grant Act (42 U.S.C. 9901–9909) are amended to read as follows:

''Subtitle B—Community Services Block Grant Program

''SEC. 671. SHORT TITLE.

''This subtitle may be cited as the 'Community Services Block Grant Act'.

''SEC. 672. PURPOSES AND GOALS.

''The purpose of this subtitle is to provide assistance to States and local communities, working through a network of community action agencies and other neighborhood-based organizations, for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families and individuals in rural and urban areas to become fully self-sufficient (particularly families who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)). Such goals may be accomplished through—

''(1) the strengthening of community capabilities for planning, coordinating, and utilizing a broad range of Federal, State, local, and private resources for the elimination of poverty, and for helping individuals and families achieve self-sufficiency;

''(2) greater use of innovative and effective, community-based approaches to attacking the causes and effects of poverty and of community breakdown;

''(3) the maximum participation of residents of the low-income communities and members of the groups served by programs assisted through the block grant to empower such individuals to respond to the unique problems and needs within their communities; and

''(4) the broadening of the resource base of programs directed to the elimination of poverty so as to secure a more active role for private, faith-based, charitable, and neighborhood organizations in the provision of services as well as

individual citizens, business, labor, and professional groups who are able to influence the quantity and quality of opportunities and services for the poor.

"SEC. 673. DEFINITIONS.

''In this subtitle:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity—

''(A) that is an eligible entity described in section 673(1) (as in effect on the day before the date of enactment of the Human Services Reauthorization Act of 1998) as of such date of enactment or is designated by the process described in section 676A (including an organization serving migrant or seasonal farmworkers that is so described or designated); and

''(B) that has a tripartite board or other mechanism described in subsection (a) or (b), as appropriate, of section 676B.

''(2) POVERTY LINE.—The term 'poverty line' means the official poverty line defined by the Office of Management and Budget based on the most recent data available from the Bureau of the Census. The Secretary shall revise the poverty line annually (or at any shorter interval the Secretary determines to be feasible and desirable) which shall be used as a criterion of eligibility in the community services block grant program established under this subtitle. The required revision shall be accomplished by multiplying the official poverty line by the percentage change in the Consumer Price Index for All Urban Consumers during the annual or other interval immediately preceding the time at which the revision is made. Whenever a State determines that it serves the objectives of the block grant program established under this subtitle, the State may revise the poverty line to not to exceed 125 percent of the official poverty line otherwise applicable under this paragraph.

''(3) PRIVATE, NONPROFIT ORGANIZATION.—The term 'private, nonprofit organization' includes a faith-based organization, to which the provisions of section 679 shall apply.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

''(5) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands, but for fiscal years ending before October 1, 2001, includes the Federated States of Micronesia, the Republic of he Marshall Islands, and Palau.

"SEC. 674. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated $535,000,000 for fiscal year 1999 and such sums as may be necessary for each of fiscal years 2000 through 2003 to carry out the provisions of this subtitle (other than sections 681 and 682).

''(b) RESERVATIONS.—Of the amounts appropriated under subsection (a) for each fiscal year, the Secretary shall reserve—

''(1) ½ of 1 percent for carrying out section 675A (relating to payments for territories);

''(2) 1 ½ percent for activities authorized in sections 678A through 678F, of which—

''(A) not less than ½ of the amount reserved by the Secretary under this paragraph shall be distributed directly to local eligible entities or to statewide organizations whose membership is composed of eligible entities, as required under section 678A(c) for the purpose of carrying out activities described in section 678A; and

''(B) ½ of the remainder of the amount reserved by the Secretary under this paragraph shall be used to carry out monitoring, evaluation, and corrective activities described in sections 678B(c) and 678A; and

''(3) not more than 9 percent for carrying out section 680 (relating to discretionary activities).

"SEC. 675. ESTABLISHMENT OF BLOCK GRANT PROGRAM.

''The Secretary is authorized to establish a community services block grant program and make grants through the program to States to ameliorate the causes of poverty in communities within the States.

"SEC. 675A. DISTRIBUTION TO TERRITORIES.

''(a) APPORTIONMENT.—The Secretary shall apportion the amount reserved under section 674(b)(1)—

(1) for each fiscal year on the basis of need among Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands; and

(2) for fiscal years ending before October 1, 2001, and subject to subsection (c), on the basis of need among the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau.

''(b) APPLICATION.—Each jurisdiction to which subsection (a) applies may receive a grant under this subtitle for the amount apportioned under subsection (a) on submitting to the Secretary, and obtaining approval of, an application containing provisions that describe the programs for which assistance is sought under this subtitle, and that are consistent with the requirements of section 676.

''(c) LIMITATION.—(1) Funds apportioned under subsection (a) for the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau shall be used by the Secretary to make grants on a competitive basis, pursuant to recommendations submitted to the Secretary by the Pacific Region Educational Laboratory of the Department of Education, to the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, for the purpose of carrying out programs in accordance with this subtitle.

''(2) Not more than 5 percent of such funds may be used by the Secretary to compensate the Pacific Region Educational Laboratory of the Department of Education for administrative costs incurred in connection with making recommendations under paragraph (1).

''(3) Notwithstanding any other provision of law, the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau shall not receive any funds under this subtitle for any fiscal year that begins after September 30, 2001.

"SEC. 675B. ALLOTMENTS AND PAYMENTS TO STATES.

''(a) ALLOTMENTS IN GENERAL.—The Secretary shall, from the amount appropriated under section 674(a) for each fiscal year that remains after the Secretary makes the reservations required in section 674(b), allot to each State, subject to section 677, an amount that bears the same ratio to such remaining amount as the amount received by the State for fiscal year 1981 under section 221 of the Economic Opportunity Act of 1964 bore to the total amount received by all States for fiscal year 1981 under such section, except that no State shall receive less than ¼ of 1 percent of the amount appropriated under section 674(a) for such fiscal year.

''(b) ALLOTMENTS IN YEARS WITH GREATER AVAILABLE FUNDS.—

''(1) MINIMUM ALLOTMENTS.—Subject to paragraphs (2) and (3), if the amount appropriated under section 674(a) for a fiscal year that remains after the Secretary makes the reservations required in section 674(b) exceeds $345,000,000, the Secretary shall allot to each State not less than ½ of 1 percent of the amount appropriated under section 674(a) for such fiscal year.

''(2) MAINTENANCE OF FISCAL YEAR 1990 LEVELS.—Paragraph (1) shall not apply with respect to a fiscal year if the amount allotted under subsection (a) to any State for that year is less than the amount allotted under subsection (a) to such State for fiscal year 1990.

''(3) MAXIMUM ALLOTMENTS.—The amount allotted under paragraph (1) to a State shall be reduced for a fiscal year, if necessary, so that the aggregate amount allotted to such State under such paragraph and subsection (a) does not exceed 140 percent of the aggregate amount allotted to such State under the corresponding provisions of this subtitle for the fiscal year preceding the fiscal year for which a determination is made under this subsection.

''(c) ALLOTMENT OF ADDITIONAL FUNDS.—Notwithstanding subsections (a) and (b), in any fiscal year in which the amount appropriated under section 674(a) exceeds the amount appropriated under such section for fiscal year 1999, such excess shall be allotted among the States proportionately based on—

''(1) the number of public assistance recipients in the respective States;

''(2) the number of unemployed individuals in the respective States; and

''(3) the number of individuals with incomes below the poverty line in the respective States.

''(d) PAYMENTS.—The Secretary shall make payments to eligible States from the allotments made under this section. The Secretary shall make payments for the grants in accordance with section 6503(a) of title 31, United States Code.

''(e) DEFINITION.—For purposes of this section, the term 'State' does not include Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

"SEC. 675C. USES OF FUNDS.

''(a) GRANTS TO LOCAL ELIGIBLE ENTITIES AND OTHER ORGANIZATIONS.—

''(1) IN GENERAL.—Not less than 90 percent of the funds allotted to a State under section 675B shall be used by the State to make grants for the purposes described in section 672 to eligible entities.

''(2) OBLIGATIONAL AUTHORITY.—Funds distributed to eligible entities through grants made in accordance with paragraph (1) for a fiscal year shall be available for obligation during that fiscal year and the succeeding fiscal year, in accordance with paragraph (3).

''(3) RECAPTURE AND REDISTRIBUTION OF UNOBLIGATED FUNDS.—

''(A) AMOUNT.—Beginning on October 1, 2000, a State may recapture and redistribute funds distributed to an eligible entity through a grant made under paragraph (1) that are unobligated at the end of a fiscal year if such unobligated funds exceed 20 percent of the amount so distributed to such eligible entity for such fiscal year.

''(B) REDISTRIBUTION.—In redistributing funds recaptured in accordance with this paragraph, States shall redistribute such funds to an eligible entity, or require the original recipient of the funds to redistribute the funds to a private, nonprofit organization, located within the community served by the original recipient of the funds, for activities consistent with the purposes of this subtitle.

''(b) STATEWIDE ACTIVITIES.—

''(1) USE OF REMAINDER.—If a State uses less than 100 percent of the State allotment to make grants under subsection (a), the State shall use the remainder of the allotment (subject to paragraph (2)) for activities which may include—

''(A) providing training and technical assistance to those entities in need of such training and assistance;

''(B) coordinating State-operated programs and services targeted to low-income children and families with services provided by eligible entities and other organizations funded under this subtitle, including detailing appropriate employees of State or local agencies to entities funded under this subtitle, to ensure increased access to services provided by such State or local agencies;

''(C) supporting statewide coordination and communication among eligible entities;

''(D) analyzing the distribution of funds made available under this subtitle within the State to determine if such funds have been targeted to the areas of greatest need;

''(E) supporting asset-building programs for low-income individuals, such as programs supporting individual development accounts;

''(F) supporting innovative programs and activities conducted by community action agencies or other neighborhood-based organizations to eliminate poverty, promote self-sufficiency, and promote community revitalization;

''(G) supporting other activities, consistent with the purposes of this subtitle; and

''(H) State charity tax credits as described in subsection (c).

''(2) ADMINISTRATIVE CAP.—No State may spend more than the greater of $55,000, or 5 percent, of the State's allotment received under section 675B for administrative expenses, including monitoring activities. Funds to be spent for such expenses shall be taken from the portion of the State allotment that remains after the State makes grants to eligible entities under subsection (a).± The cost of activities conducted under paragraph (1)(A) shall not be considered to be administrative expenses.

''(c)(1) Subject to paragraph (2), if there is in effect under State law a charity tax credit, then the State may use for any purpose the amount of the allotment that is available for expenditure under subsection (b).

''(2) The aggregate amount a State may use under paragraph (1) during a fiscal year shall not exceed 100 percent of the revenue loss of the State during the fiscal year that is attributable to the charity tax credit, as determined by the Secretary of the Treasury without regard to any such revenue loss occurring before January 1, 1999.

''(3) For purposes of this subsection:

''(A) CHARITY TAX CREDIT.—The term 'charity tax credit' means a nonrefundable credit against State income tax (or, in the case of a State which does not impose an income tax, a comparable benefit) which is allowable for contributions, in cash or in kind, to qualified charities.

''(B) QUALIFIED CHARITY.—

''(i) IN GENERAL.—The term 'qualified charity' means any organization—

''(I) which is—

''(aa) described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

''(bb) a community action agency as defined in the Economic Opportunity Act of 1964; or

''(cc) a public housing agency as defined in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437A(b)(6));

''(II) which is certified by the appropriate State authority as meeting the requirements of clauses (iii) and (iv); and

''(III) if such organization is otherwise required to file a return under section 6033 of such Code, which elects to treat the information required to be furnished by clause (v) as being specified in section 6033(b) of such Code.

''(ii) CERTAIN CONTRIBUTIONS TO COLLECTION ORGANIZATIONS TREATED AS CONTRIBUTIONS TO QUALIFIED CHARITY.—

''(I) IN GENERAL.—A contribution to a collection organization shall be treated as a contribution to a qualified charity if the donor designates in writing that the contribution is for the qualified charity.

''(II) COLLECTION ORGANIZATION.—The term 'collection organization' means an organization described in section 501(c)(3) of such Code and exempt from tax under section 501(a) of such Code—

''(aa) which solicits and collects gifts and grants which, by agreement, are distributed to qualified charities described in clause (i);

''(bb) which distributes to qualified charities described in clause (i) at least 90 percent of the gifts and grants it receives that are designated for such qualified charities; and

''(cc) which meets the requirements of clause (vi).

''(iii) CHARITY MUST PRIMARILY ASSIST POOR INDIVIDUALS.—

''(I) IN GENERAL.—An organization meets the requirements of this clause only if the appropriate State authority reasonably expects that the predominant activity of such organization will be the provision of direct services within the United States to individuals and families whose annual incomes generally do not exceed 185 percent of the official poverty line (as defined by the Office of Management and Budget) in order to prevent or alleviate poverty among such individuals and families.

''(II) NO RECORDKEEPING IN CERTAIN CASES.—An organization shall not be required to establish or maintain records with respect to the incomes of individuals and families for purposes of subclause (I) if such individuals or families are members of groups which are generally recognized as including substantially only individuals and families described in subclause (I).

''(III) FOOD AID AND HOMELESS SHELTERS.—Except as otherwise provided by the appropriate State authority, for purposes of subclause (I), services to individuals in the form of—

''(aa) donations of food or meals; or

''(bb) temporary shelter to homeless individuals;

shall be treated as provided to individuals described in subclause (I) if the location and operation of such services are such that the service provider may reasonably conclude that the beneficiaries of such services are predominantly individuals described in subclause (I).

''(iv) MINIMUM EXPENSE REQUIREMENT.—

''(I) IN GENERAL.—An organization meets the requirements of this clause only if the appropriate State authority reasonably expects that the annual poverty program expenses of such organization will not be less than 75 percent of the annual aggregate expenses of such organization.

''(II) POVERTY PROGRAM EXPENSE.—For purposes of subclause (I)—

''(aa) IN GENERAL.—The term 'poverty program expense' means any expense in providing program services referred to in clause (iii).

''(bb) EXCEPTIONS.—Such term shall not include any management or general expense, any expense for the purpose of influencing legislation (as defined in section 4911(d) of the Internal Revenue Code of 1986), any expense for the purpose of fundraising, any expense for a legal service provided on behalf of any individual referred to in clause (iii), any expense for providing tuition assistance relating to compulsory school attendance, and any expense which consists of a payment to an affiliate of the organization.

''(v) REPORTING REQUIREMENT.—The information required to be furnished under this clause is—

''(i) the percentages determined by dividing the following categories of the organization's expenses for the year by its total expenses for the year: program services, management expenses, general expenses, fundraising expenses, and payments to affiliates; and

''(ii) the category or categories (including food, shelter, education, substance abuse, job training, or otherwise) of services which constitute its predominant activities.

''(vi) ADDITIONAL REQUIREMENTS FOR COLLECTION ORGANIZATIONS.—The requirements of this clause are met if the organization—

''(I) maintains separate accounting for revenues and expenses; and

''(II) makes available to the public its administrative and fundraising costs and information as to the organizations receiving funds from it and the amount of such funds.

''(vii) SPECIAL RULE FOR STATES REQUIRING TAX UNIFORMITY.—In the case of a State—

''(I) which has a constitutional requirement of tax uniformity; and

''(II) which, as of December 31, 1997, imposed a tax on personal income with—

''(aa) a single flat rate applicable to all earned and unearned income (except insofar as any amount is not taxed pursuant to tax forgiveness provisions); and

''(bb) no generally available exemptions or deductions to individuals;

the requirement of paragraph (2) shall be treated as met if the amount of the credit is limited to a uniform percentage (but not greater than 25 percent) of State personal income tax liability (determined without regard to credits).

''(4) No part of the aggregate amount a State uses under paragraph (1) may be used to supplant non-Federal funds that would be available, in the absence of Federal funds, to offset a revenue loss of the State attributable to a charity tax credit.

''SEC. 676. APPLICATION AND PLAN.

''(a) DESIGNATION OF LEAD AGENCY.—

''(1) DESIGNATION.—The chief executive officer of a State desiring to receive an allotment under this subtitle shall designate, in an application submitted to the Secretary under subsection (b), an appropriate State agency that complies with the requirements of paragraph (2) to act as a lead agency for purposes of carrying out State activities under this subtitle.

''(2) DUTIES.—The lead agency shall—

''(A) develop the State plan to be submitted to the Secretary under subsection (b);

''(B) in conjunction with the development of the State plan as required under subsection (b), hold at least 1 hearing in the State with sufficient time and statewide distribution of notice of such hearing, to provide to the public an opportunity to comment on the proposed use and distribution of funds to be provided through the allotment for the period covered by the State plan; and

''(C) conduct reviews of eligible entities under section 678B.

''(3) LEGISLATIVE HEARING.—The State shall hold at least 1 legislative hearing every 3 years in conjunction with the development of the State plan.

''(b) STATE APPLICATION AND PLAN.—Beginning with fiscal year 2000, to be eligible to receive an allotment under this subtitle, a State shall prepare and submit to the Secretary an application and State plan covering a period of not less than 1 fiscal year and not more than 2 fiscal years. The plan shall be submitted not later than 30 days prior to the beginning of the first fiscal year covered by the plan, and shall contain such information as the Secretary shall require, including—

''(1) an assurance that funds made available through the allotment will be used to support activities that are designed to assist low-income families and individuals, including families and individuals receiving assistance under title IV of the Social Security Act, homeless families and individuals, migrant or seasonal farmworkers, and elderly low-income individuals and families, and a description of how such activities will enable the families and individuals—

''(A) to remove obstacles and solve problems that block the achievement of self-sufficiency (particularly for families and individuals who are attempting to transition off a State program carried out under title IV of the Social Security Act);

''(B) to secure and retain meaningful employment;

''(C) to attain an adequate education with particular attention toward improving literacy skills of the low-income families in the community, which may include family literacy initiatives;

''(D) to make better use of available income;

''(E) to obtain and maintain adequate housing and a suitable living environment;

''(F) to obtain emergency assistance through loans, grants, or other means to meet immediate and urgent individual and family needs;

''(G) to achieve greater participation in the affairs of the community, including activities that strengthen and improve the relationship with local law enforcement agencies, which may include activities such as neighborhood or community policing efforts;

''(H) to address the needs of youth in low-income communities through youth development

programs that support the primary role of the family, give priority to prevention of youth problems and crime, promote increased community coordination and collaboration in meeting the needs of youth, and support development and expansion of innovative community-based youth development programs, which may include after-school child care programs; and

''(I) to make more effective use of, and to coordinate with, other programs related to the purposes of this subtitle (including State welfare reform efforts);

''(2) a description of how the State intends to use discretionary funds made available from the remainder of the allotment described in section 675C(b) in accordance with this subtitle, including a description of how the State will support innovative community and neighborhood-based initiatives related to the purposes of this subtitle;

''(3) based on information provided by eligible entities in the State, a description of—

''(A) the service delivery system, for services provided or coordinated with funds made available through the allotment, targeted to low-income individuals and families in communities within the State;

''(B) a description of how linkages will be developed to fill identified gaps in the services, through the provision of information, referrals, case management, and followup consultations;

''(C) a description of how funds made available through the allotment will be coordinated with other public and private resources; and

''(D) a description of how the funds will be used to support innovative community and neighborhood-based initiatives related to the purposes of this subtitle which may include fatherhood and other initiatives with the goal of strengthening families and encouraging parental responsibility;

''(4) an assurance that local eligible entities in the State will provide, on an emergency basis, for the provision of such supplies and services, nutritious foods, and related services, as may be necessary to counteract conditions of starvation and malnutrition among low-income individuals;

''(5) an assurance that the State and the local eligible entities in the State will coordinate, and establish linkages between, governmental and other social services programs to assure the effective delivery of such services to low-income individuals and to avoid duplication of such services (including a description of how the State and the local eligible entities will coordinate with State and local workforce investment systems in the provision of employment and training services in the State and in local communities);

''(6) an assurance that the State will ensure coordination between antipoverty programs in each community, and ensure, where appropriate, that emergency energy crisis intervention programs under title XXVI (relating to low-income home energy assistance) are conducted in such community;

''(7) an assurance that the State will permit and cooperate with Federal investigations undertaken in accordance with section 678D;

''(8) an assurance that any eligible entity that received funding in the previous fiscal year under this subtitle will not have its funding terminated under this subtitle, or reduced below the proportional share of funding the entity received in the previous fiscal year unless, after providing notice and an opportunity for a hearing on the record, the State determines that cause exists for such termination or such reduction, subject to review by the Secretary as provided in section 678C(b);

''(9) an assurance that local eligible entities in the State will, to the maximum extent possible, coordinate programs with and form partnerships with other organizations serving low-income residents of the communities and members of the groups served by the State, including faith-based organizations, charitable groups, and community organizations;

''(10) an assurance that the State will require each eligible entity to establish procedures under which a low-income individual, community organization, or faith-based organization, or representative of low-income individuals that considers its organization, or low-income individuals, to be inadequately represented on the board (or other mechanism) of the eligible entity to petition for adequate representation;

''(11) an assurance that the State will secure from each eligible entity, as a condition to receipt of funding by the entity under this subtitle for a program, a community action plan (which shall be submitted to the Secretary, at the request of the Secretary, with the State plan) that includes a community-needs assessment for the community served, which may be coordinated with community-needs assessments conducted for other programs;

''(12) an assurance that the State and all eligible entities in the State will, not later than fiscal year 2001, participate in the Results Oriented Management and Accountability System, another performance measure system established pursuant to section 678E(b), or an alternative system for measuring performance and results that meets the requirements of that section, and a description of outcome measures to be used to measure eligible entity performance in promoting self-sufficiency, family stability, and community revitalization; and

''(13) information describing how the State will carry out the assurances described in this subsection.

''(c) FUNDING TERMINATION OR REDUCTIONS.—For purposes of making a determination in accordance with subsection (b)(8) with respect to—

''(1) a funding reduction, the term 'cause' includes—

''(A) a statewide redistribution of funds provided under this subtitle to respond to—

''(i) the results of the most recently available census or other appropriate data;

''(ii) the designation of a new eligible entity; or

''(iii) severe economic dislocation; or

''(B) the failure of an eligible entity to comply with the terms of an agreement to provide services under this subtitle; and

''(2) a termination, the term 'cause' includes the material failure of an eligible entity to comply with the terms of such an agreement and the State plan to provide services under this subtitle or the consistent failure of the entity to achieve performance measures as determined by the State.

''(d) PROCEDURES AND INFORMATION.—The Secretary may prescribe procedures only for the purpose of assessing the effectiveness of eligible entities in carrying out the purposes of this subtitle.

''(e) REVISIONS AND INSPECTION.—

''(1) REVISIONS.—The chief executive officer of each State may revise any plan prepared under this section and shall submit the revised plan to the Secretary.

''(2) PUBLIC INSPECTION.—Each plan or revised plan prepared under this section shall be made available for public inspection within the State in such a manner as will facilitate review of, and comment on, the plan.

''SEC. 676A. DESIGNATION AND REDESIGNATION OF ELIGIBLE ENTITIES IN UNSERVED AREAS.

''(a) QUALIFIED ORGANIZATION IN OR NEAR AREA.—

''(1) IN GENERAL.—If any geographic area of a State is not, or ceases to be, served by an eligible entity under this subtitle, and if the chief executive officer of the State decides to serve such area, the chief executive officer may solicit applications from, and designate as an eligible entity—

''(A) a private nonprofit eligible entity located in an area contiguous to or within reasonable proximity of the unserved area that is already providing related services in the unserved area; or

''(B) a private nonprofit organization that is geographically located in the unserved area that is capable of providing a broad range of services designed to eliminate poverty and foster self-sufficiency and that meets the requirements of this subtitle.

''(2) REQUIREMENT.—In order to serve as the eligible entity for the area, an entity described in paragraph (1)(B) shall agree to add additional members to the board of the entity to ensure adequate representation—

''(A) in each of the 3 required categories described in subparagraphs (A), (B), and (C) of section 676B(a)(2), by members that reside in the community comprised by the unserved area; and

''(B) in the category described in section 676B(a)(2), by members that reside in the neighborhood served.

''(b) SPECIAL CONSIDERATION.—In designating an eligible entity under subsection (a), the chief executive officer shall grant the designation to an organization of demonstrated effectiveness in meeting the goals and purposes of this subtitle and may give priority, in granting the designation, to local eligible entities that are already providing related services in the unserved area, consistent with the needs identified by a community-needs assessment.

''(c) NO QUALIFIED ORGANIZATION IN OR NEAR AREA.—If no private, nonprofit organization is identified or determined to be qualified under subsection (a) to serve the unserved area as an eligible entity the chief executive officer may designate an appropriate political subdivision of the State to serve as an eligible entity for the area. In order to serve as the eligible entity for that area, the political subdivision shall have a board or other mechanism as required in section 676B(b).

''SEC. 676B. TRIPARTITE BOARDS.

''(a) PRIVATE NONPROFIT ENTITIES.—

''(1) BOARD.—In order for a private, nonprofit entity to be considered to be an eligible entity for purposes of section 673(1), the entity shall administer the community services block grant program through a tripartite board described in paragraph (2) that fully participates in the development and implementation of the program to serve low-income communities or groups.

''(2) SELECTION AND COMPOSITION OF BOARD.—The members of the board referred to in paragraph (1) shall be selected by the entity and the board shall be composed so as to assure that—

''(A) ⅓ of the members of the board are elected public officials, holding office on the date of selection, or their representatives, except that if the number of elected officials reasonably available and willing to serve on the board is less than ⅓ of the membership of the board, membership on the board of appointive public officials or their representatives may be counted in meeting such ⅓ requirement;

''(B) not fewer than ⅓ of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members are representative of low-income individuals and families in the neighborhood served;

''(C) the remainder of the members are officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served; and

''(D) each representative of low-income individuals and families selected to represent a specific neighborhood within a community under subparagraph (B) resides in the neighborhood represented by the member.

''(b) PUBLIC ORGANIZATIONS.—In order for a public organization to be considered to be an eligible entity for purposes of section 673(1), the entity shall administer the community services block grant program through—

''(1) a tripartite board, which shall have members selected by the organization and shall be composed so as to assure that not fewer than ⅓ of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members—

''(A) are representative of low-income individuals and families in the neighborhood served;

''(B) reside in the neighborhood served; and

''(C) are able to participate actively in the planning and implementation of programs funded under this subtitle; or

''(2) another mechanism specified by the State to assure decisionmaking and participation by low-income individuals in the planning, administration, and evaluation of programs funded under this subtitle.

''SEC. 677. PAYMENTS TO INDIAN TRIBES.

''(a) RESERVATION.—If, with respect to any State, the Secretary—

''(1) receives a request from the governing body of an Indian tribe or tribal organization within the State that assistance under this subtitle be made directly to such tribe or organization; and

''(2) determines that the members of such tribe or tribal organization would be better served by means of grants made directly to provide benefits under this subtitle,

the Secretary shall reserve from amounts that would otherwise be allotted to such State under section 675B for the fiscal year the amount determined under subsection (b).

''(b) DETERMINATION OF RESERVED AMOUNT.—The Secretary shall reserve for the purpose of subsection (a) from amounts that would otherwise be allotted to such State, not less than 100 percent of an amount that bears the same ratio to the State allotment for the fiscal year involved as the population of all eligible Indians for whom a determination has been made under subsection (a) bears to the population of all individuals eligible for assistance under this subtitle in such State.

''(c) AWARDS.—The sums reserved by the Secretary on the basis of a determination made under subsection (a) shall be made available by grant to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

''(d) PLAN.—In order for an Indian tribe or tribal organization to be eligible for a grant award for a fiscal year under this section, the tribe or organization shall submit to the Secretary a plan for such fiscal year that meets such criteria as the Secretary may prescribe by regulation.

''(e) DEFINITIONS.—In this section:

''(1) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms 'Indian tribe' and 'tribal organization' mean a tribe, band, or other organized group of Indians recognized in the State in which the tribe, band, or group resides, or considered by the Secretary of the Interior, to be an Indian tribe or an Indian organization for any purpose.

''(2) INDIAN.—The term 'Indian' means a member of an Indian tribe or of a tribal organization.

''SEC. 678. OFFICE OF COMMUNITY SERVICES.

''(a) OFFICE.—The Secretary shall carry out the functions of this subtitle through an Office of Community Services, which shall be established in the Department of Health and Human Services. The Office shall be headed by a Director.

''(b) GRANTS, CONTRACTS, COOPERATIVE AGREEMENTS.—The Secretary shall carry out functions of this subtitle through grants, contracts, or cooperative agreements.

''SEC. 678A. TRAINING AND TECHNICAL ASSISTANCE.

''(a) ACTIVITIES.—The Secretary shall use the amounts reserved in section 674(b)(2) for training, technical assistance, planning, evaluation, performance measurement, corrective action activities (to correct programmatic deficiencies of eligible entities), reporting, and data collection activities related to programs carried out under this subtitle, and in accordance with subsection (c). Training and technical assistance activities may be carried out by the Secretary through grants, contracts, or cooperative agreements with eligible entities or with organizations or associations whose membership is composed of eligible entities or agencies that administer programs for eligible entities.

''(b) PROCESS.—The process for determining the training and technical assistance to be carried out under this section shall—

''(1) ensure that the needs of eligible entities and programs relating to improving program quality, including financial management practices, are addressed to the maximum extent feasible; and

''(2) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the national and State network of eligible entities.

''(c) DISTRIBUTION REQUIREMENT.—Of the amounts reserved under section 674(b)(2) for activities to be carried out under this section, not less than ½ of such amounts shall be distributed directly to local eligible entities or to statewide organizations whose membership is composed of eligible entities for the purpose of improving program quality (including financial management practices), management information and reporting systems, measurement of program results, and for the purpose of ensuring responsiveness to local neighborhood needs.

''SEC. 678B. MONITORING OF ELIGIBLE ENTITIES.

''(a) IN GENERAL.—In order to determine whether eligible entities meet the performance goals, administrative standards, financial management requirements, and other requirements of a State, the State shall conduct the following reviews of eligible entities:

''(1) A full onsite review of each such entity at least once during each 3-year period.

''(2) An onsite review of each newly designated entity immediately after the completion of the first year in which such entity receives funds through the community services block grant program.

''(3) Followup reviews including prompt return visits to eligible entities, and their programs, that fail to meet the goals, standards, and requirements established by the State.

''(4) Other reviews as appropriate, including reviews of entities with programs that have had other Federal, State, or local grants terminated for cause.

''(b) REQUESTS.—The State may request training and technical assistance from the Secretary as needed to comply with the requirements of this section.

''(c) EVALUATIONS BY THE SECRETARY.—The Secretary shall conduct in several States in each fiscal year evaluations and investigations of the use of funds received by the States under this subtitle in order to evaluate compliance with the provisions of this subtitle, and especially with respect to compliance with subsection (b) of section 676. A report of such evaluations, together with recommendations of improvements designed to enhance the benefit and impact to people in need, shall be sent to each State evaluated. Upon receiving the report the State shall submit a plan of action in response to the recommendations contained in the report. The results of the evaluations shall be submitted annually to the Chairman of the Committee on Education and the Workforce of the House of Representatives and the Chairman of the Committee on Labor and Human Resources of the Senate as part of the report submitted by the Secretary in accordance with section 678E(b)(2).

''SEC. 678C. CORRECTIVE ACTION; TERMINATION AND REDUCTION OF FUNDING.

''(a) DETERMINATION.—If the State determines, on the basis of a review pursuant to subsection 678B, that an eligible entity materially fails to comply with the terms of an agreement, or the State plan, to provide services under this subtitle or to meet appropriate standards, goals, and other requirements established by the State (including performance objectives), the State shall—

''(1) inform the entity of the deficiency to be corrected;

''(2) require the entity to correct the deficiency;

''(3)(A) offer training and technical assistance, if appropriate, to help correct the deficiency, and prepare and submit to the Secretary a report describing the training and technical assistance offered; or

''(B) if the State determines that such training and technical assistance are not appropriate, prepare and submit to the Secretary a report stating the reasons for the determination;

''(4)(A) at the discretion of the State (taking into account the seriousness of the deficiency and the time reasonably required to correct the deficiency), allow the entity to develop and implement, within 60 days after being informed of the deficiency, a quality improvement plan to correct such deficiency within a reasonable period of time, as determined by the State; and

''(B) not later than 30 days after receiving from an eligible entity a proposed quality improvement plan pursuant to subparagraph (A), either approve such proposed plan or specify the reasons why the proposed plan cannot be approved; and

''(5) after providing adequate notice and an opportunity for a hearing, initiate proceedings to terminate the designation of or reduce the funding under this subtitle of the eligible entity unless the entity corrects the deficiency.

''(b) REVIEW.—A determination to terminate the designation or reduce the funding of an eligible entity is reviewable by the Secretary. The Secretary shall, upon request, review such a determination. The review shall be completed not later than 120 days after the determination to terminate the designation or reduce the funding. If the review is not completed within 120 days, the determination of the State shall become final at the end of the 120th day.

''(c) DIRECT ASSISTANCE.—Whenever a State violates the assurances contained in section 676(b)(8) and terminates or reduces the funding of an eligible entity prior to the completion of the State's hearing and the Secretary's review as required in subsection (b), the Secretary shall assume responsibility for providing financial assistance to the eligible entity affected until the violation is corrected. In such case, the allotment for the State shall be reduced by an amount equal to the funds provided under this subsection to such eligible entity.

''SEC. 678D. FISCAL CONTROLS, AUDITS, AND WITHHOLDING.

''(a) FISCAL CONTROLS, PROCEDURES, AUDITS, AND INSPECTIONS.—

''(1) IN GENERAL.—A State that receives funds under this subtitle shall—

''(A) establish fiscal control and fund accounting procedures necessary to assure the proper disbursal of and accounting for Federal funds paid to the State under this subtitle, including procedures for monitoring the funds provided under this subtitle;

''(B) ensure that cost and accounting standards of the Office of Management and Budget apply to a recipient of funds under this subtitle;

''(C) prepare, at least every year in accordance with paragraph (2) an audit of the expenditures of the State of amounts received under this subtitle and amounts transferred to carry out the purposes of this subtitle; and

''(D) make appropriate books, documents, papers, and records available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request for the items.

''(2) AUDITS.—Each audit required by subsection (a)(1)(C) shall be conducted by an entity independent of any agency administering activities or services carried out under this subtitle and shall be conducted in accordance with generally accepted accounting principles. Within 30 days after the completion of each such audit in a State, the chief executive officer of the State shall submit a copy of such audit to any eligible

entity that was the subject of the audit at no charge, to the legislature of the State, and to the Secretary.

''(3) REPAYMENTS.—The State shall repay to the United States amounts found not to have been expended in accordance with this subtitle or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subtitle.

''(b) WITHHOLDING.—

''(1) IN GENERAL.—The Secretary shall, after providing adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State that does not utilize the State allotment substantially in accordance with the provisions of this subtitle, including the assurances such State provided under section 676.

''(2) RESPONSE TO COMPLAINTS.—The Secretary shall respond in an expeditious and speedy manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the provisions of this subtitle, including the assurances provided by the State under section 676. For purposes of this paragraph, a complaint of a failure to meet any 1 of the assurances provided under section 676 that constitutes disregarding that assurance shall be considered to be a complaint of a serious nature.

''(3) INVESTIGATIONS.—Whenever the Secretary determines that there is a pattern of complaints of failures described in paragraph (2) from any State in any fiscal year, the Secretary shall conduct an investigation of the use of funds received under this subtitle by such State in order to ensure compliance with the provisions of this subtitle.

''SEC. 678E. ACCOUNTABILITY AND REPORTING REQUIREMENTS.

''(a) STATE ACCOUNTABILITY AND REPORTING REQUIREMENTS.—

''(1) PERFORMANCE MEASUREMENT.—

''(A) IN GENERAL.—By October 1, 2001, each State that receives funds under this subtitle shall participate, and shall ensure that all eligible entities in the State participate, in a performance measurement system, which may be a performance measurement system established by the Secretary pursuant to subsection (b), or an alternative system that meets the requirements of subsection (b).

''(B) LOCAL AGENCIES.—The State may elect to have local agencies who are subcontractors of the eligible entities under this subtitle participate in the performance measurement system. If the State makes that election, references in this section to eligible entities shall be considered to include the local agencies.

''(2) ANNUAL REPORT.—Each State shall annually prepare and submit to the Secretary a report on the measured performance of the State and the eligible entities in the State. Each State shall also include in the report an accounting of the expenditure of funds received by the State through the community services block grant program, including an accounting of funds spent on indirect services or administrative costs by the State and the eligible entities, and funds spent by eligible entities on the direct delivery of local services, and shall include information on the number of and characteristics of clients served under this subtitle in the State, based on data collected from the eligible entities. The State shall also include in the report a summary describing the training and technical assistance offered by the State under section 678C(a)(3) during the year covered by the report.

''(b) SECRETARY'S ACCOUNTABILITY AND REPORTING REQUIREMENTS.—

''(1) PERFORMANCE MEASUREMENT.—The Secretary, in collaboration with the States and with eligible entities throughout the Nation, shall facilitate the development of 1 or more model performance measurement systems, which may be used by the States and by eligible entities to measure their performance in carrying out the requirements of this subtitle and in achieving the goals of their community action plans. The Secretary shall provide technical assistance, including support for the enhancement of electronic data systems, to States and to eligible entities to enhance their capability to collect and report data for such a system and to aid in their participation in such a system.

''(2) REPORTING REQUIREMENTS.—At the end of each fiscal year beginning after September 30, 1999, the Secretary shall, directly or by grant or contract, prepare a report containing—

''(A) a summary of the planned use of funds by each State, and the eligible entities in the State, under the community services block grant program, as contained in each State plan submitted pursuant to section 676;

''(B) a description of how funds were actually spent by the State and eligible entities in the State, including a breakdown of funds spent on indirect services or administrative costs and on the direct delivery of local services by eligible entities;

''(C) information on the number of entities eligible for funds under this subtitle, the number of low-income persons served under this subtitle, and such demographic data on the low-income populations served by eligible entities as is determined by the Secretary to be feasible;

''(D) a comparison of the planned uses of funds for each State and the actual uses of the funds;

''(E) a summary of each State's performance results, and the results for the eligible entities, as collected and submitted by the States in accordance with subsection (a)(2); and

''(F) any additional information that the Secretary considers to be appropriate to carry out this subtitle, if the Secretary informs the States of the need for such additional information and allows a reasonable period of time prior to the start of the fiscal year for the States to collect and provide the information.

''(3) SUBMISSION.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate the report described in paragraph (2), and any comments the Secretary may have with respect to such report. The report shall include definitions of direct, indirect, and administrative costs used by the Department of Health and Human Services for programs funded under this subtitle.

''(4) COSTS.—Of the funds reserved under section 674(b)(3), not more than $350,000 shall be available to carry out the reporting requirements contained in paragraph (2).

''SEC. 678F. LIMITATIONS ON USE OF FUNDS.

''(a) CONSTRUCTION OF FACILITIES.—

''(1) LIMITATIONS.—Except as provided in paragraph (2), grants made under this subtitle (other than amounts reserved under section 674(b)(3)) may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this subtitle, for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility.

''(2) WAIVER.—The Secretary may waive the limitation contained in paragraph (1) upon a State request for such a waiver, if the Secretary finds that the request describes extraordinary circumstances to justify the purchase of land or the construction of facilities (or the making of permanent improvements) and that permitting the waiver will contribute to the ability of the State to carry out the purposes of this subtitle.

''(b) POLITICAL ACTIVITIES.—

''(1) TREATMENT AS A STATE OR LOCAL AGENCY.—For purposes of chapter 15 of title 5, United States Code, any entity that assumes responsibility for planning, developing, and coordinating activities under this subtitle and receives assistance under this subtitle shall be deemed to be a State or local agency. For purposes of paragraphs (1) and (2) of section 1502(a) of such title, any entity receiving assistance under this subtitle shall be deemed to be a State or local agency.

''(2) PROHIBITIONS.—Programs assisted under this subtitle shall not be carried on in a manner involving the use of program funds, the provision of services, or the employment or assignment of personnel, in a manner supporting or resulting in the identification of such programs with—

''(A) any partisan or nonpartisan political activity or any political activity associated with a candidate, or contending faction or group, in an election for public or party office;

''(B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

''(C) any voter registration activity.

''(3) RULES AND REGULATIONS.—The Secretary, after consultation with the Office of Personnel Management, shall issue rules and regulations to provide for the enforcement of this subsection, which shall include provisions for summary suspension of assistance or other action necessary to permit enforcement on an emergency basis.

''(c) NONDISCRIMINATION.—

''(1) IN GENERAL.—No person shall, on the basis of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subtitle. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified individual with a disability as provided in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) or title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.) shall also apply to any such program or activity.

''(2) ACTION OF SECRETARY.—Whenever the Secretary determines that a State that has received a payment under this subtitle has failed to comply with paragraph (1) or an applicable regulation, the Secretary shall notify the chief executive officer of the State and shall request that the officer secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to—

''(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

''(B) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as may be applicable; or

''(C) take such other action as may be provided by law.

''(3) ACTION OF ATTORNEY GENERAL.—When a matter is referred to the Attorney General pursuant to paragraph (2), or whenever the Attorney General has reason to believe that the State is engaged in a pattern or practice of discrimination in violation of the provisions of this subsection, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

''SEC. 679. OPERATIONAL RULE.

''(a) FAITH-BASED ORGANIZATIONS INCLUDED AS NONGOVERNMENTAL PROVIDERS.—For any program carried out by the Federal Government, or by a State or local government under this subtitle, the government shall consider, on the same basis as other nongovernmental organizations, faith-based organizations to provide the assistance under the program, so long as the program is implemented in a manner consistent with the Establishment Clause of the first

amendment to the Constitution. Neither the Federal Government nor a State or local government receiving funds under this subtitle shall discriminate against an organization that provides assistance under, or applies to provide assistance under, this subtitle, on the basis that the organization has a faith-based character.

''(b) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State or local government shall require a faith-based organization to remove religious art, icons, scripture, or other symbols in order to be eligible to provide assistance under a program described in subsection (a).

''(c) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.—No funds provided to a faith-based organization to provide assistance under any program described in subsection (a) shall be expended for sectarian worship, instruction, or proselytization.

''(d) FISCAL ACCOUNTABILITY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), any faith-based organization providing assistance under any program described in subsection (a) shall be subject to the same regulations as other nongovernmental organizations to account in accord with generally accepted accounting principles for the use of such funds provided under such program.

''(2) LIMITED AUDIT.—Such organization shall segregate government funds provided under such program into a separate account. Only the government funds shall be subject to audit by the government.

''SEC. 680. DISCRETIONARY AUTHORITY OF THE SECRETARY.

''(a) GRANTS, CONTRACTS, ARRANGEMENTS, LOANS, AND GUARANTEES.—

''(1) IN GENERAL.—The Secretary shall, from funds reserved under section 674(b)(3), make grants, loans, or guarantees to States and public agencies and private, nonprofit organizations, or enter into contracts or jointly financed cooperative arrangements with States and public agencies and private, nonprofit organizations (and for-profit organizations, to the extent specified in (2)(E)) for each of the objectives described in paragraphs (2) through (4).

''(2) COMMUNITY ECONOMIC DEVELOPMENT.—

''(A) ECONOMIC DEVELOPMENT ACTIVITIES.—The Secretary shall make grants described in paragraph (1) on a competitive basis to private, non-profit organizations that are community development corporations to provide technical and financial assistance for economic development activities designed to address the economic needs of low-income individuals and families by creating employment and business development opportunities.

''(B) CONSULTATION.—The Secretary shall exercise the authority provided under subparagraph (A) after consultation with other relevant Federal officials.

''(C) GOVERNING BOARDS.—For a community development corporation to receive funds to carry out this paragraph, the corporation shall be governed by a board that shall consist of residents of the community and business and civic leaders and shall have as a principal purpose planning, developing, or managing low-income housing or community development projects.

''(D) GEOGRAPHIC DISTRIBUTION.—In making grants to carry out this paragraph, the Secretary shall take into consideration the geographic distribution of funding among States and the relative proportion of funding among rural and urban areas.

''(E) RESERVATION.—Of the amounts made available to carry out this paragraph, the Secretary may reserve not more than 1 percent for each fiscal year to make grants to private, nonprofit organizations or to enter into contracts with private, nonprofit or for-profit organizations to provide technical assistance to aid community development corporations in developing or implementing activities funded to carry out this paragraph and to evaluate activities funded to carry out this paragraph.

''(3) RURAL COMMUNITY DEVELOPMENT ACTIVITIES.—The Secretary shall provide the assistance described in paragraph (1) for rural community development activities, which shall include—

''(A) grants to private, nonprofit corporations that provide assistance concerning home repair to rural low-income families and planning and developing low-income rural rental housing units; and

''(B) grants to multistate, regional, private, nonprofit organizations to provide training and technical assistance to small, rural communities in meeting their community facility needs.

''(4) NEIGHBORHOOD INNOVATION PROJECTS.—The Secretary shall provide the assistance described in paragraph (1) for neighborhood innovation projects, which shall include grants to neighborhood-based private, nonprofit organizations to test or assist in the development of new approaches or methods that will aid in overcoming special problems identified by communities or neighborhoods or otherwise assist in furthering the purposes of this subtitle, and which may include projects that are designed to serve low-income individuals and families who are not being effectively served by other programs.

''(b) EVALUATION.—The Secretary shall require all activities receiving assistance under this section to be evaluated for their effectiveness. Funding for such evaluations shall be provided as a stated percentage of the assistance or through a separate grant awarded by the Secretary specifically for the purpose of evaluation of a particular activity or group of activities.

''(c) ANNUAL REPORT.—The Secretary shall compile an annual report containing a summary of the evaluations required in subsection (b) and a listing of all activities assisted under this section. The Secretary shall annually submit the report to the Chairperson of the Committee on Education and the Workforce of the House of Representatives and the Chairperson of the Committee on Labor and Human Resources of the Senate.''.

SEC. 203. RELATED AMENDMENTS.

The Community Services Block Grant Act (42 U.S.C. 9901 et seq.) is amended—

(1) by striking section 681;

(2) in section 681A—

(A) by striking ''681A'' and inserting ''681'';

(B) in subsection (c) by striking ''Labor'' and inserting ''the Workforce''; and

(C) in subsection (d) by striking ''$25,000,000'' and all that follows through ''1998'', and inserting ''$5,000,000 for fiscal year 1999, and such sums as may be necessary for fiscal years 2000 through 2003'';

(3) in section 682—

(A) in subsection (c)—

(i) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(ii) by inserting after paragraph (2) the following:

''(3) the applicant shall, in each community in which a program is funded under this section—

''(A) ensure that—

''(i) a community-based advisory committee, composed of representatives of local youth, family, and social service organizations, schools, entities that provide park and recreation services, entities that provide training services, and community-based organizations that serve high-risk youth, is established; or

''(ii) an existing community-based advisory board, commission, or committee with similar membership is used; and

''(B) enter into formal partnerships with youth-serving organizations or other appropriate social service entities in order to link program participants with year-round services in their home communities that support and continue the objectives of this subtitle;''; and

(B) in subsection (f) by striking ''each fiscal year'' and all that follows through ''1998'', and inserting ''for fiscal year 1999, and such sums as may be necessary for fiscal years 2000 through 2003''; and

(4) by striking sections 683 and 684, and inserting the following:

''SEC. 683. DRUG TESTING AND PATERNITY DETERMINATIONS.

''(a) DRUG TESTING PERMITTED.—(1) Nothing in this subtitle shall be construed to prohibit a State from testing participants in programs, activities, or services carried out under this subtitle for controlled substances or from imposing sanctions on such participants who test positive for any of such substances.

''(2) Any funds provided under this subtitle expended for such testing shall be considered to be expended for administrative expenses and shall be subject to the limitation specified in section 675C(b)(2).

''(b) PATERNITY DETERMINATIONS.—During each fiscal year for which an eligible entity receives a grant under section 675C, such entity shall—

''(1) inform custodial parents in single-parent families that participate in programs, activities, or services carried out under this subtitle about the availability of child support services;

''(2) refer eligible parents to the child support offices of State and local governments; and

''(3) establish referral arrangements with such offices.

''SEC. 684. REFERENCES.

''Any reference in any provision of law to the poverty line set forth in section 624 or 625 of the Economic Opportunity Act of 1964 shall be construed to be a reference to the poverty line defined in section 673 of this subtitle. Any reference in any provision of law to any community action agency designated under title II of the Economic Opportunity Act of 1964 shall be construed to be a reference to an entity eligible to receive funds under the community services block grant program.''.

SEC. 204. ASSETS FOR INDEPENDENCE.

The Community Services Block Grant Act (42 U.S.C. 9901–9912), as amended by sections 202 and 203, is amended—

(1) by striking ''this subtitle' each place it appears (other than in section 671) and inserting ''this part'';

(2) by inserting the following after section 671:

''CHAPTER 1—COMMUNITY SERVICES GRANTS'';

and

(3) by adding at the end the following:

''CHAPTER 2—ASSETS FOR INDEPENDENCE

''SEC. 685. SHORT TITLE.

''This chapter may be cited as the 'Assets for Independence Act'.

''SEC. 686. FINDINGS.

''Congress makes the following findings:

''(1) Economic well-being does not come solely from income, spending, and consumption, but also requires savings, investment, and accumulation of assets because assets can improve economic independence and stability, connect individuals with a viable and hopeful future, stimulate development of human and other capital, and enhance the welfare of offspring.

''(2) Fully ½ of all Americans have either no, negligible, or negative assets available for investment, just as the price of entry to the economic mainstream, the cost of a house, an adequate education, and starting a business, is increasing. Further, the household savings rate of the United States lags far behind other industrial nations presenting a barrier to economic growth.

''(3) In the current tight fiscal environment, the United States should invest existing resources in high-yield initiatives. There is reason to believe that the financial returns, including increased income, tax revenue, and decreased welfare cash assistance, resulting from individual development accounts will far exceed the cost of investment in those accounts.

''(4) Traditional public assistance programs concentrating on income and consumption have rarely been successful in promoting and supporting the transition to increased economic self-sufficiency. Income-based domestic policy should be complemented with asset-based policy because, while income-based policies ensure that consumption needs (including food, child care, rent, clothing, and health care) are met, asset-based policies provide the means to achieve greater independence and economic well-being.

''SEC. 687. PURPOSES.

''The purposes of this chapter are to provide for the establishment of demonstration projects designed to determine—

''(1) the social, civic, psychological, and economic effects of providing to individuals and families with limited means an incentive to accumulate assets by saving a portion of their earned income;

''(2) the extent to which an asset-based policy that promotes saving for postsecondary education, homeownership, and microenterprise development may be used to enable individuals and families with limited means to increase their economic self-sufficiency; and

''(3) the extent to which an asset-based policy stabilizes and improves families and the community in which they live.

''SEC. 688. DEFINITIONS.

''In this chapter:

''(1) APPLICABLE PERIOD.—The term 'applicable period' means, with respect to amounts to be paid from a grant made for a project year, the calendar year immediately preceding the calendar year in which the grant is made.

''(2) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who is selected to participate by a qualified entity under section 693.

''(3) EMERGENCY WITHDRAWAL.—The term 'emergency withdrawal' means a withdrawal by an eligible individual that—

''(A) is a withdrawal of only those funds, or a portion of those funds, deposited by the individual in the individual development account of the individual;

''(B) is permitted by a qualified entity on a case-by-case basis; and

''(C) is made for—

''(i) expenses for medical care or necessary to obtain medical care, for the individual or a spouse or dependent of the individual described in paragraph (8)(D);

''(ii) payments necessary to prevent the eviction of the individual from the residence of the individual, or foreclosure on the mortgage for the principal residence of the individual, as defined in paragraph (8)(B); or

''(iii) payments necessary to enable the individual to meet necessary living expenses following loss of employment.

''(4) HOUSEHOLD.—The term 'household' means all individuals who share use of a dwelling unit as primary quarters for living and eating separate from other individuals.

''(5) INDIVIDUAL DEVELOPMENT ACCOUNT.—

''(A) IN GENERAL.—The term 'individual development account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified expenses of an eligible individual, or enabling the eligible individual to make an emergency withdrawal, but only if the written governing instrument creating the trust meets the following requirements:

''(i) No contribution will be accepted unless it is in cash or by check.

''(ii) The trustee is a federally insured financial institution, or a State insured financial institution if no federally insured financial institution is available.

''(iii) The assets of the trust will be invested in accordance with the direction of the eligible individual after consultation with the qualified entity providing deposits for the individual under section 694.

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

''(v) Except as provided in clause (vi), any amount in the trust which is attributable to a deposit provided under section 694 may be paid or distributed out of the trust only for the purpose of paying the qualified expenses of the eligible individual, or enabling the eligible individual to make an emergency withdrawal.

''(vi) Any balance in the trust on the day after the date on which the individual for whose benefit the trust is established dies shall be distributed within 30 days of that date as directed by that individual to another individual development account established for the benefit of an eligible individual.

''(B) CUSTODIAL ACCOUNTS.—For purposes of subparagraph (A), a custodial account shall be treated as a trust if the assets of the custodial account are held by a bank (as defined in section 408(n) of the Internal Revenue Code of 1986) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which such person will administer the custodial account will be consistent with the requirements of this chapter, and if the custodial account would, except for the fact that it is not a trust, constitute an individual development account described in subparagraph (A). For purposes of this chapter, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of that custodial account shall be treated as the trustee thereof.

''(6) PROJECT YEAR.—The term 'project year' means, with respect to a demonstration project, any of the 5 consecutive 12-month periods beginning on the date the project is originally authorized to be conducted.

''(7) QUALIFIED ENTITY.—

''(A) IN GENERAL.—The term 'qualified entity' means—

''(i) one or more not-for-profit organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

''(ii) a State or local government agency, or a tribal government, submitting an application under section 689 jointly with an organization described in clause (i).

''(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing an organization described in subparagraph (A)(i) from collaborating with a financial institution or for-profit community development corporation to carry out the purposes of this chapter.

''(8) QUALIFIED EXPENSES.—The term 'qualified expenses' means 1 or more of the following, as provided by the qualified entity:

''(A) POSTSECONDARY EDUCATIONAL EXPENSES.—Postsecondary educational expenses paid from an individual development account directly to an eligible educational institution. In this subparagraph:

''(i) POSTSECONDARY EDUCATIONAL EXPENSES.—The term 'postsecondary educational expenses' means the following:

''(I) TUITION AND FEES.—Tuition and fees required for the enrollment or attendance of a student at an eligible educational institution.

''(II) FEES, BOOKS, SUPPLIES, AND EQUIPMENT.—Fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

''(ii) ELIGIBLE EDUCATIONAL INSTITUTION.—The term ''eligible educational institution' means the following:

''(I) INSTITUTION OF HIGHER EDUCATION.—An institution described in section 481(a)(1) or 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1) or 1141(a)), as such sections are in effect on the date of enactment of this chapter.

''(II) POSTSECONDARY VOCATIONAL EDUCATION SCHOOL.—An area vocational education school (as defined in subparagraph (C) or (D) of section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4))) which is in any State (as defined in section 521(33) of such Act), as such sections are in effect on the date of enactment of this chapter.

''(B) FIRST-HOME PURCHASE.—Qualified acquisition costs with respect to a principal residence for a qualified first-time homebuyer, if paid from an individual development account directly to the persons to whom the amounts are due. In this subparagraph:

''(i) PRINCIPAL RESIDENCE.—The term 'principal residence' means a principal residence, the qualified acquisition costs of which do not exceed 100 percent of the average area purchase price applicable to such residence.

''(ii) QUALIFIED ACQUISITION COSTS.—The term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. The term includes any usual or reasonable settlement, financing, or other closing costs.

''(iii) QUALIFIED FIRST-TIME HOMEBUYER.—

''(I) IN GENERAL.—The term 'qualified first-time homebuyer' means an individual participating in the project (and, if married, the individual's spouse) who has no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this subparagraph applies.

''(II) DATE OF ACQUISITION.—The term 'date of acquisition' means the date on which a binding contract to acquire, construct, or reconstruct the principal residence to which this subparagraph applies is entered into.

''(C) BUSINESS CAPITALIZATION.—Amounts paid from an individual development account directly to a business capitalization account which is established in a federally insured financial institution (or in a State insured financial institution if no federally insured financial institution is available) and is restricted to use solely for qualified business capitalization expenses. In this subparagraph:

''(i) QUALIFIED BUSINESS CAPITALIZATION EXPENSES.—The term ''qualified business capitalization expenses' means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan.

''(ii) QUALIFIED EXPENDITURES.—The term 'qualified expenditures' means expenditures included in a qualified plan, including capital, plant, equipment, working capital, and inventory expenses.

''(iii) QUALIFIED BUSINESS.—The term 'qualified business' means any business that does not contravene any law or public policy (as determined by the Secretary).

''(iv) QUALIFIED PLAN.—The term 'qualified plan' means a business plan, or a plan to use a business asset purchased, which—

''(I) is approved by a financial institution, a microenterprise development organization, or a nonprofit loan fund having demonstrated fiduciary integrity;

''(II) includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and

''(III) may require the eligible individual to obtain the assistance of an experienced entrepreneurial adviser.

''(D) TRANSFERS TO IDAS OF FAMILY MEMBERS.—Amounts paid from an individual development account directly into another such account established for the benefit of an eligible individual who is—

''(i) the individual's spouse; or

''(ii) any dependent of the individual with respect to whom the individual is allowed a deduction under section 151 of the Internal Revenue Code of 1986.

''(9) QUALIFIED SAVINGS OF THE INDIVIDUAL FOR THE PERIOD.—The term 'qualified savings of the individual for the period' means the aggregate of the amounts contributed by the individual to the individual development account of the individual during the period.

''(10) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

''(11) TRIBAL GOVERNMENT.—The term 'tribal government' means a tribal organization, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) or a Native Hawaiian organization, as defined in section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912).

''SEC. 689. APPLICATIONS.

''(a) ANNOUNCEMENT OF DEMONSTRATION PROJECTS.—Not later than 3 months after the date of enactment of this chapter, the Secretary shall publicly announce the availability of funding under this chapter for demonstration projects and shall ensure that applications to conduct the demonstration projects are widely available to qualified entities.

''(b) SUBMISSION.—Not later than 6 months after the date of enactment of this chapter, a qualified entity may submit to the Secretary an application to conduct a demonstration project under this chapter.

''(c) CRITERIA.—In considering whether to approve an application to conduct a demonstration project under this chapter, the Secretary shall assess the following:

''(1) SUFFICIENCY OF PROJECT.—The degree to which the project described in the application appears likely to aid project participants in achieving economic self-sufficiency through activities requiring qualified expenses. In making such assessment, the Secretary shall consider the overall quality of project activities in making any particular kind or combination of qualified expenses to be an essential feature of any project.

''(2) ADMINISTRATIVE ABILITY.—The experience and ability of the applicant to responsibly administer the project.

''(3) ABILITY TO ASSIST PARTICIPANTS.—The experience and ability of the applicant in recruiting, educating, and assisting project participants to increase their economic independence and general well-being through the development of assets.

''(4) COMMITMENT OF NON-FEDERAL FUNDS.—The aggregate amount of direct funds from non-Federal public sector and from private sources that are formally committed to the project as matching contributions.

''(5) ADEQUACY OF PLAN FOR PROVIDING INFORMATION FOR EVALUATION.—The adequacy of the plan for providing information relevant to an evaluation of the project.

''(6) OTHER FACTORS.—Such other factors relevant to the purposes of this chapter as the Secretary may specify.

''(d) PREFERENCES.—In considering an application to conduct a demonstration project under this chapter, the Secretary shall give preference to an application that—

''(1) demonstrates the willingness and ability to select individuals described in section 692 who are predominantly from households in which a child (or children) is living with the child's biological or adoptive mother or father, or with the child's legal guardian;

''(2) provides a commitment of non-Federal funds with a proportionately greater amount of such funds committed by private sector sources; and

''(3) targets such individuals residing within 1 or more relatively well-defined neighborhoods or communities (including rural communities) that experience high rates of poverty or unemployment.

''(e) APPROVAL.—Not later than 9 months after the date of enactment of this chapter, the Secretary shall, on a competitive basis, approve such applications to conduct demonstration projects under this chapter as the Secretary deems appropriate, taking into account the assessments required by subsections (c) and (d). The Secretary is encouraged to ensure that the applications that are approved involve a range of communities (both rural and urban) and diverse populations.

''(f) CONTRACTS WITH NONPROFIT ENTITIES.—The Secretary may contract with an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code to conduct any responsibility of the Secretary under this section or section 696 if—

''(1) such entity demonstrates the ability to conduct such responsibility; and

''(2) the Secretary can demonstrate that such responsibility would not be conducted by the Secretary at a lower cost.

''SEC. 690. DEMONSTRATION AUTHORITY; ANNUAL GRANTS.

''(a) DEMONSTRATION AUTHORITY.—If the Secretary approves an application to conduct a demonstration project under this chapter, the Secretary shall, not later than 10 months after the date of enactment of this chapter, authorize the applicant to conduct the project for 5 project years in accordance with the approved application and the requirements of this chapter.

''(b) GRANT AUTHORITY.—For each project year of a demonstration project conducted under this chapter, the Secretary may make a grant to the qualified entity authorized to conduct the project. In making such a grant, the Secretary shall make the grant on the first day of the project year in an amount not to exceed the lesser of—

''(1) the aggregate amount of funds committed as matching contributions by non-Federal public or private sector sources; or

''(2) $1,000,000.

''SEC. 691. RESERVE FUND.

''(a) ESTABLISHMENT.—A qualified entity under this chapter, other than a State or local government agency, or a tribal government, shall establish a Reserve Fund which shall be maintained in accordance with this section.

''(b) AMOUNTS IN RESERVE FUND.—

''(1) IN GENERAL.—As soon after receipt as is practicable, a qualified entity shall deposit in the Reserve Fund established under subsection (a)—

''(A) all funds provided to the qualified entity by any public or private source in connection with the demonstration project; and

''(B) the proceeds from any investment made under subsection (c)(2).

''(2) UNIFORM ACCOUNTING REGULATIONS.—The Secretary shall prescribe regulations with respect to accounting for amounts in the Reserve Fund established under subsection (a).

''(c) USE OF AMOUNTS IN THE RESERVE FUND.—

''(1) IN GENERAL.—A qualified entity shall use the amounts in the Reserve Fund established under subsection (a) to—

''(A) assist participants in the demonstration project in obtaining the skills (including economic literacy, budgeting, credit, and counseling) and information necessary to achieve economic self-sufficiency through activities requiring qualified expenses;

''(B) provide deposits in accordance with section 694 for individuals selected by the qualified entity to participate in the demonstration project;

''(C) administer the demonstration project; and

''(D) provide the research organization evaluating the demonstration project under section 698 with such information with respect to the demonstration project as may be required for the evaluation.

''(2) AUTHORITY TO INVEST FUNDS.—

''(A) GUIDELINES.—The Secretary shall establish guidelines for investing amounts in the Reserve Fund established under subsection (a) in a manner that provides an appropriate balance between return, liquidity, and risk.

''(B) INVESTMENT.—A qualified entity shall invest the amounts in its Reserve Fund that are not immediately needed to carry out the provisions of paragraph (1), in accordance with the guidelines established under subparagraph (A).

''(3) LIMITATION ON USES.—Not more than 9.5 percent of the amounts provided to a qualified entity under section 698(b) shall be used by the qualified entity for the purposes described in subparagraphs (A), (C), and (D) of paragraph (1), of which not less than 2 percent of the amounts shall be used by the qualified entity for the purposes described in paragraph (1)(D). If 2 or more qualified entities are jointly administering a project, no qualified entity shall use more than its proportional share for the purposes described in subparagraphs (A), (C), and (D) of paragraph (1).

''(d) UNUSED FEDERAL GRANT FUNDS TRANSFERRED TO THE SECRETARY WHEN PROJECT TERMINATES.—Notwithstanding subsection (c), upon the termination of any demonstration project authorized under this section, the qualified entity conducting the project shall transfer to the Secretary an amount equal to—

''(1) the amounts in its Reserve Fund at time of the termination; multiplied by

''(2) a percentage equal to—

''(A) the aggregate amount of grants made to the qualified entity under section 698(b); divided by

''(B) the aggregate amount of all funds provided to the qualified entity by all sources to conduct the project.

''SEC. 692. ELIGIBILITY FOR PARTICIPATION.

''(a) IN GENERAL.—Any individual who is a member of a household that is eligible for assistance under the State temporary assistance for needy families program established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), or that meets each of the following requirements shall be eligible to participate in a demonstration project conducted under this chapter:

''(1) INCOME TEST.—The adjusted gross income of the household does not exceed the earned income amount described in section 32 of the Internal Revenue Code of 1986 (taking into account the size of the household).

''(2) NET WORTH TEST.—

''(A) IN GENERAL.—The net worth of the household, as of the end of the calendar year preceding the determination of eligibility, does not exceed $10,000.

''(B) DETERMINATION OF NET WORTH.—For purposes of subparagraph (A), the net worth of a household is the amount equal to—

''(i) the aggregate market value of all assets that are owned in whole or in part by any member of the household; minus

''(ii) the obligations or debts of any member of the household.

''(C) EXCLUSIONS.—For purposes of determining the net worth of a household, a household's assets shall not be considered to include the primary dwelling unit and 1 motor vehicle owned by the household.

''(b) INDIVIDUALS UNABLE TO COMPLETE THE PROJECT.—The Secretary shall establish such regulations as are necessary, including prohibiting future eligibility to participate in any other demonstration project conducted under this chapter, to ensure compliance with this chapter if an individual participating in the demonstration project moves from the community in which the project is conducted or is otherwise unable to continue participating in that project.

''SEC. 693. SELECTION OF INDIVIDUALS TO PARTICIPATE.

''From among the individuals eligible to participate in a demonstration project conducted under this chapter, each qualified entity shall select the individuals—

''(1) that the qualified entity deems to be best suited to participate; and

''(2) to whom the qualified entity will provide deposits in accordance with section 694.

''SEC. 694. DEPOSITS BY QUALIFIED ENTITIES.

''(a) IN GENERAL.—Not less than once every 3 months during each project year, each qualified entity under this Act shall deposit in the individual development account of each individual participating in the project, or into a parallel account maintained by the qualified entity—

''(1) from the non-Federal funds described in section 689(c)(4), a matching contribution of not less than $0.50 and not more than $4 for every $1 of earned income (as defined in section 911(d)(2) of the Internal Revenue Code of 1986) deposited in the account by a project participant during that period;

''(2) from the grant made under section 690(b), an amount equal to the matching contribution made under paragraph (1); and

''(3) any interest that has accrued on amounts deposited under paragraph (1) or (2) on behalf of that individual into the individual development account of the individual or into a parallel account maintained by the qualified entity.

''(b) LIMITATION ON DEPOSITS FOR AN INDIVIDUAL.—Not more than $2,000 from a grant made under section 690(b) shall be provided to any 1 individual over the course of the demonstration project.

''(c) LIMITATION ON DEPOSITS FOR A HOUSEHOLD.—Not more than $4,000 from a grant made under section 690(b) shall be provided to any 1 household over the course of the demonstration project.

''(d) WITHDRAWAL OF FUNDS.—The Secretary shall establish such guidelines as may be necessary to ensure that funds held in an individual development account are not withdrawn, except for 1 or more qualified expenses, or for an emergency withdrawal. Such guidelines shall include a requirement that a responsible official of the qualified entity conducting a project approve such withdrawal in writing. The guidelines shall provide that no individual may withdraw funds from an individual development account earlier than 6 months after the date on which the individual first deposits funds in the account.

''(e) REIMBURSEMENT.—An individual shall reimburse an individual development account for any funds withdrawn from the account for an emergency withdrawal, not later than 12 months after the date of the withdrawal. If the individual fails to make the reimbursement, the qualified entity administering the account shall transfer the funds deposited into the account or a parallel account under section 694 to the Reserve Fund of the qualified entity, and use the funds to benefit other individuals participating in the demonstration project involved.

''SEC. 695. LOCAL CONTROL OVER DEMONSTRATION PROJECTS.

''A qualified entity under this chapter, other than a State or local government agency or a tribal government, shall, subject to the provisions of section 697, have sole authority over the administration of the project. The Secretary may prescribe only such regulations or guidelines with respect to demonstration projects conducted under this chapter as are necessary to ensure compliance with the approved applications and the requirements of this chapter.

''SEC. 695A. GRANDFATHERING OF EXISTING STATEWIDE PROGRAMS.

''Any statewide asset-building program consistent with the purposes of this chapter that is established in State law as of the date of enactment of this Act, and that as of such date is operating with an annual State appropriation of not less than $1,000,000 in non-Federal funds, shall be deemed to have met the requirements of section 688 and to be eligible for consideration by the Secretary as a demonstration program described in this chapter. Applications submitted by such statewide program shall be considered for funding by the Secretary notwithstanding the preferences listed in section 689(d). Any program requirements under sections 691 through 695 that are inconsistent with State statutory requirements in effect on such date governing such statewide program are hereby waived.

''SEC. 696. ANNUAL PROGRESS REPORTS.

''(a) IN GENERAL.—Each qualified entity under this chapter shall prepare an annual report on the progress of the demonstration project. Each report shall include both program and participant information and shall specify for the period covered by the report the following information:

''(1) The number and characteristics of individuals making a deposit into an individual development account.

''(2) The amounts in the Reserve Fund established with respect to the project.

''(3) The amounts deposited in the individual development accounts.

''(4) The amounts withdrawn from the individual development accounts and the purposes for which such amounts were withdrawn.

''(5) The balances remaining in the individual development accounts.

''(6) The savings account characteristics (such as threshold amounts and match rates) required to stimulate participation in the demonstration project, and how such characteristics vary among different populations or communities.

''(7) What service configurations of the qualified entity (such as peer support, structured planning exercises, mentoring, and case management) increased the rate and consistency of participation in the demonstration project and how such configurations varied among different populations or communities.

''(8) Such other information as the Secretary may require to evaluate the demonstration project.

''(b) SUBMISSION OF REPORTS.—The qualified entity shall submit each report required to be prepared under subsection (a) to—

''(1) the Secretary; and

''(2) the Treasurer (or equivalent official) of the State in which the project is conducted, if the State or a local government or a tribal government committed funds to the demonstration project.

''(c) TIMING.—The first report required by subsection (a) shall be submitted not later than 60 days after the end of the calendar year in which the Secretary authorized the qualified entity to conduct the demonstration project, and subsequent reports shall be submitted every 12 months thereafter, until the conclusion of the project.

''SEC. 697. SANCTIONS.

''(a) AUTHORITY TO TERMINATE DEMONSTRATION PROJECT.—If the Secretary determines that a qualified entity under this chapter is not operating the demonstration project in accordance with the entity's application or the requirements of this chapter (and has not implemented any corrective recommendations directed by the Secretary), the Secretary shall terminate such entity's authority to conduct the demonstration project.

''(b) ACTIONS REQUIRED UPON TERMINATION.—If the Secretary terminates the authority to conduct a demonstration project, the Secretary—

''(1) shall suspend the demonstration project;

''(2) shall take control of the Reserve Fund established pursuant to section 691;

''(3) shall make every effort to identify another qualified entity (or entities) willing and able to conduct the project in accordance with the approved application (or, as modified, if necessary to incorporate the recommendations) and the requirements of this chapter;

''(4) shall, if the Secretary identifies an entity (or entities) described in paragraph (3)—

''(A) authorize the entity (or entities) to conduct the project in accordance with the approved application (or, as modified, if necessary, to incorporate the recommendations) and the requirements of this chapter;

''(B) transfer to the entity (or entities) control over the Reserve Fund established pursuant to section 691; and

''(C) consider, for purposes of this chapter—

''(i) such other entity (or entities) to be the qualified entity (or entities) originally authorized to conduct the demonstration project; and

''(ii) the date of such authorization to be the date of the original authorization; and

''(5) if, by the end of the 1-year period beginning on the date of the termination, the Secretary has not found a qualified entity (or entities) described in paragraph (3), shall—

''(A) terminate the project; and

''(B) from the amount remaining in the Reserve Fund established as part of the project, remit to each source that provided funds under section 689(c)(4) to the entity originally authorized to conduct the project, an amount that bears the same ratio to the amount so remaining as the amount provided by the source under section 689(c)(4) bears to the amount provided by all such sources under that section.

''SEC. 698. EVALUATIONS.

''(a) IN GENERAL.—Not later than 10 months after the date of enactment of this chapter, the Secretary shall enter into a contract with an independent research organization to evaluate, individually and as a group, all qualified entities and sources participating in the demonstration projects conducted under this chapter.

''(b) FACTORS TO EVALUATE.—In evaluating any demonstration project conducted under this chapter, the research organization shall address the following factors:

''(1) The effects of incentives and organizational or institutional support on savings behavior in the demonstration project.

''(2) The savings rates of individuals in the demonstration project based on demographic characteristics including gender, age, family size, race or ethnic background, and income.

''(3) The economic, civic, psychological, and social effects of asset accumulation, and how such effects vary among different populations or communities.

''(4) The effects of individual development accounts on homeownership, level of postsecondary education attained, and self-employment, and how such effects vary among different populations or communities.

''(5) The potential financial returns to the Federal Government and to other public sector and private sector investors in individual development accounts over a 5-year and 10-year period of time.

''(6) The lessons to be learned from the demonstration projects conducted under this chapter and if a permanent program of individual development accounts should be established.

''(7) Such other factors as may be prescribed by the Secretary.

''(c) METHODOLOGICAL REQUIREMENTS.—In evaluating any demonstration project conducted under this chapter, the research organization shall—

''(1) for at least 1 site, use control groups to compare participants with nonparticipants;

''(2) before, during, and after the project, obtain such quantitative data as are necessary to evaluate the project thoroughly; and

''(3) develop a qualitative assessment, derived from sources such as in-depth interviews, of how asset accumulation affects individuals and families.

''(d) REPORTS BY THE SECRETARY.—

''(1) INTERIM REPORTS.—Not later than 90 days after the end of the calendar year in which the Secretary first authorizes a qualified entity to conduct a demonstration project under this chapter, and every 12 months thereafter until all demonstration projects conducted under this chapter are completed, the Secretary shall submit to Congress an interim report setting forth the results of the reports submitted pursuant to section 696(b).

''(2) FINAL REPORTS.—Not later than 12 months after the conclusion of all demonstration projects conducted under this chapter, the Secretary shall submit to Congress a final report setting forth the results and findings of all reports and evaluations conducted pursuant to this chapter.

''(e) EVALUATION EXPENSES.—The Secretary shall expend such sums as may be necessary, but not less than 2 percent of the amount appropriated under section 699A for a fiscal year, to carry out the purposes of this section.

"SEC. 699. TREATMENT OF FUNDS.

''Of the funds deposited in individual development accounts for eligible individuals, only the funds deposited by the individuals (including interest accruing on those funds) may be considered to be income, assets, or resources of the individuals for purposes of determining eligibility for, or the amount of assistance furnished under, any Federal or federally assisted program based on need.

"SEC. 699A. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this chapter, $25,000,000 for each of fiscal years 1999, 2000, 2001, and 2002, to remain available until expended.''.

SEC. 205. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall not apply with respect to fiscal years ending before October 1, 1998.

TITLE III—AMENDMENTS TO THE LOW-INCOME HOME ENERGY ASSISTANCE ACT OF 1981

SEC. 301. SHORT TITLE.

This title may be cited as the ''Low-Income Home Energy Assistance Amendments of 1998''.

SEC. 302. AUTHORIZATION.

(a) IN GENERAL.—Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by inserting '', $1,100,000,000 for fiscal year 2000, and such sums as may be necessary for fiscal year 2001'' after ''1995 through 1999''.

(b) PROGRAM YEAR.—Section 2602(c) of Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(c)) is amended to read as follows:

''(c) Amounts appropriated under this section in any fiscal year for programs and activities under this title shall be made available for obligation in the succeeding fiscal year.''.

(c) INCENTIVE PROGRAM FOR LEVERAGING NON-FEDERAL RESOURCES.—Section 2602(d) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(d)) is amended by striking ''for each of the fiscal years 1996'' and all that follows through the period at the end, and inserting ''for each of the fiscal years 1999, 2000, and 2001.''.

(d) TECHNICAL AMENDMENT.—Section 2602(e) of Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(e)) is amended by striking ''subsection (g)'' and inserting ''subsection (e) of such section''.

SEC. 303. DEFINITIONS.

Section 2603(4) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8622(4)) is amended—

(1) by striking ''the term'' and inserting ''The term''; and

(2) by striking the semicolon and inserting a period.

SEC. 304. NATURAL DISASTERS AND OTHER EMERGENCIES.

(a) DEFINITIONS.—Section 2603 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8622) is amended—

(1) by redesignating paragraphs (6) through (9) as paragraphs (8) through (11), respectively;

(2) by inserting before paragraph (8) (as redesignated in paragraph (1)) the following:

''(7) NATURAL DISASTER.—The term 'natural disaster' means a weather event (relating to cold or hot weather), flood, earthquake, tornado, hurricane, or ice storm, or an event meeting such other criteria as the Secretary, in the discretion of the Secretary, may determine to be appropriate.'';

(3) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively; and

(4) by inserting before paragraph (2) (as redesignated in paragraph (3)) the following:

''(1) EMERGENCY.—The term 'emergency' means—

''(A) a natural disaster;

''(B) a significant home energy supply shortage or disruption;

''(C) a significant increase in the cost of home energy, as determined by the Secretary;

''(D) a significant increase in home energy disconnections reported by a utility, a State regulatory agency, or another agency with necessary data;

''(E) a significant increase in participation in a public benefit program such as the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the national program to provide supplemental security income carried out under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or the State temporary assistance for needy families program carried out under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), as determined by the head of the appropriate Federal agency;

''(F) a significant increase in unemployment, layoffs, or the number of households with an individual applying for unemployment benefits, as determined by the Secretary of Labor; or

''(G) an event meeting such criteria as the Secretary, in the discretion of the Secretary, may determine to be appropriate.''.

(b) CONSIDERATIONS.—Section 2604(g) of Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(g)) is amended by striking the last 2 sentences and inserting the following: ''In determining whether to make such an allotment to a State, the Secretary shall take into account the extent to which the State was affected by the natural disaster or other emergency involved, the availability to the State of other resources under the program carried out under this title or any other program, whether a Member of Congress has requested that the State receive the allotment, and such other factors as the Secretary may find to be relevant. Not later than 30 days after making the determination, but prior to releasing an allotted amount to a State, the Secretary shall notify Congress of the allotments made pursuant to this subsection.''.

SEC. 305. STATE ALLOTMENTS.

Section 2604 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623) is amended—

(1) in subsection (b)(1), by striking ''the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.'' and inserting ''and the Commonwealth of the Northern Mariana Islands.'';

(2) in subsection (c)(3)(B)(ii), by striking ''application'' and inserting ''applications'';

(3) by striking subsection (f);

(4) in the first sentence of subsection (g), by striking ''(a) through (f)'' and inserting ''(a) through (d)''; and

(5) by redesignating subsection (g) as subsection (e).

SEC. 306. ADMINISTRATION.

Section 2605 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624) is amended—

(1) in subsection (b)—

(A) in paragraph (9)(A), by striking ''and not transferred pursuant to section 2604(f) for use under another block grant'';

(B) in paragraph (14), by striking ''; and'' and inserting a semicolon;

(C) in the matter following paragraph (14), by striking ''The Secretary may not prescribe the manner in which the States will comply with the provisions of this subsection.''; and

(D) in the matter following paragraph (16), by inserting before ''The Secretary shall issue'' the following: ''The Secretary may not prescribe the manner in which the States will comply with the provisions of this subsection.''; and

(2) in subsection (c)(1)—

(A) in subparagraph (B), by striking ''States'' and inserting ''State''; and

(B) in subparagraph (G)(i), by striking ''has'' and inserting ''had''; and

(3) in paragraphs (1) and (2)(A) of subsection (k) by inserting '', particularly those low-income households with the lowest incomes that pay a high proportion of household income for home energy'' before the period.

SEC. 307. PAYMENTS TO STATES.

Section 2607(b)(2)(B) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626(b)(2)(B)) is amended—

(1) in the first sentence, by striking ''and not transferred pursuant to section 2604(f)''; and

(2) in the second sentence, by striking ''but not transferred by the State''.

SEC. 308. RESIDENTIAL ENERGY ASSISTANCE CHALLENGE OPTION.

(a) EVALUATION.—The Comptroller General shall conduct an evaluation of the Residential Energy Assistance Challenge program described in section 2607B of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626b).

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall prepare and submit to Congress a report containing—

(1) the findings resulting from the evaluation described in subsection (a); and

(2) the State evaluations described in paragraphs (1) and (2) of subsection (b) of such section 2607B.

(c) INCENTIVE GRANTS.—Section 2607B(b)(1) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626b(b)(1)) is amended by striking ''For each of the fiscal years 1996 through 1999'' and inserting ''For each fiscal year''.

(d) TECHNICAL AMENDMENTS.—Section 2607B of Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626b) is amended—

(1) in subsection (e)(2)—

(A) by redesignating subparagraphs (F) through (N) as subparagraphs (E) through (M), respectively; and

(B) in clause (i) of subparagraph (I) (as redesignated in subparagraph (A)), by striking ''on'' and inserting ''of''; and

(2) by redesignating subsection (g) as subsection (f).

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate disagree to the amendment of the House, request a conference with the House, and the Chair be authorized to appoint conferees on behalf of the Senate.

There being no objection, the Presiding Officer (Mr. ENZI) appointed Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. KENNEDY, and Mr. DODD conferees on the part of the Senate.

REREFERRAL OF S. 2402

Mr. SESSIONS. Mr. President, I ask unanimous consent that S. 2402 be discharged from the Committee on Agriculture, Nutrition, and Forestry and be referred to the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, SEPTEMBER 21, 1998

Mr. SESSIONS. On behalf of the majority leader, Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon on Monday, September 21. I further ask

that when the Senate reconvenes on Monday, immediately following the prayer, the Journal of proceedings be approved, no resolutions come over under the rule, the call of the calendar be waived, the morning hour be deemed to have expired, and the time for the two leaders be reserved. I further ask that there then be a period of morning business until 2 p.m., with the first hour under the control of Senator CRAIG, or his designee, and the second hour under the control of Senator DORGAN, or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I further ask unanimous consent that following morning business, the Senate resume consideration of S. 1301, the bankruptcy bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SESSIONS. For the information of all Members, the majority leader advises that the Senate will reconvene on Monday at noon and begin a period of morning business until 2 p.m. Following morning business, the Senate will resume consideration of the bankruptcy bill. Members who may still offer amendments to the bankruptcy bill under the consent agreement of September 11 are encouraged to come to the floor during Monday's session to offer and debate their amendments.

It is the leader's intention to complete action on the bankruptcy bill by early Tuesday afternoon, so it is hoped all Members will have offered and debated all amendments by that time.

Members are reminded that a cloture motion was filed today to the committee substitute to the Child Custody Protection Act. Therefore, under the provisions of rule XXII, Members have until 1 p.m. on Monday to file first-degree amendments regarding child custody. As a further reminder, there will be no votes during Monday's session, and the next votes will occur beginning at 2 p.m. on Tuesday, September 22. Members will be notified how many votes will occur on Tuesday when that information is available.

ADJOURNMENT UNTIL MONDAY, SEPTEMBER 21, 1998

Mr. SESSIONS. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 1:07 p.m., adjourned until Monday, September 21, 1998, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate September 18, 1998:

DEPARTMENT OF STATE

BILL RICHARDSON, OF NEW MEXICO, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-SECOND SESSION OF THE GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY.