By Mr. DeWINE (for himself, Mr. Hollings, Mr. Abraham, Mr. Santorum, Mr. Specter, Mr. Byrd, Mr. Hutchinson, and Mr. Voinovich):

S. 61. A bill to amend the Tariff Act of 1930 to eliminate disincentives to fair trade conditions; to the Committee on Finance.

THE CONTINUED DUMPING OR SUBSIDIZATION OFFSET ACT

Mr. DeWINE. Mr. President, today I join with Senators Abraham, Santorum, Specter, Hollings, Byrd, Hutchinson and others to introduce the Continued Dumping or Subsidy Offset Act. This legislation is designed to ensure that our domestic producers can compete freely and fairly in global markets. This bill is a top priority for me and my fellow cosponsors—not only because we believe it is good policy, but also because it is needed to respond to the current import dumping crisis in our steel industry.

As my colleagues know, the Tariff Act of 1930 gives the President the authority to impose duties and fines on imports that are being dumped in U.S. markets, or subsidized by foreign governments. Our bill would take the 1930 Act one step further. Currently, revenues raised through import duties and fines go to the U.S. Treasury. Under our bill, duties and fines would be transferred to injured U.S. companies as compensation for damages caused by dumping or subsidization.

We believe this extra step is necessary. Current law simply has not been strong enough to deter unfair trading practices. In some cases, foreign producers are willing to risk the threat of paying U.S. antidumping and countervailing duties out of the profits of dumping.

Current law also does not contain a mechanism to help injured U.S. industries recover from the harmful effects of foreign dumping and subsidization. These foreign practices have reduced the ability of our injured domestic industries to reinvest in plant, equipment, technology or to maintain or expand health care and pension benefits. The end result is this: continued dumping or subsidization jeopardizes renewed investment and prevents additional reinvestment from being made.

The current steel dumping crisis is the latest sobering example of why our legislation, among others, is needed to better enforce fair trade. Because of massive dumping, steel imports are at an all-time high. According to the American Iron and Steel Institute, 4.1 million tons of steel were imported in the month of October—that's the second highest monthly total ever, and is 56% higher than the previous year.

This surge in imports is having a direct impact on our own steel industry. In November, U.S. steel mills shipped nearly 7.4 million net tons of steel in November of last year—more than one million tons below what was shipped one year earlier. We have seen U.S. steel's industrial utilization rate fall from 79.1% in March of 1998 to 73.9% in January of 1999. And most troubling of all, approximately 10,000 jobs have been lost in our steel industry since last year. More layoffs are certain. Whether these jobs will ever be restored is uncertain. This is a genuine crisis for the communities in the Ohio River Valley and in other communities across the country.

This is not a case of being on the wrong side of a highly competitive market. Today's U.S. steel industry is a lean, efficient industry—a world leader thanks to restructuring and millions of dollars in modernization. U.S. steelworkers are the best and most productive in the world. In fact, America's workers devote the fewest manpower hours per ton of steel.

Simply being the best is not enough against foreign governments that either erect barriers to keep U.S. steel out, or subsidize their exports to distort prices. That's why we have trade laws designed to promote fair trade. However, it's clear that our current trade policies aren't working. Current law did not deter foreign steel producers from dumping their products in our country. These foreign producers have done the math. They have made a calculated decision that the risk of duties is a price they are willing to pay in return for the higher global market share they have gained by shipping away at the size and strength of our nation's steel industry.

It's time we impose a heavier price on dumping and subsidization. The Continued Dumping or Subsidy Offset Act would accomplish this goal. It would transfer the duties and fines imposed on foreign producers directly to their U.S. competitors. Under our bill, foreign steel producers would get a double hit from dumping: they would have to pay a duty, and in turn, see that duty go directly to aid U.S. steel producers.

In order to counter the adverse effects of foreign dumping and subsidization on U.S. industries, Congress should pass this bipartisan bill.

The steel crisis also has amplified the need for additional improvements in our trade laws, as well as tougher enforcement of existing laws. Last October, many of us in Congress came together to offer an early New Year's resolution for 1999: to stand up for steel.

Any crisis requires leadership. That's why Congress asked the President to make a New Year's Resolution of his own—one that would honor a pledge he made in 1992 to strongly enforce U.S. antidumping laws. Specifically, Congress asked the President for an action plan no later than January 5th—a plan that would end the distortion and disruption in global steel markets, as well as the disappearance of jobs and opportunity in U.S. steel plants. It was a call for presidential leadership.
On January 8th, the President released a plan that fell far short of what we hoped. It was a plan that showed a reluctance to fully utilize our laws to ensure free and fair trade. It did not recommend any trade legislation to better protect past industry from dumping. As a result, it sent a dangerous signal to foreign governments that dumping will not meet with a swift response from the United States.

I am concerned the President has not fully grasped the magnitude of this problem. In the past few months, I have visited with Ohio Valley steel producers and workers, including a number of the hundreds laid off because of foreign dumping. Their message was the same: the surge in steel imports represents a crisis of historic proportions.

The root of the current import crisis is the financial distress that plagues Asia and Russia, which has created a worldwide oversupply of steel. While foreign consumption of steel has nearly dried up, America's strong economy and open markets have made the United States a prime target for exporters. We are witnessing the same economies—so we can avoid a global downturn. But turning a blind eye toward our steel workers is the wrong way to do it. We simply cannot leave the US steel industry and thousands of American jobs in a desperate attempt to prop up faulty foreign economies. This approach simply will not work.

Although the Commerce Department has initiated an investigation that could result in duties imposed against foreign steel, the President could pursue a number of options to reduce steel imports: he could begin serious and aggressive bilateral negotiations with countries that dump steel; initiate a “201” petition with the International Trade Commission if he believes steel imports pose a substantial threat to domestic industry; or take unilateral trade action, including quotas and tariffs, under the International Emergency Economic Powers Act.

The President's plan does not take any of these options. Instead, it treats the symptoms of dumping—declining profits and unemployment—rather than attack the disease itself. The damage from this disease has already been done. Absent tough action to address this dumping directly makes it more difficult for U.S. producers to regain their declining market share, and most important, to restore the jobs that have been lost.

Congress can insist on tough action by the President by passing legislation that will further discourage unfair trade practices. Passing the Continued Dumping or Subsidization Offset Act would be a good start. In addition, I will be joining with Senator ARLEN SPECTER of Pennsylvania to introduce legislation that would lower the statutory threshold for the International Trade Commission (ITC) to find injury caused by imports and establish a steel import permit and licensing program, allowing domestic industry access to critical import data more quickly.

Ultimately, we cannot achieve free and fair markets on a global scale unless our laws work to encourage all competitors to play by the rules. And ultimately, congressional action alone is no substitute for presidential leadership. The United States and the American steel community need to keep the pressure on. In fact, thousands of steel workers from the Ohio Valley are arriving in our nation's capitol in a massive call for presidential leadership. It's time our President took a stand for him and for our President to stand up for steel.

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. 61
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 “Continued Dumping and Subsidy Offset Act of 1999.”

SEC. 2. FINDINGS OF CONGRESS.
Congress makes the following findings:
(1) Consistent with the rights of the United States under the World Trade Organization, injurious dumping is to be condemned and actionable subsidies which cause injury to domestic industries must be effectively neutralized.
(2) United States unfair trade laws have as their purpose the restoration of conditions of fair trade so that jobs and investment that should be in the United States are not lost through the false market signals.
(3) The continued dumping or subsidization of imported products after the issuance of antidumping orders or findings or countervailing duty orders can frustrate the remedial purpose of the laws by preventing market prices from returning to fair levels.
(4) Where dumping or subsidization continues, domestic producers will be reluctant to reinvest or be unable to maintain pension and health care benefits or to otherwise remain viable.
(5) United States trade laws should be strengthened to assure the continued dumping or remedial purpose of those laws is achieved.

SEC. 3. AMENDMENTS TO THE TARIFF ACT OF 1930.
(a) In General.—Title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) is amended by inserting after section 753 following new section:

SEC. 75A. CONTINUED DUMPING AND SUBSIDY OFFSET.

"(a) In General.—Duties assessed pursuant to a countervailing duty order, an antidumping duty order, or a finding under the Antidumping Act of 1921 shall be distributed on an annual basis under this section to the affected domestic producers for qualifying expenditures. Such distribution shall be known as the 'continued dumping and subsidy offset.'

"(d) Definitions.—As used in this section: (1) Affected Domestic Producers.—The term 'affected domestic producer' means any manufacturer, producer, farmer, rancher, or worker representative (including associations of such individuals) of the products in respect of which a determination of injury was not required or for which the Commission's records do not provide an identification of those in support of the petition for a determination of injury. (2) Antidumping Duty Order.—A determination of an antidumping duty order under the Antidumping Act of 1921.

"(A) was a petitioner or interested party in support of the petition with respect to which an antidumping duty order, a finding under the Antidumping Act of 1921, or a countervailing duty order has been entered, and (B) remains in operation.

"(c) Eligibility.—Companies, businesses, or persons that have ceased the production of the product covered by the order or finding or who have been acquired by a company or business that is related to a company that opposed the investigation shall not be affected domestic producer.


"(c) Qualifying Expenditure.—The term 'qualifying expenditure' means an expenditure incurred after the issuance of the antidumping duty finding or order or countervailing duty order in any of the following categories:

"(A) Plant.
"(B) Equipment.
"(C) Research and development.
"(D) Personnel training.
"(E) Acquisition of technology.
"(F) Health care benefits to employees paid for by the employer.
"(G) Environmental equipment, training, or technology.
"(H) Acquisition of raw materials and other inputs.

"(j) Borrowed working capital or other funds needed to maintain production.

"(k) Related to.—A company, business, or person shall be considered to be a 'related to' another company, business, or person if—

"(1) they are controlled by the same: (A) the company, business, or person directly or indirectly controls or is controlled by the other company, business, or person, (B) a third party directly or indirectly controls both companies, businesses, or persons, (C) both companies, businesses, or persons directly or indirectly control a third party and there is reason to believe that the relationship causes the first company, business, or persons to act differently than a non-related party.

For purposes of this paragraph, a party shall be considered to be related to another party if the party is legally or operationally in a position to exercise restraint or direction over the other party.

"(l) Distribution Procedures.—The Commissioner shall prescribe procedures for distribution of the continued dumping or subsidies offset required by this section. Such distribution shall be made not later than 60 days after the first day of a fiscal year from duties assessed during the preceding fiscal year.

"(m) Parties Eligible for Distribution of Antidumping and Countervailing Duties Assessed.—

"(1) List of Affected Domestic Producers.—The Commissioner shall forward to the Congress a list of producers, businesses, or persons that have been affected domestic producers.

"(2) List of Affected Companies.—The Commissioner shall forward to the Congress a list of companies, businesses, or persons that have been affected domestic producers.

"(3) List of Affected Workers.—The Commissioner shall forward to the Congress a list of affected workers, businesses, or persons that have been affected domestic producers.

"(4) Distribution Procedures.—The Commissioner shall prescribe procedures for distribution of continued dumping duty amounts or subsidies offset amounts. The Commissioner shall prescribe procedures for distribution of duties assessed under the Antidumping Act of 1921. The procedures shall be consistent with the procedures under the Antidumping Act of 1921.
domestic parties who have entered appearances during administrative reviews conducted by the administering authority under section 751.

(2) PUBLICATION OF LIST; CERTIFICATION.—The Commissioner shall publish in the Federal Register at least 30 days before the distribution of a continued dumping or subsidy order or finding, or countervailing duty order or finding, a list of all domestic producers to whom the Secretary is required to make payments under section 753(g).

(3) DISTRIBUTION OF FUNDS.—The Commissioner shall distribute all funds (including interest earned on such duties) to the Secretary of the Treasury of the United States, and the Secretary shall proceed with funds received in the following manner:

(a) SHORT TITLE. —This Act may be cited as the “Family Farm Retirement Equity Act of 1999”.

(b) CONFORMING AMPENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting the following new item after the item relating to section 753:

“Sec. 754. Continued dumping and subsidy duties assessments made on or after October 1, 1996.

By Mr. KOHL:

S. 62. A bill to amend the Internal Revenue Code of 1986 to provide for the rollover of gain from the sale of farm assets into an individual retirement account; to the Committee on Finance.

THE FAMILY FARM RETIREMENT EQUITY ACT OF 1999

By Mr. KOHL:

S. 63. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide child care assistance for dependents of their employees, and for other purposes; to the Committee on Finance.

THE CHILD CARE INFRASTRUCTURE ACT

Mr. KOHL. Mr. President, I rise today to introduce the Family Farm Retirement Equity Act, a bill to help us improve the retirement security of our nation’s farmers.

As we begin the 106th Congress, we can anticipate legislative action to strengthen retirement security and to boost individual savings on behalf of all Americans. In particular, these are issues that have risen to the top of the nation’s agenda. Americans are living longer and changing jobs more often. Medical costs are rising and demographic trends are undermining the long-term viability of our social security system. Comprehensive planning for the many years Americans are often able to enjoy in retirement is now more important than ever.

We took some steps to address retirement security in the 105th Congress, but the job is far from accomplished. We must be vigilant in acting to reform social security on behalf of all Americans and in addressing the unique retirement needs of individual groups of Americans. The legislation I introduce today to act on behalf of one such group, a group at the heart of our American traditions, the family farmer.

As many of my colleagues know, farming is a highly capital-intensive business. To the extent that the average farmer reaps any profits from his or her farming operation, much of that income is directly reinvested into the farm. Rarely are there opportunities for farmers to put money aside in individual retirement accounts. In addition, as self-employed business people, farmers do not have access to the pension or retirement funds that many Americans enjoy. When the time comes, farmers tend to rely on the sale of their accumulated capital assets, such as the estate, livestock, and machinery, in order to provide the income to sustain them during retirement. However, all too often, farmers are finding that the lump-sum payments of capital gains taxes levied on those assets leave little, if any, for retirement.

To alleviate this predicament, my legislation would provide retiring farmers the opportunity to rollover the proceeds from the sale of their farms into a tax-deferred retirement account. Instead of paying a large lump-sum capital gains tax at the point of sale, the income from the sale of a farm would be taxed only as it is withdrawn from the retirement account. Such a change in method of taxation would help prevent the financial distress that many farmers now face upon retirement.

Second, my legislation would address the diminishing interest of our younger rural citizens in continuing farming. Because this legislation will facilitate the transition of our older farmers into a successful retirement, the Family Farm Retirement Equity Act will also pave the way for a more graceful transition of our younger farmers toward farm ownership. While low prices and low profits in farming will continue to take their toll on our younger farmers, I believe that my proposal will be one tool we can use to make farming more viable for the next generation.

In past Congresses, this proposal has enjoyed the support of farmers and farm organizations throughout the country and the endorsement of the American Farm Bureau Federation, the American Sheep Industry Association, the American Sugar Beet Association, the National Association of Wheat Growers, the National Cattlemen’s Beef Association, the National Corn Growers Association, National Pork Producers Council, and the Southwestern Peanut Growers Association. In addition, a modified version of this legislation was included in the Economic Growth Act of 1997, as introduced by Minority Leader DASCHLE and other Senators.

I look forward to working with these groups and my colleagues again this Congress to act on this important legislation as swiftly as possible.

In addition, I am introducing the Child Care Infrastructure Act, a bill to provide a tax credit for businesses that create child care opportunities for their employees. While I will have much more to say about this important legislation at a later date, I did want to put it in the hopper today. Providing quality child care is and should be at the center of our agenda for the 106th Congress. My proposal is a low-cost approach to address this issue by increasing the child care tax deduction and has received praise from businesses, parents, and day care workers alike.

I ask unanimous consent that the full text of these bills be printed in the Record.

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

S. 62

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. SHORT TITLE; REFERENCE TO INTERNAL REVENUE CODE.

(a) SHORT TITLE.—This Act may be cited as the “Family Farm Retirement Equity Act of 1999”.

January 19, 1999
SEC. 2. ROLL-OVER ACCOUNT FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) In General.—Part III of subchapter O of chapter 8 of subpart D of part IV of subchapter O of chapter 1 for such taxable year and any subsequent taxable year shall include on the return of tax imposed by the Internal Revenue Code of 1986 (relating to business or trade income, or the conduct of a trade or business during such 5-year period) the following new paragraph:

"(5) CONTRIBUTIONS TO ASSET ROLLOVER ACCOUNT.—"For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 1033A(e)(3).

(b) Asset Rollover Account.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

(c) Distribution Rules.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

(d) Qualified Farmer.—The term 'qualified farmer' means the lesser of—

(i) the net capital gain of the taxpayer for the taxable year; or

(ii) an amount determined by multiplying the net capital gain (or loss) in connection with dispositions of qualified farm assets described in paragraph (2) by the Secretary which is similar to the information required by the Secretary which is similar to the information described in paragraph (1)(A).

(e) Aggregate Contribution Limitation.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to an asset rollover account shall be limited to the lesser of—

(i) the net capital gain for the taxable year, or

(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

(f) Excess Contributions.—No deduction shall be allowed in any taxable year with respect to contributions which exceed the limitation imposed by paragraph (1) for such taxable year or any subsequent taxable year.

(g) Distribution Rules.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

(h) Information Required to Report Qualified Contributions.—For purposes of this section, the information required to be included on returns under section 6693(b)(1) is amended by inserting after subsection (f) the following new item:

"(A) Section 6693(b)(1)(A) is amended by inserting 'or qualified contributions under section 1034A', after 'rollover contributions'."

(i) Effective Date.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.

Sec. 3. Establishment of a Roll-over Account for Qualified Net Farm Gain.

(a) In General.—Subpart D of part IV of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following:

"(A) qualified net farm gain' means the lesser of—

(i) the net capital gain of the taxpayer for the taxable year; or

(ii) an amount determined by multiplying the net capital gain (or loss) in connection with dispositions of qualified farm assets described in paragraph (2) by the Secretary which is similar to the information required by the Secretary which is similar to the information described in paragraph (1)(A).

(b) Asset Rollover Account.—For purposes of this section, the term 'asset rollover account' means an individual retirement plan established on behalf of a qualified farmer in the active conduct of a qualified farm asset which is similar to the information required by the Secretary which is similar to the information described in paragraph (1)(A).

(c) Distribution Rules.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

(d) Information Required to Report Qualified Contributions.—For purposes of this section, the information required to be included on returns under section 6693(b)(1) is amended by inserting after subsection (f) the following new item:

"(A) Section 6693(b)(1)(A) is amended by inserting 'or qualified contributions under section 1034A', after 'rollover contributions'."

(e) Effective Date.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.

SEC. 4. Roll-over of Gain from Sale of Farm Assets into Asset Rollover Account.

(a) In General.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is the amount of the qualified child care expenses of the taxpayer for such taxable year.

(b) Dollar Limitation.—The credit allowed under subsection (a) for any taxable year shall not exceed $10,000.

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

(1) Qualified Child Care Expenditure.—The term 'qualified child care expenditure' means any amount paid or incurred—

(i) which is to be used as part of a qualified child care facility of the taxpayer, or

(ii) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

(iii) which does not constitute part of the property (within the meaning of section 121) of the taxpayer or any employee of the taxpayer,

(B) For the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with high levels of child care training,

(C) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, or

(D) to provide qualified child care resource and referral services to employees of the taxpayer.
"(2) QUALIFIED CHILD CARE FACILITY.—

"(A) IN GENERAL.—The term `qualified child care facility' means a facility—

(i) the principal use of which is to provide child care services, and

(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, if not limited to, the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 121) of the operator of the facility.

Clause (ii) shall not apply to a facility which is not the principal residence (within the meaning of section 121) of the operator of the facility.

(b) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

(i) enrollment in the facility is open to employees of the taxpayer during the taxable year, and

(ii) the facility is not the principal trade or business of the taxpayer unless at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

"(c) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

"(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this subtitle for such taxable year shall be increased by an amount equal to the product of—

(A) the applicable recapture percentage, and

(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(2)(A) with respect to such facility had been zero.

"(2) APPLICABLE RECAPTURE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

The applicable recapture percentage is:

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"(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

"(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term `recapture event' means—

(A) CESSION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

(B) CHANGE IN OWNERSHIP.—

(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability described in such section in respect of such interest immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under part A, B, or D of this part.

"(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(D) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(E) SPECIAL RULES.—For purposes of this section—

"(i) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 38 shall be treated as a single taxpayer.

"(ii) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 38 shall apply.

"(F) NO DOUBLE COUNTING.—

"(1) REDUCTION IN BASIS.—For purposes of this subtitle—

(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(2)(A), the basis of such property shall be increased by the amount of the credit so determined.

"(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property by reason of expenditures described in subsection (c)(2)(A), the basis of such property shall be increased by the amount of the recapture amount. For purposes of the preceding sentence, the term `recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

"(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

"(G) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking "plus" at the end of paragraph (1),

(B) by striking the period at the end of paragraph (12), and inserting a comma and "plus", and

(c) by adding at the end the following:

"(13) the employer-provided child care credit determined under section 45D;

(2) the table of sections for part IV of subpart D of chapter A of chapter 1 of such Code is amended by adding at the end the following:

"Sec. 45D. Employer-provided child care credit.

"(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

The amended section may be cited as the "Kate Mullany National Historic Site Designation Act".
SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Kate Mullany House in Troy, New York, is listed on the National Register of Historic Places and has been designated as a National Historic Landmark;

(2) the National Historic Landmark Designation Act of 1966, Pub. L. No. 90-103, 83 Stat. 438 (16 U.S.C. 1 et seq.), should be amended to recognize the historical significance of the site; and

(b) PURPOSES.—The purposes of this Act are—

(1) to preserve and interpret the nationally significant home of Kate Mullany for the benefit, inspiration, and education of the people of the United States; and

(2) to interpret the connection between immigration and the industrialization of the United States, including the history of Irish immigration, women's history, and worker history.

SEC. 3. DEFINITIONS.

In this Act:

(1) HISTORIC SITE.—The term "historic site" means the Kate Mullany National Historic Site established by section 4.

(2) PLAN.—The term "plan" means the general management plan developed under section 6(d).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. ESTABLISHMENT OF KATE MULLANY NATIONAL HISTORIC SITE.

(a) ESTABLISHMENT.—There is established as a unit of the National Park System the Kate Mullany National Historic Site in the State of New York.

(b) DESCRIPTION.—The historic site shall consist of the home of Kate Mullany, comprising 0.5739 acre, located at 508 Eighth Street in Troy, New York, as generally depicted on the map entitled "[map not provided]" and dated [date not provided].

SEC. 5. ACQUISITION OF PROPERTY.

(a) REAL PROPERTY.—The Secretary may acquire land and interests in land within the boundaries of the historic site and ancillary real property for parking or interpretation, as necessary and appropriate for management of the historic site.

(b) PERSONAL PROPERTY.—The Secretary may acquire personal property associated with, and appropriate for, the interpretation of the historic site.

(c) MEANS.—Acquisition of real property or personal property may be made by donation, purchase from a willing seller with donated or appropriated funds, or exchange.

SEC. 6. ADMINISTRATION OF HISTORIC SITE.

(a) IN GENERAL.—The Secretary shall administer the historic site in accordance with this Act and the law generally applicable to the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and such other laws as may be necessary for the interpretation of the historic site.

(b) GENERAL MANAGEMENT PLAN.—(1) IN GENERAL.—The Secretary shall develop a general management plan for the historic site; and

(2) SUBMIT PLAN.—The Secretary shall submit the plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(c) EXHIBITS.—The Secretary may display, and accept for the purposes of display, items associated with Kate Mullany, as may be necessary for the interpretation of the historic site.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. MOYNIHAN (for himself, Mr. KERRY, Mr. DURBIN, Mr. ROBB, Mr. SCHUMER, and Mr. KENNEDY).
Dr. Weaver, who said that "you cannot have physical renewal without human renewal," pushed for better-looking public housing by offering awards for design. He also broadened the criteria for small businesses displaced by urban renewal and revived the long-dormant idea of federal rent subsidies for the elderly.

Robert C. Weaver was a professor of urban affairs at Hunter College, was a member of the Visiting Committee at the School of Urban and Public Affairs at Carnegie-Mellon University and had held professorships at Columbia Teachers' College and the New York University School of Education. He also served as a consultant to the Ford Foundation and was a resident of Baruch College in Manhattan in 1969.


[From the Washington Post, July 20, 1997]

ROBERT C. WEAVER DIES; FIRST BLACK CABINET MEMBER
(By Martin Weil)

Robert C. Weaver, 89, who as the nation's first secretary of Housing and Urban Development was the first black person to head a government agency, as well as a central figure in the national debate over civil rights, died on Thursday at his home in Manhattan.

He died in his sleep, according to a family friend. The cause of death was not immediately known.

Dr. Weaver, who was born and raised in Washington, was regarded as an intellectual, pragmatic and welloiled machine that defused anger among blacks and other Americans both by expanding their opportunities and by bettering their communities. Many regarded him as a symbol of the Great Society, died July 17 at his home in Manhattan.

In the years that followed, Weaver's influence spread to the Department of Housing and Urban Development, which he had helped create, and to the Federal Housing Administration, which he had helped to resurrect.

The department, which had been established in the 1930s to finance the construction of homes for the middle class, was transformed into a powerful new agency with broad powers over the nation's housing market.

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of the bright young intellectuals who came to the capital to create and run the New Deal. He spent 10 years in housing and labor recruitment and training, detailed for part of that time as an adviser to Interior Secretary Harold Ickes.

He also worked in the National Defense Advisory Commission and, during World War II, was a member of the Negro Manpower Service in the War Manpower Commission. During those years, he also was prominent in what was known as Roosevelt’s informal Black Cabinet, working behind the scenes to improve conditions and opportunities for blacks.

In the closing years of the war, he was executive secretary of the Chicago Mayor’s Committee on Race Relations. During the 1940s and early ’50s, he taught at universities, worked for philanthropic foundations and held a series of government housing posts in New York.

At the start of his administration, President John F. Kennedy named him chief of what was then the principal federal agency responsible for housing, the Housing and Home Finance Agency. He was credited with drawing together and unifying the efforts of what was regarded as a loose confederation of offices, bureaus and departments.

It was not until the Johnson administration that efforts to establish the department to Cabinet level bore fruit.

But throughout his tenure as the chief federal housing official, it was Dr. Weaver who “brought the executive branch of government policy,” said Yvonne Scruggs-Lettich, executive director of Black Leadership Forum Inc. and a former New York state housing commissioner. “It was his way to move policy from a narrow focus on the living unit itself to include community development, a more expansive view that encompassed both ‘housing’ and the environment around the housing.”

As Dr. Weaver had expressed it, “You cannot not have physical renewal without human renewal.”

At the same time, he was known for his work for racial justice and equality. By the 1960s, he had been active in the struggle for decades. At the time of his appointment by Kennedy, he was chairman of the NAACP.

Once, in the early days of the struggle, he advised a way to achieve equality was “to fight hard—and legally—and don’t blow your top.”

After leaving his Cabinet post at the end of the Johnson administration, Dr. Weaver returned to New York, where he was a teacher and a consultant. He headed Baruch College and a former New York state housing commissioner.

After having served his prison sentence, and while still in exile, Dr. Orlov was able to immigrate to the United States in 1986 in an exchange arranged by the Reagan Administration. A captured Soviet spy was returned in exchange for the release of Dr. Orlov and a writer for U.S. News & World Report who had been arrested in Moscow, Nicholas Daniloff.

Since then, Dr. Orlov has served as a senior scientist at Cornell University in the Newman Laboratory of Nuclear Studies. Now that he is 74 years old, he is turning his thoughts to retirement. Unfortunately, since he has only been in the United States for 12 years, his retirement income from the Cornell pension plus Social Security will be insufficient: only a fraction of what Cornell faculty of comparable distinction now get at retirement.

His scientific colleagues, Nobel physicist Dr. Hans Bethe, Kurt Gottfried of Cornell, and Sidney Drell of Stanford, have made concerted efforts to raise support for Dr. Orlov’s retirement. But they are in further need.

To this end, I have agreed to assist these notable scientists in their endeavor to secure a more appropriate recompense for this heroic dissident. That is the purpose that brings me here to the Senate floor today, on the first day of the 106th Congress, to introduce a bill on Dr. Orlov’s behalf.

To understand Dr. Orlov’s contributions to ending the Cold War, I would draw my colleagues attention to his autobiography, Dangerous Thoughts: Memoirs of a Russian Life. It captures the courage expressed in Soviet society and the courage of men like Orlov, Sakharov, Shansary, Soltzenitsyn, and others who defied the Soviet regime. Dr. Orlov, who spent 7 years in a labor camp and two years in Siberian exile, never ceased protesting against oppression. Despite deteriorating health and the harsh conditions of the camp, Dr. Orlov smuggled out messages in support of basic rights and nuclear arms control. His bravery and that of his dissident colleagues played no small role in the dissolution of the Soviet Union. I am sure many would agree that we owe them a tremendous debt. This then is a call to all those who agree with that proposition. Dr. Orlov is now in need; please join our endeavor.

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. 68

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. RELIEF OF DR. YURI F. ORLOV OF ITHACA, NEW YORK.

(a) IN GENERAL.—Notwithstanding any other provision of law, Dr. Yuri F. Orlov of Ithaca, New York, shall be deemed an annuitant as defined under section 8901(9) of title 5, United States Code, and shall be eligible to receive an annuity.

(b) COMPUTATION.—For purposes of computing the annuity described under subsection (a), Dr. Yuri F. Orlov shall be deemed to—

(1) have performed 40 years of creditable service as a Federal employee;

(2) received pay at the maximum rate payable for a position above GS-15 of the General Schedule (as in effect on the date of enactment of this Act) for 3 consecutive years of such creditable service.

(c) CONTRIBUTIONS.—No person shall be required to make any contribution with respect to the annuity described under subsection (a).

(d) ADMINISTRATIVE PROVISIONS.—The Director of the Office of Personnel Management shall—

(1) apply the provisions of chapter 83 of title 5, United States Code (including provisions relating to cost-of-living-adjustments and survivor annuity benefits) to the annuity described under subsection (a) to the greatest extent practicable; and

(2) make the first payment of such annuity no later than 60 days after the date of enactment of this Act.

By Mr. MOYNIHAN:

S. 68. A bill for the relief of Dr. Yuri F. Orlov of Ithaca, New York; to the Committee on Governmental Affairs.

PRIVATE RELIEF BILL

Mr. MOYNIHAN. Mr. President, today I rise to introduce a bill to recognize the immeasurable debt which we owe to a leading Soviet dissident. Dr. Yuri F. Orlov, a founding member of the Soviet chapter of Amnesty International and director of the Moscow Helsinki Watch Group (the first nationwide organization in Soviet history to question government actions), who now lives in Ithaca, New York, is threatened by poverty. Yuri Orlov could not be stopped by the sinister forces of the Soviet Union and, no doubt, he will not be stopped by poverty. But I rise today in hopes that it will not come to that.

Dr. Orlov’s career as a dissident began in January 1961 when he made a pro-democracy speech which cost him his position and forced him to leave Moscow. He was able to return in 1972, whereupon he began to outspoken criticism of the Soviet regime.

On September 13, 1973, in response to a government orchestrated-public smear campaign against Andrei Sakharov, Orlov sent “Thirty Questions to Brezhnev,” a letter which advocated freedom of the press and reform of the Soviet economy. One month later, he became a founding member of the Soviet chapter of Amnesty International. His criticism of the Soviet Union left him unemployed and under constant KGB surveillance, but he would not be silenced.

In May, 1976 Dr. Orlov founded the Moscow Helsinki Watch Group to pressure the Soviet Union to honor the Helsinki Accords signed in 1975. His leadership of the Helsinki Watch Group led to his arrest and, eventually, to a show trial in 1978. He was condemned to seven years in a labor camp and five years in exile.

After having served his prison sentence, and while still in exile, Dr. Orlov was able to immigrate to the United States in 1986 in an exchange arranged by the Reagan Administration. A captured Soviet spy was returned in exchange for the release of Dr. Orlov and a writer for U.S. News & World Report who had been arrested in Moscow, Nicholas Daniloff.

Since then, Dr. Orlov has served as a senior scientist at Cornell University in the Newman Laboratory of Nuclear Studies. Now that he is 74 years old, he is turning his thoughts to retirement. Unfortunately, since he has only been in the United States for 12 years, his retirement income from the Cornell pension plus Social Security will be insufficient: only a fraction of what Cornell faculty of comparable distinction now get at retirement.

His scientific colleagues, Nobel physicist Dr. Hans Bethe, Kurt Gottfried of Cornell, and Sidney Drell of Stanford, have made concerted efforts to raise support for Dr. Orlov’s retirement. But they are in further need.

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(2) make the first payment of such annuity no later than 60 days after the date of enactment of this Act.

By Mr. MOYNIHAN:

S. 68. A bill to make available funds under the Foreign Assistance Act of 1961 to provide scholarships for nationals of any of the independent states of the former Soviet Union to undertake doctoral study in the social sciences; to the Committee on Foreign Relations.

THE NIS EDUCATION ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce the NIS Education Act.

S. 68. A bill to make available funds under the Foreign Assistance Act of 1961 to provide scholarships for nationals of any of the independent states of the former Soviet Union to undertake doctoral study in the social sciences; to the Committee on Foreign Relations.
Russians have the right to claim that they freed their own country from the horrors of a decayed Marxist-Leninist dictatorship. The Russian people and their leaders have something about which to be proud.

I rise to request that a bill be introduced to build democratic leaders of the NIS for the future through education. The NIS Education Act will partially fund graduate education to provide scholarship opportunities for 500 students from the NIS during the next five years. The benefits of education and exposure to the United States will be long lasting.

We want to give these students from the NIS the chance to see American democracy and learn the tools to improve their own society. Indeed, for many it will be their first chance to visit the world's oldest democracy; to see the promise that democracy offers; and to judge its fruits for themselves. As one of our most famous visitors, Alexis de Tocqueville, wrote:

Let us look to America, not in order to make a servile copy of the institutions that she has, but to gain a clearer view of the polity that will be the best for us; let us look there less to find examples than instruction; let us borrow from her the principles rather than the details of her laws...the principles on which the American constitutions rest, those principles of order, of the balance of powers, of true liberty. These principles, for right, are indispensable to all republics... .

In 1948 the United States instituted the now famous Marshall Plan which included among its many provisions a funded graduate education program. The funding for this part of the plan was less than one-half of one percent of all the Marshall Plan aid, its impact was far greater. Many of the principles of the NIS Education Act may also be great.

We must note here the current state of Russia's affairs: it is deplorable. Despite this situation, last spring the United States Senate voted to expand the North Atlantic Treaty Organization. Throughout the elements of the Russian political system NATO expansion was viewed as a hostile act which to defend against; and they have said that they will defend their territory, even if necessary, with nuclear weapons; that is all they have left. The distrust born from NATO expansion will not fade quickly. Let us hope that the NIS Education Act will provide an alternative from Russia and the other NIS the opportunity to see that Americans do not hope for Russia's demise and isolation. Perhaps we can dispel the betrayal they may feel as a result of NATO enlargement, and give them a chance to further develop their own democracies. Beyond that, the importance of training the next generation of social scientists in the NIS is immeasurable. It is this generation that will revitalize the universities, teaching the next generation economics, sociology and other disciplines. It is this generation of social scientists who will be prepared to teach the students armed with new ideas and new ways of thinking different from the status quo; they will bring their new knowledge and standards, their linkages to the United States back to their own countries, and they will help them to develop the opportunity to influence change there.

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

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

S. 69

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

SECTION 1. SCHOLARSHIPS FOR NATIONALS OF THE FORMER SOVIET UNION.

(a) AUTHORITY.—

(1) IN GENERAL.—Subject to subsection (b), the President shall carry out scholarship programs under chapter 11 of part I of the Foreign Assistance Act of 1961 (relating to assistance to the independent states of the former Soviet Union; 22 U.S.C. 2295 et seq.) to provide scholarships to nationals of the former Soviet Union for not to exceed 400 scholarships.

(2) NON-FEDERAL SHARE.—The President shall require that not less than 20 percent of the costs of each student's doctoral study be provided from non-Federal sources.

(b) LIMITATIONS ON SCHOLARSHIPS.—

(1) IN GENERAL.—Subject to subsection (b), the President shall not award a scholarship under this section if the student has performed military service, or has engaged in terrorism, or other unlawful activity.

(2) LIMITATION ON SCHOLARSHIPS.—The President shall not award a scholarship to an individual who is not a citizen of the former Soviet Union.

(c) ALLOCATION OF FUNDS.—Of the amounts authorized to be appropriated to carry out chapter 11 of part I of the Foreign Assistance Act of 1961 (relating to assistance to the independent states of the former Soviet Union; 22 U.S.C. 2295 et seq.) for fiscal years 2000 through 2009, the following amounts are authorized to be available to carry out subsection (a):

(1) For fiscal year 2000, $3,500,000 for not to exceed 100 scholarships.

(2) For fiscal year 2001, $7,500,000 for not to exceed 200 scholarships.

(3) For fiscal year 2002, $10,500,000 for not to exceed 300 scholarships.

(4) For fiscal year 2003, $14,000,000 for not to exceed 400 scholarships.

(5) For fiscal year 2004, $17,500,000 for not to exceed 500 scholarships.

(6) For fiscal year 2005, $20,000,000 for not to exceed 500 scholarships.

(7) For fiscal year 2006, $24,000,000 for not to exceed 500 scholarships.

(8) For fiscal year 2007, $30,000,000 for not to exceed 500 scholarships.

(9) For fiscal year 2008, $35,000,000 for not to exceed 500 scholarships.

(10) For fiscal year 2009, $40,000,000 for not to exceed 100 scholarships.

S. 70. A bill to require the establishment of a Federal task force on Regional Threats to International Security; to the Committee on Foreign Relations.

Ms. SNOWE. Mr. President, I rise to introduce legislation to give the administration an incentive for developing a more coherent foreign policy by pooling the defense, diplomatic, intelligence, and economic resources of the federal government.

I have labeled this bill the Prevention and Deterrence of International Conflict (PREDICT) Act of 1999—because the Clinton Administration failed or willfully suspended its ability to anticipate a string of foreign calamities last year.

The 1998 calendar of global surprises for the United States revealed the continuing challenge to this administration of analyzing evidence adequately for the President to act against the aggressive military actions of India, Pakistan, North Korea, Yugoslavia, and Iraq.

Although we had satellite images and early warning signs, the second series of nuclear explosions by India in May eluded the detection of the intelligence authorities.

Although we had the campaign pledges of India's Prime Minister to expand the country's nuclear program, no one took them as an omen of action.

Although we had differing agency assessments of the threat that growth of commercial satellite technologies posed the risk of improving China's military communications capabilities, the president never saw them.

Although we had indicators that the simmering conflict in Kosovo could unravel into a major Balkan security crisis, we did not know who led or supplied the provincial insurgency movement.

Furthermore, before finally approving military action against Iraq last month, the White House had lurched towards two previous strikes only to cancel them after the missile defense in Hussein opened his seven-year old script to repeat the hollow lines that he would cooperate with the U.N. on his own terms in his own time.

These examples highlight a pattern of fragmentation in the decision-making apparatus of the Executive Branch.

Information that could tilt the course of a crisis too often remains hidden or undiscovered in the flow of advice to the White House.

This disjointed process of making policy, the other critical issue tying together these episodes of tension centers on the threat of weapons...
proliferation fueled by unresolved civil conflicts or the ambitions of regional tyrants.

The uncertain political status of the territory of Kashmir, for example, served as a convenient excuse for Indian officials to justify their nuclear testing last Spring. At the same time, the Pakistanis cited national prestige and the need to stabilize the governing coalition, rather than any threat of attack, in explaining their nuclear response to India’s provocations.

In both of these cases, political judgments overshadowed sober considerations of whether the two nations posed immediate military risks to one another.

Yet China’s hunger for technology, Mr. President, derives less from an ongoing civil conflict than it does from a military establishment eager to develop the precision capabilities used by the United States during the Persian Gulf War.

These capabilities, in turn, will gradually advance Beijing’s quest to displace the United States and Japan as the dominant Asia-Pacific power.

The PREDICT bill, therefore, brings together the broad range of foreign policy experts throughout the government into one Federal Task Force on Regional Threats to International Security. The Task Force would include representatives of the Departments of State, Defense, and Commerce, as well as military and foreign intelligence organizations, to advise the president in three categories:

- How the United States can foster diplomatic resolutions of regional disputes that increase the risk of weapons proliferation;
- Trade and investment programs to promote the market-based development of countries that pursue or possess weapons of mass destruction;
- And the implementation of intelligence analysis procedures to ensure that the president has all of the data necessary to make any decision regarding this category of arms.

The President must establish the Task Force no later than 60 days after the effective date of the law, and the panel’s authority would expire on October 1, 2003 unless an executive order or an act of Congress renews the operating charter.

PREDICT, therefore, outlines a clear and comprehensive process for foreign policy development without prejudging what steps the President should take. He must create the Task Force. He must consider the information that it presents, and he must determine whether to accept it. After two years, both the administration and Congress can judge the record of the Task Force to decide whether it should continue to function.

What this legislation proposes that does not exist is an integrated advisory body on intelligence, military, diplomatic, and economic options available to the president to controlling regional conflicts and the spread of weapons of mass destruction.

Further more, the Task Force deliberately includes intelligence representatives so that policy options reflect the most updated information on the intentions of foreign leaders and the capabilities of their armed forces.

A robust and comprehensive intelligence process is essential to the execution of prudent foreign policies. The administration needs to harness the talent and expertise of the federal government to ensure that the regional civil, military, and political disputes fostering weapons proliferation do not escalate into a sustained direct threat to international security. For this compelling reason, I urge Congress to renew America’s national security organizations by passing the PREDICT Act.

By Ms. SNOWE:

S. 71. A bill to amend title 38, United States Code, to establish a presumption of service-connection for certain veterans with Hepatitis C, and for other purposes; to the Committee on Veterans’ Affairs.

HEPATITIS C VETERANS’ LEGISLATION

Ms. SNOWE. Mr. President, I rise today to introduce legislation I introduced late in the 105th Congress to address a public health crisis for veterans—specifically the health threat posed by the Hepatitis C virus.

The legislation I am introducing today would make Hepatitis C a service-connected condition for veterans suffering from this virus can be treated by the VA. The bill will establish a presumption of service connection for veterans with Hepatitis C, meaning that the Department of Veterans Affairs will assume that this condition was incurred or aggravated in military service, provided that certain conditions are met.

Under this legislation, veterans who received a transfusion of blood during a period of service before December 31, 1992, would be presumed to have been exposed to blood during a period of service; veterans who underwent hemodialysis during a period of service; veterans diagnosed with an unexplained liver disease during a period of service; veterans with an unexplained liver dysfunction value or test; or veterans working in a health care occupation during service, will be eligible for treatment for this condition at VA facilities.

I have reviewed medical research that suggests veterans were exposed to Hepatitis C in service and are now suffering from liver and other diseases caused by exposure to the virus. I am troubled that many “Hepatitis C veterans” are not being treated by the VA because they can’t prove the virus was service connected, despite the fact that Hepatitis C was little known and could not be tested for until recently.

Mr. President, we are learning that those who served in Vietnam and other conflicts have higher than average rates of Hepatitis C. In fact, VA data shows that 20 percent of its inpatient population is infected with the Hepatitis C virus, and some studies have found that 10 percent of otherwise healthy Vietnam Veterans are Hepatitis C positive.

Hepatitis C was not isolated until 1989, and the test for the virus has only been available since 1990. Hepatitis C is a very serious condition that can lead to liver failure, transplants, liver cancer, and death.

Mr. President, derives less from an ongoing civil conflict than it does from a military establishment eager to develop the precision capabilities used by the United States during the Persian Gulf War.

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Congressional Record — Senate

March 24, 1999

Mr. MOYNIHAN. Mr. President, today I rise to introduce a bill to authorize funding for Cuban nationals for the Fulbright Educational Exchange Program so that they may come to the United States for graduate study.

The world is a changed place. The Soviet Union dissolved almost a decade ago, and since then democracy has replaced totalitarianism in Eastern Europe. Since the demise of its sponsor, the Soviet Union, and the disappearance of Soviet subsidies, Cuba has had to change to survive. In time, the winds of democracy sweeping the globe will reach the shores of Cuba.

We learned from the cold war that one of the most subversive acts in that ideological conflict was exposing communists to the West. In his lucid chronicle of the demise of the Soviet Union, Michael Dobbs writes in Down with Big Brother: The Fall of the Soviet Empire,

A turning point in [Boris] Yeltsin's intellectual development occurred during his first visit to the United States in September 1989, more specifically his first visit to an American supermarket, in Houston, Texas. The sight of alcohol and tobacco products for sale, neatly stacked with every conceivable type of foodstuff and household item, each in a dozen varieties, both amazied and depressed him. For Yeltsin, like many other Russian visitors to America, this was infinitely more impressive than tourist attractions like the Statue of Liberty and the Lincoln Memorial. It was more impressive than any foodstuffs, all of its ordinariness. A cornucopia of consumer goods beyond the imagination of most Soviets was within the reach of ordinary citizens without standing in line for hours. And it was all so attractively displayed. For someone brought up in the drab conditions of communism, even a member of the relatively privileged elite, a visit to a Western supermarket involved a full-scale assault on the senses.

What we saw in that supermarket was no less amazing than America itself," recalled Lev Sukhanov, who accompanied Yeltsin on his subsequent trip to the United States for graduate study.

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The young people of Cuba are that country's future. As such what they learn will help shape a post-Castro Cuba. Since its inception in 1947, at the suggestion of Senator J. William Fulbright, the Fulbright Educational Exchange Program has sent nearly 82,000 Americans abroad and provided 138,000 foreign students and professors with the opportunity to come to the United States for study—to live here, to understand our great country, and return to their nations. Indeed, nearly 50 years ago they sent me off to the London School of Economics. I left the United States untouched by war to live in Europe as it climbed out of its ruins.

Mr. MOYNIHAN. Mr. President, today I rise to introduce a bill to authorize funding for Cuban nationals for the Fulbright Educational Exchange Program so that they may come to the United States for graduate study.

The world is a changed place. The Soviet Union dissolved almost a decade ago, and since then democracy has replaced totalitarianism in Eastern Europe. Since the demise of its sponsor, the Soviet Union, and the disappearance of Soviet subsidies, Cuba has had to change to survive. In time, the winds of democracy sweeping the globe will reach the shores of Cuba.

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In London, I learned from experience Seymour Martin Lipsitz's dictum, "He who knows only one country knows no country." Use the simple analogy of eyesight: it takes two eyes to provide perspective. It was a seminal time for the world. This bill will offer that opportunity to Cubans to study in the United States, as I studied in London.

Fidel Castro will not live forever—it is time to get ready for an end game. Now is the time to start showing the people of Cuba, especially the young people, how the United States works and how their country might change. So let us bring them here and not act like it's the middle of the Cold War. Let us bring them to the United States and offer them education and a chance to see the world's oldest democracy in action. We need to begin now to expose future leaders of Cuba to the United States. For, as Senator Fulbright observed,

The vital mortar to seal the bricks of world order is education across international boundaries. The expectation that knowledge would make us love each other, but in the hope that it would encourage empathy between nations, and foster the emergence of a sense of other nations and cultures would enable them to shape specific policies based on tolerance and rational restraint.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 73

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

SECTION 1. FULBRIGHT SCHOLARSHIPS FOR CUBAN NATIONALS.

(a) AUTHORITY.—

(1) IN GENERAL.—The President is authorized to provide scholarships under the Fulbright Academic Exchange Program in section 102 of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452) for national and Cuban students to undertake graduate study in public health, public policy, economics, law, or other field of social science.

(2) PROHIBITION.—No official of the Cuban government, or any member of the immediate family of the official, shall be eligible to receive a scholarship under paragraph (1).

(b) ALLOCATION OF FUNDS.—Of the amounts authorized to be appropriated to carry out the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.) for fiscal years 2000 through 2004, the following amounts are authorized to be available to carry out subsection (a):

(1) For fiscal year 2000, $4,100,000 for not to exceed 20 scholarships.

(2) For fiscal year 2001, $1,750,000 for not to exceed 25 scholarships.

(3) For fiscal year 2002, $2,450,000 for not to exceed 35 scholarships.

(4) For fiscal year 2003, $2,450,000 for not to exceed 35 scholarships.

By Mr. DASCHLE (for himself, Mr. KERRY, Mr. LEAHY, Ms. Mi...
tax exclusion to $25,000, to the Committee on Finance.

GIFT TAX EXCLUSION

Mr. LUGAR. Mr. President, I am pleased to introduce on behalf of myself and Senators HAGEL, HELMS and ROESE, the package of legislation I am offering. My objective is to minimize or eliminate the burden that estate and gift taxes place on our economy. The estate tax hinders entrepreneurial activity and job creation in many sectors of our economy. Despite the fact that my bills would help millions who face the exorbitant tax, I come to the estate tax debate because of my interest in American agriculture.

As Chairman of the Senate Agriculture Committee, I have held hearings on the impact of the estate tax on farmers and ranchers. The effects of inheritance taxes are far reaching in the agricultural community. Citing personal experiences, witnesses described how the estate tax discourages savings, capital formation, and job formation.

One such story came from a Hoosier, Mr. Woody Barton. He is a fifth generation farmer living in the house his great grandparents built in 1885. I visited his farm formed last October and can attest to its beauty. Typical of many farmers, Mr. Barton is over 65 years old and wants to leave this legacy to his four children. But he fears that the estate tax may cause him to lose his farm and then sell the land in order to pay the estate tax bill. His grandmother logged a portion of the land in 1939 to pay the debts that came from the death of her husband. In essence, each generation must buy back the hard work and dedication of their ancestors from the federal government. Mr. Barton believes, and I agree, that the actions of Congress have more impact on the outcome of his family’s land than his own planning and investment. This should not be the case.

The estate and gift tax falls disproportionately hard on our agricultural producers. Ninety-five percent of farms and ranch operations are sole proprietorships or family partnerships, subjecting a vast majority of these businesses to the threat of inheritance taxes. According to USDA figures, farmers are six times more likely to face inheritance taxes than other Americans. And commercial farm estates—those large farms that produce 65 percent of our nation’s agricultural products—are fifteen times more likely to pay inheritance taxes than other individuals.

This hardship will only get worse as the agricultural community grows older, with the average farmer about to have a 60th birthday. Many farmers will shortly confront estate and gift taxes when they pass their farm onto the next generation. Recently, the USDA estimated that between 1992 and 2002, more than 500,000 farmers will retire. Only half of those positions will be replaced by young farmers. Demographic studies indicate that a quarter of all farmers could confront the inheritance tax during the next 20 years.

To combat this problem, today I offer several legislative alternatives to provide relief to those impacted by this tax. My first bill would repeal the estate and gift taxes outright. My second bill would phase out the estate tax over five years by gradually raising the unified credit each year until the tax is repealed after the fifth year. My third bill would raise the effective unified credit to $5 million in an effort to address the disproportionate burden that the estate tax places on farmers and small businesses. My last bill would raise the gift tax exemption from $10,000 to $25,000.

I believe the best option is a simple repeal of the estate tax. I am hopeful that during this Congress, as members become more aware of the effects of these taxes, they will realize that estate and gift tax revenues are not a significant contributor to our revenue. Our nation’s ability to create new jobs, new opportunities and wealth is damaged as a result of our insistence on collecting a tax that earns less than 1 percent of our revenue.

But this tax affects more than just the national economy. It affects how we as a nation think about community, family and work. Small businesses and farms represent much more than assets. They represent years of toil and entrepreneurial risk taking. They also represent the hopes that families have for their children. Part of the American Dream has always been to build up a family farm which will allow the economic opportunities and a way of life can be passed on to one’s children and grandchildren.

I know first-hand about the dangers of this tax to agriculture. My father died when I was 14, leaving his 604-acre farm in Marion County, Indiana, to his family. I helped manage the farm, which had built up considerable debts during my father’s illness. Fortunately, after a number of years, we were successful in working out the financial problems and repaying the money. We were lucky. That farm remains in our family because I have been practicing active estate planning and execution of the plan along with profitable farming for each of the last 40 years. But many of today’s farmers and small business owners are not so fortunate. Only about 30 percent of businesses are transferred from parent to child, and only about 12 percent of businesses make it to a grandchild.

Mr. President, these bills I have introduced will provide policymakers with a range of options as they seek to mitigate the burdens of the estate tax. Doing so will lead to expanded investment incentives and job creation and will reinvigorate an important part of the American Dream. I am hopeful that Senators will join me in the effort to free small businesses, family farms and our economy from this counterproductive tax. I ask unanimous consent that my four bills be printed in the Record.

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

S. 75

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

SEC. 1. SHORT TITLE.

This Act may be cited as the "Estate and Gift Tax Repeal Act of 1999".

SEC. 2. FINDINGS.

Congress finds the following:
(1) The economy of the United States cannot achieve strong, sustained growth without adequate levels of savings to fuel productive activity. Inadequate savings have been shown to lead to lower productivity, stagnating wages, and reduced standards of living.

(2) Savings levels in the United States have steadily declined over the past 25 years, and have lagged behind the industrialized trading partners of the United States.

(3) These anemic savings levels have contributed to the country’s long-term downward trend in real economic growth, which averaged close to 3.5 percent over the last 100 years but has slowed to 2.4 percent over the past quarter century.

(4) Repealing the estate and gift tax would contribute to the goals of expanding savings and investment, boosting entrepreneurial activity, and expanding economic growth.

(5) Abolishing the estate tax would restore a measure of fairness to the Federal tax system. Families should be able to pass on the fruits of labor to the next generation without realizing a taxable event.

(6) Repealing the estate tax would benefit the preservation of family farms. Nearly 95 percent of farms and ranches are owned by sole proprietors or family partnerships, subjecting most of this property to estate taxes upon the death of the owner. Due to the capital intensive nature of farming and its low return on investment, farmers are 15 times more likely to be subject to estate taxes than other Americans.

(7) Congress should work toward reforming the entire Federal tax code to end its bias against savings and eliminate double taxation.

(8) Repealing the estate and gift tax would benefit the preservation of family farms. Nearly 95 percent of farms and ranches are owned by sole proprietors or family partnerships, subjecting most of this property to estate taxes upon the death of the owner. Due to the capital intensive nature of farming and its low return on investment, farmers are 15 times more likely to be subject to estate taxes than other Americans.

(9) As the average age of farmers approaches 60 years, it is estimated that a quarter of all farmers could confront the estate tax over the next 20 years. The auctioning off of family assets to finance estate tax liabilities destroys jobs and harms the economy.

(10) Abolishing the estate tax would restore a measure of fairness to our Federal tax system. Families should be able to pass on the fruits of the labor to the next generation without realizing a taxable event.

(11) Despite this heavy burden on entrepreneurs, farmers, and our entire economy, estate and gift tax collection only amount to 1 percent of our Federal tax revenues. In fact, the estate tax may not raise any revenue at all, because more income tax is lost from individuals attempting to avoid estate taxes than is ultimately collected at death.

(12) Repealing estate and gift taxes is supported by the White House Conference on Small Business, the Kemp Commission on Tax Reform, 1999, and 60 small business advocacy organizations.

(13) Congress finds the following: (1) The economy of the United States cannot achieve strong, sustained growth without adequate levels of savings to fuel productive activity. Inadequate savings have been shown to lead to lower productivity, stagnating wages, and reduced standards of living.

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(5) Repealing the estate and gift tax would contribute to the goals of expanding savings and investment, boosting entrepreneurial activity, and expanding economic growth. The repeal of the estate tax would lead to the fate economy because of its high marginal rates and its multiple taxation of income.

(6) The repeal of the estate tax would lift the compliance burden from farmers and family businesses. On average, family-owned businesses spent over $33,000 on accountants, lawyers, and financial experts in complying with the estate tax laws over a 6.5-year period.

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Mr. JEFFORDS) S. 79. A bill to amend the Federal Election Campaign Act of 1971 to require disclosure of certain disbursements made for electioneering communications and for other purposes; to the Committee on Rules and Administration.

ADVANCING TRUTH AND ACCOUNTABILITY IN CAMPAIGN COMMUNICATIONS ACT OF 1999

Ms. SNOWE. Mr. President, I rise today to introduce on behalf of myself and Mr. JEFFORDS the Advancing Truth and Accountability in Campaign Communications Act of 1999, or ATACC, which represents an effort to attack the problem of stealth advocacy advertising in federal elections and shine the spotlight of disclosure on those who would attempt to fly under the radar screen of our campaign finance laws.

Before I begin, I want to thank and commend Senator JEFFORDS for all his valuable input and hard work in helping to craft this legislation, which was originally introduced as an amendment last year to the McCain-Feingold Campaign Finance Reform Bill. And I want to thank Senators McCAIN and FEINGOLD themselves, who encouraged our efforts.

In the past several elections, we've seen a proliferation of advertisements over the airwaves which cloak themselves in the innocuous guise of "issue advocacy", or voter education. The sponsors of these ads would have us believe that they are performing a public service by running these ads, and do not intend for them to affect the outcome of federal elections. They claim that because they do not use words like "vote for", or "vote against", they are exempt from campaign finance laws. They even argue that no one has any idea who is paying for these ads, and how much they are spending. And they argue that we have the right simply to know who is sponsoring the ads.

And yet, these ads say things like: "Mr. X promised he'd be different. But he's just another Washington politician. He has taken over $260,000 from the political machines who want huge cuts in education programs. They're making the wrong choices. Our children deserve leaders they can trust. Our public schools are our children's future and it's time to take them away from the extremists. Our children need your vote. Our public schools need your vote.

The premise of this bill was developed in consultation with noted constitutional scholars and reformers such as Norm Ornstein; Josh Rosenkrantz, director of the Brennan Center for Justice at NYU; and others. The approach depends on it. It does.

"Let me explain how this bill will get to the core of this problem; how it works; and why it is much more likely to pass court muster than previous attempts to address this issue."

The clear, narrow wording of the bill is important because it passes two critical First Amendment doctrines that were at the heart of the Supreme Court's landmark Buckley versus Valeo decision: vagueness and overbreadth. The rules of this provision are clear. And the requirements are strictly limited to ads run near an election that identify a candidate or a candidate's campaigns, and not attack it. They deserve the best educated choices. Our children deserve leaders who will strengthen public education, not attack it. They deserve the best education we can give them. So this year, vote as if your children's future depends on it. It does.

That is not an electioneering ad, and that conclusion is not simply based on perception. It is based on the fact that it does not meet the clearly delineated criteria put forth in our bill, and therefore, exists completely outside the realm of this legislation.

For that matter, nothing prohibits groups from running electioneering ads, either. Let me be clear on this: if this bill becomes law, any group running issues ads today can still run issues ads in the future, just not the kinds of issues ads that are of particular concern.

They are the only communication which would be completely unaffected by this bill. The text of the ad—which is a pure issue ad in the true sense of the term—says, "This election year, America's children need your vote. Our public schools are our children's future and it's time to take them away from the extremists. Our children need your vote. Our public schools need your vote.

Plain and simple.

We called this new category "electioneering ads". They are the only communications addressed, and we define them very narrowly and carefully. If the ad is not run on television or radio; if the ad is not aired within 30 days of a primary or 60 days of a general election, the ad doesn't mention a candidate's name or otherwise identify him clearly, if it isn't targeted at the candidate's electorate, or if a group does not spend more than $10,000 in that year on these ads, then it is not an electioneering ad.

If it is an item appearing in a news story, commentary, or editorial distributed through a broadcast station, it is also not an electioneering ad. Plain and simple.

If one does run an electioneering ad, two things happen. First, the sponsor must disclose the amount spent and to whom—whether he actually runs his ad or just made the claim—of at least $10,000 in that year. Second, the ad cannot be paid for by funds from a business corporation or labor union—only voluntary contributions.

Nothing in this bill restricts the right of any group to engage in issue advocacy. For example, the following ad—one which was actually run in 1996—would be completely unaffected by this bill. The text of the ad—which is a pure issue ad in the true sense of the term—says, "This election year, America's children need your vote. Our public schools are our children's future and it's time to take them away from the extremists. Our children need your vote. Our public schools need your vote.

The Annenberg Public Policy Center estimates that anywhere between $135 million and $150 million was spent by third party groups not associated with candidates' campaigns on such radio and television ads. I say "estimates" because we really don't know for sure.

There is no official record kept, nor is anyone required to submit the kind of information needed to keep such records.

And lest there be any doubt of the real intent of these ads, the Annenberg Report on Media and Politics, which factored in the amount they mentioned a candidate for office by name, and over 41 percent were seen by the public as "pure attack"—ads— that's the highest percentage recorded among candidates, debates, free-time segments accorded candidates, and news programs.

If anything, not surprisingly, the problem got worse in the 1997-1998 election cycle. The Annenberg Center has completed their study of this time period, and has determined that issue ads spending in the last cycle doubled the amount spent in 1995 through 1996—to total between $275 and $340 million. Of those, 22 percent was spent on candidates by name during the cycle—a number which rose to over 80 percent in the final two months. Further, S1.5 percent of issue ads aired after September 30, 1996, were pure attack ads in terms of their content. At least 77 groups ran broadcast issue ads in 1997 and 1998.

As Norm Ornstein of the American Enterprise Institute has stated, "These are conservative number(s), since there is no disclosure of (these) media buys or other spending." To put this in perspective, 1998 was the first billion dollar election—meaning that about a quarter of the money spent was spent on what the Annenberg Center was advertising. One quarter of all the money spent—which the Annenberg Center estimates is roughly equivalent to what candidates themselves spent on their own campaigns—was unaccounted for, and candidates themselves spent on their own campaigns—was unaccounted for, and only voluntary contributions.

And, as Norm Ornstein has pointed out, 1998 was an "off-year", and without campaign reform, we can predict to get at this issue.

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And any group running electioneering ads can still run those ads in the future, again with absolutely zero restrictions on content.
The argument that will no doubt be leveled by opponents to this approach—those advocates of secrecy who do not want the public to know who is financing these ads, and for how much—is that it is inconsistent with the First Amendment. The only restriction in the bill—namely, the use of union and corporation treasury money to pay for electioneering ads—are rooted in well-established case law that has long allowed for the regulation of the use of such money for electioneering purposes. Further, the threshold for disclosure is more than double what it is for candidates who receive contributions, and absolutely no disclosure is required whatsoever from any person or entity which spends less than $10,000. And it bears repeating that nothing in this bill affects any printed communications in any way, shape, or form—so voter guides are completely outside the universe of communications that are covered by this measure.

Mr. President, I believe that the only reasonable approach to attacking a burgeoning segment of electioneering that is making a mockery of our campaign finance system is to ask my colleagues, how can anyone not be for disclosure? Anyone who says that less information for the public leads to better elections? Don't the American people have the right to know who is paying for these stealth advocacy ads, and how much?

Apparent, the majority of the Senate thought so. Last year, when this measure was approved as an amendment and incorporated into the McCain-Feingold legislation, the bill garnered 52 votes—bringing the majority of the Senate on board. Unfortunately, the will of the majority did not ultimately prevail, as we were unable to break the sixty votes necessary to end a threatened filibuster and institute real, fair and meaningful reform in the way in which American elections are financed.

But we have heard before that it can't be done, only to see the House of Representatives do it. Today, we have new members of this body—members who had a hand in getting these electioneering ads are having on campaigns and elections in this country, and I invite them to join with Senators Jeffords and I in supporting this bill. I would say to them that we, as candidates and Senators, are accountable to the people. We've received their votes and so we should be held accountable. If they don't like what we are doing, they should vote against. This bill is about bringing back the will of the individual. It's about bringing back the will of the individual. It's about putting elections back into the hands of individuals by letting them have the facts they need to make informed decisions, and by ensuring that electioneering ads are paid for by voluntary, individual contributions.

That's all, Mr. President. No plot to subvert the First Amendment. No scheme to silence any group or person. No plan to control what anyone says or when they say it. Just an honest, constitutionally sound attempt to bring consumers back into electioneering advertising, and return some sense of confidence to the American people that their elections belong to them. I ask my colleagues to join me in supporting this sensible, incremental approach, and join in the fight to attack secrecy and promote honesty in campaign advertising.

Mr. JEFFORDS. Mr. President, on this first legislative day of the 106th Congress I rise in the Senate Chamber to express my strong support for the bill Senator Snowe and I are introducing and urge my Senate colleagues to join as cosponsors of this important legislation.

Throughout the last Congress the Senate spent many legislative hours debating campaign finance reform. In fact, since my election to the House in the wake of the Watergate scandal, I have spent many long hours working with my colleagues to craft campaign finance reform legislation that could endure the legislative process and survive a constitutional challenge. We came close in 1994 and last year, and I believe circumstances still remain right for enactment of meaningful campaign finance reform during this Congress.

I believe that the irregularities associated with our recent campaigns, and especially in the 1996 elections, point out the fact that current election laws have failed or are not working to achieve the goals that we all have for campaign finance reform. The proof obtained from the hearings in both the House and the Senate on campaign finance abuses should alone be enough to motivate my colleagues to completely overhaul the issue in the Senate. Without action, these abuses will become more pronounced and widespread as we go from election to election.

The Snowe-Jeffords bill, the Advancing Truth and Accountability of Campaign Communications Act (ATACC), will boost disclosure requirements and tighten the rule on expenditures of corporate and union treasury funds in the weeks preceding a primary and general election.

I would like to begin with a story that may help my colleagues understand the need for this legislation, and the need for my colleagues to understand from their own campaigns. Two individuals are running for the Senate and have spent the last few months holding debates, talking to the voters and traveling around the state. These candidates feel that they have informed the voters of their thoughts, views and opinions on the issues, and that the voters can use this information to decide on which candidate they will support.

Two weeks before the day of the election a group called the People for the Truth and the American Way, let's say, begins to run television advertisements which include the picture of one of the candidates and that candidate's name. However, these advertisements do not use the word "endorse," "support," or "vote against." These advertisements discuss issues such as the candidate's drinking, supposed off-shore bank accounts and the failure of the candidate's business.

Voters do not know who this group is, who are its financial backers and why they have an interest in this specific election, and under our current election law the voters will not find out. Thus, even though the candidates could not contribute to the voters with all the information concerning the candidate's views on the issues, they will be casting their vote lacking critical information concerning these advertisements.

Some people may say that voters do not need this information. But as James Madison said, "A popular government without popular information is but a prologue to a tragedy or a farce or perhaps both. Knowledge will forever govern ignorance; and a people who mean to be their own governors must arm themselves with the power which knowledge gives."

Mr. President, the ATACC act will arm the people with the knowledge they need in order to sustain our popular government. And the need to arm the people with this knowledge is becoming greater every year. As my colleague Senator Snowe has stated, the amount of money spent on issue advertising is increasing over time at an alarming rate. In the 1995-1996 election cycle an estimated $135-150 million was spent on issue advocacy, while in the recently completed cycle an estimated $275-340 million was expended on these types of advertisements. This is a doubling of the amount of money spent on issue advocacy ads in one election cycle, and I fear entering an election cycle that includes a Presidential election that we may see at least another doubling of these type of expenditures.

I have long believed in Justice Brandeis' statement that, "Sunlight is said to be the best of disinfectants." The
disclosure requirements in the ATACC act are narrow and tailored to provide the electorate with the important pertinent information they will need to make an informed decision. Information included on the disclosure statement includes the sponsor of the advertisement, amount spent, and the identity of the contributors who donated more than $500. Getting the public this information will greatly help the electorate evaluate those who are seeking federal office.

Additionally, this disclosure, or disinfant as Justice Brandeis puts it, will also help deter actual corruption and avoid the appearance of corruption that many already feel pervades our campaign finance system. This, too, is an important outcome of the disclosure requirements of this bill. Getting this information into the public purview would enable the press, the FEC and interest groups to help ensure that my colleagues can clearly see how much money a group raises. These monies can be spent on ads, nor restrict the money can be spent on ads, nor restrict material, nor require the text or a copy of the advertisement to be disclosed. Exposure to the light of day of any corruption by this side will not prevent grass-roots lobbying communications in a defined period close to an election. Since 1907, federal law has banned corporations from engaging in electioneering as well. The Supreme Court has upheld these restrictions in order to avoid the deleterious influences on federal elections resulting from the use of money by those who exercise control over large aggregations. By treating both corporations and unions similarly we extend current regulation cautiously and fairly. I feel that this prohibition, coupled with the disclosure requirements, will address many of the concerns my colleagues from both sides of the aisle have raised with regards to our current campaign finance laws.

Mr. President, I think it is important to clarify at this time some of the things that this bill will not do. It will not prevent lobbying or electioneering communications, it does not cover printed material, nor require the text or a copy of the advertisement to be disclosed. Finally, it does not restrict how much money can be spent on ads, nor restrict how much money a group raises. These points must be expressed early on to ensure that my colleagues can clearly understand what we are and are not attempting to do with our legislation.

We have taken great care with our bill to follow the important civil principles in the First Amendment of our Constitution. This has required us to review the seminal cases in this area, including Buckley v. Valeo. Limiting corporate and union spending and disclosure rules has been in area that the Supreme Court has been most tolerant of regulation. We also strove to make the requirements sufficiently clear and narrow to over come unconstitutional claims of vagueness and over breadth.

Mr. President, I wish I could guarantee to my colleagues that these provisions would be held constitutional, but as we found out with the Religious Freedom Restoration Act, even with near unanimous support, it is difficult to gauge what the Supreme Court will decide on constitutional issues. However, I feel that the provisions we have created follow closely the constitutional roadmap established by the Supreme Court by the decisions in this area, and that it would be upheld.

I know that campaign finance reform is an areas of diverse viewpoints and beliefs. However, I feel that the ATACC act offers an adequate and constitutional solution that addresses some of the problems that have been expressed concerning our current campaign finance system. The American people are watching and we will have a fair, informative and productive debate on campaign finance reform. I know that the proposal that Senator Snowe and I have put forward will do just that.

The electorate has grown more and more disappointed with the tenor of campaigns over the last few years, and I believe that a campaign finance disclosure rules has been in area that the Supreme Court has been most tolerant of regulation. We also strove to make the requirements sufficiently clear and narrow to over come unconstitutional claims of vagueness and over breadth.

The electorate has grown more and more disappointed with the tenor of campaigns over the last few years, and this disappointment is reflected in the low number of people that actually participate in what makes this country strong and democratic. I feel that giving the voters the additional information required by our legislation will help dispel some of the disillusionment the electorate feel with our campaign system and reinvigorate people to participate again in our democratic system.

In conclusion, the very basis of our democracy requires that an informed electorate participate by going to the polls and voting. The ATACC act will through its disclosure requirements inform our electorate and lead people to again participate in our democratic system.

By Ms. Snowe:
S. 80. A bill to establish the position of Assistant United States Trade Representative for Small Business, and for other purposes; to the Committee on Finance.

SMALL BUSINESS ENHANCEMENT ACT
Ms. Snowe. Mr. President, I rise today to introduce legislation designed to help America's small business. This legislation will assist small businesses by requiring the cost of a bill on small businesses before Congress enacts the legislation, and by creating an Assistant U.S. Trade Representative for Small Business.

Small business is the driving force behind our economy, and in order to create jobs—both in my home State of Maine and across the Nation—we must encourage small businesses expansion. Nationwide, an estimated 13 to 16 million small businesses represent over 99 percent of all employers. They also employ 52 percent of the workers, and 38 percent of workers in high-tech occupations. Small businesses account for virtually all of the net new jobs, and 26 percent of our total output.

In my home State of Maine, of the 36,660 businesses with employees in 1997, 97.6 percent of the businesses were small businesses. Maine also boasts an estimated 71,000 self-employed persons. In fact, 53 percent of the businesses are credited with all of the net new jobs in a survey of job growth from 1992 to 1996.

Small businesses are the most successful tool we have for job creation. They provide a substantial majority of the initial job opportunities in this country, and are the original—and finest—job training program. Unfortunately, as much as small businesses help our own economy—and the Federal government has well-intentioned programs and building economic growth, government often gets in the way. Instead of assisting small business, Government too often frustrates small business efforts. Federal regulations create more than 1 billion hours of work for small businesses each year, according to the Small Business Administration. Moreover, because of the size of some of the largest American corporations, U.S. commerce officials too often devote a disproportionate amount of time to the needs and jobs in corporate America rather than in small businesses.

My legislation will address two problems facing our Nation's small businesses, and I hope it will both encour age small business expansion and fuel job creation.

One, this legislation will require a cost analysis legislative proposals before new requirements are passed on to small businesses. Too often, Congress enacts well-intentioned legislation that shifts the costs of programs to small businesses. This proposal will help ensure that these unintended consequences are not passed along to small businesses.

According to the U.S. Small Business Administration, small business owners spend at least 1 billion hours a year filling out government paperwork, at an annual cost that exceeds $100 billion. Before we place yet another obstacle in the path of small business job creation, we should understand the costs our proposals will impose on small businesses.

This bill will require the Director of the Congressional Budget Office to prepare for each committee an analysis of the costs to small businesses that would be incurred in carrying out provisions contained in new legislation. This cost analysis will include an estimate of costs incurred in carrying out the provisions for a 4-year period, as well as an estimate of the portion of these costs that would be borne by small businesses. This provision will allow us to fully consider the impact of
our actions on small businesses—and through careful planning, we may succeed in avoiding unintended costs.

Two, this legislation will direct the U.S. Trade Representative to establish a position of Assistant U.S. Trade Representative for Small Business. The Office of the U.S. Trade Representative is overburdened, and too often overlooks the needs of small business. The new Assistant U.S. Trade Representative will promote exports by small businesses and work to remove foreign impediments to U.S. exports.

Mr. President, I am convinced that this legislation will truly assist small businesses, resulting not only in additional entrepreneurial opportunities but also in new jobs. I urge my colleagues to join me in supporting this legislation.

By Mr. McCaIN (for himself, Mr. FRist, Mr. ALLaRD, and Mr. AKAKA):

S. 81 A bill to authorize the Federal Aviation Administration to establish rules governing park overflights; to the Committee on Commerce, Science, and Transportation.

The National Parks Overflights Act

Mr. McCaIN. Mr. President, I rise today to introduce the National Parks Overflights Act. This legislation intends to promote air safety and protect natural quiet in our national parks by providing a process for developing air tour management plans (ATMP) at those parks. An ATMP at a national park will manage commercial air tour flights over and around that park, and over any Native American lands within or adjacent to the park.

I would like to remind my colleagues that this is the same legislation that was approved overwhelmingly by the Senate last September, as part of the Wendell H. Ford National Air Transportation System Improvement Act, or the 1998 Authorization of the AIP. It is the Senate-passed FAA bill approved overwhelmingly last year. Title VI of the bill deals with national parks overflights.

Mr. President, the National Parks Overflights Act was developed at the recommendation of the National Parks Overflights Working Group. The working group was established to develop a plan for instituting flight restrictions over national parks. A national parks flight management plan (ATMP) at those parks. An ATMP at a national park will manage commercial air tour flights over and around that park, and over any Native American lands within or adjacent to the park.

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In last year’s Omnibus Appropriations Act, we reauthorized the AIP for six months so that this Congress would have to act immediately to complete the work of the last Congress. The AIP is set to expire on March 31, 1999. With the inaction on this bill, I am fulfilling my commitment to continue the reauthorization process where the last Congress left off in a time frame that ensures the continuation of the federal airport grant program.

I put my name on this bill because our members are concerned about whether the Senate, too, we may need to pursue a long-term bill. I am hopeful that we can do all that we want and have a responsible, particularly if the House continues to pursue its own clean, 6-month extension bill, and then a long-term bill. I am hopeful that we will accomplish our objectives expeditiously, but I see any number of hurdles in our path and believe that in the Senate, too, we may need to pursue a short-term extension and then give this legislation the consideration it deserves.

As my colleagues know, I have the honor in this Congress of following in the footsteps of Wendell Ford, who chaired this body for 24 years, and served as Chairman and Ranking Member of the Aviation Subcommittee for as long as any of us can remember. In fact, the bill being introduced today, essentially the same bill that passed the Senate last year, honored the Senator by naming it the Wendell H. Ford Air Transportation Safety Improvement Act, at the unanimously-endorsed suggestion of Senator Ted Stevens.

In stepping into Senator Ford’s shoes, I aim to ensure not only that the aviation needs of West Virginia and other rural states and communities are secured, but also that the needs of the rural states and communities are addressed. Certainly there will be competing interests and sometimes conflicts, but we must share in the fundamental responsibility to maintain safety in the skies, to support fully the needs of the aviation system and modernization effort, to ensure that the industry provides the service our constituents demand and deserve, to facilitate stable funding sources for our airports, and to be vigilant in opening up markets for our air carriers and airports. We are all doing our part to improve service to small communities, we can get more slots, we can foster a new era of aviation, and we can ensure that the industry provides the service our constituents demand and deserve, to facilitate stable funding sources for our airports, and to be vigilant in opening up markets for our air carriers and airports. We are all doing our part to improve service to small communities, we can get more slots, we can foster a new era of aviation, and we can ensure that the industry provides the service our constituents demand and deserve, to facilitate stable funding sources for our airports, and to be vigilant in opening up markets for our air carriers and airports. We are all doing our part to improve service to small communities.

The heavy lifting has already been done. The bill may undergo some revisions, especially considering our good fortune to have Senator Rockefeller appointed as the new ranking member on the Aviation Subcommittee. Even so, it will not be necessary for us to start from scratch. As the Commerce Committee begins this effort, I look forward to working again with Senators Gorton, Hollings, and Rockefeller in a reauthorization package that all Senators can support.

Mr. President, we must work over the next few months to finish the job we started last year. It is vital that we push through the important consumer provisions that are included in this bill. Last year, consumers lost out to special interests. This year, I will use all means at my disposal to ensure that does not happen again.

Mr. PRESIDENT, Mr. President. I join with Senator McCain, Senator Hollings and others in introducing legislation to authorize spending for the Federal Aviation Administration (FAA) through fiscal year 2000. As we embark on this new session of a new Congress, it is critical that we begin immediately the process of putting together a comprehensive aviation bill—to ensure that the FAA is fully authorized, to facilitate continued critical research and development, and to address a number of important aviation policy issues.

I want to make clear at the outset that I join as a co-sponsor of this bill as a starting point. Senator McCain plans to pursue vigorously a comprehensive bill, and that will be our first order of business, but haste may not allow us to do all that we want and have a responsibility to do, particularly if the House continues to pursue its own clean, 6-month extension bill, and then a long-term bill. I am hopeful that we will accomplish our objectives expeditiously, but I see any number of hurdles in our path and believe that in the Senate, too, we may need to pursue a short-term extension and then give this legislation the consideration it deserves.

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As much as I would like them all to flow through West Virginia, I know that all of our airports will face constraints—money is tight, and a PFC increase will help. How the PEC is structured, the types of controls possible, and how they are used for, are all difficult choices, and I want to work with the carriers and the carriers to try carriers to try to resolve this issue in a balanced way.

The air traffic control system also needs to be revamped. It is a complex system and each new system requires changes in the cockpit, new procedures and new avionics—change, therefore, that cannot happen overnight. GAO recently reported that the FAA will need $37 billion to complete the modernization effort. Without that funding, we may not be able to get all we want—new computers, new ways to move aircraft, and more capacity to make the system safer. According to the National Civil Aviation Review Commission, unless we address this problem, we are facing gridlock in the skies.

So, funding of the FAA is a critical, critical matter. I know Congressman Shuster wants to take the Airport and Airways Trust Fund off budget, but what I found last year is that the offset for taking trust funds can be devastating to totally unrelated programs. Right now, I know that the FAA is supported not only by the Trust Fund revenues, but also a contribution from the general fund, which should be continued in recognition of the important public benefits provided by aviation.

Finally, I know that the administration will be submitting its legislative proposal to us within the next few weeks. We need to take a careful look at those recommendations, and sit down with Secretary Slater and Administrator Garvey to develop a blueprint for the future. We have an opportunity this year to make some real changes. I do not want it to pass us by.

By Mr. McCaIN (for himself, Mr. Hollings, Mr. Lott, Mr. Rockefeller, Mr. Frist, Mr. Bryan, Mr. Wyden, Mr. Akaka, Mr. Gorton, and Mr. Dorgan): S 515. A bill to authorize appropriation for Federal Aviation Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.
Federal Aviation Administration (FAA) and the Airport Improvement Program (AIP) passed in September by a vote of 92-1. For a variety of reasons negotiations between the House and Senate unfortunately resulted in only a 6-month extension, expiring at the end of March of this year.

The bill being introduced today is an effort to reauthorize the programs of the Federal Aviation Administration for two years. In today’s global economy, adequate airport facilities are a critical component of any economic development program. The FAA’s Airport Improvement Program plays a central role in ensuring that communities have adequate airport facilities. For FY 1998, the FAA received $1.9 billion. For FY 1999, the FAA would have received $1.95 billion. Instead, the agency will receive only half of that amount, unless we pass either a short term bill or a long term extension of the program.

One course we know can work quickly. The deregulation challenge is more challenging. While it is critically important that we work together to pass this vital legislation, I do want to raise an issue of fundamental importance. That is truth in budgeting. I have supported taking trust fund money from the Unified Federal Fund and re-distributing it to other areas of the federal budget for many years. This year, there may be an opportunity to actually make it happen. What is good for highways is good for aviation. At the end of FY 1998, the Airport and Airway Trust Fund had a surplus of $4.339 billion, according to the Congressional Budget Office. It is projected to rise to $13.419 billion by the end of FY 2000 and to $79.325 billion by FY 2008. We are collecting the taxes, but are not giving people what they expect, what they paid for, or what they deserve. We know that the FAA needs money to buy new computers and to use satellite technology. We can take it from the existing revenues, while continuing the current level of trust fund contributions that we can limp along, giving the FAA a portion of what we all know it needs. If we do that there are consequences, and the fault is ours, not the agency’s. It is that simple.

There are difficult problems facing the 106th Congress. Our constituents are demanding reasonable fares. Competition can work well to give us reasonable fares, but it has also created problems in air safety and efficiency. We know that the FAA needs money to buy new computers and to use satellite technology. We can take it from the existing revenues, while continuing the current level of trust fund contributions that we can limp along, giving the FAA a portion of what we all know it needs. If we do that there are consequences, and the fault is ours, not the agency’s. It is that simple.

Mr. BRYAN. Mr. President, I am pleased to join Chairman McCAI N today as a co-sponsor of the Air Transportation Improvement Act. As Senator McCAI N stated, this legislation is exactly the same as legislation approved by the Senate last year by a vote of 99-1.

Passing legislation to extend the Airport Improvement Program needs to be a priority. I am and I urge my colleagues for early action in this Congress. While I do not support every provision of this legislation, it was a reasonable compromise, which enjoyed nearly unanimous support in the Senate last year. As pressure continues to increase on our national aviation system and with the looming Y2K problem, we need to act quickly to ensure continued improvements in air safety and efficiency.

One provision of this legislation of particular interest to me, and many others, is the provision related to the Reagan Washington National Airport “perimeter rule.”

Codified in 1986, the National “perimeter rule” limits new service at Dulles National to destinations within 1250 miles of the airport. Originally enacted to promote the development of Dulles Airport as the region’s long-haul carrier, the “perimeter rule” has long outlived its original justification, and continues today as a significant barrier to competition in a very competitive aviation industry.

While the justification for the “perimeter rule” has long since faded, it continues to unfairly limit service to communities outside of the 1250 mile perimeter. Communities like Las Vegas, a community that desperately needs additional air service, are denied access to a very significant airport. In addition, air carriers which happen to operate hubs located outside of the perimeter face a very serious competitive disadvantage. On numerous occasions, the General Accounting Office has identified the “perimeter rule” as a barrier to entry in the Washington, DC air service market.

Simply put, the “perimeter rule” should be repealed. Nevadans, and other Westerners, deserve the same access to our nation’s capital city as those in the East. Continuing this discriminatory, artificial barrier to competition creates major inequities in our national transportation system.

The legislation we are introducing today, unfortunately, does not repeal the “perimeter rule.” Instead, like the legislation passed last year by the Senate, the legislation grants limited exemptions from the perimeter rule for up to 12 additional slots a day at Washington National. Last year, in the interest of compromise, I supported this approach. I continue to be concerned, however, that these 12 new, outside the perimeter slots, if enacted, will be insufficient to truly address the competitive problems created by the “perimeter rule.” While I support Chairman McCAI N’s attempt to reach consensus on this issue, I am hopeful that last year’s approach can be further refined to create additional opportunities for Washington National service beyond the 1250 mile perimeter, while at the same time recognizing the interests of those communities within the current perimeter, as well as Northern Virginia.

I look forward to working with the Chairman, and other members of the Commerce Committee, on this important legislation.

By Ms. SNOWE:

S. 90. A bill to establish reform criteria to permit payment of United States arrearages in assessed contributions to the United Nations; to the Committee on Foreign Relations.

By Ms. SNOWE:
January 19, 1999

S. 91. A bill to restrict intelligence sharing with the United Nations; to the Committee on Foreign Relations.

UNITED NATIONS REFORM LEGISLATION

Ms. SNOWE. Mr. President, today I am submitting two pieces of legislation to address some of the most critical issues relating to the United Nations—the U.S. arrearage in financial contributions to the United Nations, and sharing of intelligence information with the U.N.

The first bill, the United Nations Reform Act, is a fact that I have been working on for several years beginning in my former capacity as chair of the Foreign Relations Subcommittee on International Operations. With the United Nations now entering its second half-century, the question being raised is whether the United Nations can continue its growth for another 50 years, but whether it can survive as an important international institution in the short term.

I believe we must genuinely restore a bipartisan consensus on the United Nations within Congress and among the American people. That is the intent of this legislation, which sets reasonable and achievable reform criteria for the United Nations, linked to a $5 billion re-payment plan for the arrearages that have built up on the U.N. system.

The plan would set up a five-step/five-year process under which the President would each year have to certify that specific reform guidelines have been met at the United Nations, permitting payment each year of one-fifth of outstanding U.S. arrearages.

In the first year, the President would have to certify that a hard freeze zero nominal growth budget at the United Nations had been maintained and that budgetary transparency at the world body had been enhanced through opening up the United Nations to member State auditing and fully funding the new U.S. General Assembly budget.

In the second year, the President would have to certify that U.S. representation had been restored to a key U.N. budgetary oversight body the Advisory Committee on Administrative and Budgetary Questions (ACABQ).

In the third year, the President would have to certify that a long-standing U.N. peacekeeping reform goal had been achieved. This reform would ensure that the United States receive full reimbursement for the very substantial logistical and in-kind support our military provides for the United Nations—our military provides the very substantial logistical and support.

In the fourth year, the President would have to certify that a significant reform in the United Nations' budget process had been achieved. This reform would be to divide the U.N. regular budget into an assessed core budget and a voluntary program budget. The source of the United Nations' problems stems from the fact that the United Nations' assessed budget is increasingly used for development programs and other activities that should not be included in our mandatory dues for membership. This reform can be achieved without a revision in the U.N. Charter.

Finally, in the fifth year the President would have to certify that a major U.N. consolidation plan has been approved and implemented. This plan must entail a significant reduction in staff and an elimination of the rampant duplication, overlap, and lack of coordination that exists throughout the U.N. system.

Clearly, there is an urgent need to turn around the United Nations' dangerous slide into chronic crisis, which could ultimately threaten the organization's usefulness as an important tool for addressing world problems. I am convinced that this can only be achieved through the kind of bold reform agenda that is set forth in this legislation.

Mr. President, I believe it is useful for us to look back to the original purpose of the United Nations, as it was envisioned 51 years ago. The United Nations was created from the ashes of World War II, with the hope of avoiding future world-wide conflagrations through international cooperation. The U.N. system was assigned a standing U.N. peacekeeping reform oversight body the Advisory Committee on Administrative and Budgetary Questions, the only entity empowered under the U.N. Charter to act on the great questions of world peace. The General Assembly was intended to be a forum for debate on any issue that might be affecting the assembled nations of the world. The U.N. Secretariat was to be a small professional staff needed to support the activities of the Security Council and General Assembly.

The U.N. system was also to conduct specific activities in technical cooperation, such as those undertaken by the International Civil Aviation Organization and the International Telecommunications Union. Finally, the International Monetary Fund and the International Bank for Reconstruction and Development were to assist in providing the important role in responding to international humanitarian crises. Most critical is the work of the U.N. High Commissioner for Refugees, who today protects millions of the world's most vulnerable men, women, and children—particularly women and children, who comprise 80 percent of the world's refugees.

Regrettably, the United Nations system that exists today falls short of the intentions of its founders. There are two problems with U.N. system. One is that there are those who attempted to use the world organization to advance agendas that frankly do not reflect world realities. The more the United Nations is used to transcend what some see as the harsh realities of the world and its Nation-State system, the less relevant the United Nations becomes to the real world in which we all live. Closely related has been the massive and uncoordinated growth of the United Nations and its specialized agencies. The U.N. General Assembly and its related bodies in the specialized agencies have used the tool of the economic mission for the very substantial logistical and support.

The surprising thing is that among serious analysts of the United Nations there is remarkable agreement on what needs to be done. The U.N. system needs to be significantly reduced in size and needs true consolidation among its far-flung, duplicative elements. The budget process needs similar realignment. The United Nations needs to concentrate on a few key achievable missions—security, humanitarian relief, purely technical cooperation—and refrain from its proliferating exercises in internal nation-building and grandiose missions of global norm-setting. All of these basic reform needs have been addressed in the U.N. reform legislation I am introducing today.

This legislation, I believe, will go a long way toward setting a new course for the United Nations. As was the case in the U.N. reform legislation I am introducing today, this legislation, I believe, will go a long way toward setting a new course for the United Nations. As was the case in the U.N. reform legislation I am introducing today, this bill, I am also introducing this U.N.-related bill which I sponsored in the last
two Congresses to protect U.S. intelligence information which is shared with the United Nations or any of its affiliated organizations by requiring that procedures for protecting intelligence sources and methods are in place at the United Nations that are at least as stringent as those maintained by countries with which the United States regularly shares similar types of information. This requirement may be waived by the President for national security purposes but only on a case by case basis only when all possible measures for protecting the information have been taken.

This legislation grew out of my concern about reports of breaches of U.S. classified material by the United Nations in 1993, 1994, and in 1995 when the United Nations pulled out of Somalia. I am pleased to note that some attention has been paid by this body to the problems that can result when U.S. intelligence information is shared with international organizations. Condition 5 of the resolution of ratification for the Chemical Weapons Convention, which protects U.S. intelligence shared with the Organization for the Protection of Chemical Weapons, was based on my intelligence legislation.

This legislation, I believe, will go a long way toward addressing the problems we have witnessed in the past concerning intelligence information sharing with the U.N.

Mr. President, I urge my colleagues to consider the legislation I am introducing today as the best course for restoring the bipartisan consensus in this country on the United Nations. I urge my colleagues to join me in supporting this legislation.

By Mr. DOMENICI (for himself, Mr. THOMPSON, Mr. LIEBERMAN, Mr. THOMAS, Ms. SNOWE, Mr. ROGERS, Mr. GRASSLEY, Mr. CRAMM, Mr. NICKLES, Mr. ABRHAM, Mr. FRIST, Mr. GRAMS, Mr. SMITH or Oregon, Mr. McCAIN, Mr. Kyl, Mr. LUGAR, and Ms. COLLINS):

S. 92, A bill to provide for biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1997, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

BIENNIAL BUDGETING AND APPROPRIATIONS ACT

Mr. DOMENICI, Mr. President, on behalf of Senator THOMPSON, the distinguished Ranking Member of the Governmental Affairs Committee, Senator LIEBERMAN, the distinguished Ranking Member of the Governmental Affairs Committee, I rise to introduce the "Biennial Budget and Appropriations Act," a bill to convert the budget and appropriations process to a two-year cycle and to enhance oversight of federal programs.

Mr. President, our most recent experience with the Omnibus Consolidated and Emergency Supplemental Appropriations Act shows the need for a biennial appropriations and budget process. That one bill clearly demonstrated Congress's incapability of completing the budget, authorizing, and appropriations process on an annual basis. That 4,000 page bill contained 8 of the regular appropriations bills, $39 billion in revenue provisions, $21.4 billion in "emergency" spending, and 40 miscellaneous funding and authorization provisions.

Congress should now act to streamline the system by moving to a two-year, or biennial, budget process. This is the most important reform we can enact to streamline the budget process, to make the Senate a more deliberative and effective institution, and to make us more accountable to the American people.

Mr. President, moving to a biennial budget and appropriations process enjoys very broad support. President Clinton supports this bill. Presidents Reagan and Bush also proposed a biennial appropriations and budget cycle. Leon Panetta, who served as White House Chief of Staff, Mr. Doust, Director, and House Budget Committee Chairman, has advocated a biennial budget since the late 1970s. Former OMB and CBO Director Alice Rivlin has called for a biennial budget the past two decades. Both of the Senate Leaders supporting this legislation. And, at the end of last year, 37 Senators wrote our two Senate Leaders calling for quick action to pass legislation to convert the budget and appropriations process to a two-year cycle.

The most recent comprehensive studies of the federal government and the Congress have recommended this reform. The Vice President's National Performance Review and the 1993 Joint Committee on the Reorganization of Congress both recommended a biennial appropriations and budget cycle. A biennial budget will dramatically improve the current budget process. The current annual budget process is redundant, inefficient, and destined for failure each year. Look at what we struggle to complete each year under the current annual process. The annual budget process consumes three years: one year for the Administration to prepare the President's budget, another year for the Congress to put the budget into law, and the final year to actually execute the budget.

Today, I want to focus just on the Congressional budget process, the process of annually passing a budget resolution, authorization legislation, and 13 appropriation bills. The record clearly shows that last year's experience was nothing new. Under the annual process, we consistently fail to complete action on the 13 appropriations bills, to authorize programs, and to meet our deadlines.

Since 1950 Congress has only twice met the fiscal year deadline for completion of all thirteen individual appropriation bills to fully fund the government.

The Congressional Budget Office's recent report on unauthorized appropriations shows that for fiscal year 1999, 118 laws authorizing appropriations have expired. These laws cover over one-third or $102.1 billion of appropriations for non-defense programs. Another 10 laws authorizing non-defense appropriations will expire at the end of fiscal year 1999, representing $8 billion more in unauthorized non-defense programs.

We have met the statutory deadline to complete a budget resolution only three times since 1974. In 1995, we broke the Senate record for the most roll call votes cast in a day on a budget reconciliation bill. The Senate conducted 59 consecutive roll call votes that day, beginning at 9:29 in the morning and finishing up at 1:30 in the night.

While we have made a number of improvements in the budget process, the current annual process is redundant and inefficient. The Senate has the same debate, amendments and votes on the same issue three or four times a year—one on the budget resolution, again on the authorization bill, and finally on the appropriations bill.

I recently asked the Congressional Research Service (CRS) to update and expand upon an analysis of the amount of time we spend on the budget. CRS looked at all votes on appropriations, revenue, reconciliation, and debt limit measures as well as budget resolutions. CRS then examined every vote dealing with budgetary levels, Budget Act waivers, or votes pertaining to the budget process. Beginning with 1980, budget related votes started dominating the work of the Senate. In 1996, 73 percent of the voting that the Senate took were related to the budget.

If we cannot adequately focus on our duties because we are constantly debating the budget in the authorization, budget, and appropriations process, just imagine how the American public is about what we are doing. The result is that the public does not understand what we are doing and it breeds cynicism about our government.

Under the legislation I am introducing today, the President would submit a two-year budget and Congress would consider a two-year budget resolution and 13 two-year appropriation bills during the first session of a Congress. The second session of the Congress would be devoted to consideration of authorization bills and for oversight of government agencies.

Most of the arguments against a biennial budget process will come from those who claim we cannot predict or provide adequate funding. But these arguments have expired. These laws cover over one-third or $102.1 billion of appropriations for non-defense programs. Another 10 laws authorizing non-defense appropriations will expire at the end of fiscal year 1999, representing $8 billion more in unauthorized non-defense programs.

I urge my colleagues to consider the legislation I am introducing today as the best course for reestablishing the bipartisan consensus in this country on the United Nations. I urge my colleagues to join me in supporting this legislation.

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The most recent comprehensive studies of the federal government and the Congress have recommended this reform. The Vice President's National Performance Review and the 1993 Joint Committee on the Reorganization of Congress both recommended a biennial appropriations and budget cycle. A biennial budget will dramatically improve the current budget process. The current annual budget process is redundant, inefficient, and destined for failure each year. Look at what we struggle to complete each year under the current annual process. The annual budget process consumes three years: one year for the Administration to prepare the President's budget, another year for the Congress to put the budget into law, and the final year to actually execute the budget.

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Most of the arguments against a biennial budget process will come from those who claim we cannot predict or provide adequate funding. But these arguments have expired. These laws cover over one-third or $102.1 billion of appropriations for non-defense programs. Another 10 laws authorizing non-defense appropriations will expire at the end of fiscal year 1999, representing $8 billion more in unauthorized non-defense programs.
Mr. President, the most predictable category of the budget is these appropriated or discretionary accounts of the federal government. I recently asked CBO to update an analysis of discretionary spending to determine those programs forecasts are flawed, but even a biennial budget is no less deficient than the current annual process. My bill does not preclude supplemental appropriations necessary to meet these emergency or unanticipated requirements.

Mr. President, in 1993 I had the honor to serve as co-Chairman on a Joint Committee that studied the operations of the Congress. Senator BYRD testified before that Committee that the increasing demands put on us as Senators has led to our "fractured attention." We simply are too busy to adequately focus on the people's business. This legislation is designed to free up time and focus our attention, particularly with respect to the oversight of federal programs and activities.

Frankly, the limited oversight we are now doing is not as good as it should be. We have a total of 34 House and Senate standing authorizing committees and these committees are increasingly out of touch with the legislative process. Under a biennial budget, the second year of the biennium will be exclusively devoted to examining federal programs and developing authorization legislation. The calendar will be free of the budget and appropriations process, giving these committees the time and opportunity to provide oversight, review and legislative changes to federal programs. Oversight and the authorization should be an ongoing process, but a biennial appropriations process will provide an opportunity for Congress to concentrate on programs and policies in the second year.

We also build on the oversight process by incorporating the new requirements of the Government Performance and Results Act of 1993 into the biennial budget process. The primary objective of this law is to force the federal government to produce budgets focused on outcomes, not just dollars spent.

Mr. President, a biennial budget can make no mandatory spending decisions that must be made in budgeting, but it can provide the tools necessary to make much better decisions. But, under the current annual budget process we are constantly spending the taxpayers' money instead of focusing on how best and most efficiently we should spend the taxpayers' money. By moving to a biennial budget cycle, we can plan, budget, and appropriate more effectively, strengthen oversight and watchdog functions, and improve the efficiency of government agencies.

Mr. President, I ask unanimous consent that a description of the Biennial Budgeting and Appropriations Act be made a part of the Record along with a copy of the bill.

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

"BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, SECTION 1. SHORT TITLE. This Act may be referred to as the "Biennial Budgeting and Appropriations Act." SEC. 2. REVISION OF TIMETABLE. Section 30o of the Congressional Budget Act of 1974 (2 U.S.C. 631) is amended to read as follows:

"(1) First Session:
On or before: Action to be completed:
First Monday in February President submits budget recommendations.
February 15 Committee submits views and estimates to Budget Committees.

(2) Biennium:
Not later than 6 weeks after budget submission:
April 1 Budget Committees report concurrent resolution on the biennium budget.
May 15 Congress completes action on concurrent resolution on the biennium budget.
May 15 Biennial appropriation bills may be considered in the House.
June 10 Appropriations Committee reports last appropriation bill.
June 30 House completes action on biennial appropriation bills.
August 1 Congress completes action on reconciliation legislation.
October 1 Biennium begins.
"(b) SPECIAL RULE. In the case of any first session of Congress that begins in any year immediately following a leap year and during which the term of a President (except a President who is a fiscal year) begins, the following dates shall supersede those set forth in subsection (a):

"First Session:
On or before: Action to be completed:
April 20 President submits budget recommendations.

(2) in subsection (f)(1), by striking "for a fiscal year" and inserting "for each fiscal year in the biennium".
(3) VIEWS OF OTHER COMMITTEES. Section 301(e)(1) of such Act (2 U.S.C. 632(e)) is amended by inserting "(or, if applicable, as provided by section 300(b))" after "United States Congress."
(4) HEARINGS. Section 301(e)(1) of such Act (2 U.S.C. 632(e)) is amended by striking "fiscal year" and inserting "biennium"; and
(b) inserting after the second sentence the following: "On or before April 1 of each odd-numbered year (or, if applicable, as provided by section 300(b)), the Committee on the Budget of each House shall report to the House the concurrent resolution on the budget referred to in subsection (a) for the biennium beginning on October 1 of that year.
(5) GOALS FOR REDUCING UNEMPLOYMENT. Section 301(f)(1) of such Act (2 U.S.C. 632(f)(1)) is amended by striking "for each fiscal year" and inserting "for each fiscal year in the biennium".
(6) ECONOMIC ASSUMPTIONS. Section 301(g)(1) of such Act (2 U.S.C. 632(g)(1)) is amended by striking "fiscal year" and inserting "biennium".
(7) SECTION HEADING. The section heading of section 301 of such Act is amended by striking "ANNUAL" and inserting "BIENNIAL".
(8) TABLE OF CONTENTS. The item relating to section 301 in the table of contents set forth by section 300(b) of such Act is amended by striking "ANNUAL" and inserting "BIENNIAL".
(d) COMMITTEE ALLOCATIONS. Section 302 is amended—
(1) in subsection (a)(1), by striking "for the first fiscal year of the resolution," and inserting "for each fiscal year in the biennium, for each fiscal year of each of 4 ensuing fiscal years";
(2) in subsection (f)(1), by striking "for a fiscal year" and inserting "for a biennium";
(3) in subsection (f)(1), by striking "first fiscal year of the resolution" and inserting "each fiscal year of the biennium";
(4) in subsection (f)(2)(A), by striking "first fiscal year of the resolution" and inserting "each fiscal year of the biennium".
(5) in subsection (g)(1)(A), by striking "April" and inserting "May"."
SEC. 3. AMENDMENTS TO TITLE 31, UNITED STATES CODE.

(a) DEFINITION.—Section 1101 of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:—

"(3) 'biennium' has the meaning given to such term in section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(1))."

(b) BUDGET CONTENTS AND SUBMISSION TO THE CONGRESS.—

(1) SCHEDULE.—The matter preceding paragraph (1) in section 1105(a) of title 31, United States Code, is amended to read as follows:—

"(a) On or before the first Monday in February of each even-numbered year (or, if applicable, as provided by section 302(b) of the Congressional Budget Act of 1974), beginning with the One Hundred Seventh Congress, the President shall transmit to the Congress, the budget for the fiscal year for which the budget is submitted and in the succeeding 4 years.".

(2) EXPENDITURES.—Section 1105(a)(5) of title 31, United States Code, is amended by striking the "fiscal year for which the budget is submitted and the 4 fiscal years after that year" and inserting "for each fiscal year in the biennium for which the budget is submitted and in the succeeding 4 years".

(3) RECEIPTS.—Section 1105(a)(6) of title 31, United States Code, is amended by inserting "of any odd-numbered calendar year" after "July 15,".

(4) BALANCE STATEMENTS.—Section 1105(a)(9)(C) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "for each fiscal year in the biennium for which the budget is submitted and in the succeeding 4 years".

(5) FUNCTIONS AND ACTIVITIES.—Section 1105(a)(12) of title 31, United States Code, is amended—

(A) by striking "the fiscal year for which the budget was submitted and the 4 fiscal years after that year" and inserting "for each fiscal year in the biennium for which the budget is submitted and in the succeeding 4 years"; and

(B) in paragraph (2), by striking "4 fiscal years following the fiscal year for which the budget was submitted and in the succeeding 4 years" and inserting "in those fiscal years".

(6) ALLOWANCES.—Section 1105(a)(13) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "for each fiscal year in the biennium for which the budget is submitted and in the succeeding 4 years".

(7) ALLOWANCES FOR UNCONTROLLED EXPENDITURES.—Section 1105(a)(18) of title 31, United States Code, is amended by striking "that year" and inserting "each fiscal year in the biennium for which the budget is submitted and in the succeeding 4 years".

(8) TAX EXPENDITURES.—Section 1105(a)(16) of title 31, United States Code, is amended by striking "the fiscal year following the fiscal year for which the budget was submitted and in the succeeding 4 years" and inserting "in those fiscal years".

(9) FUTURE YEARS.—Section 1105(a)(17) of title 31, United States Code, is amended by striking "the fiscal year following the fiscal year for which the budget was submitted and in the succeeding 4 years" and inserting "in those fiscal years".

(10) PRIOR YEAR OUTLAYS.—Section 1105(a)(18) of title 31, United States Code, is amended—

(A) by striking "the prior fiscal year" and inserting "each of the 2 most recently completed fiscal years"; and

(B) by striking "for that year" and inserting "with respect to those fiscal years".

(II) PRIOR YEAR RECEIPTS.—Section 1105(a)(19) of title 31, United States Code, is amended—

(A) by striking "the prior fiscal year" and inserting "each of the 2 most recently completed fiscal years"; and

(B) by striking "for that year" and inserting "with respect to those fiscal years".

(3) IN GENERAL.—Section 1100(a) of title 31, United States Code, is amended by—

(A) in the matter preceding paragraph (1), by striking "Before July 16, 1999," and inserting "Before February 15 of each even-numbered year,"; and

(B) in paragraph (1), by striking "July 15, 1999" and inserting "February 15 of each even-numbered year."
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Sec. 7. Multiyear Authorizations.

(a) In General.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following section:

"SEC. 317. Consideration of biennial appropriations bills. "Sec. 317. It shall not be in order in the House of Representatives or the Senate in any odd-numbered year to consider any regular providing measure or a limitation on obligations under the jurisdiction of any of the subcommittees of the Committees on Appropriations for any odd fiscal year of a biennium, unless the program, project, or activity for which the new budget authority or obligation limitation is provided will require no additional authority beyond 1 year and will be completed or terminated after the amount provided has been expended."

(b) Amendment to Table of Contents.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 313 the following new item:

"Sec. 316. Authorizations of appropriations."
SEC. 11. EFFECTIVE DATE.
(a) In general.—Except as provided in sections 8 and 10 and subsection (b), this Act and the amendments made by this Act shall take effect on January 1, 2001, and shall apply to budget resolutions and appropriations for the biennium beginning with fiscal year 2002.
(b) Authorizations for the Biennium.—For purposes of authorizations for the biennium beginning with fiscal year 2002, the provisions of this Act and the amendments made by this Act shall take effect January 1, 2000.

DESCRIPTION OF THE BIENNIAL BUDGETING AND ENHANCED OVERSIGHT ACT

The Domenici bill would convert the annual budget, appropriations, and authorization process to a biennial, or two-year, cycle. 

**FIRST YEAR: BUDGET AND APPROPRIATIONS**

Requires the President to submit a two-year budget at the beginning of the first session of a Congress. The President's budget would cover each year in the biennium and planning levels for the four out-years. 

**SECOND YEAR: AUTHORIZATION AND APPROPRIATIONS**

Authorizes Congress to enact a two-year appropriations bill covering a two-year period and provides a new majority point of order against appropriations bills that fail to cover two years. 

**SECONDE YEAR: AUTHORIZATION LEGISLATION AND ENHANCED OVERSIGHT**

Devotes the second session of a Congress to consideration of biennial authorization bills and oversight of federal programs. The bill provides a majority point of order against authorization and revenue legislation that covers less than a two-year period. 

**APPROPRIATIONS PROCESS**

Requires Congress to enact a two-year budget resolution and a reconciliation bill (if necessary). Instead of enacting the first fiscal year and the sum of the five years set out in the biennium, the bill requires that the budget resolution establish binding levels for each year in the biennium and the sum of the six-year period. The bill modifies the time for submission of the Senate ten-year baseline--as you-go point of order to provide that legislation could not increase the deficit for the biennium, the sum of the first six years, and the subsequent years. 

**AUTHORIZATIONS PROCESS**

Requires Congress to enact a two-year appropriations bill for each year of the biennium. 

**SECOND YEAR: BUDGET AND APPROPRIATIONS**

Provides a new majority point of order against appropriations bills that fail to cover two years. 

**SECOND SESSION OF A CONGRESS TO CONSIDER TWO-YEAR APPROPRIATIONS BILLS**

Authorizes Congress to consider a two-year budget and appropriations bill at the beginning of the second session of a Congress. The President's budget would cover each year in the biennium and planning levels for the four out-years. 

**SECOND SESSION OF A CONGRESS TO CONSIDER TWO-YEAR APPROPRIATIONS BILLS**

The bill provides a majority point of order against consideration of authorization and revenue legislation that covers less than a two-year period. 

**SECOND SESSION OF A CONGRESS TO CONSIDER TWO-YEAR APPROPRIATIONS BILLS**

Requires Congress to enact a two-year budget resolution and a reconciliation bill (if necessary). Instead of enacting the first fiscal year and the sum of the five years set out in the biennium, the bill requires that the budget resolution establish binding levels for each year in the biennium and the sum of the six-year period. The bill modifies the time for submission of the Senate ten-year baseline--as you-go point of order to provide that legislation could not increase the deficit for the biennium, the sum of the first six years, and the subsequent years. 

**SECOND SESSION OF A CONGRESS TO CONSIDER TWO-YEAR APPROPRIATIONS BILLS**

Requires Congress to enact a two-year appropriations bill for each year of the biennium.
before funding for 10 Cabinet-level departments was crammed into one bill debated over just a 24 hour period.

The budget resolution, reconciliation bill and appropriations bills continue to become more time-consuming. In the process, budget and appropriations committees are being squeezed out of the schedule. There are too many votes on the same issues and too much duplication. In the end, this time could be better spent conducting vigorous oversight of Federal programs which currently go unchecked.

In response to these problems, in the 104th Congress I introduced legislation that would create a biennial budget process. I am pleased to continue this effort by joining Senator Domenici and Senator Thompson in offering this bill. It will rectify many of the problems regarding the current process by promoting timely action on budget legislation. In addition, it will eliminate much of the redundancy in the current budget process. This legislation does not eliminate any of the current budget processes—each step serves an important role in congressional deliberations. However, by making decisions once every 2 years instead of annually, the burden should be significantly reduced.

Perhaps most importantly, biennial budgeting will provide more time for effective congressional oversight, which will help reduce the size and scope of Federal Government. Congress simply needs more time to review existing Federal programs in order to determine priorities in our drive to balance the budget.

Another benefit of a 2 year budget cycle is its effect on long term planning. A biennial budget will allow the executive branch and State and local governments, all of which depend on congressional appropriations, to do a better job making plans for long term projects.

Two year budgets are not a novel idea. Nor will biennial budgeting cure all of the Federal Government's ills. However, separating the budget session from the oversight session works well across the country in our state legislatures.

This legislation is a solid first step toward reforming the congressional budget process. This concept enjoys strong bipartisan support. It is supported by the Clinton administration, Majority Leader Daschle and Minority Leader Nygren. In addition, 36 other Senators joined Senators Domenici, Thompson and I in sending a letter last year to Senate leaders calling for quick action on this bipartisan reform early this year. I am hopeful that effort and this bill will be a catalyst for swift action on this common sense, good government reform.

By Mr. Domenici (for himself, Mr. Grassley, Mr. Gorton, Mr. Abraham, Mr. Frist, Mr. Grams, Mr. Smith of Oregon, Mr. Thomas, and Mr. Kyl):

S. 93. A bill to improve and strengthen the budget process; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports favorably thereon, the other Committee have thirty days to report or be discharged. Budget Enforcement Act of 1999.

Mr. Domenici. Mr. President, I rise to introduce the Budget Enforcement Act of 1999. The time has come to conform our budget laws and procedures to new fiscal environment. The Congressional Budget and Impoundment Control Act was enacted 25 years ago. Amendments to the Act, including the Gramm-Rudman-Hollings legislation in 1985, established new enforcement procedures that were further expanded and modified in the 1990 budget agreement. Those laws and procedures have served us well. In combination with a strong economy and robust revenue growth, not only have we balanced the Federal budget, we have eroded the surplus even excluding the current balances generated by Social Security program.

Laws and procedures developed over the last 25 years for a fiscal environment appropriate for a fiscal environment of surpluses. As an example, while the President a year ago in his State of the Union Address pledged to reserve "every penny of the Social Security surpluses for the social insurance trust funds," the Congress did not live up to that pledge last year. In one piece of legislation last fall, we spent $21.4 billion of these surpluses for so-called "emergencies." Moreover, in order to get appropriations bills signed into law, we relied on innovative financing mechanisms, a charitable characterization, to meet the spending limits. The fact that we will have difficulty meeting these limits in the coming year is not the fault of the legislative process but the Congress did not live up to that pledge last year. In one piece of legislation last fall, we spent $21.4 billion of these surpluses for so-called "emergencies." Moreover, in order to get appropriations bills signed into law, we relied on innovative financing mechanisms, a charitable designation, to meet the spending limits. The Congress did not live up to that pledge last year. Even so, it should be clear that the current budget process needs reform. In my view a biennial budget process is not appropriate for a fiscal environment of surpluses; that Social Security will be there for every generation; that Social Security will be there for every generation;

(1) streamline the budget process and enhance the oversight of Federal programs;

(2) curb the abuse of emergency spending;

(3) set aside and protect the Social Security surplus until we can ensure that Social Security will be there for every generation;

(4) make way for tax relief that does not tap Social Security surpluses;

(5) provide that we never again incur a government shutdown because of our failure to enact appropriations.

Title I contains the text of the Biennial Budgeting and Appropriations Act, which I am also introducing as separate legislation. The focus on that bill go into some detail on the need for this reform. In my view a biennial appropriations and budget process will streamline the budget process, enhance oversight, and allow Congress to review the budget and federal programs in a more deliberative and efficient manner.

Title II would reform the manner in which we treat emergency spending. In 1990, we devised the current system of budgeting and appropriations; the "pay-as-you-go" requirement for all other legislation. When we were developing these procedures, the distinguished senior Senator from West Virginia, Senator Byrd, had the foresight to recognize that we needed an exception for emergency legislation.

Since President Clinton made his pledge last January that every penny of the surplus should be reserved for Social Security reform, $27 billion in emergency spending has been cut out of the surplus. We could not find $1 dollar out of the budget surplus to return to the American taxpayer, but we found $27 billion of "emergency" spending in
one year to take out of the surplus for a host of programs, many of which are difficult to classify as an emergency.

Senator BYRD was correct in 1990. We need an exception for emergency spending and the bill I introduced today provides for that exception. However, this bill says if something is truly an emergency, it should have the support of 60 Senators. Remember, the President said that every penny of the surplus—without exception—should be reserved for Social Security. I feel there should be a means to use a portion of the surplus for emergency spending, but only in extraordinary circumstances. Sixty votes in the Senate is not too much to ask.

Title III modifies the “pay-as-you-go” requirements to make clear that on-budget surpluses can be used to offset the cost of legislation. Current law is vague with respect to the application of the pay-as-you-go procedures when there is an on-budget surplus. Title III modifies the Senate rule to make clear that the surpluses generated by Social Security are not available for tax or direct spending legislation. However, the on-budget surplus, the surplus excluding Social Security, would be available for such legislation.

Title IV contains Senator McCain’s legislation, the Government Shutdown Prevention Act, frequently referred to as an automatic continuing resolution (CR). This title provides that agencies will be automatically funded at the lower of the previous year’s level or the level proposed by the President.

Title V is designated to end what has been characterized as the “vote-a-thon” on budget resolutions and reconciliation bills. This title is very similar to an amendment that Senator BYRD offered to the Balanced Budget Act of 1997, which was later dropped during conference.

The manner in which the Senate currently considers budget resolutions and reconciliation bills is demeaning because of two loopholes in the current law regarding the consideration of budget resolutions and reconciliation bills. The first loophole is that the time limitation on budget resolutions and reconciliation bills is for debate only. Senators can continue to offer amendments after the time has expired. This loophole has been exploited in recent years when there is this mad rush in the Senate at the end of the process to vote on amendments—a demeaning process for what is supposed to be the “world’s greatest deliberative body.” On October 27, 1995, the Senate broke a record by holding 39 consecutive roll call votes on a reconciliation bill, with the first vote beginning at 9:29 in the morning and the last vote ending at 11:59 that night.

The second loophole pertains to sense of the Senate amendments on budget resolutions. In the Senate, amendments to budget resolution must be germane. However, sense of the Senate amendments that are in the Budget Committee’s jurisdiction are considered germane. By adding the words, “the funding levels in this resolution assume that”, a Senator can make any sense of the Senate amendment germane. Instead of debating spending, revenues, and deficit levels, the Senators now spend most of its time debating non-binding language on budget resolutions. For example, last year’s Senate-passed budget resolution contained 65 separate sense of the Senate provisions. Ninety-nine of the 139 pages in that budget resolution were devoted to sense of the Senate provisions, ranging from agricultural trade policy to the Ten Commandments.

Title V makes two basic changes to Senate’s procedures for consideration of budget resolutions and reconciliation bills. First, it provides a procedure similar to post-cloture for the consideration of budget resolutions and reconciliation bills. Second, it prohibits the inclusion of sense of the Senate language in budget resolutions and makes any sense of the Senate amendment not germane and subject to a 60 vote point of order under the Budget Act.

Mr. President, I have a more detailed description of this legislation and I ask unanimous consent that it be printed, with the text of the bill, in the RECORD.

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

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
(a) SHORT TITLE.—This Act may be cited as the “Budget Enforcement Act of 1999”.
(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

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Sec. 402. Amendment to title 31.
Sec. 403. Effective date and sunset.

TITLE V—BUDGET ACT AMENDMENTS REGARDING THE SENATE’S CONSIDERATION OF BUDGET RESOLUTION AND RECONCILIATION BILLS

Sec. 501. Consideration of budget measures in the Senate.
Sec. 502. Definition.
Sec. 503. Conforming the compensation of the director and deputy director of the Congressional Budget Office with other legislative branch support agencies.

TITLE I—BIENNIAL BUDGETING AND APPROPRIATIONS

SEC. 101. SHORT TITLE.
This title may be cited as the “Biennial Budgeting and Appropriations Act”.

SEC. 102. REVISION OF TIMETABLE.
Section 300 of the Congressional Budget Act of 1974 (2 U.S.C. 631) is amended to read as follows:

"TIMETABLE"

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"(b) SPECIAL RULE.—In the case of any first session of Congress that begins in any year immediately following a leap year and during which the term of a President (except a President who succeeds himself) begins, the following dates shall supersede those set forth in subsection (a):

"On or before: Action to be completed:
First Monday in April President submits budget recommendations.
April 15 Congressional Budget Office submits report to Budget Committees.
Not later than 6 weeks after Congress completes action on concurrent resolution on the biennial budget.
May 15 Budget Committees report concurrent resolution on the biennial budget.
May 15 Biennial appropriation bills may be considered in the House.
June 10 House Appropriations Committee reports last biennial appropriation bill.
June 30 House completes action on biennial appropriation bills.
August 1 President submits budget review.
August 15 Budget Committees report on reconciliation legislation.
October 1 House completes action on reconciliation legislation.
November 1 House completes action on last biennial appropriation bills.
December 1 Congress completes action on last biennial appropriation bills.
December 30 President submits budget recommendations.
January 15 Congressional Budget Office submits report to the Budget Committees.
January 20 President submits budget recommendations.
January 30 Congressional Budget Office submits report to the Budget Committees.
February 10 President submits budget recommendations.
February 15 Budget Committees report concurrent resolution on the biennial budget.
March 1 Congress completes action on concurrent resolution on the biennial budget.
March 30 Biennial appropriation bills may be considered in the House.
April 10 House Appropriations Committee reports last biennial appropriation bill.
April 20 House completes action on biennial appropriation bills.
May 1 President submits budget recommendations.
May 15 Congressional Budget Office submits report to the Budget Committees.
May 30 President submits budget recommendations.
June 1 Congress completes action on concurrent resolution on the biennial budget.
June 30 Biennial appropriation bills may be considered in the House.
July 1 House Appropriations Committee reports last biennial appropriation bill.
July 15 House completes action on biennial appropriation bills.
August 1 President submits budget recommendations.
August 15 Budget Committees report on reconciliation legislation.
September 1 House completes action on reconciliation legislation.
October 1 House completes action on last biennial appropriation bills.
November 1 House completes action on reconciliation legislation.
December 1 Congress completes action on last biennial appropriation bills.
"(c) "Second Session Action to be completed:
"Second Session
First Monday in April President submits budget recommendations.
April 15 Congressional Budget Office submits report to Budget Committees.
Not later than 6 weeks after Congress completes action on concurrent resolution on the biennial budget.
May 15 Budget Committees report concurrent resolution on the biennial budget.
May 15 Biennial appropriation bills may be considered in the House.
June 10 House Appropriations Committee reports last biennial appropriation bill.
June 30 House completes action on biennial appropriation bills.
August 1 President submits budget review.
August 15 Budget Committees report on reconciliation legislation.
September 1 House completes action on reconciliation legislation.
October 1 House completes action on last biennial appropriation bills.
"(d) "Special Rule.—In the case of any first session of Congress that begins in any year immediately following a leap year and during which the term of a President (except a President who succeeds himself) begins, the following dates shall supersede those set forth in subsection (a):

"On or before: Action to be completed:
First Monday in April President submits budget recommendations.
April 20 Committees submit views and estimates to Budget Committees.
May 15 Budget Committees report concurrent resolution on the biennial budget.
June 1 Congress completes action on concurrent resolution on the biennial budget.
July 1 Biennial appropriation bills may be considered in the House.
July 20 House completes action on biennial appropriation bills.
August 1 President submits budget recommendations.
August 15 Budget Committees report on reconciliation legislation.
September 1 House completes action on reconciliation legislation.
October 1 House completes action on last biennial appropriation bills."
SEC. 103. AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.
(a) DECLARATION OF PURPOSE.—Section 2(2) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621(2)) is amended by striking “each year” and inserting “biennially.”
(b) DEFINITIONS.—
(1) BUDGET RESOLUTION.——Section 3(4) of such Act (2 U.S.C. 623(4)) is amended by striking “fiscal year” each place it appears and inserting “biennium”.
(2) BIPARTISAN.—Section 3 of such Act (2 U.S.C. 623(a)) is amended by adding at the end the following new paragraph: “(11) The term ‘biennium’ means the period of 2 consecutive fiscal years beginning on October 1 of the biennium for which the budget is submitted and the 4 fiscal years after that year and inserting ‘each fiscal year in the biennium’.”
(c) BIENNIAL CONCURRENT RESOLUTION ON THE BUDGET.—
(1) CONTENTS OF RESOLUTION.—Section 301(a) of such Act (2 U.S.C. 632(a)) is amended by—
(A) striking “fiscal year” and inserting “biennium”;
(B) inserting “biennium”.
(2) BIPARTISAN.—Section 3 of such Act (2 U.S.C. 623(a)) is amended by adding at the end the following new paragraph: “(11) The term ‘biennium’ means the period of 2 consecutive fiscal years beginning on October 1 of such year;” and
(3) in paragraph (6), by striking “fiscal year” and inserting “for each fiscal year in the biennium”; and
(C) in paragraph (7), by striking “fiscal year” and inserting “for each fiscal year in the biennium”.
(2) ADDITIONAL MATTERS.—Section 301(b)(3) of such Act (2 U.S.C. 632(b)) is amended by striking “fiscal year” each place it appears and inserting “biennium”.
(3) VIEWS OF OTHER COMMITTEES.—Section 301(d) of such Act (2 U.S.C. 632(d)) is amended by inserting “(or, if applicable, as provided by section 300(b))” after “United States Code”.
(4) HEARINGS.—Section 301(d)(3) of such Act (2 U.S.C. 632(e)) is amended by—
(A) striking “fiscal year” and inserting “biennium”; and
(B) inserting at the end the following sentence: “(or, if applicable, as provided by section 300(b)).”
(5) GOALS FOR REDUCING UNEMPLOYMENT.—
Section 301(f) of such Act (2 U.S.C. 632(f)) is amended by striking “fiscal year” each place it appears and inserting “biennium”.
(6) ECONOMIC ASSUMPTIONS.—Section 301(g)(1) of such Act (2 U.S.C. 632(g)(1)) is amended by striking “for a fiscal year” and inserting “for a biennium”.
(7) SECTION HEADING.—The section heading of section 301 of such Act is amended by striking “ANNUAL” and inserting “BIENNIAL”.
(8) TABLE OF CONTENTS.—The item relating to section 301 in the table of contents set forth in section 2(b) of such Act is amended by striking “ANNUAL and inserting “BIENNIAL”.
(d) COMMITTEE ALLOCATIONS.—Section 302 is amended by—
(1) in subsection (a)(1), by striking “for the first fiscal year of the resolution,” and inserting “for each fiscal year in the biennium, for at least each of 4 ensuing fiscal years”;
(2) in subsection (f)(1), by striking “for a fiscal year” and inserting “in the biennium”;
(3) in subsection (f)(1), by striking “first fiscal year” and inserting “each fiscal year of the biennium”;
(4) in subsection (f)(2)(A), by striking “first fiscal year” and inserting “each fiscal year of the biennium”; and
(5) in subsection (g)(3)(A), by striking “April” and inserting “May”.}

SEC. 104. PAY-AS-YOU-GO IN THE SENATE.
Subparagraphs (A), (B), and (C) of section 202(b)(2) of House Concurrent Resolution 67 (104th Congress) are amended to read as follows:
(1) by striking “fiscal year” and inserting “biennium”;
(2) by striking “for either fiscal year in such biennium”.

SEC. 105. AMENDMENTS TO TITLE 31, UNITED STATES CODE.
(a) DEFINITION.—Section 1101 of title 31, United States Code, is amended to read as follows:
“A. The time midpoint between fiscal years 1 and 2 is the midpoint of a biennium for which the budget is submitted and the 4 fiscal years after that year.”
(b) BUDGET CONTENTS AND SUBMISSION TO THE CONGRESS.—
(1) SCHEDULE.—The matter preceding paragraph (1) in section 1105(a) of title 31, United States Code, is amended to read as follows:
“(a) On or before the first Monday in February of each odd-numbered year or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974, beginning with the Budget for the One Hundred Fourth Congress, the President shall transmit to the Congress, the budget for the biennium beginning on October 1 of such biennium and the 4 fiscal years after that year and inserting “each fiscal year in the biennium”. The President shall include in each budget the following:
(2) EXPENDITURES.—Section 1105(a)(5) of title 31, United States Code, is amended by striking “the fiscal year for which the budget is submitted and the 4 fiscal years after that year” and inserting “each fiscal year in the biennium for which the budget is submitted and in the succeeding 4 years”.
(c) RECEIPTS.—Section 1105(a)(2) of title 31, United States Code, is amended by striking “the fiscal year for which the budget is submitted and the 4 fiscal years after that year” and inserting “each fiscal year in the biennium for which the budget is submitted and in the succeeding 4 years”.
(d) BALANCE STATEMENTS.—Section 1105(a)(9)(C) of title 31, United States Code, is amended by striking “that fiscal year” and inserting “each fiscal year in the biennium”.
(e) ALLOWANCES.—Section 1105(a)(13) of title 31, United States Code, is amended by—
(A)stracting “for the first fiscal year” and inserting “each fiscal year in the biennium”;
(B) striking “that fiscal year” and inserting “each fiscal year in the biennium”. The President shall include in each budget the following:
SEC. 106. PAY-AS-YOU-GO IN THE HOUSE.
Subparagraphs (A), (B), and (C) of section 202(b)(2) of House Concurrent Resolution 67 (104th Congress) are amended to read as follows:
(1) by striking “fiscal year” and inserting “biennium”;
(2) by striking “for either fiscal year in such biennium”.
striking "the fiscal year" and inserting "each fiscal year in the biennium".

7. ALLOWANCES FOR UNCONTROLLED EXPENDITURES.—Section 1105(a)(14) of title 31, United States Code, is amended by striking "that year" and inserting "each fiscal year in the biennium for which the budget is submitted to Congress".

8. TAX EXPENDITURES.—Section 1105(a)(16) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

9. FUTURE YEARS.—Section 1105(a)(17) of title 31, United States Code, is amended—

(a) by striking "the fiscal year following the fiscal year" and inserting "each fiscal year of the next biennium";

(b) by striking "that fiscal year following the fiscal year" and inserting "that fiscal year in the biennium following the biennium";

(c) by striking "the fiscal year before the biennium";

10. PRIOR YEAR OUTLAYS.—Section 1105(a)(18) of title 31, United States Code, is amended—

(a) by striking "the prior fiscal year" and inserting "each of the 2 most recently completed fiscal years";

(b) by striking "for that year" and inserting "with respect to those fiscal years";

11. PRIOR YEAR RECEIPTS.—Section 1105(a)(19) of title 31, United States Code, is amended—

(a) by striking "the prior fiscal year" and inserting "each of the 2 most recently completed fiscal years";

(b) by striking "for that year" and inserting "with respect to those fiscal years";

(c) by striking "in that year" and inserting "in those fiscal years".

12. DETERMINATIONS TO MEET ESTIMATED DEFICIENCIES.—Section 1105(c) of title 31, United States Code, is amended—

(a) by striking "for that year" and inserting "with respect to those fiscal years";

(b) by striking "in that year" each place it appears and inserting "in those fiscal years".

(c) ESTIMATED EXPENDITURES OF LEGISLATIVE AND JUDICIAL BRANCHES.—Section 1105(b) of title 31, United States Code, is amended by striking "each year" and inserting "biennium".

SEC. 106. TWO-YEAR APPROPRIATIONS; TITLE AND STYLE OF APPROPRIATIONS ACTS.

Section 105 of title 31, United States Code, is amended to read as follows:

"$105. Title and style of appropriations Acts

(a) The style and title of all Acts making appropriations for the support of the Government shall be as follows: 'An Act making appropriations for the support of the Government in the fiscal year in the biennium of fiscal years [here insert the fiscal years of the biennium].'

(b) All Acts making regular appropriations for the support of the Government shall be enacted for a biennium and shall specify the amount of appropriations provided for each fiscal year in such period.

(c) For purposes of this section, the term 'biennium' has the same meaning as in section 1109(a) of title 31, United States Code, relating to managerial accountability, except that the term shall not apply to—

(A) any measure that is privileged for consideration pursuant to a rule or statute; or

(B) any matter considered in Executive Session; or

(C) any appropriations measure or reconciliation bill.

SEC. 107. MULTIYEAR AUTHORIZATIONS.

(a) In General.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

"'AUTHORIZATIONS OF APPROPRIATIONS

Sec. 316. (a) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider—

(1) any bill, joint resolution, amendment, motion, or conference report that authorizes appropriations for a period of less than 2 fiscal years, unless the program, project, or activity for which the appropriations are authorized will require no further appropriations and will be completed or terminated after the appropriations have been expended; and

(2) any bill, joint resolution, amendment, or conference report that authorizes appropriations for a period of more than 2 fiscal years, unless the program, project, or activity for which the appropriations are authorized will continue in effect for a subsequent year or years; and

(b) STRATEGIC PLANS.—Section 2802 of title 31, United States Code, is amended—

(C) in paragraph (1) of subsection (d), by striking "annual" and inserting "biennial"; and

(D) in paragraph (6) of subsection (f) by striking "annual" and inserting "biennial".

SEC. 108. GOVERNMENT PLANS ON A BIENNIAL BASIS.

(a) STRATEGIC PLANS.—Section 306 of title 5, United States Code, is amended—

(b) by striking "those fiscal years" and inserting "those fiscal years; and"

(c) by striking "in the biennium following the biennium"; and

(d) by striking "in the biennium preceding the biennium"; and

(e) by striking "before February 15 of each year,"; and

(f) STRATEGIC PLANS.—Section 2802 of title 31, United States Code, is amended—

(A) in the first sentence by striking "one" and inserting "two"; and

(B) by striking "any bill, joint resolution, amendment, motion, or conference report that authorizes appropriations for a period of less than 2 fiscal years, unless the program, project, or activity for which the appropriations are authorized will require no further appropriations and will be completed or terminated after the appropriations have been expended; and

(C) in paragraph (6) of subsection (f) by striking "annual" and inserting "biennial".

SEC. 109. FUTURE YEARS.

(a) CHANGES.ÐSection 1105(a)(19) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "biennium before the biennium";

(b) in paragraph (1), by striking "section 1105(a)(18) of title 31, United States Code, is amended—

(B) by striking "March 1 of each year" and inserting "within 6 weeks of the President's budget submission for each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974)."

(c) YEAR-AHEAD REQUESTS FOR AUTHORIZING LEGISLATION.—Section 1110 of title 31, United States Code, is amended by—

(1) striking "May 16" and inserting "March 31"; and

(2) striking "year before the year in which the fiscal year begins" and inserting "calendar year preceding the calendar year in which the biennium begins".

SEC. 107. MULTIYEAR AUTHORIZATIONS. Ð (a) In General.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

"'AUTHORIZATIONS OF APPROPRIATIONS

Sec. 316. (a) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider—

(1) any bill, joint resolution, amendment, motion, or conference report that authorizes appropriations for a period of less than 2 fiscal years, unless the program, project, or activity for which the appropriations are authorized will require no further appropriations and will be completed or terminated after the appropriations have been expended; and

(2) any bill, joint resolution, amendment, or conference report that authorizes appropriations for a period of more than 2 fiscal years, unless the program, project, or activity for which the appropriations are authorized will continue in effect for a subsequent year or years; and

(b) STRATEGIC PLANS.—Section 2802 of title 31, United States Code, is amended—

(C) in paragraph (1) of subsection (d), by striking "annual" and inserting "biennial"; and

(D) in paragraph (6) of subsection (f) by striking "annual" and inserting "biennial".

SEC. 108. GOVERNMENT PLANS ON A BIENNIAL BASIS.

(a) STRATEGIC PLANS.—Section 306 of title 5, United States Code, is amended—

(b) by striking "those fiscal years" and inserting "those fiscal years; and"

(c) by striking "in the biennium following the biennium"; and

(d) by striking "in the biennium preceding the biennium"; and

(e) by striking "before February 15 of each year,"; and

(f) STRATEGIC PLANS.—Section 2802 of title 31, United States Code, is amended—

(A) in the first sentence by striking "one" and inserting "two"; and

(B) by striking "any bill, joint resolution, amendment, motion, or conference report that authorizes appropriations for a period of less than 2 fiscal years, unless the program, project, or activity for which the appropriations are authorized will require no further appropriations and will be completed or terminated after the appropriations have been expended; and

(C) in paragraph (6) of subsection (f) by striking "annual" and inserting "biennial".

SEC. 109. FUTURE YEARS.

(a) CHANGES.ÐSection 1105(a)(19) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium";

(b) striking "April 11 and July 16 of each year" and inserting "February 15 of each even-numbered year";

(c) striking "July 16" and inserting "February 15 of each even-numbered year".

(g) CURRENT PROGRAMS AND ACTIVITIES ESTIMATES.—

(1) In General.—Section 1109(a) of title 31, United States Code, is amended—

(A) in subsection (a), by striking "March 1 of each year" and inserting "within 6 weeks of the President's budget submission for each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974)."

(h) YEAR-AHEAD REQUESTS FOR AUTHORIZING LEGISLATION.—Section 1110 of title 31, United States Code, is amended by—

(1) striking "May 16" and inserting "March 31"; and

(2) striking "year before the year in which the fiscal year begins" and inserting "calendar year preceding the calendar year in which the biennium begins".

SEC. 106. TWO-YEAR APPROPRIATIONS; TITLE AND STYLE OF APPROPRIATIONS ACTS.

Section 105 of title 31, United States Code, is amended to read as follows:

"$105. Title and style of appropriations Acts

(a) The style and title of all Acts making appropriations for the support of the Government shall be as follows: 'An Act making appropriations for the support of the Government for the fiscal year in the biennium of fiscal years [here insert the fiscal years of the biennium].'

(b) All Acts making regular appropriations for the support of the Government shall be enacted for a biennium and shall specify the amount of appropriations provided for each fiscal year in such period.

(c) For purposes of this section, the term 'biennium' has the same meaning as in section 1109(a) of title 31, United States Code, relating to managerial accountability, except that the term shall not apply to—

(A) any measure that is privileged for consideration pursuant to a rule or statute; or

(B) any matter considered in Executive Session; or

(C) any appropriations measure or reconciliation bill.
(1) is subsection (a), by striking “September 30, 1997” and inserting “September 30, 2000”;
(2) in subsection (b), by striking “at least every five years forward” and inserting “at least every 4 years”;
(3) by striking “five years forward” and inserting “six years forward”;
(4) by inserting a comma after “section” the second place it appears and inserting “including a strategic plan submitted by September 30, 1997 meeting the requirements of subsection (a)”;
(5) PERFORMANCE PLANS.—Section 2903(a) of title 39, United States Code, is amended—
(1) in the matter before paragraph (1), by striking “an annual” and inserting “a biennial”;
(2) in paragraph (1), by inserting after “program activity” the following: “for both years 1 and 2 of the biennial plan”;
(3) in paragraph (5), by striking “and” after the semicolon;
(4) in paragraph (6), by striking the period and inserting “,” and;
(5) by adding after paragraph (6) the following:
(7) cover a 2-year period beginning with the first fiscal year of the next biennial budget cycle.”
(h) COMMITTEE VIEWS OF PLANS AND REPORTS.—Section 202(b) of the Congressional Budget Act of 1974 (2 U.S.C. 632(d)) is amended by adding at the end “Each committee of the Senate or the House of Representatives shall review budgetary recommendations, including strategic plans, performance plans, and performance reports, required under section 306 of title 5, United States Code, and sections 1115 and 1116 of title 31, United States Code, for all agencies under the jurisdiction of the committee. Each committee may provide its views on such plans or reports to the Committee on the Budget of the appropriate chamber.”
(i) EFFECTIVE DATE.—
(1) IN GENERAL.—The amendments made by this section shall take effect on March 1, 2000.
(2) AGENCY ACTIONS.—Effective on and after the date of enactment of this title, each agency shall take such actions as necessary to prepare and submit any plan or report in accordance with the amendments made by this title.
SEC. 109. BIENNIAL APPROPRIATIONS BILLS.
(h) GENERAL.—Title III of the Congressional Budget Act of 1974 (2 U.S.C. 631 et seq.) is amended by adding at the end the following:
“CONSIDERATION OF BIENNIAL APPROPRIATIONS BILLS
“Sec. 317. It shall not be in order in the House of Representatives or the Senate in any odd-numbered year to consider any regular bill providing new budget authority or a limitation on obligations under the jurisdiction of any of the subcommittees of the Committees on Appropriations for only the first fiscal year of a biennium, unless the program, project, or activity for which the new budget authority or obligation limitation is provided will require no additional authority beyond 1 year and will be completed or terminated after the amount provided has been expended.”
(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 313 the following new item:
“Sec. 317. Consideration of biennial appropriations bills.”
SEC. 110. REPORT ON TWO-YEAR FISCAL PERIOD.
Not later than 120 days after the date of enactment of this title, the Director of OMB shall—
(1) determine the impact and feasibility of changing the definition of a fiscal year and the budget process based on that definition to a 2-year fiscal period with a biennial budget; and
(2) report the findings of the study to the Committee on the Budget of the House of Representatives and the Senate.
SEC. 111. EFFECTIVE DATE.
(a) IN GENERAL.—Except as provided in sections 110 and 112 subsection (b), this title and the amendments made by this title shall take effect January 1, 2001, and shall apply to budget resolutions and appropriations for the biennium beginning with fiscal year 2002.
(b) AUTHORIZATIONS FOR THE BIENNIUM.—For purposes of authorizations for the biennium beginning with fiscal year 2002, the provisions of this title and the amendments made by this title relating to 2-year authorizations shall take effect January 1, 2000.
TITLE II—EMERGENCY SPENDING REFORMS
SEC. 201. EMERGENCY SPENDING GUIDANCE.
The Congressional Budget Act of 1974 is amended—
(1) by adding the following new section at the end:
“SEC. 316. EMERGENCY LEGISLATION.
“(a) DESIGNATIONS.—
“(1) GUIDANCE.—In making a designation of a provision of legislation as an emergency requirement pursuant to section 318(b)(2)(A) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985—
“(A) the President shall submit a message to the Congress analyzing whether a proposed emergency requirement meets all the criteria in paragraph (2); and
“(B) the committee report, if any, accompanying the bill shall analyze whether a proposed emergency requirement meets all the criteria in paragraph (2).
“(2) CRITERIA.—
“(A) IN GENERAL.—A proposed expenditure or tax change is an emergency requirement if it is—
“(i) necessary, essential, or vital (not merely useful or beneficial);
“(ii) sudden, quickly coming into being, and not building up over time;
“(iii) an urgent, pressing, and compelling need requiring immediate action;
“(iv) subject to subparagraph (B), unforeseen, unpredictable, and unanticipated; and
“(v) not necessarily in nature.
“(B) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance.
“(3) JUSTIFICATION FOR FAILURE TO MEET CRITERIA.—If the proposed emergency requirement does not meet all the criteria set forth in paragraph (2), the President or the committee report, as the case may be, shall provide a written justification of why the requirement is an emergency.
“(b) NOT PERMANENT, TEMPORARY, OR TRANSIENT.—
“(1) IN GENERAL.—When the Senate is considering a bill, resolution, amendment, motion, or conference report, upon a point of order being made by a Senator against any provision in that measure designated as an emergency requirement pursuant to section 251(b)(2)(A) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985, the Presiding Officer sustains that point of order, that provision shall be stricken from the measure and may not be offered as an amendment from the floor.
“(2) CONFERENCE REPORTS.—A point of order sustained under this subsection against a conference report shall be disposed of immediately in accordance with subparagraph (A).
“(c) DEFINITION.—For the purposes of this section, an emergency supplemental appropriations bill is a bill or joint resolution that—
“(1) includes a provision designated as an emergency requirement pursuant to section 251(b)(2)(A) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985;
“(2) includes in the long title or short title of that bill or joint resolution any of the following words: emergency, urgent, or disaster; and
“(3) appropriates funds in addition to those enacted in the regular appropriations Act for that year as defined in section 311 of title 31, United States Code.
“(2) in subsections (c)(2) and (d)(2) of section 904, by striking “and 312(c)” and inserting “312(c)” and “316”;
(3) in the table of contents in section 1(a), by adding after the item for section 317 the following:
“316. Emergency legislation.”
TITLE III—CLARIFYING CHANGES TO PAY-A-S-YOU-GO
SEC. 301. CLARIFICATION ON THE APPLICATION OF SECTION 202 OF H. CON. RES. 67.
Section 202(b) of H. Con. Res. 67 (104th Congress) is amended—
(1) in subsection (a), by striking “the deficit” and inserting “the on-budget deficit or cause an on-budget deficit”; and
(2) in subsection (b), by—
(A) striking “increases the deficit” and inserting “increases the on-budget deficit or cause an on-budget deficit”; and
(B) striking “increase the deficit” and inserting “increase the on-budget deficit or cause an on-budget deficit”.
SEC. 302. CLARIFICATION OF PAY-A-S-YOU-GO.
(a) IN GENERAL.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—
(1) in subsection (a), by striking “the deficit” and inserting “the on-budget deficit or cause an on-budget deficit”; and
(2) in subsection (b), by—
(A) striking “deficit” and inserting “on-budget deficit”;
(B) in subparagraph (B), by striking “;” and inserting a semicolon;
(C) in subparagraph (C), by striking the period and inserting “,”; and
(D) by adding at the end the following:
“(D) the estimate of the on-budget surplus for the budget year determined under section 254(c), 310(d), and 311(b).”
(b) BASELINE.—Section 254(c)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new subparagraph:
“(D) The estimated excess of on-budget receipts over on-budget outlays for the budget year assuming compliance with the discretionary spending limits and that the full adjustments are made under subparagraphs (C), (E), and (F) of section 251(b)(2).”
SEC. 303. CLARIFICATIONS REGARDING EXTRA-NECESSARY MATTERS.
Section 313(b)(1)(E) of the Congressional Budget Act of 1974 is amended by striking “such year,” and inserting “such year or the remaining fiscal year as the case may be,” and, when taken with other provisions in such bill, would cause an on-budget deficit in such year.”
TITLED IV—REFORM OF THE SENATE'S CONSIDERATION OF APPROPRIATIONS BILLS, BUDGET RESOLUTIONS, AND RECONCILIATION BILLS

SEC. 402. AMENDMENT TO TITLE 31.

(a) In General.—Chapter 13 of title 31, United States Code, is amended by inserting after section 1310 the following new section:

"§ 1311. Continuing appropriations

"(a)(1) If any regular appropriation bill for a fiscal year does not become law prior to the beginning of such fiscal year, or a joint resolution making continuing appropriations is not in effect, there is appropriated, out of any moneys in the Treasury not otherwise appropriated, and out of any applicable corporate or other revenues, receipts, and funds, such sums as may be necessary to continue any project or activity for which funds were provided in the preceding fiscal year—

"(A) in the corresponding regular appropriation Act for such preceding fiscal year; or

"(B) if the corresponding regular appropriation bill for such preceding fiscal year did not become law, then in a joint resolution making continuing appropriations for such fiscal year;

"(2) Appropriations and funds made available, and authority granted, for a project or activity for a fiscal year pursuant to this section shall be at a rate of operations not in excess of the lower of—

"(A) the rate of operations provided for in the regular appropriation Act providing for such project or activity for the preceding fiscal year;

"(B) in the absence of such an Act, the rate of operations provided for such project or activity pursuant to a joint resolution making continuing appropriations for such preceding fiscal year;

"(C) the rate provided in the budget submission of the President under section 1105(a) of title 31, United States Code, for the fiscal year in question; or

"(D) the annualized rate of operations provided for in the most recently enacted joint resolution making continuing appropriations for part of that fiscal year or any funding levels established under the provisions of this Act.

"(3) Appropriations and funds made available, and authority granted, for any fiscal year pursuant to this section shall be subject to the terms and conditions imposed with respect to the appropriation made or funds made available for the preceding fiscal year, or authority granted for such project or activity under current law.

"(b) Appropriations and funds made available, and authority granted, for any project or activity for any fiscal year pursuant to this section shall be charged to the applicable appropriation fund, or authorization whenever a regular appropriation bill or a joint resolution making continuing appropriations until the end of the fiscal year providing for such project or activity for such period becomes law.

"(c) This section shall not apply to a project or activity for any fiscal year if any other provision of law (other than an authorization of appropriations).

"(d) Appropriations, and funds made available, or grants authority for such project or activity to continue for such period; or

"(e) specifically provides that no appropriation shall be made available, or no authority shall be granted for such project or activity to continue for such period.

"(f) In this section, the term 'regular appropriation bill' means any annual appropriation bill making appropriations, otherwise making funds available, or granting authority, for any of the following categories of projects and activities:

"(1) Agriculture, rural development, and related agencies programs.

"(2) The Departments of Commerce, Justice, and State, the judiciary, and related agencies.

"(3) The Department of Defense.

"(4) The government of the District of Columbia and other activities chargeable in whole or in part against the revenues of the District.

"(5) The Departments of Labor, Health and Human Services, and Education, and related agencies.

"(6) The Department of Housing and Urban Development, and sundry independent agencies, boards, commissions, corporations, and offices.

"(7) Energy and water development.

"(8) Foreign assistance and related programs.

"(9) The Department of the Interior and related agencies.

"(10) Military construction.

"(11) The Department of Transportation and related agencies.

"(12) The Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies.

"(13) The legislative branch.

"(b) Technically Amendment.—The analysis of chapter 13 of title 31, United States Code, is amended by inserting after the item relating to section 1310 the following new item:

"1311. Continuing appropriations.

"(c) Protection of Other Obligations. Nothing in the amendments made by this section shall be construed to effect Government obligations mandated by other law, including obligations with respect to Social Security, Medicare, Medicaid.

SEC. 403. EFFECTIVE DATE AND SUNSET.

(a) Effective Date.—The amendments made by this title shall apply with respect to fiscal years beginning with fiscal year 2000.

(b) Sunset.—The amendments made by this title shall sunset and have no force or effect after fiscal year 2001.

TITLE V—BUDGET ACT AMENDMENTS REGARDING THE CONSIDERATION OF BUDGET RESOLUTION AND RECONCILIATION BILLS

SEC. 501. CONSIDERATION OF BUDGET MEASURES IN THE SENATE.

(a) Prohibition Against Inclusion of Precatory Language in a Budget Resolution. —Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall not include precatory language."

(b) Procedure. —Section 305(b) of the Congressional Budget Act of 1974 is amended to read as follows:

"(b) Procedure in Senate for the Consideration of a Concurrent Resolution on the Budget.—

"(1) Legislation Available.—It shall not be in order to proceed to the consideration of a concurrent resolution on the budget unless the text of that resolution has been available to Members for at least 1 calendar day (excluding Sundays and legal holidays unless the Senate is in session) prior to the consideration of the measure.

"(2) Time for Debate.—The General Committee in the Senate on any concurrent resolution on the budget, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 30 hours, except that with respect to any concurrent resolution referred to in section 304(a) all such debate shall be limited to not more than 10 hours, and shall be reserved for general debate on the resolution (including debate on economic goals and policies) and 20 hours shall be reserved for debate of amendments, motions, and appeals. The time for general debate shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader or their designees.

"(B) Disposition of Amendments and Other Matters.—After no more than 30 hours of debate on the concurrent resolution, the Senate shall, except as provided in subparagraph (C), proceed, without any further action or debate on any question, to vote on the final disposition thereof.

"(C) Action Permitted After 30 Hours.—After no more than 30 hours of debate on the concurrent resolution, the Senate shall, except as provided in subparagraph (C), proceed, without any further action or debate on any question, to vote on the final disposition thereof.

"(D) Amendments.—

"(A) Debate.—Debate in the Senate on any amendment to a concurrent resolution on the budget shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 30 minutes or until the Senate disposes of the amendment, motion, or appeal.

"(B) Disposition of Amendments.—Except by unanimous consent, no amendment shall be proposed after 15 hours of debate of a concurrent resolution on the budget have elapsed,
amendments in disagreement, and all amendments thereto, the Senate shall, except as provided in subparagraph (C), proceed, without any further action or debate on any question, to vote on the final disposition thereof.

(A) Action permitted after 10 hours.—After no more than 10 hours of debate on the conference report (or message between the Houses) accompanying a concurrent resolution on the budget, and all amendments in disagreement, and all amendments thereto, the only further action in order shall be disposition of: all amendments then pending before the Senate; all points of order arising under this Act which have been previously recognized; and a quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins. Disposition shall include raising points of order against pending amendments, motions to table, and motions to waive.

(B) Conference report defeated. Should the conference report be defeated, debate on any request for a new conference and the appointment of conferences shall be limited to 30 hours, and controlled by, the manager of the conference report and the Minority Leader or his designee, and should any motion be made to reconsider the conference report, the Majority Leader or his designee, and the manager of the conference report shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(C) Amendments in disagreement. In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the Minority Leader or his designee.

(D) Reconciliation. Section 310(e) is amended to read as follows:

(A) In general. —Notwithstanding any other rule, except as provided in subparagraph (B), an amendment or series of amendments that is a complete substitute for an amendment thereto, and the manager of the conference report and the Majority Leader or his designee, and should any motion be made to reconsider the conference report, the Majority Leader or his designee, and the manager of the conference report shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(B) Amendments in disagreement. — In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the Majority Leader or his designee.

(C) Reconciliation. Section 310(e) is amended to read as follows:

(6) Procedure in the Senate. — The provisions of section 305 for the consideration in the Senate of reconciliation bills or conference reports thereon, except for the provisions of subsection (b)(5) of that section, shall apply to the consideration in the Senate of reconciliation bills considered under subsection (b) and conference reports thereon thereon.

SEC. 503. DEFINITION. Section 3 of the Congressional Budget Act of 1974 is amended by adding the following new paragraph:

"(13) The term `major functional category' means the allocation of budget authority and outlays separated into the following subtotals:

(A) Defense discretionary

(B) Nondefense discretionary

(C) Direct spending.

(D) If deemed necessary, other subsets of discretionary spending.

SEC. 503. THE COMPENSATION OF THE DIRECTOR AND DEPUTY DIRECTOR OF THE CONGRESSIONAL BUDGET OFFICE WITH OTHER LEGISLATIVE BRANCH SUPPORT AGENCIES. Section 20(a)(5) of the Congressional Budget Act of 1974, as amended, is amended by adding the following new paragraph:

(1) in the first sentence, by striking "(III)" and inserting "(I)"; and

(2) in the second sentence, by striking "(IV)" and inserting "(III)."

TITLE I: BUDGET ENFORCEMENT AND APPROPRIATIONS

Requires the President to submit a two-year budget at the beginning of the first session of a Congress. Requires Congress to adopt a two-year budget resolution and a reconciliation bill (if necessary) during the first session of a Congress.

Requires Congress to enact 13 appropriations bills covering a two-year period during each session of Congress, and provides for a new majority point of order against appropriations bills that fail to cover two years.

Makes budgeting and appropriating the emergency provision, the emergency spending would be extracted from the bill under a Byrd rule procedure.

Provides a reporting requirement for the President and Congress to justify proposed emergencies spending and to document whether proposed emergencies meet five criteria: necessary, sudden, urgent, unforeseen, and not permanent.

Makes any non-emergency provision in an emergency supplemental appropriations bill subject to a majority point of order in the Senate. If this point of order was sustained, the non-emergency provision would be extracted from the bill under a Byrd rule procedure.

TITLE III: CLARIFYING CHANGES TO PAY-AS-YOU-GO

Amends the Senate's 10-year pay-as-you-go rule to make clear that an on-budget surplus can be used to offset the cost of tax reductions or direct spending increases.

Amends the statutory pay-go system (enforced by OMB) to make clear that an on-budget surplus can be used to offset the cost of tax reductions or direct spending increases.

Amends the Byrd rule to allow revenue losses in reconciliation bills to be permanent only if the measures to cover them do not cause an on-budget deficit in the future.

TITLE IV: GOVERNMENT SHUTDOWN PREVENTION ACT

Provides for an automatic continuing resolution (CR) at the end of the President's requested level or the previous year's appropriated level.

TITLE V: STREAMLINING THE BUDGET PROCESS

Eliminates the "vote-athon" at the end of the process by adopting procedures similar to a post-cloture process for budget resolutions and reconciliation bills.
Reduce time on a budget resolution from 50 to 30 hours (10 hours of which would be reserved for amendments);
Reduce time on amendments from 2 hours to 1 hour;
Establish filing deadlines (1st degree amendments must be filed by 12th hour; 2nd degree amendments must be filed by 20th hour).
After all time expires, require vote on any pending amendments and then final passage:
Make sense of the Senate amendments on budget;
Establish procedures and reconciliation bills nongermane; and,
Adopt same procedures for reconciliation bills.

Modifies the scope of the budget resolution to be major categories of spending instead of 20 individual functions.

By Mr. McCain:
S. 94. A bill to repeal the telephone excise tax; to the Committee on Finance.

REPEAL OF THREE PERCENT FEDERAL EXCISE TAX

Mr. McCain. Mr. President, I rise to introduce a bill to repeal the three percent federal excise tax that all Americans pay every time they use a telephone.

Under current law, the federal government taxes you three percent of your monthly phone bill for the so-called 'privilege' of using your phone lines. This tax was first imposed a hundred years ago. To help finance the Spanish-American War, the federal government taxed telephone service, which in 1898 was a luxury service enjoyed by relatively few. The tax reappeared as a means of raising revenue for World War I, and continued as a revenue-raiser during the Great Depression, World War II, the Korean and Vietnam Wars, and the chronic federal budget deficits of the last twenty years.

Fortunately for telephone subscribers, we are enjoying some long-overdue good news, thanks to the Balanced Budget Act enacted by the Congress in 1997, we are now expecting budget surpluses for the next decade, perhaps as much as $700 billion. Mr. President, just as it did in the 105th Congress, that announcement should mean the end of the federal phone excise tax.

Here's why. First of all, the telephone is a modern-day necessity, not like alcohol, or furs, or jewelry, or other items of the sort that the government taxes this way. The Congress specifically recognized the need for all Americans to have affordable telephone service when it enacted the 1996 Telecommunications Act. The universal service provisions of the Act are intended to assure that all Americans, regardless of where they live or how much money they make, have access to affordable telephone service. The telephone excise tax, which bears no relationship to any government service received by the consumer, is flatly inconsistent with the goal of universal telephone service.

It's also a highly regressive and unfair tax that hurts low-income and rural Americans more than other Americans. Low-income families spend a higher percentage of their income than medium- or high-income families on telephone service, and that means the telephone tax hits low-income families much harder. For that reason the Congressional Budget Office has concluded that increases in the telephone tax would have a greater impact on low-income families than tax increases on alcohol or tobacco products. And a study by the American Agriculture Movement concluded that excise taxes implied the telephone imposes a disproportionately large tax burden on rural customers, too, who rely on telephone service in isolated areas.

But, in addition to being unfair and unnecessary, there is another reason why we should eliminate the telephone excise tax. Implementation of the Telecom Act of 1996 requires all telecommunications carriers--local, long-distance, and wireless--to incur new costs in order to produce a new, more competitive environment for telecommunications services of all kinds.

Unfortunately, the cost increases are arriving far more quickly than the new, more competitive market. The Telecom Act created a new subsidy program for wireless service providers, for wired schools and libraries to the Internet, and the cost of funding that subsidy has increased bills for business and residential users of long-distance telephone service and for consumers of wireless services.

Mr. President, to fact that the Telecom Act has imposed new charges on consumers' bills makes it absolutely incumbent upon us to strip away any unnecessary old charges. And that means stripping the excise tax.

Mr. President, the telephone excise tax isn't a harmless artifact from bygone days. It collects money for wars that are already over, and for budget deficits that no longer exist, from people who can least afford to spend it now. And the cost increases that are already beginning to be felt by long-distance service users are the result of the 1996 Telecom Act implementation. That's unfair, that's wrong, and that must be stopped.

San Juan Hill and Pork Chop Hill have now come down in history, and so should this tax.

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

SEC. 1. REPEAL OF TELEPHONE EXCISE TAX.

(a) IN GENERAL.--Effective with respect to amounts paid pursuant to bills first rendered on or after January 1, 1999, subchapter B of chapter 33 of the Internal Revenue Code of 1986 (26 U.S.C. 4251 et seq.) is repealed. For purposes of the preceding sentence, in the case of communications services rendered before December 1, 1998, for which a bill has not been rendered before January 1, 1999, a bill shall be treated as having been first rendered on December 31, 1998.

(b) CONFORMING AMENDMENT.--Effective January 1, 1999, the table of subchapters for such chapter is amended by striking out the item relating to subchapter B.

By Mr. McCain:
S. 95. A bill to amend the Communications Act of 1934 to ensure that public availability of information concerning stocks traded on an established stock exchange continues to be freely and readily available to the public through all media of mass communications; to the Committee on Commerce, Science, and Transportation.

THE TRADING INFORMATION ACT

Mr. McCain. Mr. President, I rise to introduce the Trading Information Act. In 1998, Americans continued to discover the Internet for the increased access to information and entertainment it provides, and as a more convenient means of purchasing goods. Americans also continued to discover the Internet as a more direct means of making and managing investments.

Online stock trading is growing at a phenomenal pace. According to Forrester Research, there are more than 3 million online accounts, and that number is expected to exceed 14 million by 2002. In fact, the number of online brokerage accounts doubled from 1997, as it did from 1996.

Trading over the Internet is providing more Americans with the opportunity to increase their personal wealth, and to participate in the current growth in the market. New discount brokerages, high-speed Internet access, and “real time” market updates are all contributing to the growth of online trading. The Trading Information Act will help to preserve this growing trend.

The Trading Information Act will ensure that online traders will continue to have access to information relating to financial markets which they rely on to properly manage their assets. Whether watching a stock ticker on the television, receiving instant information over a cell phone or pager, or logging on with an online brokerage firm, Americans must continue to have unfettered access to this vital information, and this bill will ensure they continue to have it.

By Mr. McCain:
S. 96. A bill to regulate commerce between and among the several States by providing for the orderly resolution of disputes arising out of computer-based problems related to processing data that includes a 2-digit expression of that year's date; to the Committee on Commerce, Science, and Transportation.

Y2K ACT

Mr. McCain. Mr. President, I am pleased to introduce a bill today to limit and prevent needless and costly litigation which is arising as a result of the computer programming problem commonly known as Y2K. Even before December 31 arrives lawsuits are beginning to be filed. This is an unfortunate reflection on our overly litigious society, and a situation which needs to be
remedied. The Y2K Act takes a step toward encouraging technology producers to work with technology users and consumers to ensure a seamless transition for the 1990’s to the year 2000. The purpose of this legislation is to ensure that the technology gltch known as Y2K rather than clog our courts with years of costly litigation. The legislation is designed to compensate actual losses, but to assure that the courts do not punish defendants who have made good faith efforts to correct the technology failure. My goal is to provide incentives for fixing the potential Y2K failures before they happen, rather than create windfalls for those who litigate.

The bill would also encourage efficient resolution of failures by requiring plaintiffs to afford their potential defendants an opportunity to remedy the failure and make things right before facing a lawsuit. We should encourage people to talk to each other, to try to address problematic online content in a timely and professional manner.

Physical injuries are not covered by the limitations on litigation and damages in this bill. In those instances where a computer date failure is responsible for physical injury, it is best to leave the remedy to existing state laws. Further, it would be imprudent policy to offer any “safe harbor” in such situations because to do so might have the undesired result of discouraging proactive remediation.

This bill is a starting point. It provides an opportunity to begin discussion. It is my intention to hold a hearing in the near future, and to bring this bill to mark-up as quickly as full discussion will permit. I know many of my colleagues are interested in addressing this issue as well, and I look forward to working with them, and with affected industries and consumers to arrive at an acceptable piece of legislation which will benefit industry and consumers alike.

By Mr. McCain (for himself and Mr. Hollings):

S. 97. A bill to require the installation and use by schools and libraries of a technology for filtering or blocking material on the Internet on computers with Internet access to be eligible to receive or retain universal service assistance to the Committee on Commerce, Science, and Transportation.

CHILDREN’S INTERNET PROTECTION ACT

Mr. McCain. Mr. President, I rise today to introduce The Children’s Internet Protection Act, which is designed to protect children from exposure to sexually explicit and other harmful material when they access the Internet in school and in the library. This legislation is substantially similar to the Internet School Filtering Act, which I introduced in the last session of Congress.

This legislation, like its predecessor, comes to grips with one of the more unfortunate aspects of modern life: that the problems modern life don’t stop at the schoolhouse door. Societal problems like violence and drugs have become part of the curriculum of life at many schools.

Now, however, we are adding another problem to the list. And this particular wolf is found outside of our schools disguised in the worthiest of sheeps’ clothing: the Internet.

Today, pornography is widely available on the Internet. According to “Wired” magazine, today there are approximately 20,000 adult Web sites promoting hard- and soft-core pornography. Together, these sites register millions of “hits” by web surfers every day.

Mr. President, there is no question that some of the web surfers who are accessing these sites are children. Some, unfortunately, are actively seeking these sites. But many others literally and unintentionally stumble across them.

Anyone who uses seemingly innocuous search engines while searching the World Wide Web for educational or harmless recreational purposes can inadvertently run into adult sites. For example, when the term “H2O” was typed recently into a search engine, one of the first of over 36,000 sites retrieved led to another site titled “www.hardcoresex.com.” This site provided the typical warning to those under 18 not to enter—and then proceeded to offer a free, uncensored preview of the pornographic material on the site. And when the searcher attempted to escape from the site, new porn-oriented sites immediately opened.

Parents wishing to protect their children from exposure to this kind of material can monitor their children’s Internet use at home. This is a parent’s proper role, and no amount of governmental assistance or industry self-regulation will ever be as effective in protecting children, as parental supervision. But parents can’t supervise how their children use the Internet outside the home, in schools and libraries.

Mr. President, the billions of dollars per year the federal government will be investing in schools and libraries to enable them to bring advanced Internet learning technology to the classroom will bring in the Internet’s explicit online content as well. These billions of dollars will ultimately be paid for by the American people. So it is only right that if schools and libraries accept these federally-provided subsidies for Internet access, they have an absolute responsibility to their communities to assure that children are protected from online content that can harm them.

And this harm can be prevented. The prevention lies, not in censoring what goes onto the Internet, but rather in filtering what comes out of it onto the computers our children use outside the home.

Mr. President, Internet filtering systems work, and they need not be blunt instruments that unduly constrain the availability of legitimately institutional material. Today they are adaptable, capable of being fine-tuned to accommodate changes in websites as well as the evolving needs of individual schools and even individual lesson-plans. Best of all, their use will channel explicit material away from children where they are supervised, not by the government, but by their parents.

Mr. President, this bill takes a sensible approach. It requires schools receiving universal service discounts to use a filtering system on their computers. It requires all libraries receiving universal service discounts to use filtering software. Libraries with more than one computer are required to use a filtering system on at least one computer used by minors. Filtering technology is itself eligible to be subsidized by the E-rate discount. Schools and libraries must install and use filtering or blocking technology to be eligible to receive universal service fund subsidies for Internet access. If schools and libraries do not do so, they will not be eligible to receive universal service fund discounts and will have to refund any E-rate subsidy funds already paid out.

Some have argued that the use of filtering technology in public schools and libraries would amount to censorship under the First Amendment. The Supreme Court has found, however, that obscenity is not protected by the First Amendment. And as far as other sexually-explicit material is concerned, the bill will not affect an adult’s ability to access this information on the Internet, and it will in no way impose any filtering requirement on Internet use in the home.

Perhaps most important, the bill prohibits the federal government from prescribing any particular filtering system, or from imposing a different filtering system than the one selected by the certifying educational authorities. It thus places the initiative for determining which filtering system best reflects the community’s standards precisely where it should be: on the community itself.
Mr. President, more and more people are using the Internet each day. Currently, there may be as many as 50 million Americans online, and that number is expected to at least double by the millennium. As Internet use in our schools and libraries continues to grow, children's potential exposure to harmful online content will only increase. This bill simply assures that universal service subsidies will be used to defend them from the very dangers that these same subsidies are otherwise going to prove so helpful to. This is a responsible response to what could otherwise be a terrible and unintended problem.

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

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

S. 97

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Childrens' Internet Protection Act".

SEC. 2. NO UNIVERSAL SERVICE FOR SCHOOLS OR LIBRARIES THAT FAIL TO IMPLEMENT A FILTERING OR BLOCKING TECHNOLOGY FOR COMPUTERS WITH INTERNET ACCESS.

(a) IN GENERAL.—Section 254 of the Communications Act of 1934 (47 U.S.C. 254) is amended by adding at the end thereof the following:

"(1) IMPLEMENTATION OF AN INTERNET FILTERING OR BLOCKING TECHNOLOGY.

"(a) IMPLEMENTATION.—An elementary school, secondary school, or library that fails to provide the certification required by paragraph (2) or (3), respectively, is not eligible to receive or retain universal service assistance provided under subsection (h)(1)(B).

"(b) CERTIFICATION FOR SCHOOLS.—To be eligible to receive universal service assistance under subsection (h)(1)(B), an elementary or secondary school (or the school board or other authority with responsibility for administration of the school) shall certify to the Commission that it has—

"(1) selected a technology for computers with Internet access to filter or block material deemed to be harmful to minors; and

"(2) installed, or will install, and uses or will use, as soon as it obtains computers with Internet access, a technology to filter or block such material.

"(2) CERTIFICATION FOR LIBRARIES.—

"(a) LIBRARIES WITH MORE THAN 1 INTERNET-ACCESSING COMPUTER.—To be eligible to receive universal service assistance under subsection (h)(1)(B), a library that has more than 1 computer with Internet access intended for use by the public (including minors) is eligible to receiveuniversal service assistance under subsection (h)(1)(B) even if it does not use a technology to filter or block material deemed to be harmful to minors on that computer if it certifies to the Commission that it employs a reasonably effective alternative method of protecting minors from accessing material on the Internet that is deemed to be harmful to minors.

"(b) LIBRARIES WITH ONLY 1 INTERNET-ACCESSING COMPUTER.—A library that has only 1 computer with Internet access intended for use by the public (including minors) is eligible to receive universal service assistance under subsection (h)(1)(B) even if it does not use a technology to filter or block material deemed to be harmful to minors on that computer if it certifies to the Commission that it employs a reasonably effective alternative method of protecting minors from accessing material on the Internet that is deemed to be harmful to minors.

"(3) TIME FOR CERTIFICATION.—The certification required by paragraph (2) or (3) shall be made within 30 days of the date of enactment of this Act and, with respect to the first day of the first month in which any computer with access to the Internet is first made available in the school or library for its intended use.

"(4) NOTICE OF CERTIFICATION; ADDITIONAL INTERNET-ACCESSING COMPUTER.—

"(A) CESSATION.—A library that has filed the certification required by paragraph (3)(A) shall notify the Commission within 10 days after the date on which it ceases to use the filtering or blocking technology to which the certification was made, or the date on which another computer access intended for use by the public (including minors) shall make the certification required by paragraph (3)(A) within 10 days after that computer is made available for use by the public.

"(B) PENALTY FOR FAILURE TO COMPLY.—A school or library that fails to meet the requirements of this subsection is liable to the Commission that it has—

"(1) establish criteria for making that determination;

"(2) review the determination made by the certifying school, school board, library, or other authority; or

"(3) consider the criteria employed by the certifying school, school board, library, or other authority in the administration of subsection (h)(1)(B).

"(b) CONFORMING CHANGE.—Section 254(h)(1)(B) of the Communications Act of 1934 (47 U.S.C. 254(h)(1)(B)) is amended by striking "(1) all telecommunications" and inserting "Except as provided by subsection (i), all telecommunications".

SEC. 3. FCC TO ADOPT RULES WITHIN 4 MONTHS.

The Federal Communications Commission shall adopt rules implementing section 254(h)(1)(B) of the Communications Act of 1934 within 120 days after the date of enactment of this Act.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, and Mr. LOTT):


SURFACE TRANSPORTATION BOARD

REAUTHORIZATION ACT OF 1999

Mr. MCCAIN. Mr. President, today I am introducing the Surface Transportation Board (STB) Reauthorization Act of 1999. As a member of the Senate Hollings, the Ranking member of Senate Committee on Commerce, Science, and Transportation and Majority Leader LOTT, also a distinguished member of our Committee, have joined me in sponsoring this important legislation. By introducing this bill on this, the first day of the 106th Congress for introducing legislation, is intended to demonstrate the firm commitment of the bill's sponsors to enact multi-year legislation extending the Board's authorization. Many of us worked toward enacting a reauthorization measure last year, but those efforts were unsuccessful due to matters generally unrelated to the Board. Those rail-related issues remain for some, I do not believe we should hold the STB's reauthorization hostage and believe we could consider dual-track measures—this reauthorization on one track and potential statutory changes on another. Although the dual-track did not succeed last Congress, I am hopeful that it can in the 106th Congress.

The Surface Transportation Board Reauthorization Act of 1999 is straightforward. First, it proposes to reauthorize the STB for the current fiscal year through 2002 and provide sufficient resources to ensure the Board is able to continue to carry out its very serious responsibilities and duties. Second, it proposes that the Chairman-ship be subject to Senate confirmation like a host of other Boards and Commissions throughout the Federal government, including the National Transportation Safety Board, the Commodity Futures Trading Commission, the Export-Import Bank, and the Consumer Product Safety Commission to name a few.

Mr. President, I want to inform my colleagues that the bill's sponsors intend to fully explore the resource needs of the Board and also consider limited proposals for statutory changes advocated by some members. I know the Chairman of the Surface Transportation and Merchant Marine Subcommittee, Senator HUTCHISON, plans to hold hearings on the STB and continue the examination of STB actions affecting rail service and rail shipper problems which were initiated during the 105th Congress.

I have stated that the dual-track was initiated during the 105th Congress.

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I look forward to working on this important transportation legislation and hope my colleagues will agree to join with me and the other sponsors in expeditiously moving this necessary reauthorization through the legislative process.

Mr. HOLLINGS. Mr. President, I rise today to support the reauthorization of the Surface Transportation Board (Board). As I have said many times before, the Board performs a vital role regulating the interests of our railroad and other surface transportation industries. Under the able and forward-looking leadership of Linda Morgan, the Board’s Chairman, who was with us on the Commerce Committee for many years, the Board with its small staff has put out more work, and higher quality work, than much larger agencies. Most significantly, unlike many other agencies, the Board is not afraid to tackle the hard issues, and to put out decisions that are fair, are reasoned, and independent of political expediency. For example, the Board’s unprecedented and focused actions in handling the recent rail service crisis in the West provided the appropriate mix of government intervention and private-sector initiative.

More recently, at the end of 1998, at the request of Chairman MCCAIN and Senator HUTCHISON, the Board reviewed rail competition and issued several decisions in controversial cases, and made several recommendations to Congress, that reflect a balanced and comprehensive view of the transportation industry and the fundamental issues that confront it. The Board recently released its findings. In rendering these decisions, the Board, which is accountable to Congress, has acted responsibly and has provided a valuable service in resolving issues within its jurisdiction such as the determination of market dominance, and in raising others, such as the need to better train new personnel, and prepare them to address the rail and other surface issues of the future.

I think that much credit is due the Board for facilitating more private-sector initiatives to provide more investment and competition. The American people are tired of gridlock. They want the Government to work for them, not against them.

Our Founding Fathers would have been ashamed of our inability to execute the power of the purse in a responsible fashion. I am sure they would have been quite shocked by the 27 days in late 1995 that the Government was shut down, the 13 continuing resolutions that had to be passed to provide temporary funding, and the almost $6 billion in blackmail money that was given to the Administration to ensure that the Government did not shut down a third time in Fiscal Year 1996.

Although Republicans shouldered the blame for the 1995 Government shutdown, President Clinton and his colleagues were equally at fault for using it for their political gain. Republicans were outmaneuvered by President Clinton who was willing to use the budget process to achieve his political goals. I am sure they would have been ashamed of our inability to execute the power of the purse in a responsible fashion.

By Mr. MCCAIN (for himself, Mrs. HUTCHISON, Mr. STEVENS, Mr. CRAIG, Mr. WARNER, and Mr. ASHCROFT):

S. 99. A bill to provide for continuing in the absence of regular appropriations for fiscal year 2000; to the Committee on Appropriations.}

CONGRESSIONAL RECORD — SENATE

January 19, 1999

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The Government Shutdown Act of 1999 does not erode the power of the appropriators. It gives them ample opportunity to do their job. It is only if the appropriations process is not completed by the beginning of the fiscal year that the safety net could be compromised. The resolution will go into effect. In addition, I emphasize that entitlements are fully protected in this legislation. The bill specifically states that entitlements such as Social Security—as obligated benefits—will be paid regardless of whether appropriations bills are passed or not passed.

We saw in 1995 how politically motivated government shutdowns hit all Americans hard. In my State of Arizona, during the Government shutdown the Grand Canyon was closed for the first time in 76 years. I heard from people who worked close to the Grand Canyon. These were not Government employees. These were independent small business men and women. They told me that they lost hundreds of dollars because people could not go to the park. According to a CRS report, local communities near national parks alone lost an estimated $42.2 million per day in tourism revenues as a direct result of government shutdown, for a total of nearly $400 million over the course of the shutdown.

The cost of the last Government shutdown cannot be measured in just dollars. Government functions during the 1995 shutdown meant American citizens lost crucial social services. For example, 10,000 new Medicare applications, 212,000 Social Security card requests, 360,000 individual office visits and 800,000 toll-free calls for information and assistance were turned away each day. There were even more delays in services for some of the most vulnerable in our society, including 13 million recipients of AFDC, 273,000 foster care children, over 300,000 children receiving adoption assistance services and over 100,000 Head Start children—not to mention the new patients that were not accepted into clinical research centers, the 7 million visitors who could not attend national parks, or the 2 million visitors turned away at museums and monuments. And the list goes on and on.

In addition, our Federal employees were left in fear wondering whether they would be paid, would they have to go to work. Would they be able to pay their bills on time. In my State of Arizona, for example, of the 40,383 Federal employees, over 15,000 of them were furloughed in the 1995 Government shutdown.

As bad as the 1995 government shutdown was, the fiscal nightmare known as the FY 1999 Omnibus Appropriations Bill, was equally repulsive. This 4,000-page, 40-pound, non-amendable, pork-barrel spending bill provided over a half-trillion dollars to fund 10 Cabinet-level federal departments. To make matters worse, this bill exceeded the budget ceiling by $20 billion for what is euphemistically called emergency spending. Much of this so-called ‘emergency spending’ is really everyday, garden-variety, special interest, pork-barrel spending paid for by robbing billions from the budget surplus.

This monstrous bill passed because Congress failed to pass it. If Congress could not pass it, or face another government shutdown. The Government Shutdown Prevention Act of 1999 would make it more difficult for opportunistic politicians to put the American public at risk by threatening to shutdown essential government operations when they cannot agree on spending priorities and policies.

A 1991 GAO report confirmed that permanent funding lapse legislation is a necessity. In their report they stated, “Shutting down the Government during interim funding temporary funding gaps is an inappropriate way to encourage compromise on the budget.”

Let us show the American people that we have learned our lesson from the 1995 Government shutdown and the 1998 fiscal debacle. Passing this preventive measure will go a long way to restore America’s faith that politics or stalled negotiations will not stop Government operations. It will show our constituents that we have never again will allow a Government shutdown or threat of a Government shutdown to be used for political gain.

We anticipate strong support from the Leadership, and urge them to move this legislation forward as soon as possible. This is must-pass legislation. Neither party can afford another breach of faith with the American people. Our constituents are tired of constantly being disappointed by the actions of Congress and the President. That is why this legislation is so important. Never again, should the American public’s hard-earned dollars be used as ransom to prevent a politically motivated government shutdown.

By Mr. McCain: S. 100. A bill to grant the power to the President to reduce budget authority; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

This bill to the President for approval in their entirety. Congress has the right to override a veto. In other words, the decision was not based on the concept that transferring power to the President of the United States lacked constitutionally, but the fact that the President is the branch that can never again allow a Government shutdown or threat of a Government shutdown to be used for political gain.

Separate enrollment as a line-item veto tool is not a new concept. This concept is not controversial. The Senate adopted S.4, a separate enrollment bill in the 104th Congress, by a vote of 69 to 29.

Legal scholars contend that the separate enrollment concept is constitutional. Congress has the right to override a veto. In other words, the decision was not based on the concept that transferring power to the President of the United States lacks constitutionally, but the fact that the President is the branch that can never again allow a Government shutdown or threat of a Government shutdown to be used for political gain.

The omnibus spending bill made a mockery of the Congress’ role in fiscal matters. It was a betrayal of our responsibility to spend the taxpayers’ dollars wisely and enact laws and policies that reflect the best interests of all Americans, rather than the special interests of a few.

We cannot afford this magnitude of pork-barrel spending when we have accumulated a multi-trillion dollar national debt. Right now, today, we use a huge portion of our federal budget to make the interest payments on the national debt. In fact, the annual interest payments on our national debt is $330 billion, almost the entire budget for national defense. We should be paying down the national debt, saving Social Security, and providing tax cuts for hard-working middle class Americans, not indulging in wasteful, unnecessary pork-barrel spending. Unfortunately, as we saw last year, pork-barrel spending is alive and well.

On October 21, 1998, Congress passed the FY 1999 Omnibus Appropriations Bill—the worst example of pork-barrel spending in my memory. This was a 4,000 page, 40-pound, non-amendable, pork-barrel spending bill which provided over a half-trillion dollars to fund 10 Cabinet-level federal departments. The bill exceeded the budget ceiling by $20 billion for what is euphemistically called emergency spending, much of which is really everyday, garden-variety, special-interest, pork-barrel spending, paid for by robbing billions from the budget surplus.

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The objective of the Separate Enrollment bill, and the Line-Item Veto before it, is to curb wasteful pork-barrel spending.
spending by giving the President the authority to eliminate individual spending items. The Separate Enrollment Act of 1999 will be our new tool to restore fiscal responsibility to the way we spend Americans’ hard-earned dollars.

This is not a partisan issue. The issue is fiscal responsibility. We have a President, we have 100 Senators, and we have 435 Representatives. It is hard to place responsibility upon any one person for profligate spending. Thus, no one is accountable for our runaway budget process.

Past Presidents have sought the line-item veto. Congress finally agreed in 1996, when we passed the Line-Item Veto Act, to give the President the ability to surgically remove wasteful spending for appropriations and authorization bills. It would also establish greater accountability in the Executive branch for fiscal decisions and provide much-needed checks and balances on Congressional spending sprees.

Unfortunately when given the Line-Item Veto authority in 1997, the President failed to exercise the authority in a meaningful fashion. Of over 38 billion in waste in 1997, only $1.6 billion was excised from the annual appropriations bills. And then the Supreme Court struck the Line-Item Veto Act down.

Restoring this power this year in the form of the Separate Enrollment Act would empower the President, reduce the excesses of the congressional budget process that focus on locality-specific earmarking and cater to special interests, not the national interest.

Mr. President, I simply ask my colleagues to be fair and reasonable when addressing the issue of fiscal responsibility. The line-item veto, in the form of separate enrollment, is vital to curbing wasteful pork-barrel spending and restoring the American people’s respect for their elected representatives.

By Mr. LUGAR (for himself, Mr. ROBERTS, Mr. CRAIG, Mr. FITZGERALD, and Mr. COCHRAN):

S. 101. A bill to promote trade in United States agricultural commodities, livestock, and value-added products, and to prepare for future bilateral and multilateral trade negotiations; to the Committee on Finance.

UNITED STATES AGRICULTURAL TRADE ACT OF 1999

Mr. LUGAR. Mr. President, I rise today to introduce legislation to open foreign markets for U.S. agricultural exports and raise the profile of agriculture in our nation’s trade agenda. By enacting the 1996 FAIR Act, commonly known as Freedom to Farm, we gave farmers the right to make planting decisions themselves, free from government controls. But the FAIR Act did not go far enough. Freedom to Farm means freedom to sell. In exchange for phasing out subsidies, Congress promised its efforts to secure fair, and open markets for U.S. agricultural products. The importance of exports to U.S. agriculture has never been greater. This legislation will improve opportunities, allowing us to take advantage of our dominant position in world food trade.

Each year, agricultural products make a positive contribution to our international balance of payments. No sector of the U.S. economy is more critically tied to international trade than agriculture. Approximately three quarters of U.S. agricultural production is exported. Farmers are reliant on the ability to export. We can only secure our farmers’ and ranchers’ future opportunities by removing trade barriers—those we impose on ourselves and those imposed by others.

Mr. President, this bill addresses several items, none of which is more important than sanctions reform. Unilateral economic sanctions often keep our farmers out of major markets. Such sanctions do not just keep the sanctioned country from buying agricultural commodities elsewhere. Rather, sanctions often have a more profound effect on our own country. U.S. competitors are often quick to offset the effect of our sanctions, in the process harming U.S. companies. Unilateral sanctions can be lost and our status as a reliable business partner suffers. A cardinal test of foreign policy is to determine that, when we use sanctions internationally, our actions do less harm to ourselves than do others. Unilateral food sanctions fail that test.

Bans on food exports strike at the most basic human need, the availability of food. Authoritarian regimes can survive food sanctions. It is the people of these nations that suffer. The use of food as a weapon should, in most cases, be abandoned. This legislation exempts from unilateral economic sanctions humanitarian and commercial farm exports and gives the President the authority to waive the sanctions. The Separate Enrollment Act of 1999 will be our new tool to restore fiscal responsibility to the way we spend Americans’ hard-earned dollars.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 101

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

SECTION 1. SHORT TITLE.

It is the sense of Congress that the principal agricultural trade negotiating objectives of the United States for future multilateral and bilateral trade negotiations, including the World Trade Organization, shall be to achieve, on an expedited basis, and to the maximum extent feasible, more open and fair conditions for trade in agricultural commodities by—

(I) developing, strengthening, and clarifying rules for agricultural trade, including disciplines on restrictive or trade-distorting import and export practices, including—

(A) enhancing the operation and effectiveness of the relevant Uruguay Round Agreements designed to define, deter, and discourage the persistent use of unfair trade practices; and

(B) enforcing and strengthening rules of the World Trade Organization regarding—

(i) trade-distorting practices of state trading enterprises; and

(ii) acts, practices, or policies of a foreign government which unreasonably—

(I) require that substantial direct investment in the foreign country be made as a condition for carrying on business in the foreign country;

(II) require that intellectual property be licensed to the foreign country or to any firm of the foreign country; or

(III) delay or preclude implementation of a report of a dispute panel of the World Trade Organization;

(ii) increase the United States agricultural exports by eliminating barriers to trade (including transparent and nontransparent barriers); and

(iii) comply with, or take steps to bring into compliance with, international obligations.

SEC. 2. OBJECTIVES FOR AGRICULTURAL NEGOTIATIONS.

(A) increasing United States agricultural exports by eliminating barriers to trade (including transparent and nontransparent barriers);

(B) developing, strengthening, and clarifying rules that address practices that unfairly limit United States market opportunities or distort agricultural markets to the detriment of the United States, including—

(i) unfair or trade-distorting practices of state trading enterprises; and

(ii) unilaterally imposed and other nonmarket policies.
(B) unjustified restrictions or commercial requirements affecting new technologies, including biotechnology;
(C) unjustified sanitary or phytosanitary restrictions; and
(D) restrictive rules in the establishment and administration of tariff-rate quotas;

(5) ensuring that there are reliable suppliers of agricultural commodities in the international commerce by encouraging countries to treat foreign buyers no less favorably than domestic buyers of the commodity or product involved;

(6) eliminating barriers for meeting the food needs of an increasing world population through the use of biotechnology by ensuring market access to United States commodities derived from biotechnology that is scientifically defensible, opposing the establishment of protectionist trade measures disguised as health standards, and protesting continual delays by other countries in their approval processes—which constitute non-tariff trade barriers.

SEC. 3. DEFINITIONS.

As used in this Act, the terms "agricultural commodity" and "United States agricultural commodity" have the meanings provided in section 102 (1) and (7) of the Agricultural Trade Act of 1978, respectively.

SEC. 4. AGRICULTURAL COMMODITIES, LIVE-STOCK, AND PRODUCTS EXEMPT FROM SANCTIONS.

(a) Definition—Unilateral Economic Sanction.—The term "unilateral economic sanction" means any prohibition, restriction, or condition on economic activity, including economic assistance, with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to a multinational regime and the other members of that regime have also imposed substantially equivalent measures.

(b) Exemption.—

(1) In General.—Subject to paragraph (2), and notwithstanding any other provision of law, in the case of a unilateral economic sanction imposed by the United States on another country, the following shall be exempt from the unilateral economic sanction:

(A) programs administered through Public Law 480 (7 U.S.C. 170a et seq.);

(B) programs administered through section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(C) the program administered through section 110 of the Food and Security Act of 1985 (7 U.S.C. 1736-1); and

(D) commercial sales and humanitarian assistance involving agricultural commodities.

(2) Determination by President.—If the President determines that the exemption under paragraph (1) should not apply to the unilateral economic sanction for reasons of foreign policy or national security, the President may include the activities described in paragraph (1) in the unilateral economic sanction.

(c) Current Sanctions.—

(1) In General.—Subject to paragraph (2), the exemption under subsection (b) shall apply to unilateral economic sanctions that are in effect as of the date of enactment of this Act.

(2) Presidential Review.—The President shall, within 90 days of the date of enactment of this Act, review all unilateral economic sanctions under this subsection to determine whether the exemption under subsection (b) should apply to the sanction.

(3) The exemption under subsection (b) shall become effective for unilateral economic sanctions that are in effect on the date of enactment of this Act 180 days after the date of enactment of this Act unless the President has determined that the exemption should not apply to the sanction.

(d) Report.—

(1) In General.—If the President determines that the exemption under subsection (b) should not apply to a unilateral economic sanction, the President shall provide a report to the Committee on Agriculture in the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry in the Senate.

(A) in the case of a unilateral economic sanction reviewed under subsection (c), within 15 days from the date of the determination in paragraph (2) of that subsection; and

(B) in the case of a unilateral economic sanction that is imposed after the date of enactment of this Act, within 90 days of the date of enactment of this Act.

(2) Contents of Report.—The report shall contain:

(A) an explanation why, because of reasons of foreign policy or national security, the exemption should not apply to the unilateral economic sanction; and

(B) an assessment by the Secretary of Agriculture—

(i) regarding export sales—

(I) in the case of a sanction in effect as of the date of enactment of this Act, whether markets in the sanctioned country or countries present a substantial trade opportunity for export sales of a United States agricultural commodity;

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

(ii) regarding the effect on United States agricultural commodities—

(I) in the case of a sanction in effect as of the date of enactment of this Act, the potential for exports of United States commodities in the sanctioned country or countries; and

(II) in the case of any other sanction, the likelihood that exports of agricultural commodities from the United States will be affected by the unilateral economic sanction or by retaliation by any country to be sanctioned or likely to be sanctioned for specific commodities which are most likely to be affected;

(iii) regarding producer income—

(I) in the case of a sanction in effect as of the date of enactment of this Act, the potential for increasing the income of producers of the commodities involved; and

(II) in the case of any other sanction, the likely effect on incomes of producers of the commodities involved;

(iv) regarding displacement of United States supplies—

(I) in the case of a sanction in effect as of the date of enactment of this Act, the potential for importing United States supplies of the agricultural commodity in countries that are not subject to a sanction; and

(II) in the case of any other sanction, the extent to which the unilateral economic sanction would permit foreign suppliers to replace United States suppliers; and

(v) regarding the reputation of United States farmers as reliable suppliers—

(I) in the case of a sanction in effect as of the date of enactment of this Act, whether removal of the sanction would increase the reputation of United States farmers as reliable suppliers of agricultural commodities in general, and of specific commodities identified by the President;

(II) in the case of any other sanction, the likely effect of the proposed sanction on the reputation of United States farmers as reliable suppliers of agricultural commodities in general, and of specific commodities identified by the President.


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“(iv) written or oral briefings about the status of ongoing negotiations involving agricultural trade;

“(v) prior to the President initiating the trade agreement, written or oral briefings about the results of negotiations involving agricultural trade;

“(vi) information about changes in United States laws that are necessary as a result of the negotiations; and

“(vii) a schedule and procedure for the Oversight Group to provide advice and guidance to the United States Trade Representative regarding—

“(I) the negotiations involving agricultural trade; and

“(II) changes in United States laws that are necessary as a result of the negotiations.

“(B) The United States Trade Representative shall meet with the Oversight Group at a minimum on a quarterly basis, and as needed during a negotiation involving agricultural trade.

“(C) If determined necessary by either party, consultations between the Oversight Group and the United States Trade Representative may be conducted in executive session.

SEC. 6. SALE OR BARTER OF FOOD ASSISTANCE.

It is the sense of Congress that the amendment to the Trade Act of 1974 (19 U.S.C. 2412(b)(2)(A)) is amended by adding at the end the following:

``SEC. 183. IDENTIFICATION OF COUNTRIES THAT ENGAGE IN UNFAIR TRADE PRACTICES AFFECTING UNITED STATES AGRICULTURAL COMMODITIES.

``(a) IDENTIFICATION REQUIRED.—Chapter 8 of title I of the Trade Act of 1974 is amended by adding at the end the following:

``SEC. 183. IDENTIFICATION OF COUNTRIES THAT ENGAGE IN UNFAIR TRADE PRACTICES AFFECTING UNITED STATES AGRICULTURAL COMMODITIES.

``(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the amendment to section 302 of the Agricultural Trade Development and Assistance Act of 1954 (Pub. L. 480) made in section 208 of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104-127) was intended to allow the sale or barter of United States agricultural commodities included in United States food assistance only within the recipient country or countries adjacent to the recipient country, unless such sale or barter within the recipient country or adjacent countries—

``(1) is not practicable; and

``(2) will not disrupt commercial markets for the agricultural commodity involved.

``SEC. 7. TREATMENT OF UNITED STATES AGRICULTURAL COMMODITIES, LIVE-STOCK, AND AGRICULTURAL PRODUCTS.

(a) IDENTIFICATION REQUIRED.—Chapter 8 of title I of the Trade Act of 1974 is amended by adding at the end the following:

``SEC. 183. IDENTIFICATION OF COUNTRIES THAT ENGAGE IN UNFAIR TRADE PRACTICES AFFECTING UNITED STATES AGRICULTURAL COMMODITIES.

``(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the amendment to section 302 of the Agricultural Trade Development and Assistance Act of 1954 (Pub. L. 480) made in section 208 of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104-127) was intended to allow the sale or barter of United States agricultural commodities included in United States food assistance only within the recipient country or countries adjacent to the recipient country, unless such sale or barter within the recipient country or adjacent countries—

``(1) is not practicable; and

``(2) will not disrupt commercial markets for the agricultural commodity involved.

``(B) The United States Trade Representative shall only identify as a priority foreign country—

``(I) the United States, or

``(II) any foreign country as engaging in a trade practice described in paragraphs (1) and (2) of subsection (a), the United States Trade Representative determines—

``(I) the negotiation involving agricultural trade; and

``(II) changes in United States laws that are necessary as a result of the negotiations.

``(C) If determined necessary by either party, consultations between the Oversight Group and the United States Trade Representative may be conducted in executive session.

``(D) The United States Trade Representative shall meet with the Oversight Group at a minimum on a quarterly basis, and as needed during a negotiation involving agricultural trade.

``(E) If determined necessary by either party, consultations between the Oversight Group and the United States Trade Representative may be conducted in executive session.

``(a) IDENTIFICATION REQUIRED.—Chapter 8 of title I of the Trade Act of 1974 is amended by adding at the end the following:

``SEC. 183. IDENTIFICATION OF COUNTRIES THAT ENGAGE IN UNFAIR TRADE PRACTICES AFFECTING UNITED STATES AGRICULTURAL COMMODITIES.

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``(1) is not practicable; and

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``SEC. 7. TREATMENT OF UNITED STATES AGRICULTURAL COMMODITIES, LIVE-STOCK, AND AGRICULTURAL PRODUCTS.

(a) IDENTIFICATION REQUIRED.—Chapter 8 of title I of the Trade Act of 1974 is amended by adding at the end the following:

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``(B) The United States Trade Representative shall only identify as a priority foreign country—

``(I) the United States, or

``(II) any foreign country as engaging in a trade practice described in paragraphs (1) and (2) of subsection (a), the United States Trade Representative determines—

``(I) the negotiation involving agricultural trade; and

``(II) changes in United States laws that are necessary as a result of the negotiations.

``(C) If determined necessary by either party, consultations between the Oversight Group and the United States Trade Representative may be conducted in executive session.

``(D) The United States Trade Representative shall meet with the Oversight Group at a minimum on a quarterly basis, and as needed during a negotiation involving agricultural trade.

``(E) If determined necessary by either party, consultations between the Oversight Group and the United States Trade Representative may be conducted in executive session.
I ask unanimous consent that the bill and section by section analysis be printed in the CONGRESSIONAL RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 102

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

SECTION 1. DISCLOSURE OF ESTIMATES OF FEDERAL RETIREMENT BENEFITS OF MEMBERS OF CONGRESS.

(a) In General.—Section 105(a) of the Legislative Branch Appropriations Act, 1965 (2 U.S.C. 104a; Public Law 88-454; 78 Stat. 550) is amended by adding at the end the following new paragraph:

“(4) The Secretary of the Senate and the Clerk of the House of Representatives shall include in each semiannual report submitted under paragraph (1), with respect to Members of Congress, as applicable—

“(A) the total amount of individual contributions made by each Member to the Civil Service Retirement and Disability Fund and the Thrift Savings Fund under chapters 83 and 84 of title 5, United States Code, for all fiscal years for which service performed by the Member as a Member of Congress and as a Federal employee;

“(B) an estimate of the annuity each Member would be entitled to receive under chapters 83 and 84 of such title based on the earliest possible date to receive annuity payments by reason of retirement (other than disability retirement) which begins after the date of expiration of the term of office such Member is serving; and

“(C) any other information necessary to enable the public to compute the Federal retirement benefits of each Member based on various assumptions of years of service and age of separation from service by reason of retirement.”

(b) Effective Date.—This section shall take effect 1 year after the date of the enactment of this Act.

SECTION-BY-SECTION ANALYSIS OF THE CONGRESSIONAL PENSION DISCLOSURE ACT OF 1999

A BILL TO PUBLICLY DISCLOSE FEDERAL RETIREMENT BENEFITS OF MEMBERS OF CONGRESS

Section 1 (A). Amending legislation.

This section provides that Section 105(a) of the Legislative Branch Appropriations Act of 1965 is amended to add the following new paragraph:

“(4) The Secretary of the Senate and the Clerk of the House of Representatives shall include in each semiannual report submitted under paragraph (1), with respect to Members of Congress, as applicable—

“(A) the total amount of individual contributions made by each Member to the Civil Service Retirement and Disability Fund and the Thrift Savings Fund under chapters 83 and 84 of title 5, United States Code, for all fiscal years for which service performed by the Member as a Member of Congress and as a Federal employee;

“(B) an estimate of the annuity each Member would be entitled to receive under chapters 83 and 84 of such title based on the earliest possible date to receive annuity payments by reason of retirement (other than disability retirement) which begins after the date of expiration of the term of office such Member is serving; and

“(C) any other information necessary to enable the public to compute the Federal retirement benefits of each Member based on various assumptions of years of service and age of separation from service by reason of retirement.”

Section 1 (B). Estimate of annuity.

The semiannual report would state the total amount of contributions many by each Member to the Federal retirement plans (FERS or CSRS) while they performed Federal service as a Member of Congress and as a Federal employee.

Section 1 (C). Additional information.

Included in the semiannual report would be any additional information that would help the public accurately compute the Federal...
Mr. ALLARD. Mr. President, today I introduce legislation to repeal the "temporary" 0.2 percent Federal Unemployment Tax (FUTA) surtax. The "temporary" surtax was enacted in 1976 by Congress to repay the general fund of the Treasury for funds borrowed by the unemployment trust fund. Although the borrowings were repaid in 1987, Congress has continued to extend the surtax in tax bill after tax bill.

Since 1987, Congress has used extension of the surtax to help raise revenue to pay for tax packages. In fact, the surtax was most recently extended to help pay for the 1997 tax bill. The tax takes money out of the private economy for no valid reason.

By repealing the surtax, Congress will honor a promise that it made when the surtax was first enacted. Small businesses were told repeatedly that the tax was temporary and would be repealed when it was no longer needed to finance the unemployment tax system. Clearly a tax is not temporary when it has already been in place for over twenty years. I would suggest at a minimum that if we are going to keep extending this tax, that we be honest with the American worker and small business owner and stop calling this tax "temporary."

Based on the original purpose, the surtax is no longer needed. The economy is experiencing the highest level of employment in decades, and all state unemployment reserves have surpluses. It is inappropriate for the government to continue to raise excess unemployment taxes and then use the surplus for purposes completely unrelated to unemployment.

Repeal of the temporary unemployment surtax will also be beneficial to small businesses. The surtax is especially hard on the small businesses because they are often labor intensive. Any payroll tax is added directly to the employer's payroll costs. In fact, according to the National Federation of Independent Business, payroll taxes are the fastest growing federal tax burden on small business. It is also important to note that the payroll taxes must be paid whether the business experiences a profit or a loss.

As a former small businessman myself, I am particularly aware of this fact. I suspect that my view is similar to the view of many small business owners. It is one thing to have a surtax when unemployment is high and the surtax is necessary. However, it is totally unjustified when unemployment is at the lowest level in three decades.

Repeal of the 0.2 percent surtax will reduce the tax burden on employers and workers by $6 billion over the next five years.

Lower payroll taxes mean higher wages for workers. Although the employer appears to fully pay for the unemployment surtax and other payroll taxes, the economic evidence is strong that the costs are actually passed to workers in the form of lower wages.

Consistent tax relief will help to ensure that our economy remains the strongest and most vibrant in the world. Low taxes reduce unemployment and help ensure that future surtaxes are unnecessary.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record, an editorial from the Wall Street Journal, and several charts that demonstrate the surpluses in each state fund be printed in the Record.

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

S. 103

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

SECTION 1. REPEAL OF TEMPORARY UNEMPLOYMENT TAX.

Section 3301 of the Internal Revenue Code of 1986 (relating to rate of unemployment tax) is amended—

(1) by striking "2007" in paragraph (1) and inserting "1999"; and

(2) by striking "2008" in paragraph (2) and inserting "2007".

[From the Wall Street Journal, Dec. 28, 1998]

FUTILE

The nation's secondary schools are gearing up to spend several hundred million in federal grants on "school to work" programs, a purport to reduce youth unemployment. Indeed, under the 1993 School to Work Act, federal and state bureaucracies are running around the country like so many job fairs "creating" employment with a wave of the bureaucratic wand. If job growth is really what the government is after then, we know a simpler way to achieve it: kill off FUTA.

Employers know FUTA as the 0.8% payroll tax they must pay to Washington on the first $7,000 of every employee's wages. But this ridiculous-sounding levy—the letters stand for Federal Unemployment Tax Administration—is more than just another troubling mandate. It is an object lesson in how a federal employment program can run amok.

Like most other New Deal acronyms, FUTA achieved tax immortality, surviving decades of prosperity. The mid-1970s' spike in unemployment created an excuse to "temporarily" increase FUTA rates. Needless to say, that increase was never reversed. Indeed, the third largest tax hike in the Taxpayer Relief Act of 1997 was an extension of a FUTA surtax to 2007. Today, joblessness is at a historic low. Yet FUTA tax rates are higher than they were in 1975, when unemployment was 8.5%.

Then there's the question of what FUTA revenues actually pay for. FUTA is supposed to do anything as useful as pay unemployment benefits to workers who have been laid off. Employers are not supposed to do that. No, FUTA money is earmarked toward salaries for bureaucrats in state unemployment offices. This is a dubious project in any era, and an absurd one in a time of worker shortage like this one.

And here's the kicker: Much of the FUTA money doesn't even make it to these superfluous offices. Mark Wilson of the Heritage Foundation found that little more than half of the $6.1 billion in FUTA revenues collected in 1997 ended up being spent on FUTA's official mandate. The rest of the money went straight to the federal government's "general revenues," traded against Treasury IOUs. In other words, right into the government's own coffers.

Washington robs FUTA in the same way it steals money from Social Security's trust fund till. As the years pass, of course, the borrowing economy is making FUTA an even better cash machine. Today the FUTA trust fund contains $23.1 billion, about double what it held just three years ago. No wonder lawmakers get all sanctimonious about FDR when the topic of limiting FUTA comes up.

This is a shame, since FUTA does indeed kill more jobs than it finds. The FUTA tax, like Social Security, is the minimum wage, or other mandates, hits businesses on the margin, where additional work is created. In times of downsizing, as we saw in the early 1990s, these bugaboos drive layoffs.

The National Federation of Independent Business, a small business lobby, lists FUTA as one of the big employment burdens. FUTA also poisons workers who do have jobs, since employers pass along the costs to them in the form of lower wages. Sen. Wayne All-ard (R., Colo.) has put forward legislation to pare FUTA. It is a reform long past due.

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STATE UNEMPLOYMENT COMPENSATION SYSTEM RESERVES AND RATIO OF RESERVES TO TOTAL WAGES BY STATE AND YEAR, 1991±1995

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Total: 35,403,296, 31,343,551, 28,187,816, 27,111,772, 31,494,605

Difference between detail and totals due to rounding 1995 data subject to revision. Ratio of reserves to wages not calculated for States with negative balances.
By Ms. SNOWE (for herself and Ms. COLLINS):

S. 105. A bill to deauthorize certain portions of the project for navigation, Bass Harbor, Maine, to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 106. A bill to amend the Water Resources Development Act of 1996 to deauthorize the remainder of the project at East Boothbay Harbor, Maine, to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 107. A bill to deauthorize the project for navigation, Boothbay Harbor, Maine, to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 108. A bill to modify, and to deauthorize certain portions of, the project for navigation at Wells Harbor, Maine; to the Committee on Environment and Public Works.

LEGISLATION TO DEAUTHORIZE CERTAIN PORTIONS OF THE PROJECT FOR NAVIGATION IN THE STATE OF MAINE

Ms. SNOWE. Mr. President, I rise today to thank my colleagues for their support in the last Congress for my legislation on behalf of the towns of Tremont and East Boothbay, Maine, which passed the Senate in the 103rd Congress. S. 1532 sought to deauthorize certain portions of the navigational project for Bass Harbor, and S. 1532 sought to deauthorize the final portions of East Boothbay Harbor.

I also want to thank my colleagues for their support in anticipation of the deauthorization of the Water Resources Development Act of 1998, or WRDA, which not only included these two stand alone bills, but also contained legislation that deauthorized the Federal Navigation Project area within the limits of Boothbay Harbor’s inner harbor. The town’s representatives had voted unanimously to request this deauthorization of the FNP area.

Also, WRDA was amended on the floor to allow for the 105th Congress to decide on the funding of the dredging of Wells Harbor. After many contentious years, this important federal project is set to go forward because a historic Memorandum of Agreement was reached amongst the town of Wells, the Save our Shores Wells Coalition, the Wells Chamber of Commerce and the Maine Audubon Society.

Bass Harbor has the greatest concentration of fishing boats on Mt. Desert Island and all mooring spaces are currently full, with a long waiting list to obtain future moorings. When the townspeople approached the U.S. Army Corps of Engineers to obtain a permit for expansion, they were told that no improvements could be made until the federal project area boundary was moved to the proper location by legislative action. I am happy to do this on their behalf. The Selectmen, Town Manager, and Harbor Committee will not be working with the Corps and other State and federal agencies until the harbor dredged, which last occurred in 1966, so that they may make space available for more and larger boats.

The bill for East Boothbay Harbor deauthorize the remainder of the federal navigational project at Boothbay Harbor. The current marine owners purchased the former shipbuilding yard in East Boothbay in 1993 and have since turned it into a full service marina. In the process of getting all the permits, construction began, the marina discovered that parts of the harbor, while no longer used as such, were still deemed a federal navigation project created back in 1913, when mine sweepers and other ships were being built there for World War I. Because part of the federal navigation project is still considered active, the Corps told the town that nothing could be done in the harbor until the entire area was deauthorized. My bill takes care of this final deauthorization, the rest of which was accomplished in the last reauthorization of the Water Resources Development Act, but the coordinates were ultimately found to be inaccurate. This legislation, with the assistance of the Corps, addresses that small section still requiring deauthorization.

The Town of Boothbay Harbor, Maine has requested legislation be enacted that will deauthorize the Federal Navigation Project area within the limits of Boothbay Harbor’s inner harbor. To this end, I am introducing a bill, drafted with the assistance of the U.S. Army Corps of Engineers, and approved unanimously by the town’s representatives.

I am also introducing legislation to address the dredging of Wells Harbor, which will deepen and maintain the harbor and, at the same time, protect an important federal wildlife refuge. The language, which was also included in the Senate passed WRDA of 1998, gives the Army Corps of Engineers (Corps) the authority to proceed with the project. The dredging of this federal project, contentious since 1988 because of concerns from environmental groups, is now set to go forward because of a historic Memorandum of Agreement that has been reached amongst the community and town officials and the Maine Audubon Society. Interestingly, approximately 105,000 cubic yards of the sand to be dredged will be used to nourish adjacent eroding beaches in the town of Wells, so the project is a win-win situation for all concerned.

My stand alone bill, which will also once again be incorporated into WRDA, will allow the Corps to conduct maintenance dredging in Wells Harbor based on a design capacity for the harbor of 150 vessels, of which approximately 10 percent are commercial fishing boats. A small craft fleet of 150 is the original congressionally authorized design capacity for the harbor, and was a crucial part of the Agreement.

In addition, all parties to the settlement have agreed to a modification of the federal project, requiring Congressional action, that would realign and redesignate the existing federal channel, anchorage, and reallot with the harbor’s capacity and maximize the use of the natural channels in the harbor for navigation and anchorage purposes. This will eliminate the impact of dredging on the intertidal...
and management of the Chattahoochee would modify the boundaries of the estuary. The language, drafted with Corps assistance, will create a new settling basin in the outer harbor, relocate the inner harbor channel to the east, and redesignate portions of the current channel and settling basin as anchorages.

The State of Maine issued water quality certification and coastal zone management consistency in November of 1998, conditioned on the project modifications, and signed into law that were passed by the Senate in the WRDA of 1998.

Another critical component of the Agreement for all the parties is the U.S. Fish and Wildlife Service’s reclamation project, also supported by the Maine Audubon Society, that the Corps expand the area covered by the bathymetric survey work that it will already be conducting as part of the monitoring program for the harbor. The State and the Corps agreed that an additional survey will provide important and useful information about the erosional impacts of dredging in the harbor. I have asked the Corps to make a good faith effort to honor this request.

Again, I congratulate the parties in the state for what I realize is a fragile Agreement and wish to help bring this long standing matter to the best conclusion possible both for the economy of the town of Wells and the environment of the harbor, the Rachel Carson Wildlife Refuge nearby and the Wells National Estuarine Research Reserve, in which the harbor lies.

I want to thank Senator CLELAND for co-sponsoring this important legislation and wish to help bring these bills in the last Congress. When passed again by the Senate and by the House—and signed into law—the legislation will allow the Maine towns involved to get on with harbor economic development and dredging.

I once again thank my colleagues and ask for their continued support for passage of these bills, and I especially want to urge the House to also move forward on WRDA reauthorization. One project in one district in one state should not hold up the passage of this important legislation as was the situation last year. This legislation will help the economy of small towns in Maine—and many other towns across the country—who desperately need harbor reauthorization or dredging.

By Mr. COVERDELL (for himself and Mr. CLELAND):

S. 109. A bill to improve protection and management of the Chattahoochee River National Recreation Area in the State of Georgia; to the Committee on Energy and Natural Resources.

CHATTahooCHEE RIVER NATIONAL RECREATION AREA

S. 542. A bill to improve protection and management of the Chattahoochee River National Recreation Area to protect and preserve the endangered Chattahoochee River and provide additional recreation opportunities for the citizens of Georgia and our nation. This legislation authorizes the Secretary of the Army to regulate a greenway buffer between the river and private development to prevent further pollution, provide flood and erosion control, and maintain water quality for safe drinking water and for the fish and wildlife dependent on the river system. In addition, the legislation authorizes public-private partnerships by authorizing $25 million in federal funds for land acquisition for the recreation area. The $25 million will be matched by private funds. The State of Georgia, private foundations, corporate entities, private individuals, and others have already given or pledged tens of millions of dollars to protect and preserve the Chattahoochee River for future generations of Georgians to enjoy.

I want to thank Senator CHAFFEE and his Environment and Public Works Committee for their work for successful Senate passage for these bills in the last Congress. When passed again by the Senate and by the House—and signed into law—the legislation will allow the Maine towns involved to get on with harbor economic development and dredging.

By Mr. COVERDELL (for himself and Mr. CLELAND):

S. 110. A bill to amend Title XIX of the Social Security Act to provide medical assistance for breast and cervical cancer-related treatment services to certain women screened and found to have breast or cervical cancer under a federally-funded screening program; to the Committee on Finance.

THE BREAST AND CERVICAL CANCER TREATMENT ACT OF 1999

Mr. SMITH of Oregon. Mr. President, this evening, the President of the United States will speak to the 106th Congress and the country in his annual State of the Union address. As distracted as we appropriately are by the Senate trial of the President, it is nevertheless my hope that the Senate, by the conclusion of the 106th Congress, will have enacted a strong bipartisan agenda reflecting several core principles. First, we must ensure that our public education system provides a high-quality, safe learning environment for all children; second, we must help working families save for the future, and third, we must support policies that increase access to health care services and improve the quality of health care in this nation.

With respect to the third principle, I rise today to introduce the “Breast and Cervical Cancer Treatment Act of 1999”, legislation that my former colleague, Senator D’Amato from New York, proposed in the 105th Congress. Last year, this legislation received bipartisan support in the Senate with 35 cosponsors, and 113 cosponsors in the House of Representatives, demonstrating our commitment to improving the health and lives of low-income women in the United States.

Mr. President, whether we stand here as fathers, husbands, brothers or sons, mothers, daughters, sisters or grand-children, we all know someone, a family member or a friend, who has experienced the devastating emotional and physical effects of breast and cervical cancer. In my state of Oregon, more than 28,000 women are living with breast cancer. In 1999, 500 women will die of breast cancer, and 200 women will die of cervical cancer. In an age of advancing technology and improved mammography, this is unacceptable, and unbelievable. We can and must do a better job for the women most at risk in this country.

The legislation I am introducing today, gives us an opportunity to expand upon an existing program that was enacted by Congress in 1990. The Breast and Cervical Cancer Mortality Prevention Act created a breast and cervical cancer screening program for low-income and uninsured women, and targeted at racial and ethnic minority populations throughout the United States. In its eighth year at the Centers for Disease Control (CDC) more than 1.3 million screening tests for breast and cervical cancer were provided. The CDC estimates that if such services were available to all women at risk, 15-20 percent of all deaths from breast cancer among women over 40 could have been prevented.

Recognizing the success of this screening program, the only question that remains is the availability of treatment. For a low-income or uninsured woman, a diagnosis of breast or cervical cancer means that the fight has just begun. Without adequate coverage for treatment, this program are left to find their own coverage or rely upon public hospitals or charity organizations. At Oregon Health Sciences University (OHSU), physicians are working overtime to treat patients and are facing limited budgets with which to provide services.

Mr. President, when a woman is diagnosed with cancer, there should be no question of whether she will be treated; rather, the answer should be “Absolutely, as soon as possible.” not “How do you intend to pay for the treatment?”

The Breast and Cervical Cancer Treatment Act of 1999 seeks to expand upon the CDC screening program—with an emphasis on continuity of care—by giving states the option of providing Medicaid coverage for breast and cervical cancer treatment services to women who have been diagnosed through the CDC Breast and Cervical Cancer screening program. With this legislation, a woman who is diagnosed through the CDC screening program would no longer have to worry about where to find treatment; the treatment
would be available to her upon diagnosis, by familiar physicians, in familiar surroundings.

Mr. President, this is not an issue of costs; it is an issue of compassion. It is an opportunity to say ‘yes, we’re here to help’, in the lives of those who need our help the most. I believe that this bill creates a new beginning not only for families of the women who are and who will be fighting cancer in their lives, but for us as legislators as we face a new millennium. I urge my colleagues to join me in this opportunity to set a new standard in the way we meet the health care needs of women in this country.

By Mr. SMITH of Oregon (for himself, Mr. THURMOND, Mr. LEAHY, and Mr. J. EFFORDS):

S. 113. A bill to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants; to provide greater protection to Federal law enforcement officials and their families; to expand these penalties in instances of violence against law enforcement officers and their families; and for other purposes; to the Committee on the Judiciary.

THE FEDERAL JUDICIARY PROTECTION ACT OF 1999

Mr. SMITH of Oregon. Mr. President, I rise today with my colleagues, Senators THURMOND, LEAHY, and J. EFFORDS, to introduce the Federal J udiciary Protection Act of 1999, a bill to provide greater protection to Federal law enforcement officials and their families. Last year, this legislation received strong bipartisan support and passed the Senate by Unanimous Consent on November 9, 1997. I intend to work with my colleagues and the members of the Judiciary Committee to ensure that this bill becomes public law this year.

Former Secretary of State, John Foster Dulles once stated that “Of all the tasks of government, the most basic is to protect its citizens against violence.” I believe that the Federal Judiciary Protection Act of 1999 gives us that very opportunity to strengthen those laws that deter violence and provide protection to those whose careers are dedicated to protecting our communities and our families.

Under current law, a person who assaults, attempts to assault, or who threatens to kidnap or murder a member of the immediate family of a United States official, a United States judge or a Federal law enforcement official, is subject to a punishment of a fine, imprisonment of up to five years, or both. This legislation seeks to expand these penalties in instances of assault with a weapon and a prior criminal history. In such cases, an individual could face up to 20 years in prison.

Importantly, this legislation would also strengthen the penalties for individuals who communicate threats through the mail. Currently, individuals who knowingly use the United States Postal Service to deliver a communication containing a threat are subject to a fine of up to $1,000 or imprisonment of up to five years. Under this legislation, anyone who communicates a threat could face imprisonment of up to ten years.

Emphasizing the need for this legislation, are the experiences of Oregon’s own Chief Judge Michael Hogan and his family. They were subjected to frightening and menacing phone calls, letters and messages from an individual who had been convicted of previous crimes in Judge Hogan’s courtroom. For months, he and his family lived with the fear that threats to the lives of his wife and children could become reality, and, equally disturbing, that the individual could be back on the street again in a matter of a few months, or a few years.

Judge Hogan and his family are not alone. In April, 1997, the wife of a Circuit Court judge in Florida was stalked by an individual who had been convicted of similar offense in 1994 and 1995. In this instance, the judge’s wife was leaving a shopping mall one afternoon, and as she left the parking lot, she realized she had been followed. In an attempt to lose her pursuer, she took alternative routes, speeding through residential streets. In a desperate attempt, she cut in front of a semi-trailer truck, risking a serious accident. Her purse, containing the files of a pending case, was stolen. Even after his third offense, stalking the wife of a Circuit Court judge, her pursuer has been sentenced to only six months of probation and $150 in fines and the court costs.

Mr. President, these are two examples of vicious acts focused at our Federal law enforcement officials and their families. As a member of the legislative branch, I believe that it is our responsibility to provide adequate protection to all Americans who serve to protect the life and liberty of every citizen in this nation. I encourage my colleagues to join us in sponsoring this important legislation.

Mr. LEAHY. Mr. President, I am proud to join Senator SMITH in introducing the Federal Judiciary Protection Act of 1999. In the last Congress, I was pleased to co-sponsor nearly identical legislation introduced by Senator SMITH, which unanimously passed the Senate, Judiciary Committee and the Senate but was not acted upon by the House of Representatives. I commend the Senator from Oregon for his continued leadership in protecting our Federal Judiciary.

Our bipartisan legislation would provide greater protection to Federal judges, law enforcement officers and their families. Specifically, our legislation would: increase the maximum prison term for forcible assaults, resistance, opposition, intimidation or interference with a Federal judge or law enforcement officer from 3 years imprisonment to 8 years; increase the maximum prison term for use of a deadly weapon or infliction of bodily injury against a Federal judge or law enforcement officer from 3 years imprisonment to 20 years; and increase the maximum prison term for threatening murder or kidnapping of a member of the immediate family of a Federal judge or law enforcement officer from 3 years imprisonment to 10 years.

It has the support of the Department of Justice, the United States Judicial Conference, the United States Sentencing Commission, and the United States Marshal Service.

It is most troubling that the greatest democracy in the world needs this legislation to protect the hard working men and women who serve in our Federal judiciary and other law enforcement agencies. But, unfortunately, we are seeing more violence and threats of violence against officials of our Federal government.

Recently, for example, a courtroom in Urbana, Illinois was firebombed, apparently by a disgruntled litigant. This follows the horrible tragedy of the bombing of the federal office building in Oklahoma City in 1995. In my home state during the summer of 1997, a Vermont border patrol officer, Agent Pfeiffer was seriously wounded by Carl Drega, during a shootout with Vermont and New Hampshire law enforcement officers in which Drega lost his life. Earlier that day; Drega shot and killed two state troopers and a local judge in New Hampshire. A U.S. Marshal was bent on settling a grudge against the judge who had ruled against him in a land dispute.

I had a chance to visit John Pfeiffer in the hospital and he and his family have returned to work along the Vermont border. As a federal law enforcement officer, Agent Pfeiffer and his family will receive greater protection under our bill.

There is, of course, no excuse or justification for someone taking the law into their own hands and attacking or threatening a judge or law enforcement officer. Still, the U.S. Marshal Service is concerned with more and more threats of harm to our judges and law enforcement officers.

The extreme rhetoric that some have used in the past to attack the judiciary only feeds into this hysteria. For example, one of the Republican leaders in the House of Representatives has been quoted as saying: “The judges need to be intimidated,” and if they do not behave, “we're going to go after them in a big way.” I know that this official did not intend to encourage violence against any Federal official, but this extreme rhetoric only serves to degrade Federal judges in the eyes of the public.

Let none of us in the Congress contribute to the atmosphere of hate and violence. Let us treat the judicial branch and those who serve within it with the respect that is essential to preserving its public standing.

We have the greatest judicial system in the world, the envy of people around the globe who are struggling for freedom. It is the independent branch of our third, co-equal branch of government that gives it the ability to act fairly and impartially. It is our judiciary
that has for so long protected our fundamental rights and freedoms and served as a necessary check on over-reaching by the other two branches, those more susceptible to the gusts of the political winds of the moment.

We are fortunate to have dedicated women and men throughout the Federal Judiciary and law enforcement in this country who do a tremendous job under difficult circumstances. They are examples of the hard-working public servants that make up the federal government, who are too often maligned and unfairly disparaged. It is unfortunate that it takes acts or threats of violence to put a human face on the Federal Judiciary and other law enforcement officials, to remind everyone that these are people with children and parents and cousins and friends. They deserve our respect and our protection.

I urge my colleagues to support the Federal Judiciary Protection Act of 1999 and look forward to its swift enactment into law.

By Mr. INOUYE:

S. 114. A bill to amend title VII of the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PHYSICAL THERAPY AND OCCUPATIONAL THERAPY EDUCATION ACT OF 1999

Mr. INOUYE. Mr. President, today I rise to introduce the Physical and Occupational Therapy Education Act of 1999. This legislation will increase educational opportunities for physical therapy and occupational therapy practitioners in order to meet the growing demand for the valuable services they provide in our communities.

In its most recent report, the Department of Labor's Bureau of Labor Statistics (BLS) projected that the demand for services provided by physical therapists will increase dramatically over the next decade. According to the BLS statistics, the increase in demand for these services will create a need for 81,000 additional therapists, an 82% increase over 1994 figures.

The BLS also predicts an increased demand for occupational therapists. According to the BLS, by the year 2005, the increase in demand will create a need for 39,000 additional occupational therapists, a 72% increase over 1994 figures.

Several factors contribute to the present need for federal support in this area. The rapid aging of our nation's population, the demands of the AIDS crisis, increasing emphasis on health promotion and disease prevention, and the quality of home health care have exceeded our ability to educate an adequate number of physical therapists and occupational therapy practitioners. In addition, technological advances are allowing injured and disabled individuals to live longer than they did in the past, with some lasting well beyond expected lifetimes. America's inability to educate an adequate number of physical therapists has led to an increased reliance on foreign-educated, non-immigrant temporary workers (H-1B visa holders). The U.S. Commission on Immigration Reform has identified physical therapy and occupational therapy as having the highest number of H-1B visa holders in the U.S. Also, dedicated individuals have attempted to computer specialists. While the INS does not categorize occupational therapy as a separate profession when tracking H-1B visa entrants, the National Board of Certification in Occupational Therapy notes that the percentage of newly certified occupational therapists who are foreign graduates has risen from 8% in 1985 to more than 20% in 1995.

The legislation I introduce today would provide necessary assistance to physical and occupational therapy programs throughout the country. In awarding grants, preference would be given to applicants seeking to educate and train practitioners at clinical sites in medically underserved communities. In addition to the shortage of practitioners, the current shortage of physical therapy and occupational therapy faculty impedes the expansion of established programs. The critical shortage of qualified and prepared occupational therapists and physical therapists has resulted in an almost nonexistent pool of potential faculty. Presently, there are 121 faculty vacancies among 131 accredited physical therapy programs in the U.S. Similarly, during the 1995-1996 academic year there were 511 faculty vacancies among 85 accredited professional level occupational therapy programs. The legislation I introduce today would assist in the development of a pool of qualified faculty by giving preference to applicants seeking to develop and expand post-professional programs for the advanced training of physical and occupational therapists.

The investment we make through passage of the Physical Therapy and Occupational Therapy Education Act of 1999 will help reduce America's dependence on foreign labor and create highly-skilled, high-wage employment opportunities for American citizens. I look forward to working with my colleagues in Congress to enact this important legislation.

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

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

S. 114

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

SEC. 1. SHORT TITLE.
This Act may be cited as the "Physical Therapy and Occupational Therapy Education Act of 1999."

SEC. 2. PHYSICAL THERAPY AND OCCUPATIONAL THERAPY.
Subpart 2 of part E of title VII of the Public Health Service Act, as amended by the Health Professions Education Partnership Act of 1998, is amended by inserting after section 769, the following:

SEC. 769A. PHYSICAL THERAPY AND OCCUPATIONAL THERAPY.

(a) In General.—The Secretary may make grants to, and contracts with, programs of physical therapy and occupational therapy for the purpose of planning and implementing projects to recruit and retain physical therapists and occupational therapists in underserved areas, or support the development and implementation of curricula, support the distribution of physical therapy and occupational therapy practitioners in underserved areas, or support the development of educational programs for these professionals.

(b) Preference in Making Grants.—In making grants under subsection (a), the Secretary shall give preference to qualified applicants that: (1) serve in rural or urban medically underserved communities, or expand post-professional programs for the advanced education of physical therapists or occupational therapy practitioners.

(c) Peer Review.—Each peer review group under section 798(a) that is reviewing proposals for grants or contracts under subsection (a) shall include not fewer than 2 physical therapists or occupational therapists.

(d) Report to Congress.—(1) In general.—The Secretary shall prepare a report that—

(A) summarizes the applications submitted to the Secretary for grants or contracts under section (a);

(B) specifies the identity of entities receiving the grants or contracts;

(c) evaluates the effectiveness of the programs granted on the objectives established by the entities receiving the grants or contracts.

(2) Date certain for submission.—Not later than February 1, 2001, the Secretary shall submit the report prepared under paragraph (1) to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Appropriations of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate.

(e) Authorization of Appropriations.—For the purpose of carrying out this section, there is authorized to be appropriated $3,000,000 for each of the fiscal years 2000 through 2003.

By Ms. SNOWE (for herself and Mrs. FEINSTEIN):

S. 115. A bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations; to the Committee on Health, Education, Labor, and Pensions.

WOMEN'S HEALTH AND CANCER RIGHTS ACT OF 1999

Ms. SNOWE. Mr. President, on behalf of myself and the Senator from California, Mrs. FEINSTEIN, I rise today to introduce the Women's Health and Cancer Rights Act of 1999. We supported this bill in the 105th Congress when it was championed by my friend, the Senator from New York, Mr. D'AMATO, and we are reaffirming our support for this important bill as it again is introduced in the Senate this year. We believe we did make some progress on this bill as one piece—requiring insurance companies to cover reconstructive surgery was included in the final Omnibus spending bill enacted into law last October.

This bill is about recognizing what's best for women facing the crisis of a cancer diagnosis and a potential mastectomy. Because right now some women are
being the denied the best health care available. That is simply not acceptable in a country of such vast medical resources.

This year, millions of Americans will face the possibility of a cancer diagnosis, and 180,000 women will be diagnosed with breast cancer. Our country provides women with breast cancer and all Americans facing a cancer diagnosis with some basic protections.

First, it ensures that doctors are not pressured by health plans to release mastectomy patients before it is medically appropriate. Currently, some insurers have guidelines recommending that mastectomies be performed on an outpatient basis. A mastectomy is a very complicated surgical procedure and complications can arise as a result. Sending a woman home immediately after the surgery is not always the right thing to do. They may not have the information they need, nor, more importantly, the care. We want to make sure—and this bill will—that the decision is in the context of the medical well being of the patient as opposed to being made by an insurance company bureaucrat.

This decision must be returned to physicians and their patients. The physical scars by a mastectomy can be complicated and difficult to care for, and often require supervision. Women prematurely released may not have the information they need, and some dangerous complications can arise hours after the operation. All of this is happening in the context of the intense emotional trauma that comes with losing part or all of a breast.

Finally, all Americans who face the possibility of a cancer diagnosis must be able to make informed decisions about appropriate medical care. To do that, they need access to all the information available. Our bill requires insurance companies to pay full coverage for secondary consultations with a specialist concerning cancer prognosis or a treatment recommended. This will reduce senseless deaths resulting from false diagnoses and empower individuals to seek the most appropriate available treatment.

Women with breast cancer and all Americans facing a cancer diagnosis cannot wait any longer. I would urge my colleagues to join me in supporting this bill in order to provide the protections granted under this bill now.

By Ms. SNOWE:

S. 116. A bill to establish a training voucher system, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

WORKING AMERICAN TRAINING VOUCHER ACT

Ms. SNOWE. Mr. President, I rise today to introduce legislation that will address a serious need of America’s workers: the need to receive training that will prepare individuals for the workplace of the 21st Century. My legislation, entitled the “Working American Training Voucher Act,” would provide $1,000 training vouchers to 1 million working men and women who typically have little or no access to employer-provided training.

Mr. President, many Federal programs focus on the needs of those whose challenges and difficulties are most easily recognized and tangible. The working poor, an unemployed adult, or an impoverished senior citizen, we justifiably want to reach out and do what we can to help. Indeed, I am proud to be an active voice for the individuals whose concerns we can sometimes only imagine. However, it is oftentimes difficult to recognize the needs of those whose challenges are less tangible, whose concerns are less evident, or whose sense of insecurity about the future is known only by the individual and their family.

It is this difficulty that confronts many American workers today. In the face of increasing global competition, many workers wonder if the job they have today will not be available tomorrow. They are concerned that the advent of new technologies is making their skills and talents less useful for their current employers which, in turn, makes them feel more vulnerable and expendable. Consider if the skills they possess today are even marketable if they are “down-sized” or otherwise put out of work.

Unfortunately, these types of concerns and anxieties of oftentimes do not show on the surface, so it can be difficult for others to recognize or address them. It is too easy for many to assume that because a man or woman is already holding down a job, all is well and his or her future is secure. After all, how bad can it be if you’re punching a time clock and getting a paycheck? Unfortunately, such a view is not only shortsighted, it is also misguided and could prove disastrous.

We should not wait until a worker has been laid-off from their job, or a company shuts its doors and shuts off its windows, to take steps to help the American worker. Rather, we should take steps to ensure that our nation’s workforce is confident of their future and feels prepared to address the changes that tomorrow will bring. Not only does this help the individual, but I think we would all agree that the best way to reduce the impact and cost of unemployment is to take steps to keep those who are already employed on-the-job.

Admittedly, many policies and decisions play an integral role in creating and sustaining a high-tech flair thanks to new technologies. Many of our global competitors are doing this by creating and sustaining a high-tech flair thanks to new technologies. Even labor intensive tasks at assembly shops have taken on a high-tech flair thanks to new technologies.

For an individual who understands these technologies or receives training in their use, these changes present exciting new opportunities that improve performance and ultimately give one a sense of assurance that their skills are in demand. But for those who do not understand these technologies or do not receive training in their use, these technologies are nothing more than a threat and a cause for anxiety.

Regrettably, even as the demand for training at all levels in the workplace continues to grow because of these changing technologies, the United States has historically lagged far behind our global competitors in training workers. In fact, a study by the Congressional Office of Technology Assessment concluded: “While it is estimated by international standards, most American workers are not well trained."

While some U.S. companies devote a substantial amount of money to training, many of our global competitors spend considerably more. A study by the American Society for Training and Development highlighted this point when it found that U.S. companies spend—in the aggregate—approximately 1.4 percent of their payroll on training, while a number of our competitor nations actually require companies to spend 2 to 4 percent! While I would not espouse a mandatory training budget for any business, I believe...
we can and should seek to improve the availability of training for our nation's workers—and especially for those who need it most but are least likely to receive it. And that's precisely why the "Working American Training Voucher" is designed.

Mr. President, the "Working American Training Voucher" would provide access to critically needed training for workers at businesses with 200 or fewer employees. Why is it targeted to workers in small businesses? Quite simply, workers in small businesses are the least likely to receive—or be offered—employer-provided training. The same report by the Congressional Office of Technology Assessment summarized the plight of employees at small businesses quite succinctly: "Many (employees) in smaller firms receive no formal training."

A 1997 report—completed by Professor Craig Olson at the University of Wisconsin-Madison and presented to the Senate Manufacturing Task Force during the 105th Congress—looked at the difference between the likelihood an individual would receive training and the level of educational achievement he or she attained, or the field he or she worked in. Dr. Olson found that individuals with a bachelor's or master's degree had a 50 percent chance of receiving training in the past year, while individuals with a high school diploma had only a 17 percent chance. Those who dropped out of high school fared even worse: their odds of receiving training were only 5 percent.

When viewed by occupation, individuals who worked in production- or service-related jobs had only a 16 percent and 18 percent chance of receiving training, respectively, while those in management had a 50 percent chance. When considering that only one in four American workers received training in the past 12 months, these odds don't bode well for many employees at small businesses whose educational attainment and occupations fall in the categories that are the least likely to receive training.

One might understandably ask: Why is it that small businesses often provide so little training? The answer: cost. Small businesses are quite often unable to afford the cost of sending an employee to a training program. When your business is just trying to make ends meet, it's impossible to send an employee to a training class that costs—His or her skills are adequate to keep them employed. Let's take a step in the right direction and at least ensure that those who have a job will not lose it due to a lack of access to new and new skills. Let's pass the "Working American Training Voucher Act."

Mrs. FEINSTEIN. Mr. President, today, I am introducing the Women's Health and Cancer Rights Act of 1999 with Senator OLYMPIA SNOWE.

This bill has four provisions:

For breast cancer—

1. It requires insurance plans to cover hospital stays as determined by the attending physician.

2. It prohibits insurance plans from refusing to cover a mastectomy.

3. It requires plans to cover second opinions by specialists to confirm or refute a diagnosis. If the attending physician certifies that there is no appropriate specialist practicing under the insurance plan, the plan must ensure that coverage is provided outside the plan for a second opinion by a qualified specialist selected by the attending physician at no additional cost to the patient beyond that which the patient would have paid if the specialist were participating in the plan.

NEED FOR LEGISLATION

The movement from inpatient to outpatient mastectomies and reduced hospital stays for mastectomies in recent years has been documented. A June 3, 1998 study in the Journal of the National Cancer Institute found that from 1986 to 1995 "the proportion of mastectomies performed on an outpatient basis increased from virtually 0% to 10.8%," said these researchers. They also highlighted data that "clearly suggested a shorter average length of stay and a higher likelihood of a short stay for women covered by HMOs" and that "while short stays appear to be more prevalent among HMO enrollees, they are not broadly exclusive to women at HMO coverage."

Another study, by the medical research firm HCIA of Baltimore, Maryland, found that in 1995, 7.6 percent of the 110,000 breast removals in the country were done on an outpatient basis, up from 1.6 percent in 1991.

Another study found that the average length of stay for women who have had a mastectomy is 4.34 days nationally,
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but in California, it is 2.98 days, the shortest in the country. (New York has the longest mastectomy length of stay at 5.78 days.) This study, published in the winter 1997-1998 issue of Inquiry, says:

California had the highest proportion of mastectomy patients discharged after only one day or within two days . . . Nearly 12% of mastectomy patients in California were discharged with a length of stay equal to one day; the next highest proportion was 4.8% in Massachusetts; the percentages in the other three states ranged from 1.1% to 2.2%.

A July 7, 1997 study by the Connecticut Oxford Health Care Access found the average hospital length of stay for breast cancer patients undergoing mastectomies decreased from three days in 1991 and 1993 to two days in 1994 and 1995. This study said, “The percentage of mastectomy patients discharged after one-day stays grew about 700 percent from 1991 to 1996.”

The Wall Street Journal on November 6, 1996, reported that “some health maintenance organizations are creating an uproar by ordering that mastectomies be performed on an outpatient basis.” At a growing number of HMOs, surgeons must document ‘medical necessity’ to justify even a one-night hospital admission.

And so the studies confirm that (1) hospital lengths of stay for mastectomies are decreasing and (2) more mastectomies are being done on an outpatient basis.

The mastectomy hospital length-of-stay and the other provisions did not become law, despite many efforts:

At our request, the Senate Finance Committee held a hearing on S. 249 on November 5, 1997.

In addition, Senator D’Amato offered it as an amendment in the Finance Committee twice.

Two California cases

Two California women have shared their real-life experiences with me: Nancy Couchot, age 60, of Newark, California, who had a modified radical mastectomy on November 4, 1996, at 11:30 a.m. and was released by 4:30 p.m. She could not walk and the hospital staff did not help her “even walk to the bathroom.” She says, “Any woman, under these circumstances, should be able to opt for an overnight stay to receive professional help and strong pain relief.”

Victoria Berck, of Los Angeles, wrote that she had a mastectomy and lymph node removal at 7:30 a.m. on November 13, 1996, and was released from the hospital 7 hours later, at 2:30 p.m. Ms. Berck was given instructions on how to empty two drains attached to her body and sent home. She concludes, “No civilized country in the world has mastectomy as an outpatient procedure.”

These are but two examples of what I believe is happening around the country—insurance plans interfering with professional medical judgment and arbitrarily reducing care without a medical basis.

Premature discharges for mastectomy, with insurance plans strong-arming physicians to send women home, are one glaring example of the rising tide abuses faced by patients and physicians who have to “battle” with their HMOs to get coverage of the care that physicians believe is medically necessary.

For all cancers, our bill also prohibits insurance plans from including financial or other incentives to influence the care a doctor’s provides, similar to a law passed by the California legislature last year. Many physicians have complained that insurance plans include financial bonuses or other incentives for cutting patient visits or for not referring patients to specialists.

Our bill bans financial incentives linked to how a doctor provides care.

In my state, in 1998, approximately 17,600 women were diagnosed with invasive breast cancer and 44,000 women died from breast cancer. Only lung cancer causes more cancer deaths among women. There are 2.6 million American women living with breast cancer today.

In my state, in 1998, approximately 17,600 women were diagnosed with breast cancer and 4,300 died, according to the American Cancer Society. Officials at the Northern California Cancer Center say that breast cancer incidence rates in Los Angeles and San Francisco are significantly higher than national rates.

The stress of mastectomy: The need for care

After a mastectomy, patients must cope with pain from the surgery, with drainage tubes and with psychological loss—the trauma of an amputation. Patients need medical care from trained professionals, medical care that they cannot provide themselves at home. A woman fighting for her life and her dignity should not also be saddled with a battle with her health insurance plan.

Dr. Christine Miaskowski at the University of California, San Francisco, estimates that about 20 percent of women who have breast cancer surgery have chronic pain of long duration. A University of California, San Diego, study suggests that the rate may be double that, reports the May 20, 1998 Journal of the National Cancer Institute.
This is an important protection for millions of Americans who face the fear, the reality and the costs of cancer every day. Seven states have a law allowing a physician to determine the length of stay following a mastectomy. Seven breast cancer cases have required 48-hour minimum stay requirement.

It is long past time for this Congress to send a strong message to insurance companies. Medical decisions must be made by medical professionals, not anonymous insurance clerks.

By Ms. SNOWE:
S. 117. A bill to permit individuals to continue health plan coverage of services while participating in approved clinical studies; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE:
S. 118. A bill to amend the Public Health Service Act to provide, with respect to research on breast cancer, for the increased involvement of advocates in decision making at the National Cancer Institute; to the Committee on Health, Education, Labor, and Pensions.

BREAST CANCER LEGISLATION

Ms. SNOWE. Mr. President, today I am introducing two bills which build on progress made in the 105th Congress in the difficult and challenging fight against breast cancer.

Our challenge was summed up by one breast cancer advocate when she stated, simply and eloquently, “We must make our voices heard, because it is our lives.” Indeed, breast cancer continues to claim the lives of our mothers, sisters, daughters, and wives. With about 1 in 8 women at risk for developing breast cancer, there is scarcely a family in America unaffected by the disease.

By the end of this year alone, over 178,000 women will have been diagnosed with breast cancer. Over 43,500 will have died. And with each life stolen, our nation is weakened immeasurably.

We took an important step forward in the last Congress to combat this deadly foe. In the Food and Drug Administration Reauthorization Act, Congress included language based on a bill I introduced with the Senator from California, Senator FEINSTEIN, to create a “one-stop shopping information service” for individuals with life-threatening diseases looking to obtain information about privately and publicly funded clinical trials. This service provides information describing the purpose of the trial, eligibility criteria and the location. It gives individuals, their families and physicians an 800 number to call to obtain the latest information about these trials—trials that could save a loved one life and trials that could help put us a step closer to our ultimate goal—finding a cure.

Much remains to be done before we conquer breast cancer, so today I am reintroducing a bill, the Improved Patient Access to Clinical Studies Act of 1999, to prohibit insurance companies from denying coverage for services provided to individuals participating in clinical trials, if those services would otherwise be covered by the plan. This bill would also prevent health plans from disenrolling enrollees, who choose to participate in clinical trials.

This bill has a two-fold purpose. First, it will ensure that many patients who could benefit from these potentially life-saving treatments but currently do not have access to them because their insurance will not cover the associated costs. Second, without reimbursement for these services, our researchers’ ability to conduct important research is impeded as it reduces the number of patients who seek to participate in clinical trials.

The second bill will give breast cancer advocates a voice in the National Institutes of Health’s (NIH’s) research decision-making. With an involvement in Breast Cancer Research Act urges NIH to follow the Department of Defense’s lead and include lay breast cancer advocates in breast cancer research decision-making.

The involvement of these breast cancer advocates at DOD has helped foster new and innovative breast cancer research funding designs and research projects. While maintaining the highest level of quality assurance through peer review, these advocates have helped to ensure that all breast cancer research reflects the experiences and wisdom of the individuals who have lived with the disease, as well as the scientific community.

I hope that my colleagues will join me in supporting these two bills which will help those suffering from breast cancer and their families as well as our researchers who are seeking the cure for this devastating disease.

By Ms. SNOWE:
S. 119. A bill to establish a Northern Border States-Canada Trade Council, and for other purposes, to the Committee on Finance.

THE NORTHERN BORDER STATES COUNCIL ACT

Ms. SNOWE. Mr. President, today I am introducing legislation that would establish a Northern Border States Council on United States-Canada trade.

The purpose of this Council is to oversee, and make our Nation’s largest trading partner—an action that I believe is long overdue. The Council will serve as an early warning system to alert State and Federal trade officials to problems in cross-border traffic and trade. The Council will enable the United States to take more effectively administer trade policy with Canada by applying the weight of insight, knowledge and expertise of people who reside not only in my State of Maine, but in the other eleven northern border States as well, on this critical policy issue.

Within the U.S. Government we already have the Department of Commerce and a U.S. Trade Representative, both Federal entities, responsible for our larger, national U.S. trade interests. But the facts is that too often such entities fail to give full consideration to the interests of the 12 northern border states that share a border with Canada, the longest demilitarized border between two nations anywhere in the world. The Northern Border States Council will provide State trade officials with a mechanism to share information about cross-border traffic and trade. The Council will also advise the Congress, the President, the U.S. Trade Representative, the Secretary of Commerce, and other Federal and State trade officials on United States-Canada trade policies, and problems.

Canada is our largest and most important trading partner. Canada is by far the top purchaser of U.S. export goods and services, as it is the largest source of U.S. imports. In 1997, for instance, Canada imported over $151 billion in U.S. goods. With an economy one-tenth the size of our own, Canada’s economic health depends on maintaining close trade ties with the United States. While Canada accounts for about one-fifth of U.S. exports and imports, the United States is the source of two-thirds of Canada’s imports and provides the market with fully three-quarters of all Canada’s exports.

The United States and Canada have the largest bilateral trade relationship in the world, a relationship that is remarkable not only for its strength and general health, but also for the intensity of the trade and border problems that do frequently develop—as we have seen this past year with actual farmer border blockades in some border states because of the unfairness of agricultural trade policies. Over the last decade, Canada and the United States have signed two major trade agreements—the United States-Canada Free Trade Agreement in 1989, and the North American Free Trade Agreement, or NAFTA, in 1993. Notwithstanding these trade accords, numerous disagreements have caused trade negotiators to shuttle back and forth between Washington and Ottawa, most recently for solutions to problems for grain trade, wheat imports, animal trade, and joint cooperation on Biotechnology. I might add at recent negotiations, there was strong movement towards solutions for the potato industry, but have been promised by the USDA that it is now the top priority for discussion.

Most of the more well-known trade disputes with Canada have involved agricultural commodities such as durum wheat, peanut butter, dairy products, and poultry products, and these disputes, of course, have impacted more than just the 12 northern border States.

This year and every day, however, an enormous quantity of trade and traffic crosses the United States-Canada border. These are literally thousands of businesses, large and small, that rely
on this cross-border traffic and trade for their livelihood.

My own State of Maine has had a long-running dispute with Canada over that nation’s unfair policies in support of its potato industry, and I know that the northern and the western states have problems as well. Specifically, Canada protects its domestic potato growers from United States competition through a system of nontariff trade barriers, such as the source-of-origin requirements and a prohibition on bulk shipments from the United States.

This bulk import prohibition effectively blocks United States potato imports into Canada and was one topic of discussion during an International Trade Commission investigations hearing on April 30, 1997, where I testified on behalf of the Maine potato growers.

The ITC followed up with a report stating that Canadian regulations do restrict imports to fresh processing operations, and that the United States maintains no such restrictions. These bulk shipment restrictions continue, and, at the same time, Canada also artificially enhances the competitiveness of its product through domestic subsidies for its potato growers.

Another trade dispute with Canada, specifically with the province of New Brunswick, originally served as the inspiration for this legislation. In July 1993, Canadian federal customs officials began stopping Canadians returning from Maine and collecting from them the 11-percent New Brunswick Provincial Sales Tax [PST] on goods purchased in Maine. Canadian Customs Officers had already been collecting the Canadian federal sales tax across the United States-Canada border. The collection of the New Brunswick PST was specifically targeted against goods purchased in Maine—not on goods purchased in any of the other provinces bordering New Brunswick.

After months of implored the U.S. Trade Representative to do something about the imposition of the unfairly administered tax, then Ambassador Kantor agreed that the New Brunswick PST was a violation of NAFTA, and that the United States would include the PST issue in the NAFTA dispute settlement process. But despite this explicit assurance, the issue was not, in fact, included in any of the other provisions of the agreement. The Northern Border States Council, then, was established under NAFTA to act as nontariff barriers to trade.

As an advisory body, the Council will review and comment on all Federal and/or State reports, studies, and practices concerning United States-Canada trade, with particular emphasis on all reports from the dispute settlement panels established under NAFTA. These Council reviews will be conducted by the United States Trade Representative, the Secretary of Commerce, a Member of Congress from any Council State, or the Governor of a Council State.

If the Council determines that the origin of a cross-border traffic dispute resides with Canada, the Council would determine, to the best of its ability, if the source of the dispute in the Canadian Federal Government or a Canadian Provencal government. The goal of this legislation is not to create another Federal trade bureaucracy. The Council will be made up of individuals nominated by the Governors and approved by the Secretary of Commerce. Each northern border State will have two members on the Council. The Council members will be unpaid, and serve as 2-year term.

The Northern Border States Council on United States-Canada Trade will not solve all of our trade problems with Canada. But it will help our voices and views of our northern border States are heard in Washington by our Federal trade officials. For too long their voices have been ignored, and the northern border States have had to suffer serious economic consequences at various times because of it. This legislation will bring our States into their rightful position as full partners for issues that affect cross-border trade and traffic with our country’s largest trading partner. I urge my colleagues to join me in supporting this important legislation.

By Ms. SNOWE:

S. 120. A bill to amend title II of the Trade Act of 1974 to clarify the definition of domestic industry and to include certain agricultural products for purposes of providing relief from injury caused by increased imports and for other purposes; to the Committee on Finance.

THE AGRICULTURAL TRADE REFORM ACT OF 1999

Ms. SNOWE. Mr. President, I am introducing legislation today to give agricultural producers, including potato growers, some important and badly needed new tools for combating injurious increases in imports from foreign countries.

The Trade Act of 1974 contains provisions that permit U.S. industries to seek relief from serious injury caused by increased quantities of imports. In practice, however, it has been very difficult for many U.S. industries to actually secure action under the Act to redress this kind of injury.

The ineffectiveness of the Act results from some of the specific language in the statute. Specifically, the law requires the International Trade Commission, when evaluating a petition for relief from injury, to consider whether the injury affects the entire U.S. industry, or a segment of an industry located in a “major geographic area” of the U.S. whose production constitutes a “substantial portion” of the total domestic industry. This language has been interpreted by the ITC to mean that all or nearly all of the U.S. industry must be seriously injured by the imports before it can qualify for any relief.

Thus, if an important segment of an industry is being severely injured by imports that compete directly with that segment, the businesses who comprise this portion of the industry do not have much recourse—even though the industry segment in question may employ thousands of Americans and annually generate billions of dollars annually for the U.S. economy. In other words, our current trade laws leave large segments of an industry that serve particular regions and markets, or have
The right to seek redress in a court of law—the right to a jury trial—is one of the most basic rights accorded to employees in this nation. In the Civil Rights Act of 1991, Congress expressly created this right to a jury trial for employees when it voted overwhelmingly to amend Title VII of the Civil Rights Act of 1964.

The intent of the Civil Rights Act of 1991 and other civil rights and labor laws, such as the Age Discrimination in Employment Act, is designed to empower America's agricultural producers to seek and obtain effective remedies for damaging import surges. It will make the Trade Act for expedited, or provisional, relief determinations by the ITC ever issued, this bill would be done well before a decision by the ITC is ever issued, this bill would shorten the time frame for provisional relief determinations by the ITC by allowing the commission to waive, in certain circumstances, the act's requirement that imports be monitored by the USTR for three months. And, finally, the bill expands the list of agricultural products eligible for provisional relief to include any potato product, including processed potato products. Under current law, only perishable agricultural products and citrus products are eligible to apply for expedited relief determinations.

For too long, American agriculture has been trying to combat sophisticated foreign competition with the equivalent of sticks and stones. My bill strengthens the position of American agricultural producers in the competitive arena, and will help provide effective remedies for agricultural producers, and provide effective deterrents to the depredations of their competitors from other countries. I hope other senators with a interest in fair play for our domestic agricultural producers will join me in cosponsoring this important legislation.

By Mr. FEINGOLD:

S. 121. A bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability or for other purposes; to the Committee on Health, Education, Labor, and Pensions.

CIVIL RIGHTS PROCEDURES PROTECTION ACT

Mr. FEINGOLD. Mr. President, I rise today to introduce the Civil Rights Procedures Protection Act of 1999. The 106th Congress will mark the fourth successive Congress in which I have introduced this legislation. Very simply, Mr. President, this legislation addresses the rapidly growing and very troubling practice of employers conditioning employment or professional advancement upon their employees' willingness to submit claims of discrimination or harassment to arbitration, rather than pursuing them in the courts. In other words, employees raising claims of harassment or discrimination by their employers must submit the adjudication of those claims to arbitration, denying themselves any other remedies that may exist under the laws of this Nation.

Rather than rely solely on an industry petition to initiate an ITC review of whether provisional, or expedited, relief deserves to be granted, my bill would permit the United States Trade Representative or the Congress, via a resolution, to request such review.

Because the time frames in the present law for considering and providing provisional relief are so long that the damage from imports can already be well below and not even by the ITC, even if the ITC is ever issued, this bill would shorten the time frame for provisional relief determinations by the ITC by allowing the commission to waive, in certain circumstances, the act's requirement that imports be monitored by the USTR for three months. And, finally, the bill expands the list of agricultural products eligible for provisional relief to include any potato product, including processed potato products. Under current law, only perishable agricultural products and citrus products are eligible to apply for expedited relief determinations.

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Congress assembled, representatives of the United States of America in

Act of 1967 (29 U.S.C. 621 et seq.) is

SEC. 3. AMENDMENT TO THE AGE DISCRIMINA-
tion Act of 1990 (29 U.S.C. 12117) is amended by adding at the end the following new subsection:

“(c) Notwithstanding any Federal law (other than a Federal law that expressly refers to this title) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or such claim through arbitration or another procedure.”

SEC. 4. AMENDMENT TO THE REHABILITATION

Section 506 of the Rehabilitation Act of 1973 (29 U.S.C. 794a) is amended by adding at the end the following new subsection:

“(c) Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this Act or another procedure.”

SEC. 5. AMENDMENT TO THE AMERICANS WITH
DISABILITIES ACT OF 1990.

Section 107 of the Americans with Disabil-
ities Act of 1990 (42 U.S.C. 12117) is amended by adding at the end the following new sub-
section:

“(c) Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act or another procedure) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or such claim through arbitration or another procedure.”

SEC. 6. AMENDMENT TO SECTION 1977 OF THE
LABOR STANDARDS ACT OF 1938.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) is amended by adding at the end the following new section:

“(b) Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act or another procedure) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or such claim through arbitration or another procedure.”

SEC. 7. AMENDMENT TO THE EQUAL PAY RE-
Quirement UNDER THE FAIR LABOR STANDARDS ACT OF 1938.

Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) is amended by adding at the end the following new para-
graph:

“(3) Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this Act or another procedure, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or such claim through arbitration or another procedure.”

SEC. 8. AMENDMENT TO THE FAMILY AND MEDI-
CAL LEAVE ACT OF 1993.

Title IV of the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) is amended—

(1) by redesignating section 405 as section 406, and

(2) by inserting after section 404 the follow-
ing new section:

“SEC. 405. EXCLUSIVITY OF REMEDIES.

“(a) Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act or another procedure) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this Act or another procedure, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or such claim through arbitration or another procedure.”

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Civil Rights Procedures Protection Act of 1999’’.

SEC. 2. AMENDMENT TO TITLE VII OF THE CIVIL
RIGHTS ACT OF 1964.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) is amended by adding at the end the following new section:

“SEC. 719. EXCLUSIVITY OF POWERS AND PROC-
EDURES.

‘‘Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or such claim through arbitration or another procedure.’’

SEC. 3. AMENDMENT TO THE AGE DISCRIMINA-
TION IN EMPLOYMENT ACT OF 1967.

The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) is amended—

By Mr. FEINGOLD:

S. 122 A bill to amend title 37, United States Code, to ensure equitable treatment of members of the National Guard and the other reserve compo-

nents of the United States with regard to eligibility to receive special duty assig-
nment pay, and for other purposes; to the Committee on Armed Services.

NATIONAL GUARD AND RESERVE SPECIAL DUTY ASSIGNMENT PAY EQUITY ACT OF 1999

Mr. FEINGOLD. Mr. President, as I'm certain my col-

leagues are well aware, the Guard and Reserve are integral parts of overseas missions, including recent and on-
going missions to Iraq and Bosnia. Ac-

cording to statements by DOD officials, guardsmen and reservists will continue to play an increasingly important role in national defense, particularly because the Na-
tional Guard and Reserves deserve the full support they need to carry out their duties.
Mr. President, my bill would correct special duty assignment pay inequities between the Reserve components and the active duty. These inequities should be corrected to take into account the special Guard and Reserve’s increased role in our national security, especially on the front lines. Given the increased use of the Reserve components and DOD’s increased reliance on them, Reservists deserve fair pay. My bill states that a Reservist who is entitled to basic pay and is performing special duty be paid special duty assignment pay.

Mr. President, right now, Reservists are getting shortchanged despite the vital role they play in our national defense. The special duty assignment pay program ensures readiness by compensating specific soldiers who are assigned to duty positions that demand special training and extraordinary effort to maintain a level of satisfactory performance. The program, as it stands now, effectively reduces the ability of the National Guard and Reserve to retain their dedicated and specialized soldiers.

The special duty assignment pay program provides an additional monthly financial incentive paid to enlisted soldiers and airmen who are required to perform extremely demanding duties that require an unusual degree of responsibility. These special duty assignments include certain command sergeants major, guidance counselors, retention non-commissioned officers (NCO’s), drill sergeants, and members of the Special Forces. These soldiers, however, do not receive special duty assignment pay while in an IDT status (drill weekends).

Between fiscal years 1998 and 1999, spending for the program was cut by $1.6 million, which has placed a fiscal restraint on the number of personnel the Army National Guard is able to provide for under this program. These solders deserve better.

Mr. President, this bill is paid for by terminating the ineffective, unnecessary, and outdated Cold War relic known as Project ELF, the Extremely Low Frequency Communication System, which costs approximately $12 million per year.

Mr. President, the differences in pay and benefits are particularly disturbing since National Guard and Reserve members give up their civilian salaries during the time they are called up or volunteer for active duty.

As I’m sure all my colleagues have heard, that will provide an enormous boost in defense spending over the next six years; an increase of $12 billion for fiscal year 2000 and about $110 billion over the next six years. I have tremendous reservations about spending hikes of this magnitude, but have no such reservations in supporting this nation’s citizen-soldiers. The National Guard and Reserve deserve pay and benefit equity and that means paying them what they’re worth. Mr. President, according to the National Guard, shortfalls in the operations and maintenance account compromise the Guard’s readiness levels, capabilities, fire power, and entities. Failing to fully support these vital areas will have both direct and indirect effects. The shortfall puts the Guard’s personnel, schools, training, full-time support, and retention and recruiting at risk. Perhaps more importantly, however, it erodes the morale of our citizen-soldiers.

Over these past years, the Administration has increasingly called on the Guard and Reserves to handle wide-ranging tasks, while simultaneously offering defense budgets with shortfalls of hundreds of millions of dollars. These shortfalls have increasingly greater effect given the guard and reserves’ increased operations burden. This is a result of new missions, increased deployments, and training requirements.

Earlier this month, Charles Cragin, the assistant secretary of defense for reserve affairs, presented DOD’s position with regard to the department’s working relationship with the National Guard and Reserve. He stated that all branches of the military reserves will be called upon more frequently as the nation’s active number of soldiers on active duty. This has clearly been DOD’s policy for the past few years, but Mr. Cragin went a little further by stating that the reserve units can no longer be considered “weekend warriors” but primary components of national defense.

Mr. President, in the past, DOD viewed the armed forces as a two-pronged system, with active-duty troops reinforced by the Reserve component. That strategy has changed with the downsizing of active forces. Defense officials now see reserves as part of the “total force” of the military.

The National Guard and Reserve will be called more frequently to active duty for domestic support roles and abroad in various peace-keeping efforts. They will also be vital players on special teams trained to deal with weapons of mass destruction deployed within our own borders. According to many military experts, this represents a more salient threat to the United States than the threat of a ballistic missile attack that many of my colleagues have spent so much time addressing.

As I’m sure my colleagues know by now, the Army National Guard represents a full 34 percent of total army forces, including 55 percent of combat troops. While it’s true that 46 percent of combat support, and 25 percent of combat service support, yet receives just 9.5 percent of Army funds. Mr. President, it should come as no surprise that we have failed to invest fully in the National Guard. It’s no surprise because it’s the best bargain in the Defense Department. DOD has never been known as a frugal department. From $436 hammers to $640 toilet seats to $2 billion dollars that don’t work and the department doesn’t seem to want to use, the Department of Defense has a storied history of wasting our tax dollars. Here is an opportunity to spend defense dollars on something that works, that doesn’t work.

Mr. President, I have had the opportunity to see some of these soldiers off as they embarked on these missions and have welcomed them home upon their return, and I have been struck by the courage and professionalism they display. Guardsmen and Reservists have been vital on overseas missions, and here at home. In Wisconsin, the State Guard provides vital support during state emergencies, including floods, ice storms, and train derailments.

Mr. President, we have a duty to honor the service of our National Guardsmen and Reservists. One way to do that is to adequately compensate them for their service. I hope my colleagues agree that our citizen-soldiers serve an invaluable role in our national defense, and their paychecks should reflect their contribution.

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

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

S. 122

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 “Guard and Reserve Special Duty Assignment Pay Equity Act of 1999.”

SEC. 2. ENTITLEMENT OF RESERVES NOT ON ACTIVE DUTY TO RECEIVE SPECIAL DUTY ASSIGNMENT PAY.

(a) AUTHORITY.—Section 307(a) of title 37, United States Code, is amended by inserting after “is entitled to basic pay” in the first sentence the following: “, or is entitled to compensation under section 206 of this title in the case of a member of a reserve component not on active duty.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that this Act begins or after the date of the enactment of this Act.
By Mr. FEINGOLD:

S. 123. A bill to phase out Federal funding of the Tennessee Valley Authority; to the Committee on Environment and Public Works.

TENNESSEE VALLEY AUTHORITY

Mr. FEINGOLD. Mr. President, today I am introducing legislation, similar to bills I introduced in the two previous Congresses, to terminate funding for the non-power programs of the Tennessee Valley Authority (TVA). In FY 99, after terminating funding for these programs in the FY 99 Energy and Water Appropriations bill, the Congress received funding for these programs in the Omnibus Appropriations measure.

The TVA was created in 1933 as a government-owned corporation for the unified development of a river basin comprised of parts of seven states. Those activities included the construction of an extensive power system, for which the region is now famous, and regional development or "non-power" programs. TVA's responsibilities in the non-power programs include maintaining levees, reservoirs and navigation facilities, and managing TVA-held lands. In addition, TVA provides recreational programs, makes economic development grants to communities, promotes public use of its land and water resources, and operates an Environmental Research Center. Only the TVA power programs are intended to be self-supporting, by relying on TVA utility customers to foot the bill. The cost of these "non-power" programs, on the other hand, is covered by appropriated taxpayer funds.

This legislation terminates funding for all appropriated programs of the TVA after FY 2000. While I understand the role that TVA has played in our history, I also know that we face tremendous federal budget pressure to reduce spending in many areas. I believe that TVA's discretionary funds should be on the table, and that Congress should act, in accordance with this legislation, to put the TVA appropriated programs on a glide path toward dependence on sources of funds other than appropriated funds. This legislation is a reasonable phased-in approach to achieve this objective, and explicitly codifies both prior recommendations made by the Administration and the TVA Chairman.

We should terminate TVA's appropriated programs because there are limitations to funding TVA. I turn to light in a 1993 Congressional Budget Office (CBO) report, that non-power program funds subsidize activities that should be paid for by non-federal interests. When I ran for the Senate in 1992, I developed an 82+ point plan to eliminate the federal deficit and have continued to work on the implementation of that plan since that time. That plan includes a number of items in the natural resource area, including the termination of TVA's appropriations-funded programs.

In its 1993 report, CBO focused on two programs: the TVA Stewardship Program and the Environmental Research Center, which no longer receives federal funds. Stewardship activities receive the largest share of TVA's appropriated funds. The funds are used for dam repair and maintenance activities. According to 1995 testimony provided by TVA to the House Subcommittee on Energy and Water Appropriations, when TVA repairs a dam it pays 70%, on average, of repair costs with appropriated dollars and covers the remaining 30% with funds collected from electric ratepayers.

This practice of charging a portion of dam repair costs to the taxpayer, CBO highlighted, amounts to a significant subsidy. If TVA were a private utility, and it made modifications to a dam or performed work, the ratepayers would pay for all of the costs associated with that activity.

Despite CBO's charges that a portion of the Stewardship funds may be subsidizing the power program, I have heard from a number of my constituents who are concerned that some of the TVA's non-power activities are critical federal functions. In order to be certain that Congress would be acting properly and not terminating activities while preserving others under TVA or transferring them to other federal agencies, this bill directs OMB to study TVA's non-power programs. That study, which must be completed by J une 1, 1999, requires OMB to evaluate TVA's non-power programs, describe which of those are necessary federal functions, and recommend whether those which are federal functions should be performed by TVA or by another agency. The report will be fully informed before making a final decision to terminate these funds.

Again, while I understand the important role that TVA played in the development of the Tennessee Valley, many other areas of the country have become more creative in federal and state financing arrangements to address regional concerns. Specifically, in those areas where there may be excesses of federal interest, I believe it is better in order to curb subsidies and eliminate the burden on taxpayers without completely eliminating the TVA, as some in the other body have suggested.

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

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

S. 123

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

SECTION 1. TENNESSEE VALLEY AUTHORITY. TO DISCONTINUE APPROPRIATIONS.—

Section 27 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 832j), is amended by inserting "for fiscal years through fiscal year 2000" before the period.

(b) PLAN.—Not later than June 1, 1999, the Director of the Office of Management and Budget shall develop and submit a plan to Congress that—

(1) reviews the non-power activities conducted by the Tennessee Valley Authority using appropriated funds; and

(2) determines whether the non-power activities performed by the Tennessee Valley Authority can be adequately performed by other federal agencies, and if so, describes the resources needed by other agencies to perform such activities; and

(3) describes on-going federal interest in the operation of the non-power activities currently performed by the Tennessee Valley Authority;

and

(4) recommends any legislation that may be appropriate to carry out the objectives of this Act.

By Mr. FEINGOLD:

S. 124. A bill to amend the Agricultural Adjustment Act to prohibit the Secretary of Agriculture from basing minimum prices for Class I milk on the distance or transportation costs from any location that is not within a marketing area, except under certain circumstances, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

ABOLISHING THE ANTI-EAU CLAIRE RULE

Mr. FEINGOLD. Mr. President, I rise today to offer a measure which will serve as a first step towards eliminating inequities and injustices for dairy farmers of Wisconsin and the upper Midwest under the Federal Milk Marketing Order system. The Federal Milk Marketing Order system, created nearly 60 years ago, establishes minimum prices for milk paid to producers throughout various marketing areas in the U.S. For sixty years, this system has discriminated against producers in the Upper Midwest by awarding a high price to dairy farmers in proportion to the distance of their farms from Eau Claire, Wisconsin.

This legislation is very simple. It identifies the single most harmful and unjust feature of the current system, and corrects it. Under the current archaic law, the price for fluid milk increases at a rate of 21 cents per hundred miles from Eau Claire, Wisconsin, even though most milk marketing orders do not receive any milk from Wisconsin. Fluid milk prices, as a result, are $2.98 higher in Florida than in Wisconsin and over $1.00 higher in Texas. This method of pricing fluid milk is not only arbitrary, but also out of date and out of sync with economic and market conditions. The measure I will offer today would replace the anti-Eau Claire rule with a uniform milk pricing system.
with the market conditions of 1999. It is time for this method of pricing—known as single-basing-point pricing—to come to an end. The bill I introduce today will prohibit the Secretary of Agriculture from using distance or transportation costs from any location as the basis for pricing milk, unless significant quantities of milk are actually transported from that location into the recipient market. The Secretary will have to comply with the statutory requirement that supply and demand factors be considered as specified in the Agricultural Marketing Agreement Act when setting milk prices in marketing orders. The fact remains that single-basing-point pricing simply cannot be justified based on supply and demand for milk both in local and national markets.

This bill also requires the Secretary to report to Congress on specifically which criteria are used to set milk prices. Specifically, the Secretary will have to certify to Congress that the criteria used by the Department do not in any way attempt to circumvent the prohibition on using distance or transportation cost as basis for pricing milk. This is so crucial to Upper Midwest producers, because the current system has penalized them for many years. By providing disparate profits for producers in other parts of the country and creating artificial economic incentives for milk production, Wisconsin producers have seen national surpluses rise, and milk prices fall. Rather than providing adequate supplies of fluid milk in some parts of the country, the prices have led to excess production.

The prices have provided production incentives beyond those needed to ensure a local supply of fluid milk in some regions, leading to an increase in manufactured products in those markets. Those manufactured products directly compete with Wisconsin's processed products, eroding our markets and driving national prices down.

The perverse nature of this system is further illustrated by the fact that since 1995 some regions of the U.S., notably the Central states and the Southwest, are producing so much milk that they are actually shipping fluid milk north to the Upper Midwest. The high fluid milk incentives for milk produced in Wisconsin have generated too much excess production, that these markets distant from Eau Claire are now encroaching upon not only our manufactured markets, but also our markets for fluid milk, further eroding prices in Wisconsin.

The market distorting effects of the fluid price differentials in federal orders are manifest in the Congressional Budget Office estimate that eliminating the orders would save $689 million over five years. Government outlays would fall, CBO concludes, because production would fall in response to lower milk prices and there would be fewer government purchases of surplus milk. The regions which would gain and lose in this scenario illustrate the discrimination inherent to the current system. Economic analyses show that farm revenues in a market undisturbed by Federal Orders would actually increase in the Upper Midwest and fall in most other milk-producing areas.

The data clearly show that Upper Midwest producers are hurt by distortions built into a single-basing-point system that prevent them from competing effectively in a national market. While this system has been around since 1937, the practice of basing fluid milk price differentials on the distance from Eau Claire was formalized in the 1960's, when the Upper Midwest arguably was the primary reserve for additional supplies of milk. The idea was to encourage local supplies of fluid milk in areas of the country that did not traditionally produce enough milk to meet needs.

Mr. President, that is no longer the case. The Upper Midwest is neither the lowest cost production area nor a primary source of reserve supplies of milk. In many of the markets with higher fluid milk differentials, milk is produced at lower cost than the Upper Midwest. Unfortunately, the prices didn't adjust with changing economic conditions, most notably the shift of the dairy industry away from the Upper Midwest and towards the South-west, specifically California, which now leads the nation in milk production.

Fluid milk prices should have been lowered to reflect that trend. Instead, in 1985, the prices were increased for markets distant from Eau Claire. USDA has refused to use the administrative authority provided by Congress to make the appropriate adjustments to reflect economic realities. They continue to stand behind single-basing-point pricing.

The result has been a decline in the Upper Midwest dairy industry, not because they can't compete in the market place, but because the system discriminates against them. Since 1980, Wisconsin has lost over 15,000 dairy farmers. Today, Wisconsin loses dairy farmers at a rate of 5 per day. The Upper Midwest, with the lowest fluid milk prices, is shrinking as a dairy region despite the dairy-friendly climate of the region. Other regions with higher fluid milk prices are growing rapidly.

In an unregulated market with a level playing field, these shifts in production might be fair. But in a market where the government is setting the prices and providing that artificial advantage to regions outside the Upper Midwest, the current system is unconscionable.

This bill is a first step in reforming federal price support by prohibiting grossly unfair practice that should have been dropped long ago. Although I understand that, because of mandates in the 1996 Farm Bill, the USDA is currently deliberating possible changes to the current system, one of the options being considered maintains this debilitating single-basing-point pricing system. This bill is the beginning of reform. It identifies the one change that is absolutely necessary in any outcome—the elimination of single-basing-point pricing.

I urge the Secretary of Agriculture to do the right thing and bring reform to this out-dated system. No proposal is reform without this important policy change.

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

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

**S. 124**

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

**SECTION 1. LOCATION ADJUSTMENTS FOR MINIMUM PRICES FOR CLASS I MILK.**

Section 2(1), of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (A),

(A) by striking the last 2 sentences and inserting after such paragraph the following:

``within a marketing area subject to the order'';

and

(B) by striking the last 2 sentences and inserting after the paragraph following: "Notwithstanding subsection (B) any other provision of law, when fixing minimum prices for milk of the highest use classification in a marketing area subject to an order under this subsection, the Secretary may not, directly or indirectly, base the prices on the distance from, or all or part of the costs incurred to transport milk to or from, any location that is not within the marketing area subject to the order, unless milk from the location constitutes at least 50 percent of the total supply of milk of the highest use classification in the marketing area. The Secretary shall return to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the criteria that are used as the basis for the prices referred to in the preceding sentence, including a certification that the minimum prices are made in accordance with the preceding sentence.''

and

(2) in paragraph (B) (c), by inserting after the paragraph following: "within a marketing area subject to the order".

By Mr. FEINGOLD (for himself and Mr. MCCAIN): S. 125. A bill to reduce the number of executive branch political appointees; to the Committee on Governmental Affairs.

**REDUCING THE NUMBER OF EXECUTIVE BRANCH POLITICAL APPOINTMENTS**

Mr. FEINGOLD. Mr. President, I am pleased to be joined by my good friend the senior Senator from Arizona (Mr. MCCAIN) in introducing legislation to reform the number of presidential political appointees. Specifically, the bill caps the number of political appointees at 2,000. The Congressional Budget Office (CBO) estimates this measure
would save $333 million over the next five years.

The bill is based on the recommendations of a number of distinguished panels, including most recently, the Twentieth Century Fund Task Force on the President's National Security Advisers Report. The task force, findings, released last fall, are only the latest in a long line of recommendations that we reduce the number of political appointees in the Executive Branch. For many years, the proposal has been included in CBO's annual publication Reducing the Deficit: Spending and Revenue Options, and it was one of the central recommendations of the National Commission on the Public Service, chaired by former Federal Reserve Board Chairman Paul Volcker.

Mr. President, this proposal is also consistent with the recommendations of the Vice President's National Performance Review, which called for reductions in the number of federal managers and supervisors, arguing that "over-control and micro-management" not only "stifle the creativity of line managers and workers, they consume billions in salary, benefits, and administrative costs."

Those sentiments were also expressed in the 1989 report of the Volcker Commission, when it argued the growing number of presidential appointees may "actually undermine effective presidential control of the executive branch." The Volcker Commission recommended limiting the number of political appointees to 2,000, as this legislation does.

Mr. President, it is essential that any Administration be able to implement the policies that brought it into office in the first place. Government must be responsive to the priorities of the electorate. But as the Volcker Commission noted, the great increase in the number of political appointees in recent years has not made government more effective or more responsive to political leadership.

Between 1990 and 1992, the ranks of political appointees grew 17 percent, or three times as fast as the total number of Executive Branch employees and looking back to 1960 their growth is even more dramatic. In his recently published book, Thickening Government: Federal Government and the Diffusion of Accountability, author Paul Light reports a startling 430 percent increase in the number of political appointees in recent years, but not only ``stifle the creativity of line managers and workers, they consume billions in salary, benefits, and administrative costs."

In commenting on this problem, author Paul Light noted, "As this sediments has thinned over the decades, Presidential leadership has been increasingly distant from the lines of government, and the front lines of them." Light added that "Presidential leadership, therefore, may reside in stripping government of the barriers to doing its job effectively."

The Volcker Commission also asserted that this thickening barrier of temporary appointees between the President and career officials can undermine development of a proficient civil service by discouraging talented individuals from remaining in government service or even pursuing a career in government in the first place.

Mr. President, the report of the Twentieth Century Fund Task Force on the Presidential Appointment Process identified another problem aggravated by the mushrooming number of political appointees, namely the increasingly lengthy process of filling these thousands of positions. As the Task Force reported, both President Bush and President Clinton were into their presidencies for many months before their leadership teams were fully in place. The Task Force noted that "on average, appointees in both administrations were confirmed more than eight months after the inauguration— one-sixth of an entire presidential term." By contrast, the report noted that in the presidential transition of 1960, "Kennedy appointees were confirmed, on average, two and a half months after the inauguration."

In addition to leaving vacancies among key leadership positions in government, the appointment process delays can have a detrimental effect on potential appointees. The Twentieth Century Fund Task Force reported that appointees can "wait for months on end in a limbo of uncertainty and awkward transition from the private to the public sector." Mr. President, there have been some modest reductions in the number of political appointees in recent years, but further reductions are needed. The sacrifices that deficit reduction efforts require must be spread among all of us.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD, as follows:

S 125

Be it enacted by the Senate and House of Representa-tives of the United States of America in Congress assembled:

SECTION 1. REDUCTION IN NUMBER OF POLITICAL APPOINTEEES.

(a) Definition.—In this section, the term "political appointee" means any individual who—

(1) is employed in a position on the executive schedule under sections 3312 through 3316 of title 5, United States Code; or

(2) is a limited term appointee, limited emergency appointee, or noncareer appointee in the senior executive service as defined under section 3511 of title 5, United States Code, respectively; or

(3) is employed in a position in the Executive Office of the Administration of the United States; or

(b) Limitation.—The President, acting through the Office of Management and Budget and the Office of Personnel Management, shall take such actions as necessary (including reduction in force actions under procedures established under section 3595 of title 5, United States Code) to ensure that the total number of political appointees shall not exceed 2,000.

(c) Effective Date.—This section shall take effect on October 1, 1999.

By Mr. FEINGOLD:

S. 125. A bill to terminate the Uniformed Services University of the Health Sciences; to the Committee on Armed Services.

TERMINATING THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

Mr. FEINGOLD. Mr. President, I am today introducing legislation terminating the Uniformed Services University of the Health Sciences (USUHS), a medical school run by the Department...
of Defense. The measure is one I proposed when I ran for the U.S. Senate, and was part of a larger, 82 point plan to reduce the Federal budget deficit. The most recent estimates of the Congressional Budget Office (CBO) project that terminating the scholarship program would save $273 million in the next five years, and when completely phased-out, would generate $450 million in savings over five years.

USUHS was created in 1972 to meet an expected shortage of military medical personnel. Today, however, USUHS accounts for only a small fraction of the military’s new physicians, less than 12 percent in 1994 according to CBO. This contrasts dramatically with the military’s scholarship program which provided over 80 percent of the military’s new physicians in that year.

Mr. President, what is even more troubling is that USUHS is also the single most costly source of new physicians for the military. CBO reports that based on figures from 1995, each USUHS trained physician costs the military $615,000. By comparison, the scholarship program cost about $125,000 per doctor, with other sources providing new physicians at a cost of $60,000. As CBO’s Spending and Revenue Options publication, even adjusting for the lengthier service commitment required of USUHS trained physicians, the cost of training them is still higher than that of training physicians from other sources, an assessment shared by the Pentagon itself. Indeed, CBO’s estimate of the savings generated by this measure also includes the cost of obtaining physicians from other sources as well.

The House of Representatives has voted to terminate this program on several occasions, and the Vice President’s National Performance Review joined others, ranging from the Grace Commission to the CBO, in raising the question of whether this military medical school, which graduated its first class in 1980, should be closed because it is so much more costly than alternative sources of physicians for the military.

Mr. President, the real issue we must address is whether USUHS is essential to the needs of today’s military structure, or if we can do without this costly program. The proponents of USUHS frequently cite the higher retention rates of USUHS graduates over physicians from other sources as justification for continuation of this program, but while a greater percentage of USUHS trained physicians may remain in the military longer than those from other sources, the Pentagon indicates that the alternative sources already provide an adequate mix of retention rates. Testimony by the Department of Defense before the Senate Committee on Force Requirements and Personnel noted that the military’s scholarship program meets the retention needs of the services.

And while USUHS only provides a small fraction of the military’s new physicians, it is important to note that relying primarily on these other sources has not compromised the ability of military physicians to meet the needs of the Pentagon. According to the Office of Management and Budget, of the approximately 2,000 physicians serving in the Storm, only 103, about 5%, were USUHS trained.

Mr. President, let me conclude by recognizing that USUHS has some dedicated supporters in the U.S. Senate, and I realize that there are legitimate arguments that those supporters have made in defense of this institution. The problem, however, is that the federal government can no longer afford to continue every program that provides some useful function.

This is especially true in the area of defense spending. Many in this body argue that the Defense budget is too tight, that a significant increase in spending is needed to address concerns about shortfalls in recruitment and retention, maintenance of backlogs, and other indicators of a lower level of readiness.

Mr. President, the debate over our level of readiness is certainly important, and I agree that more defense funding should be channeled to these specific areas of concern.

But before advocates of an increased defense budget ask taxpayers to foot the bill for hundreds of billions more in spending, they owe it to those taxpayers to trim defense programs that are not justified.

In the face of our staggering national debt and annual deficits, we must prioritize and eliminate programs that cannot be justified by a commitment shared by the Pentagon itself. Indeed, CBO’s estimate of the savings generated by this measure also includes the cost of obtaining physicians from other sources as well.

I rise to introduce legislation, originally introduced in the 105th Congress. This measure will give relief to the taxpayers of this country, who now pay millions every year to provide cotton producers with an expensive and unnecessary perk no other farmer enjoys.

Each year, the Federal Government’s Agriculture Department pays millions of dollars in storage costs for cotton farmers. Last year, this program provided more than $23 million to store the cotton crop of participating farmers. My measure puts all commodities on a more equal footing by eliminating the storage subsidy for cotton, the only commodity whose producers still enjoy this privilege.

Mr. President, prior to the passage of the 1996 Freedom to Farm bill, farmers producing wheat and feed grains relied heavily on the Farmer Owned Reserve Program to assist them in repaying their overdue loans when times were tough. They would roll their non-repayable loans into the Farmer Owned Reserve Program which would allow them the opportunity to pay back their loan, without interest, and also get assistance in paying storage costs. Although cotton producers were not eligible to participate in that particular program, they were offered a similar subsidy and other perks through the cotton program. Those were the days of heavy agriculture subsidization, when the government dictated prices, provided price supports, and more often than not, had over-surpluses of wheat, corn and other feed grains—driving down domestic prices. The 1996 Farm Bill, sought to bring farm policy in line with a realistic agricultural and economic view, that the agricultural industry must be more market oriented—must not rely so much on government price interference.
It was designed at a time when the threat and consequences of detection to our submarines was real. But ELF was never developed to an effective capability, and the demise of the Soviet threat has certainly rendered it unnecessary.

In fact, Mr. President, the submarine capabilities of our potential adversaries have noticeably deteriorated or remain far behind those of our Navy. The primary mission of our attack submarines was to target the Soviet navy, its attack submarine force. This mission included hunting down Soviet submarines. Due to Russia’s continued economic hardships, they continue to cede ground to us in technology and training. Reports even contend that Russia is having trouble keeping just one or two of its strategic nuclear submarines operational. According to General Eugene H. Habiger, USAF (Ret.) and former commander of the U.S. Strategic Command, Moscow’s sub fleet is belly-up.

Further, of our known potential adversaries, only Russia and China possess ballistic missile-capable submarines. And China’s one ballistic missile capable submarine is used solely as a test platform. Russia’s submarine fleet has shrunk from more than 300 vessels to about 100. Even Russia’s most modern submarines can’t be used to full capability because Russia can’t adequately train its sailors. The threat for which Project ELF was designed no longer exists.

Even the Pentagon and members of this body are beginning to see the need for reevaluating our strategic forces, including our Trident ballistic missile submarines. Earlier this month, Chief of Naval Operations Admiral Jay Johnson told the Senate Armed Services Committee that he wants to reduce the fleet from 18 to 14. And Chairman Warner agreed with the need to reevaluate priorities on strategic forces.

With the end of the Cold War, Project ELF becomes harder and harder to justify. Trident submarines no longer need to take that extra precaution against Soviet nuclear forces. They can now operate on a regular basis with less danger of detection or attack. They can also receive more complicated messages through very low frequency (VLF) radiowaves or longer message messages through satellite systems, if it can be done more cheaply.

During the 103rd Congress, I worked with Senator Nunn to include an amendment in the National Defense Authorization Act for fiscal year 1994 requiring a report by the Secretary of Defense on the benefits and costs of continued operation of Project ELF. The report issued by DoD was particularly disappointing because it basically argued that because Project ELF may have had a purpose during the Cold War, it should continue to cooperate after the Cold War as part of the complete complement of command and control links configured for the Cold War.
Did Project ELF play a role in helping to minimize the Soviet threat? Perhaps. Did it do so at risk to the community? Perhaps. Does it continue to play a vital security role to the Nation? No.

In the fiscal year 1996 DoD authorization bill, the Senate cut funding for the program, but again it was resurrected in conference.

I'd like to note here that Members in both Wisconsin and Michigan, the states in which Project ELF is located, support terminating the project. Also, former Commanders-in-Chief of Strategic Command, General George Lee Butler and General Eugene E. Habiger, called for an end to Cold War nuclear weapons practices, of which Project ELF is a harrowing reminder. Additionally, the Center for Defense Information called for ending the program, noting that "U.S. submarines operating under present and foreseeable worldwide military conditions can receive ordered operations in timely fashion without need for Project ELF."

As I mentioned, this bill would terminate operation of Project ELF, but would call for the Defense Department to maintain the infrastructure. Should Project ELF become necessary for future military action, DoD could quickly bring it back on-line. In essence, this bill would save DoD some much-needed operations and maintenance funds without degrading its capabilities.

Mr. President, I'd also like to briefly touch on the public health and environmental concerns associated with Project ELF. For almost two decades, we have received inconclusive data on this project's effects on Wisconsin and Michigan residents. In 1994, a U.S. District Court ordered that the project be shut down because the Navy paid inadequate attention to the system's possible health effects and violated the National Environmental Policy Act. Interestingly, that decision was overturned because U.S. national security, at the time, prevailed over public health and environmental concerns.

More than 40 medical studies point to a link between electromagnetic pollution and cancer and abnormalities in both animal and plant species. Metal fences near the two transmitters must be grounded to avoid serious shock fences near the two transmitters must be grounded to avoid serious shock injuries. In recent years, a coalition of fiscal conservatives and environmentalists have targeted Project ELF because it both fiscally and environmentally harmful. The coalition, which includes groups like the Concord Coalition, Taxpayers for Common Sense, the National Wildlife Federation and Friends of the Earth, took aim at about 70 wasteful and dangerous programs. I hope we take their heed and end this program.

Mr. President, this bill achieves two vital goals of many of my colleagues here. It is a useful and unnecessary Cold War era program, while allowing the Pentagon to address its readiness shortfalls. This is a win-win situation and I hope my colleagues will support this legislation.

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

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

SEC. 1. TERMINATION OF OPERATION OF THE EXTREMELY LOW FREQUENCY COMMUNICATION SYSTEM.

(a) TERMINATION REQUIRED. The Secretary of the Navy shall terminate the operation of the Extremely Low Frequency Communication System of the Navy.

(b) MAINTENANCE OF INFRASTRUCTURE. The Secretary shall maintain the infrastructure necessary for resuming operation of the Extremely Low Frequency Communication System.

Mr. FEINGOLD. Mr. President, I rise today to again introduce legislation terminating the U.S. Navy's F/A-18E/F Super Hornet Program. I am pleased to be joined again by Senator Lautenberg and Senator Wyden on this important legislation.

Mr. President, given the Pentagon's self-reported readiness crisis, I have serious doubts as to whether we can continue funding this costly program while it fails to live up to expectations and continues to experience highly visible problems.

In just the past year, we've been told that the program-threatening wing drop problem is solved, but maybe not completely. We've also learned that program officials may not have been exactly forthright in letting Pentagon superiors in on the seriousness of that problem. We've learned that the Super Hornet doesn't meet all of the performance standards expected of it. And most recently, we've learned that cracks in the aircraft's engines have forced the Navy to approach another contractor.

This, Mr. President, should not be the track record of the plane that the Navy called the "future of naval avia-

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(b) MAINTENANCE OF INFRASTRUCTURE. The Secretary shall maintain the infrastructure necessary for resuming operation of the Extremely Low Frequency Communication System.
Mr. President, the Navy has based the need for development and procurement of the F/A-18E/F on existing or projected operational deficiencies of the F/A-18C/D Hornet in the following key areas: strike range, carrier recovery payload and survivability. In addition, the Navy identified deficiencies of current Hornets with respect to avionics growth space and payload capacity.

The Navy and Boeing call these points the “five pillars” of the Super Hornet program. The most recent GAO report on the program shows that the five pillars are weak and crumbling.

GAO identifies problems with the Super Hornet in each of these five areas. Meanwhile, the Navy’s responses to the criticisms are at odds with their own arguments in favor of the program. In the 1998 report, GAO identified problems that may diminish the effectiveness of the plane’s survivability improvements, problems that could undermine performance and service life, and dangerous weapons separation problems that require additional testing.

Following the release of the 1998 GAO report and reports of the wing drop, I asked the Secretary to document the wing drop problem. Specifically, I asked Secretary Cohen questions about the extent of the problem and when they knew it.

In April, I received the Secretary’s disappointing response. The essence of his answers to my questions is that wing drop was not a significant enough issue to warrant disclosure to the Defense Acquisition Board before its decision to recommend production of the first lot of aircraft.

Mr. President, given the Navy’s classification of wing drop, the test director’s assessment of the mission impact, and the significant efforts that were underway to resolve the problem, the Navy’s failure to discuss the wing drop problem with DoD officials responsible for making the decision on whether to proceed with production of the initial Super Hornets reflects, in my view, questionable judgement at best and underscores the need for continued DoD and congressional oversight of the Super Hornet’s development and production program.

One final point, Mr. President. It should be made clear that DoD and the Navy did not begin openly discussing wing drop until after the assistant secretary J ohn Douglass’ November 20, 1997, hearing before the House National Security Committee’s Research and Development Subcommittee. Chairman Curt Weldon voiced his displeasure with having to learn about the Super Hornet’s wing drop problem through the media rather than from the Navy. If I were the chairman of the subcommittee responsible for the development of the Super Hornet, I would not rely on the media to learn about one of the Defense Department’s costliest programs, then I think it’s fairly reliable that all the information was not made available.

In November, 1997, the assistant secretary of Defense reportedly first informed the Navy Secretary of the wing drop problem. In December, the problem was added to the program’s high-risk category. It should also be noted that wing drop was considered by the Navy and the contractor, Boeing, to be the most challenging technical risk to the program at that time. This past February, Secretary Cohen stated unequivocally that the program would “not go forward until wing drop is corrected.” A month later, a Navy blue ribbon panel reported that the Navy does “not have a good understanding of wing drop and that the current, supposedly light load of air-to-air missiles, wing fold fix is “not a solution”.

In May, Secretary Cohen released funds for the second round of production aircraft. Through it all, the Pentagon apparently didn’t think wing drop was significant enough to warrant full disclosure.

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The Navy and Boeing call these points the “five pillars” of the Super Hornet program. The most recent GAO report and review of the program show that the five pillars are weak and crumbling.

GAO identifies problems with the Super Hornet in each of these five areas. Meanwhile, the Navy’s responses to the criticisms are at odds with their own arguments in favor of the program. In the 1998 report, GAO identified problems that may diminish the effectiveness of the plane’s survivability improvements, problems that could undermine performance and service life, and dangerous weapons separation problems that require additional testing.

In July, 1997, the Navy’s Program Risk Advisory Board stated that “operationally, the Hornet is not operationally effective or suitable.” That December, the board reversed its position and said the E/F is potentially operationally effective and suitable, but also reiterated its concern with certain systems that are supposed to make the Super Hornet superior to the Hornet.

These are not glowing reviews for any program, but are downright awful for an aircraft program slated to cost upwards of $100 billion. We should not gamble with our pilots’ lives and more than 100 billion taxpayer dollars. These stakes are too high.

Also in the report, GAO asserted the Super Hornet doesn’t accelerate or maneuver as well as the reliable F/A-18C model aircraft that are equipped with an enhanced performance engine.

Mr. President, the Navy’s own test team has stated that the new plane does not perform as well as the reliable version currently in use in key performance areas. But this isn’t enough. The Navy now says these performance criteria are not important. Mr. President, this is shameful.

In its 1999 report, GAO reached a number of conclusions. It found that the Super Hornet offers only marginal improvements over the Hornet, and that these are far outweighed by the high cost. It found that the Hornet can be modified to meet every capacity the Super Hornet offers. And GAO found that the Defense Department could save $17 billion by purchasing additional improved Hornets instead of Super Hornets.

The Congressional Budget Office updated that cost savings last year to $15 billion, still a princely sum, especially given DoD’s hopes of increasing defense spending by roughly that amount each year for the next six years.

The report also addressed other purported improvements of the Super Hornet over the Hornet. GAO concluded that the reported operational deficiencies of the C/D that the Navy cited to justify the E/F either have not materialized as projected or that such deficiencies can be non-operational, structural changes to the current C/D and additional upgrades made which would further improve its capabilities.

GAO even rebutted all of the claims of the Hornet’s disadvantages. The report concluded that the Navy’s F/A-18 strike range requirements can be met by either the E/F or the C/D, and that the E/F’s increased range is achieved at the expense of its aerial combat performance. It notes that even with increased range, both aircraft will still require aerial refueling for low-altitude missions.

Additionally, as I mentioned earlier, the E/F’s increased strike range is achieved at the expense of the aircraft’s aerial combat performance. This is shown by its sustained turn rate, maneuvering, and acceleration—critical components of its ability to maneuver in either offensive or defensive modes.

Mr. President, the Navy’s contention that the C/D cannot carry 480 gallon external fuel tanks. Next, the deficiency in carrier recovery payload which the Navy anticipated for the F/
A-18C simply has not materialized. GAO notes that while it is not necessary, upgrading F/A-18C's with stronger landing gear could allow them to recover carrier payloads of more than 10,000 pounds, greater than the 9,000 pounds for the F/A-18E.

Additional improvements have been made or are planned for the Hornet to enhance its survivability including improvements to reduce its radar detectability, while survivability improvements of the Super Hornet are questions legitimate. Because the Super Hornet will be carrying weapons and fuel externally, the radar signature reduction improvements derived from the structural design of the aircraft will be diminished and will only help the aircraft penetrate slightly deeper than the Hornet into an integrated defensive system before being detected.

Mr. President, as we discuss survivability, we should recall the outstanding performance of the Hornet in the Gulf War a few years ago. By the Navy's own account, the C/D performed extraordinarily well, and, in the Navy's own words, experienced "unprecedented survivability."

The Navy predicted that by the mid-1990's the Hornet would not have growth space to accommodate additional new weapons and systems under development. Specifically, the Navy predicted that by fiscal year 1996, C/D's would only have 0.2 cubic feet of space available for future avionics growth; however, 5.3 cubic feet of available space have been identified for future system growth. Furthermore, technological advancements such as miniaturization, modularity and consolidation may result in additional growth space for future avionics.

Also, while the Super Hornet will provide some increase in air-to-air capability by carrying two extra missiles, it will not increase its ability to carry the full collection of ground weapons that are capable of hitting fixed and mobile hard targets nor to deliver heavier standoff weapons that will be used to increase aircraft survivability.

So we have a plane that doesn't really do the things the Navy said it would do, and in some cases does not perform as well as the older version, but we're supposed to pay probably three times more for the Super Hornet.

Mr. President, let me briefly highlight the ballooning cost of the Super Hornet. Just a few years ago, the Navy, using overstated assumptions about the total number of planes procured and an estimated annual production rate of 72 aircraft per year, calculated a unit recurring flyaway cost of $44 million. However, using GAO's more realistic assumptions of the procurement of 660 aircraft by the Navy, at a production rate of 36 aircraft per year, the unit recurring flyaway cost of the Super Hornet ballooned to $53 million.

Last year, the Navy used more realistic procurement figures of 548 aircraft with annual production at 36 aircraft per year, which brought the unit cost to $70 million. I'm not safe in assuming this figure will only rise. This is compared to the $28 million unit recurring flyaway cost for the Hornet. CBO estimates that this cost difference in unit recurring flyaway would result in a savings of almost $15 billion if the Navy were to procure the Hornets rather than the Super Hornets.

Mr. President, given the enormous cost and marginal improvement in operational capabilities the Super Hornet would provide, it seems that the justification for it just isn't there. Proceeding with the Super Hornet program may not be the most cost-effective approach to modernizing the Navy's tactical aircraft fleet. In the short term, the Navy can procure the Super Hornet aircraft, while upgrading it to improve further its operational capabilities. For the long term, the Navy can look toward the next generation strike fighter, the JSF, which will provide the heavy, precision-guided, air-to-ground capability by carrying two extra missiles, increasing fixed and mobile hard targets nor delivering heavier standoff weapons that will be used to increase aircraft survivability.

I yield the floor.

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

S. 129

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

SEC. 1. TERMINATION OF THE F/A-18E/F AIRCRAFT PROGRAM.

(a) TERMINATION OF PROGRAM.—The Secretary of Defense shall terminate the F/A-18E/F aircraft program.

(b) PAYMENT OF TERMINATION COSTS.—[Funds available for procurement and for research, development, test, and evaluation that are available on or after the date of the enactment of this Act for obligation for the F/A-18E/F aircraft program may be obligated for that program only for payment of the costs associated with the termination of the program.]

By Ms. SNOWE:

S. 131. A bill to amend the Internal Revenue Code of 1986 to allow a deduction from gross income for home care and adult day and respite care provided to a dependent suffering from Alzheimer's disease.

My second bill will strengthen the dependent care tax credit and restore Congress' original intent to provide the greatest benefit of the tax credit to low-income taxpayers. This bill expands the dependent care tax credit, makes it applicable for respite care expenses and makes it refundable.
As more and more women enter the workforce combined with the aging of our population, we are continuing to see an increase in need for both child and elder care. Expenses incurred for this care can place a large burden on a family's finances. The cost of full time child care can range from $4,000 to $10,000. The cost of nursing home care is in excess of $40,000 a year. Managing these costs is difficult for many families, and is exceptionally burdensome for those in lower income brackets.

In part-time care, dependent care tax credit was created to help low- and moderate-income families alleviate the burden of employment-related dependent care. We haven't changed the DCTC since it was created 23 years and in fact, in the 1986 Tax Reform Act we indexed all the basic provisions of the tax code that determine tax liability except for DCTC. We need to make the credit relevant by updating it to reflect today's world. My legislation will do that by indexing to inflation making it refundable so that those who do not reach the tax thresholds will still receive assistance. It also raises the DCTC sliding scale from 30 to 50 percent of work-related dependent care expenses. The bills limit the credit to $15,000 or less. The scale would then be reduced by 1 percentage point for each additional $1,000 of income, down to a credit of 20 percent for persons earning $45,000 or more.

In those cases where child care for loved ones at home, the bill also expands the definition of dependent care to include respite care, thereby offering relief from this additional expense. A respite care credit would be allowed for up to $1,200 for one qualifying dependent care and $2,400 for two qualifying dependents.

I hope my colleagues will join me in supporting these two bills that will provide assistance to families that wish to provide long term care to their loved ones at home.

By Ms. SNOWE:

S. 132. A bill to amend the Internal Revenue Code of 1986 to provide comprehensive pension protection for women; to the Committee on Finance.

WOMEN'S PENSION PROTECTION ACT OF 1999

Ms. SNOWE. Mr. President, I arise today to introduce legislation to improve the retirement security of women. Even with the increasing number of women entering the workforce, only 39 percent of part-time and full-time working women are covered by a pension plan.

While women have come a long way, even now a woman makes only 75 cents for every dollar a man makes—and older women are paid even less: 66 cents for every dollar earned by a 55-year-old man. In addition, as we all know, women have spent more time outside the workforce because they have had to bear the brunt of full-time household raising families. These two factors help explain why older women are twice as likely as older men to be poor or near poor; with nearly 40 percent of older women who live alone live in or near poverty.

This bill makes a number of changes in current pension law including: helping to ensure that pension benefits earned during a marriage are considered in the event of divorce; closing loopholes in the civil service and railroad retirement laws that have resulted in the loss of pension benefits for widows and ex-spouses of beneficiaries in such plans and increases the amount of information available by establishing a pension “hotline” at the Department of Labor.

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

S. 134. A bill to direct the Secretary of the Interior to study whether the Apostle Islands National Lakeshore should be protected as a wilderness area; to draft a bill to provide on Energy and Natural Resources.

GAYLOR NELSON APOSTLE ISLANDS STEWARDSHIP ACT OF 1999

Mr. FEINGOLD. Mr. President, I rise today to introduce the Gaylord Nelson Apostle Islands Stewardship Act of 1999. I am pleased to have the Senior Senator from Wisconsin (Mr. KOHL) join me as an original cosponsor of this legislation.

Many outside Wisconsin may not know that, in addition to founding Earth Day, Senator Nelson was also the primary sponsor of the Apostle Islands National Lakeshore Act. That act, which passed in 1970, protects one of Northern Wisconsin’s most beautiful areas, at which we spend my vacation with my family every year.

Though Senator Nelson has received many awards, I know that among his proudest accomplishments are those bills that have produced real and lasting change in preserving America’s lands, such as the Apostle Islands.

The Apostle Islands National Lakeshore includes 200 miles of forested islands and 12 miles of pristine shoreline which are among the Great Lakes’ most spectacular scenery. Centuries of wave action, freezing, and thawing have sculpted the shorelines, and nature has carved intricate caves into the sandstone which forms the islands. Delicate arches, vaulted chambers, and hidden passageways honeycomb cliffs on the north shore of Devils Island, Swallow Point on Sand Island, and northeast of Cornucopia Harbor. The Apostle Islands National Lakeshore includes more lighthouses than any other coastline of similar size in the United States, and is home to diverse wildlife including: black bear, bald eagles and deer. It is an important recreational area as well. Its campgrounds and acres of forest, make the Apostles a favorite destination for hikers, sailors, kayakers, and bikers. The Lakeshore also includes the underwater lakebed as well, and scuba divers register with the National Park Service to view the area’s underwater resources.

Unfortunately, the Apostle Islands National Lakeshore finds itself, nearly 29 years later, with significant financial and legal resource needs, as do many of the lands managed by the National Park Service. If we are to be true stewards of America’s public lands, we need to be willing to make necessary financial investments and management improvements when they are warranted. I introduce this legislation in an attempt to resolve the unfinished business that remains at the Lakeshore, as well as to renew our Nation’s commitment to this beautiful park area.

Mr. President, the legislation has three major sections. First, it authorizes the Park Service to conduct a wilderness suitability study of the Lake- shore as required by the Wilderness Act.

This study is needed to ensure that we have the appropriate level of management at the Apostle Islands National Lakeshore. The Wilderness Act and the National Park Service policies charge the Park Service to conduct an evaluation of the lands it manages for possible inclusion in the National Wilderness System. The study would result in a recommendation to Congress about whether any of the federal lands currently managed by the Lakeshore still retain the characteristics that would make them suitable to be legally designated as wilderness. If Congress found the study indicated that some of the federal lands within the Lakeshore were in need of legal wilderness status, Congress would have to subsequently pass legislation to confer such status.

We need this study, Mr. President because 28 years have passed and it is time to determine the proper level of management for the Lakeshore. During the General Management Planning Process for the Lakeshore, which was completed nearly a decade ago in 1989, the need for a formal wilderness study was identified. Although a wilderness study has been identified as a high priority by the Lakeshore, it has never been funded.

Since 1989, most of the Lakeshore, roughly 80 percent of the acreage, is being managed by the Park Service as if it were federally designated wilderness. As a protective measure, all lands which might be suitable for wilderness designation were zoned to protect any wilderness characteristics they may have. However, we may be managing lands as wilderness in the Lakeshore that might, due to use patterns, no longer be suitable for wilderness designation. Correspondingly, some land area may have become more ecologically sensitive and may need additional legal protection.

Second, this legislation also directs the Park Service to protect the historic Raspberry Island and Outer Island lighthouses, which authorizes $3.9 million for bluff stabilization and other necessary actions. There are six lighthouses in the Apostle Island National Lakeshore—Sand Island, Devil’s...
projects have in the past been included in the Park Service-wide construction priorities, they have never been funded. The specific authorization and funding contained in this legislation is essential if the projects are ever to receive the attention they so urgently deserve.

In keeping with my belief that progress toward a balanced budget should be maintained, I am proposing that the $4.1 million in authorized spending for the Apostle Islands contained in this legislation be offset by the Secretary of the Interior recinding $10 million in unspent funds from FY 99 Omnibus Appropriations Bill. The Secretary of the Interior would be required to transfer $5.9 million above the money that it needs to take actions at the Apostle Islands back to the Treasury.

Mr. President, I am concerned that we have spent such a large amount of money for the Clean Coal Technology Program, which the program has been unable to spend, when we have acute appropriations needs at places like the Apostle Islands National Lakeshore.

Finally, this legislation adds language to the act which created the Lakeshore allowing the Park Service to enter into cooperative agreements with state, tribal, local governments, universities or other non-profit entities to enlist their assistance in managing the Lakeshore. Some parks have specific language in the act which created the park allowing them to enter into such agreements. Parks have used them for activities such as research, historic preservation, and emergency services. Apostle Islands currently does not have this authority, which this legislation adds.

Other National Park lands and lands which are managed by the Park Service, as is the Apostle Islands National Lakeshore, have such authority. Adding that authority to the Lakeshore will be a way to make Lakeshore management resources go farther. The Park Service has the opportunity to carry out joint projects with other partners which could contribute to the management of the Lakeshore including: state, local, and tribal governments, universities, and non-profit groups. Such endeavors would have both scientific management and fiscal benefits. In the past, the Lakeshore has had to forego these opportunities because the specific authority is absent under current law.

In his 1969 book on the environment, he placed a national and a Wisconsin treasure; (2) the State of Wisconsin is particularly indebted to former Senator Gaylord Nelson for his leadership in the creation of the Lakeshore; (3) after more than 28 years of enjoyment, some issues critical to maintaining the overall ecological, recreational, and cultural vision of the Lakeshore need additional attention; (4) the general management planning process for the Lakeshore has identified a need for a formal wilderness study; (5) all land within the Lakeshore that might be suitable for wilderness are zoned and managed to protect wilderness characteristics pending completion of such a study; (6) several historic lighthouses within the Lakeshore are in danger of structural damage due to severe erosion; (7) the Secretary of the Interior has been unable to take full advantage of cooperative agreements with Federal, State, local, and tribal governmental agencies, institutions of higher education, and other nonprofit organizations that could assist the National Park Service by contributing to the management of the Lakeshore; (8) because of competing needs in other units of the National Park System, the standard authorizing and budgetary process has not resulted in updated legislative authority and necessary funding for improvements to the Lakeshore; and (9) the need for improvements to the Lakeshore and completion of a wilderness study should be accorded a high priority among National Park Service activities.
through the Director of the National Park Service.

(c) WILDERNESS STUDY.—In fulfillment of the responsibility under the Secretary under the Wilderness Act (16 U.S.C. 1131 et seq.) and of applicable agency policy, the Secretary shall evaluate areas of land within the Lakeshore for inclusion in the National Wilderness System.

(d) APOSTLE ISLANDS LIGHTHOUSES.—The Secretary shall undertake appropriate action (1) to keep in operation of the bluff to beneath the lighthouses, stabilization of the bank face, and dewatering of the area immediately shoreward of the bluffs) to protect the structures from damage. Last Lighthouse and Outer Island Lighthouse on the Lakeshore.

(e) COOPERATIVE AGREEMENTS.—Section 6 of Public Law 91-415 (16 U.S.C. 660w-5) is amended—

(1) by striking “Sec. 6. The lakeshore” and inserting the following:

“SEC. 6. MANAGEMENT.

‘‘(a) in General.—The lakeshore’’; and

(2) by adding at the end the following:

‘‘(b) COOPERATIVE AGREEMENTS.—The Secretary may enter into a cooperative agreement with a Federal, State, tribal, or local government agency or a nonprofit private entity and other Federal Government agency, in the case of the Secretary determining that a cooperative agreement would be beneficial in carrying out section 7.”

(f) AUTHORIZATION OF APPROPRIATIONS.—There are appropriated to be appropriated—

(1) $200,000 to carry out subsection (c); and

(2) $5,000,000 to carry out subsection (d).

(g) FUNDING.—(1) IN GENERAL.—Of the funds made available under the heading “CLEAN COAL TECHNOLOGY’’ under the heading “DEPARTMENT OF ENERGY’’ under the heading “COOPERATIVE AGREEMENTS” under the heading “DEPARTMENT OF ENERGY’’ under section 10(e) of division A of Public Law 105-277—

(A) $5,000,000 shall not be available until October 1, 2000 and

(B) $5,000,000 shall not be available until October 1, 2001.

(2) ONGOING PROJECTS.—Funds made available in previous appropriations Acts shall be available for an ongoing project regardless of the separate request for proposal under which the project was selected.

(3) TRANSFER OF FUNDS.—In addition to any amounts under subsection (c), amounts made available under paragraph (1) shall be transferred to the Secretary for use in carrying out subsections (c) and (d).

(h) FUNDING.—Any balances of funds transferred under paragraph (3) that remain unexpended at the end of fiscal year 1999 shall be returned to the Treasury.

By Mr. KENNEDY (for himself, Mr. DASCHLE, Mrs. MURRAY, Mr. LEVIN, Mr. WELLSTONE, Mrs. BOXER, Mr. KERRY, Ms. MIKULSKY, and Mr. BAUCUS):

S. 136, A bill to provide for teacher excellence and classroom help; to the Committee on Health, Education, Labor, and Pensions.

S. CON. RES. 3, A resolution to commend the President’s Science Act of 1999

Mr. KENNEDY. Mr. President, states and local communities are making significant progress toward improving their public schools. Almost every state has developed challenging academic standards for all students to meet. They are holding schools accountable for results.

But just setting standards isn’t enough. Schools and communities have to do more to ensure improved student achievement. Schools must have small classes, particularly in the early grades. They must have strong parent involvement. They must have safe, modern facilities with up-to-date technology. They must have high-quality after-school opportunities for children who need extra help. They must have well-trained teachers in the classroom who keep up with current developments in their field and the best teaching practices.

Education must continue to be a top priority in the new Congress. We must do more to meet the needs of public schools, families, and children, so that all children have an opportunity to attend good schools. We need to do more to help communities modernize their schools, reduce class sizes, especially in grades 1-3, improve the quality of the nation’s teachers, and expand after-school programs.

These steps are urgently needed to help communities address the serious problems of rising student enrollments, overcrowded classrooms, dilapidated schools, teacher shortages, underqualified teachers, high turnover rates of teachers, and lack of after-school programs. These are real problems that deserve real solutions.

The needs of families across the nation should not be ignored. They want the federal government to offer a helping hand in improving public schools.

This year, the nation has set a new record for elementary and secondary student enrollment. The figure has reached an all-time high of 53 million students—500,000 more students than last year.

Serious teacher shortages are being caused by rising student enrollments, and also by the growing number of teacher retirements. The nation’s public schools will need to hire 2.2 million teachers over the next ten years, just to hold their own. If we don’t act now, the need for more teachers will put even greater pressure on school districts to lower their standards and hire unqualified teachers.

We also must retain the teachers we’ve already trained. Retaining teachers means that year of teaching, compared with 28 percent of teachers without mentoring programs.

New York City’s District 2 has made professional development the central component for improvement. They believe that student learning will increase as the knowledge of educators grows—and it’s working. In 1996, student math scores were second in the city.

Massachusetts has invested $60 million in the Teacher Quality Endowment Fund to launch the 32-to-62 Plan for Strengthening Massachusetts Future Teaching Force. The plan being developed is a comprehensive effort to improve recruitment, retention, and professional development of teachers throughout their careers.

Congress should build on and support these successful efforts across the country to ensure that the nation’s teaching force is strong and successful in the years ahead.

The Teacher Excellence Act we are introducing will invest $1.2 billion in fiscal year 2000 to improve the recruitment, retention, and on-going professional development of the nation’s teachers. The proposal will provide states and local school districts with the support they need to recruit excellent teacher candidates, provide new teachers with trained mentors who will help them succeed in the classroom, and give current teachers the on-going training they need to stay abreast of modern technologies and new research.

Mr. President, states and local communities are making significant progress toward improving their public schools. Almost every state has developed challenging academic standards for all students to meet. They are holding schools accountable for results. But just setting standards isn’t enough. Schools and communities have to do more to ensure improved student achievement. Schools must have small classes, particularly in the early grades. They must have strong parent involvement. They must have safe, modern facilities with up-to-date technology. They must have high-quality after-school opportunities for children who need extra help. They must have well-trained teachers in the classroom who keep up with current developments in their field and the best teaching practices.
support promising beginning teachers, and to provide veteran teachers and principals with the on-going professional development they need to help all children meet high standards of achievement.

States will receive grants through the current Title I or Title II formula, whichever is greater. They will use 20 percent of the funding to provide scholarships to prospective teachers—whether they are high school graduates, professionals who want to make a career change, or paraprofessionals who want to become fully certified as teachers. Scholarship recipients must agree to teach for at least 3 years after completion of the teaching degree and teach in a high-need school district or in a high-need subject.

At least 70 percent of the funds must go to local school districts on a competitive basis to implement, improve or expand high-quality programs for beginning teachers, including mentoring and programs that provide high-quality professional development for principals and veteran teachers. Our goal is to ensure that every child has the opportunity to meet high state standards. States must also set additional eligibility criteria, including having a poverty rate of the school district; the need for support based on low student achievement and low teacher retention rates; and the need for upgrading the knowledge and skills of teachers in high-priority content areas. Other criteria include the need to help students with disabilities and limited English proficiency. States must target grants to school districts with the highest needs and ensure a fair distribution of grants among school districts serving urban and rural areas.

In addition to providing states and communities with the support they need to ensure that there is a qualified, well-trained teacher in every classroom, we must also hold states and communities accountable for results—and for making the changes that will achieve those results.

Currently, teachers are often assigned subjects in which they have no training or experience. Nearly one-fourth of all secondary school teachers do not have even a college minor in their main teaching field, let alone a college major. This fact is true for more than a fifth of math teachers. In every classroom, we must also hold states and communities accountable for results—and for making the changes that will achieve those results.

Under the Teacher Excellence Act, states and communities will be held accountable for reducing the number of emergency certified teachers and out-of-field placements of teachers. As they work to improve recruitment, retention, and professional development of teachers, states and communities should also reduce these practices that undermine efforts to help all students meet high standards. States will be able to use up to 10 percent of the funds in order to meet these accountability requirements.

In addition, the bill supports the full $300 million for funding of Title II of the Higher Education Act to improve the quality of education for teachers. Also, current support for technology programs must include a requirement for training teachers in how to use technologies effectively to improve student learning.

We must do all we can to improve teacher quality across the country. Teachers know and are able to teach are among the most important influences on student achievement. Improving teacher quality is an effective way to link high standards to the classroom. We should do all we can to ensure that every child has the opportunity to learn from a qualified, well-trained teacher and to attend a school with a well-trained principal.

By Mr. KYL:

S. 137. A bill to amend the Internal Revenue Code of 1986 to repeal the increase in tax on social security benefits; to the Committee on Finance.

THE SENIOR CITIZENS INCOME TAX RELIEF ACT OF 1999

Mr. KYL. Mr. President, I rise to introduce the Senior Citizens Income Tax Relief Act of 1999. This legislation would give seniors relief from the Clinton Social Security tax increase of 1993. I introduced this bill on August 5, 1993, the day this tax was first imposed on America's senior citizens.

Senator PETER DOMENICI, Chairman of the Senate Budget Committee, recently testified that the federal government would generate a budget surplus of up to $700 billion over the next 10 years. He proposed that roughly $600 billion of this surplus be used to fund a tax cut. I could not agree more. I will be working with Senator DOMENICI and members of the Senate on both sides of the aisle to ensure that there will be sufficient room in this surplus for Social Security tax relief for senior citizens.

Millions of America's senior citizens depend on Social Security as a critical part of their retirement income. Having paid into the program throughout their working lives, retirees count on the government to meet its obligations under the Social Security contract. For many, the security provided by this supplemental pension plan is the difference between a happy and healthy retirement and one marked by uncertainty and apprehension, particularly for the vast majority of seniors on fixed incomes.

As part of his massive 1993 tax hike, President Clinton imposed a tax increase on senior citizens, subjecting to taxation up to 85 percent of the Social Security benefits received by seniors with annual incomes of over $34,000 and couples with over $44,000 in annual income. This represents a 70 percent increase in the marginal tax rate for these seniors. Factor in the government's "Social Security Earnings Limitation," and a senior's marginal tax rate can reach 88 percent—twice the rate paid by millionaires.

An analysis of government-provided figures on the 1993 Social Security tax increase estimates that America's seniors have paid an extra $25 billion because of this tax hike, including $300 million from senior citizens in Arizona alone.

Mr. President, I want to make an additional important point. Despite all the partisan demagoguery, the only attack on Social Security in recent years has come from the administration and the other party in the Omnibus Budget Reconciliation Act of 1993. Not one Republican member voted for this tax increase on Social Security benefits.

If the administration opposes any meaningful tax cut, the relief we will be able to provide will be limited. It will be difficult, then, to repeal the Social Security tax increase. This is why, in the 105th Congress, I offered an amendment to ensure that we are able to expand tax relief in the future, and why the first tax relief proposal I am introducing in the 106th Congress will repeal President Clinton's 1993 Social Security tax increase.

By Mr. KYL:

S. 138. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for expenses of attending elementary and secondary schools and for contributions to charitable organizations which provide scholarships for children to attend such schools; to the Committee on Finance.

J-12 COMMUNITY PARTICIPATION ACT OF 1999

Mr. KYL. Mr. President, I rise to introduce an education proposal that will increase parental and student choice, educational quality, and school safety.

A colleague from the Arizona delegation, Representative MATT SALMON, is today introducing this proposal in the House of Representatives.

The "K through 12 Community Participation Act" would offer tax credits to parents who provide up to $250 annually for qualified K through 12 education expenses or activities.

Over the last 30 years, Americans have steadily increased their monetary
commitment to education. Unfortunately, we have not seen a corresponding improvement in the quality of the education our children receive. Given our financial commitment, and the great importance of education, these results are unacceptable.

Mr. President, I believe the problem is not how much money is spent, but how it is spent, and by whom.

The K through 12 Community Participation Act addresses the problem of failing schools. Standards for giving families and businesses a tax incentive to provide children with a higher quality education through choice and competition.

The problem of declining education standards is illustrated by a 1998 report released by the Education and Workforce Committee of the House of Representatives, Education at the Crossroads. This is the most comprehensive review of federal education programs ever undertaken by the United States Congress. It finds that the federal government’s response to the decline in American schools has been to build bigger bureaucracies, not a better education system.

According to the report, there are more than 760 federal education programs overseen by at least 39 federal agencies at a cost of $100 billion a year to taxpayers. These programs are overlapping and duplicative. For example, there are 63 separate (but similar) math and science programs, 14 literacy programs, and 11 drug-education programs. Even after accounting for recent streamlining efforts, the U.S. Department of Education still requires over 48.6 million hours worth of paperwork per year—this is the equivalent of 25,000 employees working full time.

States get at most seven percent of their total education funds from the federal government, but most states report that roughly half of their paperwork is imposed by federal education authorities.

The federal government spends tax dollars on closed captioning of “educational” programs such as “Baywatch” and Jerry Springer’s squalid daytime talk show.

With such a large number of programs funded by the federal government, it’s no wonder local school authorities feel the heavy hand of Washington upon them.

And what are the nation’s taxpayers getting for their money? According to the report:

Around 40 percent of fourth graders cannot read; and 57 percent of urban students score below their grade level. Half of all math and science students from urban school districts fail to graduate on time, if at all.

U.S. 12th graders ranked third from the bottom out of 21 nations in mathematics.

According to U.S. manufacturers, 40 percent of all 17-year-olds do not have the math skills to hold down a production job at a manufacturing company.

The conclusion of the Education at the Crossroads report is that the federally designed “one-size-fits-all” approach to education is simply not working.

Mr. President, I believe we need a federal education policy that will:

Give parents more control.
Give local schools and school boards more control.
Spend dollars in the classrooms, not on a Washington bureaucracy.
Reaffirm our commitment to basic academics.

My state of Arizona has led the way with education tax credit legislation passed in 1997. This state law provides tax credits that can be used by parents and businesses to cover certain types of expenses attendant to primary and secondary education.

Mr. President, today, Representative Salmon and I are reintroducing a form of the Arizona education tax-credit law.

The K through 12 Community Participation Education Act would be phased in over four years and would encourage parents, businesses, and other members of the community to invest in our children’s education.

Specifically, it offers every family or business a tax credit of up to $250 annually for any K through 12 education expense or activity. This tax credit could be applied to home schooling, public schools (including magnet schools), or parochial schools. Allowable expenses would include tuition, books, supplies, and tutors.

Further, the tax credit could be given to a “school-tuition organization” for distribution. To qualify as a school-tuition organization, the organization would have to devote at least 90 percent of its income per year to offering available grants and scholarships for parents to use to send their children to the school of their choice.

How would it work? A group of businesses in any community could join forces to send sums for which they received tax credits to charitable “school-tuition organizations” which would make scholarships and grants available to low income parents of children currently struggling to learn in unsafe, non-functional schools.

Providing all parents—including low income parents—increased freedom to choose will foster competition and increase parental involvement in education.

Insuring this choice will make the federal education tax code more like Arizona’s. It is a limited but important step the Congress and the President can—and I believe, must—take.

Mr. President, it’s clear that top-down, one-size-fits all, big government education policy has failed our children and our country.

This tax-credit legislation will reflect our commitment to what is in the best interests of the child as determined by parents, and will give parents and businesses the opportunity to take an important step to rescue American education so that we can have the educated citizenry that Thomas Jefferson said was essential to our health as a nation.

By Mr. ROBB (for himself and Mr. HOLLINGS):
S. 139. A bill to grant to the President the ability to reduce budget authority; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1995, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

SEPARET ENROLLMENT AND LINE ITEM VETO ACT OF 1999

Mr. ROBB, Mr. President, I rise to introduce the Separate Enrollment and Line Item Veto Act of 1999. I’m pleased to be joined by my long-time colleague and tireless fighter for budget sanity, Senator Hollings of South Carolina.

As former governors, we both understand the importance of line-item veto authority in prioritizing spending. The legislation we introduce today is similar to that passed by the Senate in 1995, which is patterned on the separate enrollment process that we both supported with former Senator Bill Bradley of New Jersey.

I have been a long-time supporter of various line-item veto measures because I believe that only the President should have the singular ability spending priorities in the best interest of the nation. Recognizing that Congress has been unable or unwilling to seriously address our problems with special interest tax provisions and spending for members’ pet projects, as last year’s appropriations process attests, some form of additional veto authority should be given to the President.

Otherwise, the President continues to have to approve items in bills which he doesn’t support to approve those that he does.

As my colleagues know, the Separate Enrollment Line Item Veto legislation we passed in 1995 in the Senate was ultimately changed in conference negotiations with the House of Representatives. The end product of those negotiations was an enhanced rescission line item veto process, giving the President the ability to strike items from bills after signing them into law.

Because that approach was struck down by the Supreme Court, I believe the line item veto is an important enough fiscal tool that we ought to put forward other alternatives.

The separate enrollment process contained in this bill presents few constitutional concerns. This process doesn’t give the President the ability to strike items from bills he otherwise approves. This approach breaks down bills into their individual parts that are then passed again as separate bills, making sure each provision can then stand on its own merits.

In closing, let me acknowledge that this line item veto legislation, like the previous experiment, won’t solve all
the nation’s fiscal problems, but that it is a needed step if we are interested in pursuing good public and budget policy.

Mr. HOLINGS, Mr. President, I rise today along with Senator Robs to introduce the South Carolina Line Item Veto Act of 1999. This Congress, I hope the Senate will finally dispense with political gamesmanship and enact a true line item veto. It is past time to restore responsibility to federal spending by granting the President the power to strike wasteful and unnecessary items from our budget.

The bill we are introducing today is a "separate enrollment" line item veto. It provides that each spending or tax provision be enrolled as a separate bill, allowing the President to either sign or veto each of these smaller bills in accordance with the veto power expressly granted under Article I, Section 7 of the Constitution. This legislation is designed to allow the President to strike spending or tax items from the budget without violating the delicate separation of powers which exists under our Constitution. In contrast, the so-called "enhanced rescission" bill veto—enacted in 1996 and struck down by the Supreme Court on June 25, 1998—represented a shift in the separation of powers. Under that approach, the President had the authority to sign a bill into law, then strike individual provisions and require a Congressional super-majority to override the President's rescissions. In doing so, the President was clearly performing a legislative function granted exclusively to Congress by the Constitution.

When the Supreme Court announced its decision striking down the 1996 line item veto, the White House and many in Congress clamored in the media about how disappointed they were. The truth is that no one was really surprised. In fact, many Senators—including myself—made statements in 1996 and voted against the bill because it was unconstitutional. The events surrounding the enactment of the 1996 law clearly show that politics was placed before policy. In 1995 our separate enrollment approach had received bipartisan support in the Senate, with 69 Senators voting for the measure. The "enhanced rescission" approach, on the other hand, received only 45 votes when considered in 1993, with several Senators—including myself—voting against it during the debate. However, in an apparent attempt to put off meaningful reform in favor of Presidential politics, the "enhanced rescission" bill was resurrected in 1996 in an effort to score political points. Now, we have come full circle after the Court's decision. It is time to get serious and enact the same bill which received 69 votes in 1995.

Mr. President, I am no stranger to this issue. As Governor of South Carolina, I was first-hand exposed to the inefficiency and lack of accountability that line item vetoes can be. I used it to cut millions of dollars in wasteful spending from the state budget, and in the process helped earn South Carolina the first AAA credit rating in the state's history. The Governors of 43 states now possess line item veto authority. I have been trying for years to bring this same approach to Washington. I have introduced or co-sponsored a separate enrollment line-item veto in every Congress since 1993. I co-sponsored Senator Mack Mattingly's separate enrollment bill, which received 58 votes in the Senate. In 1990, I offered a similar bill in the Senate Budget Committee, which passed the line item veto on a bipartisan vote of 13-6. In 1993, after Senator Bradley came on board, we were again able to get a majority of 53 votes. Then, in 1995, support for the bill reached an all-time high when the bill finally passed the Senate with 69 votes.

One needs to look no further than last year's end of the session debacle to see the need for the line item veto. Nearly an entire year's worth of legislation—including eight of the thirteen normal appropriations bills, an emergency spending bill, and a tax "extenders" bill—was wrapped into a monstrous entitled the Omnibus Consolidated and Emergency Supplemental Appropriations Bill for Fiscal Year 1999. The time period between the drafting of the bill and its enactment was so short that Senators made statements on the floor that they did not even know the contents of the bill. Unfortunately, the types of serious appropriations that are common common in recent years, and it presents an obvious opportunity for abuse. Wasteful spending and tax items are included in these huge, hastily drafted bills, and the President is faced with a "take it or leave it" proposition. With the session winding down, he often is forced to "take it," including items which are totally without merit. The line item veto would prevent this type of waste and responsibility by allowing each item to be considered separately.

I urge my colleagues to support this line item veto bill with the same bipartisan support it received in 1995 so that we may finally restore responsibility to our federal budget process.

By Mr. MOYNIHAN (for himself and Mr. SCHUMER):
S. 140. A bill to establish the Thomas Cole National Historic Site in the State of New York as an affiliated area of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

THOMAS COLE NATIONAL HISTORIC SITE DESIGNATION ACT

by Mr. MOYNIHAN, for himself, today, I rise to introduce a bill which would place the home and studio of Thomas Cole under the care of the Greene County Historical Society as a National Historic Site. I am pleased Senator Schumer has agreed to cosponsor this bill. Thomas Cole founded the American artistic tradition known as the Hudson River School. He painted landscapes of the American wilderness as it never had been depicted, untamed and majestic, the way Americans saw it in the 1830s and 1840s as they moved west. His students and followers included Frederic Church, Alfred Bierstadt, Thomas Moran, and John Frederick Kennesett. The notion of some President would do them justice, but let me say that their moody, dramatic style and subject matter were in sharp contrast to the pastoral European landscapes that Americans previously had admired. The new country was just settled enough to allow some time and resources to devote to collecting art. Cole's new style coincided with this growing interest, to the benefit of both.

Cole had begun his painting career in Manhattan, but one day took a steamboat up the Hudson for inspiration. It worked. The landscapes he saw set him on the artistic course that became his life's work. He eventually moved to a house up the river in Catskill. First he married and raised his family there. That house, known as Cedar Grove, remained in the Cole family until 1979, when it was put up for sale.

The Cole house would be the only site under the umbrella of the Park Service dedicated to interpreting the life and work of an American painter.

Olana, Church's home, sits immediately across the Hudson and was the national museum of American Art. Perhaps Cole's greatest work is the four-part Voyage of Life, an allegorical series that depicts man in the four stages of life. It can be found in the National Gallery, along with two other Cole paintings. Another work of Cole's that we would be advised to remember is The Course of Empire, which depicts the rise of a great civilization from the wilderness, and its return.

Several years ago the first major Cole exhibition in decades was held at the National Museum of American Art. The exhibition was all the evidence needed of Cole's importance and the merit of adding his home to the list of National Historic Sites. I should add that this must happen soon. The house needs work, and will not endure many more winters in its present state.

This legislation would authorize cooperative agreements under which the management of the Cole House would go to the Greene County Historical Society, which would qualify for the job. The Society considers entering into cooperative agreements with the National Park Service for the preservation and interpretation of the site.
I ask that my colleagues support this legislation, and 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. 140

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Thomas Cole National Historic Site Designation Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Hudson River school of landscape painting was inspired by Thomas Cole and was characterized by a group of 19th century landscape artists who recorded and celebrated the landscape and wilderness of the Hudson River Valley region in the State of New York;

(2) Thomas Cole is recognized as the United States’s most prominent landscape and allegorical painter of the mid-19th century;

(3) located in Greene County, New York, the Thomas Cole House, also known as Thomas Cole’s Cedar Grove, is listed on the National Register of Historic Places and has been designated as a National Historic Landmark;

(4) within a 15-mile radius of the Thomas Cole House, an area that forms a key part of the rich cultural and natural heritage of the Hudson River Valley region, significant landscapes and scenes painted by Thomas Cole and other Hudson River artists, such as Frederic Church, survive intact;

(5) the State of New York has established the Hudson Valley Greenway to promote the preservation, public use, and enjoyment of the natural and cultural resources of the Hudson River Valley region;

(b) PURPOSES.—The purposes of this Act are—

(1) to preserve and interpret the Thomas Cole House and studio for the benefit, inspiration, and education of the people of the United States;

(2) to help maintain the integrity of the setting in the Hudson River Valley region that inspired artistic expression;

(3) to coordinate the interpretative, preservation, and recreational efforts of Federal, State, and other entities in the Hudson Valley region to enhance opportunities for education, public use, and enjoyment; and

(4) to broaden understanding of the Hudson River Valley region and its role in the history and culture of the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) HISTORIC SITE.—The term "historic site" means the Thomas Cole National Historic Site established by section 4.

(2) HUDSON RIVER ARTIST.—The term "Hudson River artist" means an artist associated with the Hudson River school of landscape painting.

(3) PLAN.—The term "plan" means the general management plan developed under section 6(d).

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) SOCIETY.—The term "Society" means the Greene County Historical Society of Greene County, New York, that owns the Thomas Cole House, studio, and other property comprising the historic site.

SEC. 4. ESTABLISHMENT OF THOMAS COLE NATIONAL HISTORIC SITE.

(a) ESTABLISHMENT.—There is established, as an affiliated area of the National Park System, the Thomas Cole National Historic Site in the State of New York.

(b) DESCRIPTION.—The historic site shall consist of the Thomas Cole House and studio, comprising approximately 3.4 acres, located at 218 Spring Street, the Village of Catskill, New York, as generally depicted on the boundary map numbered TCH/8002, and dated March 2, 1982.

SEC. 5. RETENTION OF OWNERSHIP AND MANAGEMENT OF HISTORIC SITE BY GREENE COUNTY HISTORICAL SOCIETY.

Under a cooperative agreement entered into under section 8(b)(1), the Greene County Historical Society of Greene County, New York, shall own, manage, and operate the historic site.

SEC. 6. ADMINISTRATION OF HISTORIC SITE.

(a) APPLICABILITY OF NATIONAL PARK SYSTEM LAWS.—Under a cooperative agreement entered into under subsection (b)(1), the historic site shall be administered by the Society in a manner consistent with this Act and all laws generally applicable to units of the National Park System, including—

(1) the Act entitled "An Act to establish a National Park to commemorate other purposes'', approved August 25, 1916 (16 U.S.C. 1 et seq.); and

(2) the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes'', approved August 21, 1935 (16 U.S.C. 461 et seq.).

(b) COOPERATIVE AGREEMENTS.—

(1) ASSISTANCE TO SOCIETY.—The Secretary may enter into cooperative agreements with the Society—

(A) to preserve the Thomas Cole House and other structures in the historic site; and

(B) to assist with education programs and research and interpretation of the Thomas Cole House and associated landscapes in the historic site.

(2) OTHER ASSISTANCE.—The Secretary may enter into cooperative agreements with the State of New York, the Society, the Thomas Cole Foundation, and other public and private entities to—

(A) further the purposes of this Act; and

(B) develop, present, and fund art exhibits, resident artist programs, and other appropriate activities related to the preservation, interpretation, and use of the historic site.

(c) ARTIFACTS AND PROPERTY.—

(1) PERSONAL PROPERTY GENERALLY.—The Secretary may acquire personal property associated with, and appropriate for, the interpretation of the historic site.

(2) WORKS OF ART.—The Secretary may acquire works of art associated with Thomas Cole and other Hudson River artists for the purpose of display at the historic site.

(d) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than September 30, 2000, under a cooperative agreement entered into under section 8(b)(1), the Society, with the assistance of the Secretary, shall develop a general management plan for the historic site.

(2) CONTENTS OF PLAN.—The plan shall include recommendations for regional wayside exhibits, to be carried out through cooperative agreements with the State of New York and other public and private entities.

(3) AUTHORITY.—The plan shall be prepared in accordance with section 12(b) of Public Law 91-383 (16 U.S.C. 1a-7b).

(4) SUBMISSION OF PLAN.—On the completion of the plan, the Secretary shall provide a copy of the plan to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Resources of the House of Representatives.

S. 141

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

SECTION 1. EXPLOSIVE MATERIALS.

Section 809(a) of title 18, United States Code, is amended—

(1) in paragraph (4), by adding "and" at the end; and

(2) by striking paragraph (5) and redesignating paragraph (6) as paragraph (5).

By Mr. MOYNIHAN:

S. 141. A bill to amend section 845 of title 18, United States Code, relating to explosive materials transfers; to the Committee on the Judiciary.

LEGISLATION TO REQUIRE THAT THE FEDERAL GOVERNMENT BE NOTIFIED WHEN EXPLOSIVES ARE PURCHASED.

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill that requires federal officials to be notified when explosives are purchased.

In all likelihood, any terrorist attack aimed at this country’s infrastructure will use explosives to achieve its purpose. One key way to prevent an attack
such as this is to have information about the individuals who are buying these items.

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

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

S. 142

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

SECTION 1. RECORDKEEPING REQUIREMENTS FOR EXPLOSIVE MATERIALS TRANSFERS. Section 9(a) of title 18, United States Code, is amended, in the first sentence—

(1) by striking "require," and inserting "require"; and

(2) by inserting before the period at the end the following: "and transmitting a copy of each such record to the Secretary."

By Mr. Moynihan:

S. 143. A bill to amend the Professional Boxing Safety Act of 1996 to standardize the physical examinations that each boxer must take prior to each professional boxing match and to require a brain CAT scan every 2 years as a requirement for the licensing of a boxer; to the Committee on Commerce, Science, and Transportation.

THE PROFESSIONAL BOXING SAFETY ACT AMENDMENTS OF 1996

Mr. Moynihan. Mr. President, On January 3, 1993, Liver Quarry, a perennial heavyweight boxing champion contender in the 1960's and 1970's, died of pneumonia brought on by an advanced state of dementia pugilistica. He was 53. The list goes on: Sugar Ray Robinson, Archie Moore and Muhammad Ali are but a few examples. The Professional Boxing Safety Act of 1996 was an excellent step toward making professional boxing safer for its participants. Nevertheless, it contains several gaps.

The amendments I propose here today are aimed at protecting professional fighters by requiring more rigorous prefight physical examinations and by requiring a brain catscan before a boxer can renew his or her professional license.

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

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

S. 144

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

SECTION 1. REVIEW OF EVERGLADES EXPANSION AREA FOR POTENTIAL AS WILDERNESS.

(a) Definition of Addition. In this section, the term "addition" has the meaning given the term in section 103(c) of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410(r)-9(c)).

(b) Review and Report. Subject to subsection (c), in accordance with section 3 of the Wilderness Act (16 U.S.C. 1132), the Secretary of the Interior shall review and report on the suitability for inclusion in the National Wilderness Preservation System of the Everglades expansion area, a designation that will protect and preserve this area for the use of present and future generations. This review will be an important step towards maintaining the natural habitat of such endangered species as the Florida panther, the snail kite, and the cape sable seaside sparrow, as well as sustaining uninterrupted water flow to the Everglades' aquifers, the main water source for the majority of the rapidly growing state of Florida. Over the last 100 years, this ecosystem has been altered by man to provide for development, to manage water for irrigation, and to control the times of hurricanes. The review of this land for potential as wilderness may lead to greater future protection of the Everglades ecosystem.

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:

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

S. 144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
fines. Unless more steps are taken to make enforcement of restitution orders more effective for victims, we risk allowing mandatory restitution to be mandatory in name only, with criminals able to evade ever paying their restitution orders. I believe we must do more to ensure that victims left without the ability to take action to enforce restitution orders.

In the 104th Congress, I introduced the Victim Restitution Enforcement Act of 1995. Many components of my legislation were also included in the victim restitution legislation enacted as part of the Antiterrorism and Effective Death Penalty Act. The legislation I introduce today is similar to the legislation I introduced in the 104th Congress as Senate Bill S. 1504 and again in the 105th Congress as S. 812, and is designed to build on what are now current provisions of law. All in all, I hope to ensure that restitution payments from criminals to victims become a reality, and that victims have a greater ability to easily enforce them after criminals obtain restitution payments.

Under my legislation, restitution orders would be enforceable as a civil debt, payable immediately. Most restitution orders will be enforced through the existing civil court system, including the Federal Debt Collection Act, which can be used to collect debts. This lightens the burden of collection agencies and rights organizations.

My bill further provides that Federal courts will continue to have jurisdiction over criminal restitution judgments. They will still be enforceable as a civil debt, payable immediately. Most restitution orders will be enforced through the existing civil court system, including the Federal Debt Collection Act, which can be used to collect debts. This lightens the burden of collection agencies and rights organizations.

This legislation also establishes procedures regarding the court's ascertaining of the victims' incomes and expenses. It permits the court to refer any issues arising in connection with a proposed restitution order to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a summary of the report be placed in the Record. It also authorizes the court to limit the ability of victims to have their personal financial information provided to the probation service under specified circumstances; (2) a victim who objects to any information provided to the probation service by the attorney for the United States to file a separate affidavit with the court; and (3) the court to request additional documents or hear testimony after reviewing the report of the probation service. Provides for the privacy of records filed and testimony heard and permits records to be filed on summary to be heard.

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a loss that is greater than that determined by the court in the earlier criminal proceeding. 

Section 3. Civil Remedies

This section adds restitution to a provision governing the post-sentence administration of fines. Provides that an order of restitution shall operate as a lien in favor of the United States for its benefit or for the benefit of any non-federal victims against that property belonging to the defendant. Authorizes the court, in enforcing a restitution order, to order jointly owned property divided and sold, subject to specified requirements.

Section 4. Finer Sentences

This section authorizes the court, where a defendant knowingly fails to pay a delinquent fine, to increase the defendant’s sentence to any sentence that might originally have been imposed under the applicable statute.

By Mr. ABRAHAM (for himself, Mr. ALIARD, Mrs. FEINSTEIN, Mr. HATCH, Mr. THURMOND, Mr. HELMS, Mr. KLYL, Mr. HUTCHINSON, Mr. GRAMS, Mr. ENZI, Mr. HAGEL, and Mr. COVERDILL):

S. 146. A bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes; to the Committee on the Judiciary.

THE POWDER COCAINE SENTENCING ACT

Mr. ABRAHAM. Mr. President, I rise to introduce “The Powder Cocaine Sentencing Act of 1999.” This legislation would toughen federal policy toward powder cocaine dealers by reducing from 500 to 50 grams the amount of powder cocaine a person must be convicted of distributing in order to receive a mandatory 5 year minimum sentence.

I am convinced, Mr. President, that we need tougher sentences for powder cocaine dealers so that we may protect our children from drugs and our neighborhoods from the violence and social breakdown that accompany drug trafficking.

We have seen a disturbing trend in recent years, a reversal, really, of the decade long progress we enjoyed in the war on drugs. For example, over the last six years the percentage of high school seniors admitting that they had used an illicit drug has risen by more than half. This spells trouble for our children. Increased drug use means increased danger of every social pathology of which we know. It must stop.

Ironically, at the same time that we are learning the disturbing news about overall drug use among teens, we also are finding heartening news in our war on violent crime. The F.B.I. now reports that, since 1991, the number of homicides committed in the United States has dropped by 31 percent. Since 1991, the number of robberies has fallen 32 percent. According to the Bureau of Justice Statistics, robberies fell a stunning 17 percent in 1997 alone.

This is good news, Mr. President. And there is widespread agreement among experts in the field that the principal cause of this decline in violent crime is our success in curbing the crack cocaine epidemic and the violent gang activities that accompany that epidemic. The F.B.I. now reports that, since 1991, the number of violent crimes committed in the United States has dropped by 31 percent. Also, according to the Bureau of Justice Statistics, robberies have fallen 32 percent. According to a conference of criminologists held in New Orleans, experts at that conference agreed that the rise and fall in violent crime during the 1980s and 1990s closely paralleled the rise and fall of the crack epidemic. At the same time, there is a warning sign here. The most recent “Monitoring the Future” Study done by the University of Michigan, which tracks drug use and attitudes by teenagers, showed an increase in the use of both crack and powder cocaine this year. This is in contrast to its finding that the use of other drugs by kids may finally be leveling off, albeit at unacceptably high levels.

Yet surprisingly, despite these developments, in last year’s Ten Year Plan for a National Drug Control Strategy, the Administration proposed making crack sentences 5 times more lenient than they are today. Why? The Administration said it needed to reduce crack dealer sentences because they are too tough when compared to sentences for powder cocaine dealers. And it is true that it does not make sense for people higher on the drug chain to get lighter sentences than those at the bottom. But going easier on crack peddlers—the dealers who infest our school yards and playgrounds—is not the solution. Crack is cheap and highly addictive. Tough crack sentences have encouraged many dealers to turn in their superiors in exchange for leniency. Softening these sentences will remove that incentive and undermine our prosecutors, making them less effective at protecting our children and our neighborhoods.

The Powder Cocaine Sentencing Act rests on the conviction that there is a better way to bring crack and powder cocaine sentences more in line. First, it rejects any proposal to lower sentences for crack dealers. Second, it makes sentences for powder cocaine dealers a good deal tougher than they are today.

Mr. President, this legislation will reduce the differential between the sentences of cocaine and crack cocaine dealers. The Administration required to trigger a mandatory minimum sentence from 100 to 1 to 10 to 1—the same ratio proposed by the Administration. But this legislation will accomplish that goal, not by making crack sentences 5 times more lenient, but rather by toughening sentences for powder cocaine dealers.

At this crucial time we may be making real progress in winning the war on violent crime in part because we have sent the message that crack drug dealers are not and will not be tolerated. And society will come down very hard on those spreading this pernicious drug. At the same time our kids remain all too exposed to dangerous drugs, far more exposed than any of us can probably really imagine. In light of these two trends, it would be a catastrophic mistake to let any drug dealer think that the cost of doing business is going down. As important, Mr. President, it will be nearly impossible to succeed in discouraging our children from using drugs if they hear we are lowering sentences for any category of drug dealers.

I am asking my colleagues to send a strong message to drug dealers and to our kids, the message that drugs are dangerous and illegal, and those who sell them will not be tolerated. This legislation will send this message, and I urge my colleagues to give it their full support.

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. 146

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

SECOND CONGRESSIONAL RECORD — SENATE

January 19, 1999

SEC. 1. SHORT TITLE.

This Act may be cited as the “Powder Cocaine Sentencing Act of 1999.”

SEC. 2. SENTENCING FOR VIOLATIONS INVOLVING COCAINE POWDER.

(a) AMENDMENT OF CONTROLLED SUBSTANCES ACT.—

(1) LARGE QUANTITIES.—Section 401(b)(1)(A)(ii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)) is amended by striking “5 kilograms” and inserting “500 grams”.

(2) SMALL QUANTITIES.—Section 401(b)(1)(B)(ii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)(ii)) is amended by striking “500 grams” and inserting “50 grams”.

(b) AMENDMENT OF CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—

(1) LARGE QUANTITIES.—Section 101(b)(1)(B) of the Controlled Substances Import and Export Act (22 U.S.C. 1911(b)(1)(B)) is amended by striking “5 kilograms” and inserting “500 grams”.

(2) SMALL QUANTITIES.—Section 101(b)(2)(B) of the Controlled Substances Import and Export Act (22 U.S.C. 1911(b)(2)(B)) is amended by striking “500 grams” and inserting “50 grams”.

(c) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to reflect the amendments made by this section.

Mr. GRAMS. Mr. President, I rise in support of the “Powder Cocaine Sentencing Act of 1999” sponsored by Senator SPENCE ABRAHAM of Michigan. I am proud to be an original cosponsor of this important legislation that will toughen federal policy toward powder cocaine dealers.

As we begin the legislative business of the Senate this year, we must strengthen our efforts to stop illegal drug use and drug-related crime and violence. We must fulfill our moral obligation to communicate the dangers and consequences of illegal drug use. Continuation of our fight against the threat of drug abuse is one of the most important contributions the 106th Congress
can make toward providing a promising future for the young people of America.

Under current law, a dealer must distribute 500 grams of powder cocaine to qualify for a 5-year mandatory minimum sentence. However, officers can charge a person with distributing 50 grams of crack cocaine for that offense. These sentencing guidelines result in a 100-to-1 quantity ratio between powder and more severe crack cocaine distribution sentences. This disparity has caused a great deal of concern among Congress, the administration, and the communities. Unfortunately, the Clinton administration fails to see the dangers in changing the federal crack cocaine distribution law.

During the 104th Congress, the U.S. Sentencing Commission recommended a lower threshold under which a convicted person may receive a 5-year mandatory sentence in cases involving the distribution of crack cocaine. Through the leadership of Senator Abraham, overwhelming support for a bill passed legislation which rejected the Sentencing Commission's proposal. At the signing ceremony for this legislation, President Clinton expressed the strong message its enactment would send to our nation and those who choose to deal drugs throughout our communities.

President Clinton remarked, "We have to send a constant message to our children that drugs are illegal, they are dangerous and addictive. If you sell drugs you will go to prison. We cannot allow drugs to be sold in our communities."

I share the views expressed by the administration and community groups in my home state of Minnesota that the current penalty disparity in cocaine sentencing should be addressed. However, I disagree with the ill-advised manner in which the administration seeks to achieve this goal by making the mandatory minimum prison sentences for cocaine offenders at least five times more lenient than they are today.

Mr. President, the legislation offered today by Senator Abraham represents a fair and effective approach toward federal cocaine sentencing policy. Rather than make federal crack cocaine sentences more lenient, the Abraham bill would reduce from 500 to 50 grams the lesser of the two amounts of cocaine a person must be convicted of distributing before receiving a mandatory 5-year sentence. This legislation would adjust the current 100-to-1 quantity ratio to 10-to-1 by toughening powder cocaine sentences without reducing crack cocaine sentences. By February 1, Congress will receive a National Drug Control Strategy from the Office of National Drug Control Policy, the goal of which is for reducing drug abuse in the United States. As part of this plan, I am hopeful that National Drug Control Policy Director Barry McCaffrey will speak out forcefully against any proposal to make sentences for a person who is convicted of dealing crack cocaine more lenient. Punishing drug dealers who prey upon the innocence of our children should be a critical component of our nation's drug strategy.

Mr. President, I urge my colleagues to support the 'Powder Cocaine Sentencing Act of 1999' and reject lower federal crack sentences. We should exercise greater oversight of federal sentencing policy for cocaine offenses. Passage of this legislation will help give a message to drug traffickers that doing business is going down.

Mr. President, I urge my colleagues to support the 'Powder Cocaine Sentencing Act of 1999' and reject lower federal crack sentences. We should exercise greater oversight of federal sentencing policy for cocaine offenses. Passage of this legislation will help give a message to drug traffickers that doing business is going down. The innocence of our children should be a critical component of our nation's drug strategy.

By Mr. ABRAHAM (for himself, Mr. LEVIN, Mr. ASHCROFT, and Mr. DEWINE):
S. 147. A bill to provide for a reduction in regulatory costs by maintaining Federal average fuel economy standards applicable to automobiles in effect at current levels until changed by law, and for other purposes; to the Committee on Commerce, Science, and Transportation.
CORPORATE AVERAGE FUEL ECONOMY STANDARDS
Mr. ABRAHAM. Mr. President, I rise today to introduce legislation with Senators LEVIN, ASHCROFT, and DEWINE that would freeze the Corporate Average Fuel Economy standards known as CAFE—at current levels unless changed by Congress.

This issue is attracting an increased amount of attention as automobile manufacturers continue to increase car and light truck efficiency and as Americans begin to understand the consequences of increased fuel economy standards: less consumer choice, more dangerous vehicles and reduced competitiveness for domestic automobile manufacturers. Perhaps, Mr. President, some of these repercussions could be easier to accept if the supposed benefits of increased CAFE standards were ever realized, but this has not occurred. In the two decades since CAFE standards were first mandated, this Nation's oil imports have grown to account for nearly half our annual consumption, and the average number of miles driven by Americans has increased.

Mr. President, last session 15 Senators from both sides of the aisle joined me in sponsoring this legislation. Given the importance of the automobile industry to the continued economic health of the country, the preference for increased capacity that American consumers have demonstrated and the producers' continuing trend toward more efficient engines, it is time for the setting of CAFE standards to once again reside with elected officials.

I urge my colleagues to co-sponsor this legislation and 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. 147
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AVERAGE FUEL ECONOMY STANDARDS.

Beginning on the date of enactment of this Act, the average fuel economy standards established (whether directly or indirectly) under regulations promulgated by the Secretary of Transportation under chapter 329 of title 49, United States Code, prior to the date of enactment of this Act for automobiles (as that term is defined in section 32901 of title 49, United States Code) that are in effect on the day before the date of enactment of this Act, shall apply without amendment, change, or other modification of any kind (whether direct or indirect) for—

1. The model years specified in the regulations;

2. The applicable automobiles specified in the regulations last promulgated for such automobiles; and

3. Each model year thereafter.

Until chapter 329 of title 49, United States Code, is specifically amended to authorize an amendment, change, or other modification to such standards or is otherwise modified or superseded by law.

By Mr. ABRAHAM (for himself, Mr. DASCHLE, Mr. CHAFEE, Mr. HATCH, and Mr. DURBIN):
S. 148. A bill to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds; to the Committee on Environment and Public Works.

MIGRATORY BIRD PROTECTION

Mr. ABRAHAM. Mr. President, I rise today to introduce the "Neotropical Migratory Bird Conservation Act of 1999." This legislation, which I am introducing today with my distinguished colleagues, Senator DASCHLE and Senator CHAFEE, is designed to protect over 90 endangered species of bird spending certain seasons in the United States and other seasons in other nations of the Western Hemisphere. This is actually the second time Senator DASCHLE and I have introduced this bill. Last year, after receiving considerable support from the environmental community, this legislation passed the Senate by unanimous consent. Unfortunately, time ran out for equal consideration in the House. Nevertheless, we will carry again with renewed determination and I believe the effort in the 106th Congress will prove successful.

Every year, Mr. President, approximately 25 million Americans travel to observe migratory birds. Millions of American adults watch and feed birds at home. Bird-watching is a source of real pleasure to many Americans, as well as a source of important revenue to states,
like my own state of Michigan, which attract tourists to their scenes of natural beauty. Bird watching and feeding generates fully $20 billion every year in revenue across America.

Birdwatching is a popular activity in Michigan; an increase in tourism is reflected by an increase in tourist dollars being spent in small, rural communities. Healthy bird populations also prevent hundreds of millions of dollars in economic losses each year to farmers in our state. They help control insect populations, thereby preventing crop failures and infestations.

Despite the enormous benefits we derive from our bird populations, many of them are struggling to survive. Ninety species are listed as endangered or threatened in the United States. Another 124 species are of high conservation concern. In my own state we are working to bring the Kirtland's Warbler back from the brink of extinction. In recent years, the population of this distinctive bird has been estimated at approximately 200 nesting pairs. That number has recently increased to an estimated 800 nesting pairs, but this entire species spends half of the year in the wild. Therefore, the significant efforts made by Michigan's Department of Natural Resources and concerned residents will not be enough to save this bird if its winter habitat is degraded or destroyed. Not surprisingly, the primary reason for most declines is the loss of bird habitat.

This situation is not unique, among bird watchers' favorites, many neotropical birds are endangered or of high conservation concern. And several of the most popular neotropical species, including bluebirds, robins, goldfinches and orioles, migrate to and from the Caribbean and Latin America.

Because neotropical migratory birds range across a number of international borders every year, they need work to establish safeguards at both ends of their migration routes, as well as at critical stopover areas along their way. Only in this way can conservation efforts prove successful.

That is why Senator DASCHLE, Senator CHAFEE and I have introduced the "Neotropical Migratory Bird Conservation Act." This legislation will protect bird habitats across international boundaries by establishing partnerships with the business community, nongovernmental organizations and foreign nations. By teaming businesses with international organizations concerned to protect the environment we can combine capital with know-how. By partnering these entities with local governments, we can greatly enhance the protection of migratory bird habitat.

I urge my colleagues to support this bill and ask that a copy of the legislation be printed in the Record.

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

S. 148

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Neotropical Migratory Bird Conservation Act".

SEC. 2. FINDINGS.

Congress finds that—
(1) of the nearly 800 bird species known to occur in the United States, approximately 500 migrate among countries, and the large majority of those species, the neotropical migrants, winter in Latin America and the Caribbean;
(2) neotropical migratory bird species provide invaluable environmental, economic, recreational, and aesthetic benefits to the United States, as well as to the Western Hemisphere;
(3) many neotropical migratory bird populations, once considered common, are in decline, and we have declined to the point that their long-term survival in the wild is in jeopardy; and
(4) because neotropical migratory bird species migrate among countries, and the large majority of those species, the neotropical migrants, winter in Latin America and the Caribbean, we must work to establish partnerships between business, government and nongovernmental organizations both here and abroad to greatly enhance the protection of migratory bird habitat.

SEC. 3. PURPOSES.

The purposes of this Act are—
(1) to perpetuate healthy populations of neotropical migratory birds;
(2) to assist in the conservation of neotropical migratory birds by supporting conservation initiatives in the United States, Latin America, and the Caribbean; and
(3) to provide financial resources and to foster international cooperation for those initiatives.

SEC. 4. DEFINITIONS.

(A) "Account"—The term "Account" means the U.S. Fish and Wildlife Service account established by section 9(b)(2). 
(B) "Conservation"—The term "conservation" means the use of methods and procedures necessary to bring a species of neotropical migratory bird to the point at which it is reflected by an increase in tourist dollars being spent in small, rural communities.
(C) "Community outreach and education"—The term "Community outreach and education" means the use of methods and procedures necessary to bring a species of neotropical migratory bird to the point at which it is reflected by an increase in tourist dollars being spent in small, rural communities.
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(Q) "Community outreach and education" means the use of methods and procedures necessary to bring a species of neotropical migratory bird to the point at which it is reflected by an increase in tourist dollars being spent in small, rural communities.
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(S) "Community outreach and education" means the use of methods and procedures necessary to bring a species of neotropical migratory bird to the point at which it is reflected by an increase in tourist dollars being spent in small, rural communities.
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(V) "Community outreach and education" means the use of methods and procedures necessary to bring a species of neotropical migratory bird to the point at which it is reflected by an increase in tourist dollars being spent in small, rural communities.
(W) "Community outreach and education" means the use of methods and procedures necessary to bring a species of neotropical migratory bird to the point at which it is reflected by an increase in tourist dollars being spent in small, rural communities.
(X) "Community outreach and education" means the use of methods and procedures necessary to bring a species of neotropical migratory bird to the point at which it is reflected by an increase in tourist dollars being spent in small, rural communities.
(Y) "Community outreach and education" means the use of methods and procedures necessary to bring a species of neotropical migratory bird to the point at which it is reflected by an increase in tourist dollars being spent in small, rural communities.
(Z) "Community outreach and education" means the use of methods and procedures necessary to bring a species of neotropical migratory bird to the point at which it is reflected by an increase in tourist dollars being spent in small, rural communities.

SEC. 5. FINANCIAL ASSISTANCE.

(a) IN GENERAL. The Secretary shall establish a program to provide financial assistance for projects that promote the conservation of neotropical migratory bird species.

(b) PROJECT APPLICANTS. A project proposal may be submitted by—
(A) an individual, corporation, partnership, trust, association, or other private entity;
(B) an officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government;
(C) a State, municipality, or political subdivision of a State;
(D) any other entity subject to the jurisdiction of the United States or of any foreign country; and
(E) an international organization (as defined in section 1 of the International Organizations Immunities Act (22 U.S.C. 288)).

(c) PROJECT PROPOSALS. To be considered for financial assistance for a project under this Act, an applicant shall submit a project proposal that—
(A) includes—
(B) a succinct statement of the purposes of the project; and
(C) a description of the qualifications of individuals conducting the project and the commitment and effort of all necessary to complete the project, including sources and amounts of matching funds.
(2) demonstrates that the project will enhance the conservation of neotropical migratory bird species in Latin America, the Caribbean, or the United States;

(3) includes mechanisms to ensure adequate local public participation in project development and implementation;

(4) contains assurances that the project will be completed in consultation with relevant wildlife management authorities and other appropriate government officials with jurisdiction over the resources addressed by the project;

(5) demonstrates sensitivity to local historic and cultural resources and complies with applicable laws;

(6) describes how the project will promote sustainable, effective, long-term programs to conserve neotropical migratory birds; and

(7) provides any other information that the Secretary considers to be necessary for evaluating the proposal.

(d) Project Reporting.—Each recipient of assistance for a project under this Act shall submit to the Secretary such periodic reports as the Secretary considers to be necessary. Each report shall include all information reasonably necessary to enable the Secretary to evaluate the progress and outcome of the project.

(e) Cost Sharing.—

(i) Federal Share.—The Federal share of the cost of each project shall be no greater than 33 percent.

(ii) Non-Federal Share.—The non-Federal share required to be paid for a project shall not be derived from any Federal grant program.

(f) Form of Payment.

(i) Projects in the United States.—The Federal share of the cost of each project shall be paid in cash.

(ii) Projects in Foreign Countries.—The non-Federal share required to be paid for a project carried out in a foreign country may be paid in cash.

(g) Duties of the Secretary.

In carrying out this Act, the Secretary shall—

(1) develop guidelines for the solicitation of proposals for projects eligible for financial assistance under section 5;

(2) encourage submission of proposals for projects eligible for financial assistance under section 5, particularly proposals from relevant wildlife management authorities;

(3) select proposals for financial assistance that satisfy the requirements of section 5, giving preference to proposals that address conservation needs not adequately addressed by existing efforts and that are supported by other relevant wildlife management authorities; and

(4) generally implement this Act in accordance with its purposes.

SEC. 7. Cooperation.

(a) In General.—In carrying out this Act, the Secretary shall—

(1) support and coordinate existing efforts to conserve neotropical migratory bird species, through—

(A) facilitating meetings among persons involved in such efforts;

(B) promoting the exchange of information among such persons;

(C) developing and entering into agreements with other Federal agencies, foreign State and local governments, and nongovernmental organizations; and

(D) conducting such other activities as the Secretary considers to be appropriate; and

(2) coordinate activities and projects under this Act with existing efforts in order to enhance conservation of neotropical migratory bird species.

(b) Advisory Group.—

(i) In General.—To assist in carrying out this Act, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of neotropical migratory birds.

(ii) Meetings. The advisory group shall—

(A) annual meeting, to be held each year, at which the advisory group shall receive and review all reports submitted to the Secretary pursuant to this Act.

(B) public meetings, to be held at least once each year, at which the advisory group shall receive and review all reports submitted to the Secretary pursuant to this Act.

(iii) Notice.—The Secretary shall provide notice of each meeting of the advisory group.

(iv) Minutes.—Minutes of each meeting of the advisory group shall be submitted to the Secretary in writing within 30 days after the conclusion of each meeting.

(v) Exemption from Federal Advisory Committee Act.—The Federal Advisory Committee Act shall not apply to the advisory group.

SEC. 8. Report to Congress.

Not later than October 1, 2002, the Secretary shall submit to Congress a report on the results and effectiveness of the program carried out under this Act, including recommendations concerning how the Act might be improved and whether the program should be continued.

(f) Neotropical Migratory Bird Conservation Account.

(a) Establishment.—There is established in the Migratory Bird Conservation Fund of the Treasury a subaccount to be known as the "Neotropical Migratory Bird Conservation Account", which shall consist of amounts deposited into the Account by the Secretary of the Treasury under subsection (b).

(b) Deposits into the Account.—The Secretary of the Treasury shall deposit into the Account—

(1) amounts received by the Secretary in the form of donations, contributions, or gifts;

(2) amounts received by the Secretary in the form of a transfer from revenues from the sale of Federal guide permits;

(3) amounts received by the Secretary in the form of Federal grant monies;

(4) amounts received by the Secretary in the form of Federal trust fund monies;

(5) amounts received by the Secretary in the form of Federal agency contributions;

(6) amounts received by the Secretary in the form of Federal agency grants;

(7) other amounts appropriated to the Account.

(c) Use.—

(1) In General.—Subject to paragraph (2), the Secretary may use amounts in the Account, without further Act of appropriation, to carry out this Act.

(2) Administrative Expenses. Of amounts in the Account available for each fiscal year, the Secretary may expend not more than 6 percent to pay the administrative expenses necessary to carry out this Act.

(d) Acceptance of Donations.—The Secretary may accept and use donations to carry out this Act. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit into the Account.

SEC. 10. Authorization of Appropriations.

There is appropriated to the Account to carry out this Act $8,000,000 for each of fiscal years 2000 through 2003, to remain available until expended, of which not less than $5,000,000 shall be available for each fiscal year shall be expended for projects carried out outside the United States.

Mr. DASCHLE. Mr. President, it is my pleasure today to join with my colleagues in support of the Neotropical Migratory Bird Conservation Act.

First, let me commend my colleague, Senator Abraham, for all of his work to develop this legislation. This bill addresses some of the critical threats to wildlife habitat and species diversity and demonstrates his commitment, which I strongly share, to solving the many challenges we face in this regard.

The Neotropical Migratory Bird Conservation Act will help to ensure that some of our most valuable and beautiful species of birds—those that most of us take for granted, including bluebirds, goldfinches, robins, and orioles—may overcome the challenges posed by habitat destruction and the generations to come. It is not widely recognized that many North American bird species once considered common are in decline.

While there are numerous efforts underway to protect these species and their habitat, they generally focus on...
specific groups of migratory birds or specific regions in the Americas. There is a need for a more comprehensive program to address the varied and significant threats facing the numerous species of migratory birds across their range.

Frequently there is little, if any, coordination among the existing programs, nor is there any one program that serves as a link among them. A broader, more holistic approach would bolster existing conservation efforts and programs, fill the gaps between these programs, and promote new initiatives.

The bill we are introducing today encompasses this new approach. It mandates a program to promote voluntary, collaborative partnerships among Federal, State, and private organizations. The Federal share can be no more than 33 percent. The non-Federal share for projects in the U.S. must be paid in cash, while in projects outside the U.S., the non-Federal share may be met with in-kind contributions. The Secretary of the Interior may establish an advisory group to assist in implementing the legislation. The success of this initiative will depend on close coordination with private organizations involved in the conservation of migratory birds. The bill authorizes up to $88 million annually for appropriations, of which no less than 50 percent can be spent for projects outside the U.S.

I believe that this bill is a much-needed initiative that will fill a great void in conservation of our nation’s wildlife. I urge my colleagues to cosponsor it.

Thank you, Mr. President. I yield the floor.

By Mr. KOHL:
S 149. A bill to amend chapter 44 of title 18, United States Code, to require the public safety for use on the handgun; to the Committee on the Judiciary.

CHILD SAFETY LOCK ACT OF 1999

Mr. KOHL. Mr. President, today I introduce the Child Safety Lock Act of 1999, along with Senators CHAFEE, FEINSTEIN, BOXER and DURBIN. Our bipartisan measure will save children’s lives by reducing the senseless tragedies that result when improperly stored and unlocked handguns come into the hands of children.

Each year, nearly 500 children and teenagers are killed in firearms accidents, and every year 1,500 more children use firearms to commit suicide. Additionally, about 7,000 violent juvenile crimes are committed annually with guns which children take from their own homes. Safety locks can be effective in preventing at least some of these incidents.

The sad truth is that we are inviting disaster to befall our children. In too many cases, children are not being properly stored away from children. Nearly 100 million privately-owned firearms are stored unlocked, with 22 million of these guns left unlocked and loaded; twenty-four percent of children between the ages of 10 and 17 say that they can gain access to a gun in their home; and the Centers for Disease Control estimate that almost 1.2 million elementary school-aged children attend school to a home where there is no adult supervision, but at least one firearm.

That is not only wrong, it is unacceptable.

Our legislation will help address this problem. It is simple, effective and straightforward. It requires that a child safety device—trigger lock—be provided on medicine bottles. We should require that childproof safety caps be provided on all automobile belts be installed in all automobiles and that childproof safety caps be provided on medicine bottles. We should be no less vigilant when it comes to gun safety.

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

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

S 149

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

SEC. 1. SHORT TITLE.
This Act may be cited as the “Child Safety Lock Act of 1999”.

SEC. 2. CHILD SAFETY LOCKS.

(a) DEFINITIONS.—Section 922(a) of title 18, United States Code, as amended by adding at the end thereof:

(3) The term ‘locking device’ means a device or locking mechanism—

(A) that—

(i) if installed on a firearm and secured by means of a key or a mechanically, electronically, or electromechanically operated combination lock, is designed to prevent the firearm from being discharged without first deactivating or unlocking the device or combination lock; or

(ii) if incorporated into the design of a firearm, is designed to prevent discharge of the firearm by any person who does not have access to the key or other device designed to unlock the mechanism and thereby allow discharge of the firearm; or

(iii) is a safe, gun safe, gun case, lock box, or other device that is designed to store a firearm and that is designed to be unlocked by means of a key, a combination, or other similar means; and

(b) UNLAWFUL ACTS.—

(1) In general.—

(II) manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a firearm; or

(ii) transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a firearm for law enforcement purposes (whether on or off duty); or

(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State for purposes of law enforcement (whether on or off duty).

(2) EFFECTIVE DATE.—Section 922(y) of title 18, United States Code, as added by this subsection, shall take effect 180 days after the date of enactment of this Act.

(c) LIABILITY; EVIDENCE.—

(1) LIABILITY.—Nothing in this section shall be construed to—

(A) create a cause of action against any firearms dealer or any other person for any civil liability; or

(B) establish any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the requirements of this Act shall be deemed admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this section.

(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to bar a government action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(y) of that title.

(d) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking ‘or (I)’ and inserting ‘(I), or (II)’; and

(2) by adding at the end thereof:

(i) PENALTIES RELATING TO LOCKING DEVICES.—

(II) In general.—
Mr. WYDEN. Mr. President, today I introduce a measure to bring critically needed relief to Marina Khalina and her sister, Albert Miftakhov, who suffers from cerebral palsy. Marina and Albert are Russian immigrants who have made a new home for themselves in the state of Oregon. They love their new life in America, but they face deportation and other hardship steps in a future that will strip them of citizenship in this country.

Marina and Albert have been valuable members of their community in Oregon and would make model citizens. They are both people of exceptional moral character. Neither has been arrested or convicted of any crime. Although Albert often has had to miss school for medical operations, therapy, and other treatments, he consistently has been a good student. Marina has worked tirelessly in the United States to support her family and to cover her son's staggering medical costs, which will include additional surgery in the future. Through hard work, determination, and courage, Marina has made sure that Albert receives the medical care he needs.

Forcibly removing them and sending them back to Russia would result in extreme hardship for both of them and would make it virtually impossible for Albert to receive medical treatment. Albert would be unable to lead a normal life due to the current inability of Russian society to understand and accommodate disabled persons. Even the most basic medical treatment, surgical intervention and physical therapy would be both unavailable or extremely difficult to obtain in Russia.

Although life has not been easy for Marina and Albert, they have both shown bravery in the face of adversity. This bill will allow Marina and Albert to stay in the United States so that Albert can receive the care he needs to lead a normal life. I urge you to support this legislation.

By Mr. SARBANES:
S. 151. A bill to amend the International Maritime Satellite Telecommunications Act to ensure the continued provision of certain global satellite elite safety services after the privatization of the business operations of the International Mobile Satellite Organization, and for other purposes; to the Committee on Commerce, Science, and Transportation.

The legislation I am introducing will enable a smooth transition to the new structure. It contains two major provisions. First, it authorizes the President to maintain U.S. membership in IMSO after restructuring to ensure the continued provision of global maritime distress and safety satellite communications services. Second, it repeals those provisions of the International Maritime Satellite Telecommunications Act that will be rendered obsolete by the restructuring of Inmarsat, the Maritime Satellite Telecommunications Organization. The bill's provisions will take effect on the date that Inmarsat transfers its commercial operations to the new corporation.

Mr. President, I urge my colleagues to join me in support of this measure and ask unanimous consent that a copy of this legislation be included in the RECORD.

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

S. 151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. CONTINUING PROVISION OF GLOBAL SATELLITE SAFETY SERVICES AFTER PRIVATIZATION OF BUSINESS OPERATIONS OF INTERNATIONAL MOBILE SATELLITE ORGANIZATION.

(a) Authority.—The International Maritime Satellite Telecommunications Act (47 U.S.C. 751 et seq.) is amended by adding at the end the following:

"SEC. 506. In order to ensure the continued provision of global maritime distress and safety satellite telecommunications services after the privatization of the business operations of Inmarsat, the President may maintain on behalf of the United States membership in the International Mobile Satellite Organization."

(b) Repeal of superseded authority.—

(1) Repeal.—That Act is further amended by striking sections 502, 503, 504, and 505 (47 U.S.C. 751 et seq.)

(2) Effective date.—The amendments made by paragraph (1) shall take effect on the date on which the International Mobile Satellite Organization ceases to operate directly a global mobile satellite system.
By Mr. MOYNIHAN:
S. 154. A bill to amend title 18, United States Code, with respect to the licensing of ammunition manufacturers, and for other purposes; to the Committee on the Judiciary.

HANDGUN AMMUNITION CONTROL ACT OF 1999

Mr. MOYNIHAN. Mr. President, I rise today to introduce a series of bills aimed at curtailing gun-related violence, one of the leading causes of death in this country. These bills launch a two-prong assault. The first seeks to outlaw certain types of ammunition that have no purpose other than killing people. The second imposes heavy taxes on these same deadly categories by making them prohibitively expensive. Similarly, I am proposing that we commission an epidemiological study on bullet-related violence in this country and that we enhance the safety of our nation's police officers by promulgating performance standards for armor-piercing ammunition.

My first two bills are called the Destructive Ammunition Prohibition Act of 1999 and the Real Cost of Destructive Ammunition Act of 1999.

Some of my colleagues may remember the Black Talon. It is a hollow-pointed, exploding bullet, singular among handgun ammunition in its capacity for destruction. Upon impact with human tissue, the bullet produces razor-sharp radial petals that produce a devastating wound. It is the same bullet that has been used in many of the most notorious crimes in recent months, the number of deaths and injuries caused by bullet wounds is still at an unconscionable level. It is the result if bullets with the destructive capacity of the Black Talon are allowed onto the streets.

Mr. President, despite the fact that the national crime rate has decreased in recent months, the number of deaths and injuries caused by bullet wounds is still at an unconscionable level. It is time we take meaningful steps to put a lid on the violence. This is why I have introduced legislation, the Handgun Ammunition Control Act of 1999, to ban the sale of the Black Talon, announced that it would withdraw sale of the bullet to the general public. Unfortunately, the 103rd Congress came to a close without the bill's having won passage.

As a result, there is nothing in law to prevent the reintroduction of this pernicious bullet. This is why I seek to prevent the reintroduction of this pernicious bullet and to prevent the sale of similar rounds that might be produced by another manufacturer. So today I reintroduce the bill to tax the Black Talon as well as a bill to prohibit the sale of similar rounds. Both bills would apply to any bullet with the same physical characteristics as the Black Talon.

It has been estimated that the cost of hospital services for treating bullet-related injuries is $5 billion per year, with the total cost to the economy of such injuries approximately $14 billion. We can ill afford further increases in this number, but this would surely be the result if bullets with the destructive capacity of the Black Talon are allowed onto the streets.

Mr. President, the crime bill enacted in 1994 contained a provision that would make it a crime to possess a handgun with a loaded magazine. It was finally signed into law by President Reagan on August 28, 1986.

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and importers and by directing a study by the National Academy of Sciences. We also need to encourage manufacturers of ammunition to be more responsible. By substantially increasing application fees for licenses to manufacture small- and medium-caliber, and armor-piercing ammunition, this bill would discourage the reckless production of unsafe ammunition or ammunition which causes excessive damage.

My fourth measure provides a comprehensive way of addressing the epidemic proportions of violence in America.

By including two different crime-related provisions, my bill attacks the crime epidemic in more than just one front. If we are truly serious about confronting our Nation's crime problem, we must learn more about the nature of the epidemic of bullet-related violence and ways to control it. To this end, we must keep on the disposition of ammunition.

In October 1992, the Senate Finance Committee received testimony that public health and safety experts have, independently, concluded that there is an epidemic of bullet-related violence. The figures are staggering.

In 1995, bullets were used in the murders of 23,673 people in the United States. By focusing on bullets, and not guns, we recognize that much like nuclear waste, guns remain active for centuries. With minimum care, they do not deteriorate. However, bullets are consumed. Estimates suggest we have only a 4-year supply of them.

Now rejecting the notion that we tax bullets used disproportionately in crimes—9 millimeter, .25 and .32 caliber bullets—I also believe we must set up a Bullet Death and Injury Control Program within the Centers for Disease Control and Prevention and the Center for Injury Prevention and Control. This Center will enhance our knowledge of the distribution and status of bullet-related death and injury and subsequently make recommendations about the extent and nature of bullet-related violence.

So that the Center would have substantive information to study and analyze, this bill also requires importers and manufacturers of ammunition to keep records and submit an annual report to the Bureau of Alcohol, Tobacco, and Firearms (BATF) on the disposition of ammunition. Currently, importers and manufacturers of ammunition are not required to do so.

My next two bills, the Violent Crime Reduction Act of 1999 and the Real Cost of Handgun Ammunition Act of 1999, ban or heavily tax .25 caliber, .32 caliber, and 9 mm ammunition. These calibers are also used disproportionately in crime. They are not sport- ing or hunting rounds, but instead are the bullets of choice for drug dealers and violent felons. Every year they contribute overwhelmingly to the pervasive loss of life caused by bullet wounds.

Today marks the fifth time in as many Congresses that I have introduced legislation to ban or tax these pernicious bullets. As the terrible gunshot death toll in the United States continues unabated, so too does the need for these bills, which, by keeping these bullets out of the hands of criminals, would save a significant number of lives.

The number of Americans killed or wounded each year by bullets demonstrates their true cost to American society. I just look at the data.

The lifetime risk of death from homicide in U.S. males is 1 in 164, about the same as the risk of death in battle faced by U.S. servicemen in the Vietnam war. For black males, the lifetime risk of death from homicide is 1 in 28, twice the risk of death in battle faced by Marines in Vietnam.

As noted by Susan Baker and her colleagues in the book Epidemiology and Health Policy, edited by Sol Levine and Abraham Lilienfeld, there is a correlation between rates of private ownership of guns and murder rates: persons who own guns cause two-thirds of family homicides, and small, easily concealed weapons comprise the majority of guns used for homicides, suicides and unintentional death.

Baker and colleagues state: *** these facts of the epidemiology of firearm-related deaths and injuries have important implications. Combined with their lethality, the widespread availability of easily concealed handguns for impetuous use by people who are angry, drunk, or frightened appears to be a major determinant of the high firearm death rate in the United States. Each contributing factor has implications for prevention. Unfortunately, issues related to gun control have evoked such strong sentiments that epidemiologic data are rarely employed to good advantage.

Strongly held views on both sides of the gun control issue have made the subject difficult for epidemiologists. I would suggest that a good deal of energy is wasted in this never-ending debate. As we study it, we now know it misses the point. We ought to focus on the bullets, not the guns.

I would remind the Senate of our experience in controlling epidemics. Although the science of epidemiology traces its roots to antiquity—Hippocrates stressed the importance of considering environmental influences on human diseases—the first modern epidemiological study was conducted by James Lind in 1747. His efforts led to the eventual control of scurvy. Von Dorsack, in his book Epidemiology, states that: "The causative factors in epidemiology are the agent—the cause of sickness, or the bullet; the host—who becomes sick or, in the case of bullets, the shooting victim; the setting (the cause of sickness, or the bullet); and the environment—(the setting in which the sickness occurs or, in the case of bullets, the gun)." Interrupt this epidemiological triad and you reduce or eliminate disease and injury.

How might this approach apply to the control of bullet-related injury and death? Again, we are contemplating something different from gun control. There is a precedent here. In the middle of the century it was recognized that epidemiology could be applied to automobile death and injury. From a governmental perspective, this hypothesis was first adopted in 1959, late in the administration of Gov. Averell Harriman of New York State. In the 1960 Presidential campaign, I drafted a statement on the subject which was released by Senator John F. Kennedy as part of his general program for the American Automobile Association. Then Senator Kennedy stated:

Traffic accidents constitute one of the greatest, perhaps the greatest of the nation's public health problems. They waste as much as 2 percent of our gross national product every year and bring endless suffering. The new highways will do much to control the rise of the traffic toll, but by themselves they will not reduce it. A great deal more investigation and research is needed. Some of this has already begun in connection with the National Highway Program. The program should be extended until highway safety research takes its place as an equal of the many similar programs of health research which the federal government supports.

Experience in the 1950's and early 1960's prior to passage of the Motor Vehicle Safety Act, showed that traffic safety enforcement campaigns designed to change human behavior did not improve traffic safety. In fact, the death and injury elimination aspect of the Act of 1966 was almost entirely the work of then Assistant Secretary of Labor in the mid-1960's when Congress was developing the Motor Vehicle Safety Act, and I was called to testify.
It was clear to me and others that motor vehicle injuries and deaths could not be limited by regulating driver behavior. Nonetheless, we had an epidemic on our hands and we needed to do something about it. My friend William Haddon, then Administrator of the National Highway Traffic Safety Administration, recognized that automobile fatalities were caused not by the initial collision, when the automobile strikes some object, but by a second collision, in which energy from the first collision is transferred to the interior of the car, causing the driver and occupants to strike the steering wheel, dashboard, or other structures in the passenger compartment. The second collision is the agent of injury to the hosts—the car's occupants.

Efforts to make automobiles crashworthy follow examples used to control infectious disease epidemics. Reduce or eliminate the agent of injury. Seatbelts, airbags, and other devices are all specifically designed to reduce, if not eliminate, injury caused by the agent of automobile injuries, energy transfer to the human body during the second collision. In fact, we've done nothing revolutionary. All of the technology needed to make cars crashworthy, including airbags, was developed prior to 1970.

Experience shows the approach worked. Of course, it could have worked better if it worked. Had we been able to totally eliminate the agent—the second collision—the cure would have been complete. Nonetheless, merely by focusing on simple, achievable remedies, we reduced the traffic death and injury epidemic by 30 percent. Motor vehicle deaths declined in absolute terms by 13 percent from 1980 to 1990, despite significant increases in the number of drivers, vehicles, and miles driven. Driver behavior is changing, too. National seatbelt usage, typically, is 60 percent now compared to 14 percent in 1984. These efforts have resulted in some 15,000 lives saved and 100,000 injuries avoided each year.

We can apply that experience to the epidemic of murder and injury from bullets. The environment in which these deaths and injuries occur is complex. Many factors likely contribute to the rise in bullet-related injury. Here is an important similarity with the situation facing the automobile safety community a few decades ago: the automobile manufacturers, like automobile safety, are not in the business of making their products cause death and injury; that is, the .25 caliber, .32 caliber, and 9 millimeter bullets. These three rounds account for the ammunition used in about 13 percent of licensed guns in New York City, yet they are involved in one-third of all homicides. They are not, as I have said, useful for sport or hunting. They are used for violence. If we fail to confront the fact that these rounds are used disproportionately in crimes, innocent people will die.

I have called on Congress during the past several sessions to ban or heavily tax these bullets. This would not be the first time that Congress has banned a particular round of ammunition. In 1966, it passed legislation written by the Senator from New York banning the so-called "cop-killer" bullet. This round, jacketed with tungsten alloys, steel, brass, or any number of other metals, had been demonstrated to penetrate no fewer than four police flak jackets and an additional five Los Angeles County phone books at one time. In 1982, the New York Police Benevolent Association came to me and asked me to do something about the ready availability of these bullets. The result was the Law Enforcement Officers Protection Act, which we introduced in 1982, 1983, and for the last time during the 99th Congress. In the end, with the tacit support of the National Rifle Association, the legislation passed the Congress and was signed by the President as Public Law 99-408 on August 28, 1986.

In the 1994 crime bill, we enacted my amendment to broaden the ban to include new thick steel-jacketed armor-piercing rounds.

There are some 220 million firearms in circulation in the United States today. They are, in essence, simple machines, and with minimal care, remain working for centuries. However, estimates suggest that we have only a 4-year supply of bullets. Some 2 billion cartridges are used each year. At any given time there are some 7.5 billion rounds in factory, commercial, or household inventory.

In all, the exception of pistol whipping, gun-related injuries are caused not by the gun, but by the agents involved in the second collision: the bullets. Eliminating the most dangerous rounds would not end the problem of handgun killings. But it would reduce it. A 30-percent reduction in bullet-related deaths, for instance, would save over 10,000 lives each year and prevent up to 50,000 wounds.

The bills I introduce today would begin to control the problem by banning or taxing those rounds used disproportionately in crime—the .25-caliber, .32-caliber, and 9-millimeter rounds. The bills recognize the epidemic nature of the problem, building on findings contained in the June 10, 1992 issue of the Journal of the American Medical Association which was devoted entirely to the subject of violence, principally violence associated with firearms.

My legislation today to amend Title 18 of the United States Code to strengthen the existing prohibition on handgun ammunition capable of penetrating police body armor, commonly referred to as bullet-proof vests. This provision would require the Secretary of the Treasury and the Attorney General to develop a uniform ballistics test to determine with precision whether ammunition is capable of penetrating police body armor. The bill also prohibits the manufacture and sale of any handgun ammunition determined by the Secretary of the Treasury and the Attorney General to have armor-piercing capability. For the President, it has been fourteen years since I first introduced legislation in the Senate to outlaw armor-piercing, or "cop-killer," bullets. In 1982, Phil Caruso of the Patrolman's Benevolent Association of New York City alerted me to the existence of a Teflon-coated bullet capable of penetrating the soft body armor police officers were then beginning to wear. Shortly thereafter I introduced the Law Enforcement Officers Protection Act of 1982 to prohibit the manufacture, importation, and sale of such ammunition.

At that time, armor-piercing bullets—most notably the infamous "Green Hornet"—were manufactured with a solid steel core. Unlike the softer lead composition of most other ammunition, this hard steel core prevented these rounds from deforming at the point of impact—thus permitting the rounds to penetrate the 18 layers of Kevlar in a standard-issue police vest or "flak-jacket." These bullets could go through a bullet-proof vest like a hot knife through butter. My legislation simply banned any handgun ammunition made with a core of steel or other hard metals.

Despite the strong support of the law enforcement community, it took four years before this seemingly non-controversial legislation was enacted into law. The National Rifle Association initially opposed it—that is, until the NRA realized that a large number of its members were themselves police officers strongly supporting these insidious bullets. Only then did the NRA lend its grudging support. The bill passed the Senate on March 6, 1986 by a vote of 97-1, and was signed by President Reagan on August 8, 1986 (Public Law 99-408).

That 1986 Act served us in good stead for 7 years. To the best of my knowledge, not a single law enforcement officer was shot with an armor-piercing bullet. Unfortunately, the ammunition manufacturers eventually found a way around the 1986 law. By 1993, a new Swedish-made armor-piercing round, the M39B, had appeared. This pernicious bullet evaded the 1986 statute's prohibition because of its unique composition. Unlike other common ammunition, it had a soft lead core, thus exempting it from the 1986 law. But this core was surrounded by a heavy steel jacket, solid enough to allow the bullet to penetrate body armor. Once again, our nation's law enforcement officers were at risk. Immediately upon learning of the existence of the new Swedish round, I introduced a bill to ban it.
Another protracted series of negotiations ensued before we were able to update the 1986 statute to cover the M 39s. We did it with the support of law enforcement organizations, and with technical assistance from the Bureau of Alcohol, Tobacco and Firearms. In particular, James O. Pasco, Jr., then the Assistant Director of Congressional Affairs at BATF, worked closely with me and my staff to get it done. The bill passed the Senate by unanimous consent on October 6, 1993 as an amendment to the 1994 Crime Bill.

Despite these legislative successes, it was becoming evident that continuing "innovations" in bullet design would result in new armor-piercing rounds capable of evading the ban. It was at this time that some of us began to explore in earnest the idea of developing a new approach to banning these bullets based on their performance, rather than their physical characteristics. Mind, this concept was not entirely new; the idea had been discussed during our efforts in 1986, but the NRA had been immovable on the subject. The NRA, the gun manufacturers, and their constituent ammunition manufacturers, felt that any such broad-based ban based on a bullets "performance standard" would inevitably lead to the outlawing of additional classes of ammunition. They viewed it as a slippery slope, much as they have regarded the assault weapons ban as a slippery slope. The NRA had agreed to the 1996 and 1993 laws only because they were narrowly drawn to cover individual types of bullets.

And so in 1993 I asked the ATF informed us that this could not be done. They argued that it was simply too difficult to control for the many variables that contribute to a bullet's capability to penetrate police body armor. We were told that it might be possible in the future to develop a performance based armor-piercing capability, but at the time we had to be content with the existing content-based approach.

Well, two years passed and the Office of Law Enforcement Standards of the National Institute of Standard and Technology wrote a report describing the methodology for just such a armor-piercing bullet performance test. The report concluded that a test to determine a bullet's capability could be developed within six months.

So we know it can be done, if only the agencies responsible for enforcing the relevant laws have the will. The legislation I am introducing requires the Secretary of the Treasury, in consultation with the Attorney General, to establish performance standards for the uniform testing of handgun ammunition. Such an objective standard will ensure that new armor-piercing rounds, other than their physical characteristics, will ever be available to those who would use them against our law enforcement officers.

I wish to assure the Senate that this measure would in no way infringe upon the rights of legitimate hunters and sportmen. It would not affect legitimate sporting ammunition used in rifles. It would only restrict the availability of armor-piercing rounds, for which no one can seriously claim there is a genuine sporting use. These cop-killer rounds have no legitimate uses, and they have no business being in the arsenals of criminals. They are designed for one purpose; to kill police officers.

The 1996 and 1993 cop-killer bullet laws I sponsored kept us one step ahead of the designers of new armor-piercing rounds. When the legislation I have introduced today is enacted—and I hope it will be early in the 106th Congress—it will put them out of the cop-killer bullet business permanently.

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

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

SEC. 2. INCREASE IN TAX ON HANDGUN AMMUNITION.

(a) IN MANUFACTURERS—TAX.—(1) IN GENERAL.—Section 4181 of the Internal Revenue Code of 1986 (relating to imposition of tax on arms) is amended—

(1) in paragraph (8), by inserting "or de- structive devices, and certain other fire-

arms'', and

endorsed."

b) by inserting "Shells and cartridges not taxable at 10,000 percent."

and (b) by adding at the end the following:

ARTICLES TAXABLE AT 10,000 PERCENT.—Any jacketed, hollow point projectile which may be used in a handgun and the jacket of which is designed to produce, upon impact, evenly-spaced sharp or bar-like projections that extend beyond the diameter of the unfired projectile.

(2) ADDITIONAL TAXES ADDED TO THE GENERAL FUND.—Section 3(a) of the Act of September 2, 1937 (18 U.S.C. 666(a)), commonly referred to as the "Pittman-Robertson Wild- life Restoration Act", is amended by adding at the end the following new section:

"There shall not be covered into the fund the portion of the tax imposed by such section (480) that is attributable to any increase in amounts received in the Treasury under such section by reason of the amendments made by section 2(a)(1) of the Real Cost of Destructive Ammunition Control Act, as estimated by the Secretary of the Treasury.

SEC. 3. SPECIAL TAX FOR IMPORTERS, MANUFAC-

TURERS, AND DEALERS OF HAND-

GUN AMMUNITION.

(a) IN GENERAL.—(1) IMPOSITION OF TAX.—Section 5801 of the Internal Revenue Code of 1986 (relating to special occupational tax on importers, manu-

facturers, and dealers of machine guns, destructive devices, and certain other fire-

arms) is amended by adding at the end the following:

(1) SPECIAL RULE FOR HANDGUN AMMUNITION.—(D) IN GENERAL.—On 1st engaging in business and thereafter on or before July 1 of each year, every importer and manufacturer of handgun ammunition shall pay a special (occupational) tax for each place of business at the rate of $10,000 a year or fraction thereof.

SEC. 2. RECORDS OF DISPOSITION OF AMMUNITION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 922 of title 18, United States Code, is amended—

SEC. 3. SPECIAL TAX FOR IMPORTERS, MANUFAC-

TURERS, AND DEALERS OF HAND-

GUN AMMUNITION.

SEC. 2. RECORDS OF DISPOSITION OF AMMUNITION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 922 of title 18, United States Code, is amended—

SEC. 3. SPECIAL TAX FOR IMPORTERS, MANUFAC-

TURERS, AND DEALERS OF HAND-

GUN AMMUNITION.

(a) IN GENERAL.—(1) IMPOSITION OF TAX.—Section 5801 of the Internal Revenue Code of 1986 (relating to special occupational tax on importers, manu-

facturers, and dealers of machine guns, destructive devices, and certain other fire-

arms) is amended by adding at the end the following:

(1) SPECIAL RULE FOR HANDGUN AMMUNITION.—(D) IN GENERAL.—On 1st engaging in business and thereafter on or before July 1 of each year, every importer and manufacturer of handgun ammunition shall pay a special (occupational) tax for each place of business at the rate of $10,000 a year or fraction thereof.

(2) HANDGUN AMMUNITION DEFINED.—For purposes of this part, the term "handgun ammunition" shall mean any centerfire cartridge which has a cartridge case of less than 1.3 inches in length and any cartridge case which is less than 1.3 inches in length.

(3) REGISTRATION OF IMPORTERS AND MANUFAC-

TURERS OF HANDGUN AMMUNITION.—Section 5802 of the Internal Revenue Code of 1986 (relating to registration of importers, manufacturers, and dealers) is amended—

(a) in the first sentence, by inserting "and each importer and manufacturer of handgun ammunition," after "dealer in firearms," and

(b) in the third sentence, by inserting "and handgun ammunition operations of an importer or manufacturer," after "dealer.

SEC. 4. EFFECTIVE DATE.—(1) IN GENERAL.—The amendments made by this section shall take effect on July 1, 1999.

(2) ALL TAXPAYERS TREATED AS COMMENCING IN BUSINESS ON JULY 1, 1997.—Any person engaged on July 1, 1999, in any trade or business which is subject to an occupational tax by reason of the amendment made by subsection (a)(1) shall be treated for purposes of such tax as having 1st engaged in a trade of business on such date.

S. 153

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

SEC. 1. SHORT TITLE.

This Act may be cited as the "Real Cost of Destructive Ammunition Control Act of 1999".

SEC. 2. DEFINITION.

Section 922(a)(17) of title 18, United States Code, is amended by adding at the end the following:

(2) in paragraph (8), by inserting "or de-

structive'' after "armor piercing''; and

(3) by adding at the end the following:

MEANING.—The term "handgun ammunition" shall mean any centerfire cartridge of less than 1.3 inches in length and any cartridge case which is less than 1.3 inches in length.

S. 154

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

SEC. 1. SHORT TITLE.

This Act may be cited as the "Handgun Ammunition Control Act of 1999".

SEC. 2. RECORDS OF DISPOSITION OF AMMUNITION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 923(g) of title 18, United States Code, is amended—
(1) in paragraph (1)(A), by inserting after the second sentence the following: “Each licensed importer and manufacturer of ammunition shall maintain such records of importation, production, receipt, sale, or other disposition of ammunition at the place of business of such importer or manufacturer for such period and in such form as the Secretary, or by regulations prescribe. Such records shall include the amount, caliber, and type of ammunition;”:

and

(2) after paragraph (1), by inserting the following: “(E) ammunition are not required to keep records to record the importation, production, receipt, sale, or other disposition thereof not later than the close of business on the date specified by the Secretary.”

(b) STUDY OF CRIMINAL USE AND REGULATION OF AMMUNITION.—The Secretary of the Treasury shall request the National Academy of Sciences to—

(1) prepare, in consultation with the Secretary, a study of the criminal use and regulation of ammunition; and

(2) submit to Congress, no later than 31 Jul 1998, a report with recommendations on the potential for preventing crime by regulating or restricting the availability of ammunition.

SEC. 3. INCREASE IN LICENSING FEES FOR MANUFACTURERS OF AMMUNITION.

Section 923(a)(1) of title 18, United States Code, is amended—

(1) by redesignating subparagraphs (A) through (D) as subparagraphs (B) through (E), respectively; and

(2) by inserting before subparagraph (B), as redesignated, the following: “(A) of .25 caliber, .32 caliber, or 9 mm ammunition, a fee of $10,000 per year;”.

S. 135

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

SECTION 1 SHORT TITLE.

This Act may be cited as the “Violent Crime Control and Enforcement Act of 1999”.

SEC. 2. FINDINGS.

Congress finds that—

(1) there is no reliable information on the amount of ammunition available;

(2) importers and manufacturers of ammunition are not required to keep records to report to the Federal Government on ammunition imported, produced, or shipped; and

(3) the rate of bullet-related deaths in the United States is unacceptably high and growing;

(4) three calibers of bullets are used disproportionately in crime: 9 millimeter, .25 caliber, and .32 caliber bullets;

(5) injury and death are greatest in young males, particularly young black males;

(6) epidemiology can be used to study bullet-related death and injury to evaluate control options;

(7) bullet-related death and injury has placed increased stress on the American family resulting in increased welfare expenditures under title IV of the Social Security Act;

(8) bullet-related death and injury have contributed to the increase in Medicaid expenditures under title XIX of the Social Security Act;

(9) bullet-related death and injury have contributed to increased supplemental security income benefits under title XVI of the Social Security Act;

(a) there is no central responsible agency for trauma, there is relatively little funding available for the study of bullet-related death and injury, and there are large gaps in research programs to reduce injury;

(12) current laws and programs relevant to the loss of life and productivity from bullet-related trauma are inadequate to protect the citizens of the United States;

(13) increased research in bullet-related violence is needed to better understand the causes of such violence, to develop options for controlling such violence, and to identify and overcome barriers to implementing effective controls.

SEC. 3. PURPOSES.

The purpose of this Act are—

(1) to increase the tax on the sale of 9 millimeter, .25 caliber, and .32 caliber bullets (except with respect to any sale to law enforcement agencies) as a means of reducing the epidemic of bullet-related death and injury;

(2) to undertake a nationally coordinated effort to survey, collect, inventory, synthesize, and disseminate adequate data and information for—

(A) understanding the full range of bullet-related death and injury, including impacts on the family structure and increased demands for benefit payments under provisions of the Social Security Act;

(B) assessing the rate and magnitude of change in bullet-related death and injury over time;

(C) educating the public about the extent of bullet-related death and injury; and

(D) expanding the epidemiologic approach to evaluate efforts to control bullet-related death and injury and other forms of violence;

(3) to define and control bullet-related death and injury; and

(4) to build the capacity and encourage responsibility at the Federal, State, community, group, and individual levels for control and elimination of bullet-related death and injury; and

(5) to promote a better understanding of the utility of the epidemiologic approach for evaluating options to control or reduce death and injury from non-bullet-related violence.

TITe I—BULLET DEATH AND INJURY CONTROL PROGRAM

SEC. 101. BULLET DEATH AND INJURY CONTROL PROGRAM.

(a) ESTABLISHMENT.—There is established within the Centers for Disease Control’s National Center for Injury Prevention and Control (referred to as the “Center”) a Bullet Death and Injury Control Program (referred to as the “Program”);

(b) PURPOSE.—The Center shall conduct research into and provide leadership and coordination of—

(1) the understanding and promotion of knowledge about the epidemiologic basis for bullet-related death and injury within the United States;

(2) developing technically sound approaches for controlling, and eliminating, bullet-related deaths and injuries;

(3) building the capacity for implementing the options, and expanding the approaches to controlling death and disease from bullet-related trauma; and

(c) FUNCTIONS.—The functions of the Program shall be—

(1) to summarize and to enhance the knowledge of the distribution, status, and characteristics of bullet-related death and injury;

(2) to conduct research and to prepare, with the assistance of State public health departments—

(A) statistics on bullet-related death and injury;

(B) studies of the epidemic nature of bullet-related death and injury; and

(c) related trauma; and

(2) building the capacity for implementing the options, and expanding the approaches to controlling death and disease from bullet-related trauma; and

(d) FUNCTIONS.—The functions of the Program shall be—

(1) to summarize and to enhance the knowledge of the distribution, status, and characteristics of bullet-related death and injury;

(2) to conduct research and to prepare, with the assistance of State public health departments—

(A) statistics on bullet-related death and injury;

(B) studies of the epidemic nature of bullet-related death and injury; and

(c) related trauma; and

(d) FUNCTIONS.—The functions of the Program shall be—

(1) to summarize and to enhance the knowledge of the distribution, status, and characteristics of bullet-related death and injury;

(2) to conduct research and to prepare, with the assistance of State public health departments—

(A) statistics on bullet-related death and injury;
shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5335 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are employees of the United States shall serve without compensation in addition to that received for their services as officers and employees of the United States.

(c) TRAVEL EXPENSES.—A member of the advisory board that is not otherwise in the Federal Government service shall, to the extent provided in advance in appropriation Acts, be paid actual travel expenses and per diem in lieu of subsistence expenses in accordance with section 5703 of title 5, United States Code, for each fiscal year of, the United States when the member is away from the member’s usual place of residence.

(d) CHAIR.—The members of the advisory board shall select 1 member to serve as chair.

(e) CONSULTATION.—The Center shall conduct the program required under this section in consultation with the Bureau of Alcohol, Tobacco, and Firearms and the Department of Justice.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 2000, $2,500,000 for fiscal year 2001, and $5,000,000 for each of fiscal years 2002, 2003, and 2004 for the purpose of carrying out this section.

(g) REPORT.—The Center shall prepare an annual report on the Program’s findings, the status of coordination with other agencies, its progress, and problems encountered with options and recommendations for their solution. The report for December 31, 2000, shall contain options and recommendations for the Program’s mission and funding levels for the fiscal years 2000 through 2004, and beyond.

TITLE II—INCREDIBLE TAX ON CERTAIN BULLETS

SEC. 201. INCREASE IN TAX ON CERTAIN BULLETS.

(a) IN GENERAL.—Section 4181 of the Internal Revenue Code of 1986 (relating to the imposition of tax on firearms, etc.) is amended by adding at the end the following:

"(d) LAW ENFORCEMENT PURSUITS.—Section 4182 of the Internal Revenue Code of 1986, as amended, is amended by adding at the end the following:

"(e) LAMINATE.—Section 4182 of the Internal Revenue Code of 1986, as amended, is amended by adding at the end the following:

"(f) LAW ENFORCEMENT.—The last sentence of section 4182 shall not apply to any sale (not otherwise exempted) to, or for the use of, the United States (or any department, agency, or instrumentality thereof) or a State or political subdivision thereof (or any department, agency, or instrumentality thereof)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 1999.

TITLE III—USE OF AMMUNITION

SEC. 301. RECORDS OF DISPOSSESSION OF AMMUNITION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 923(g) of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting after "ammunition," the following: "or with .25 or .32 caliber ammunition, except that this paragraph shall not apply to—"

(2) by adding "or .25 or .32 caliber ammunition, except that this paragraph shall not apply to—"

(3) by adding "or .25 or .32 caliber ammunition, except that this paragraph shall not apply to—"

(4) by adding "or .25 or .32 caliber ammunition, except that this paragraph shall not apply to—"

(5) by adding "or .25 or .32 caliber ammunition, except that this paragraph shall not apply to—"

SEC. 3. LICENSING OF DESTRUCTIVE DEVICES.

Section 923(a)(1) of title 18, United States Code, is amended to read as follows:

"(a) LICENSING OF DESTRUCTIVE DEVICES.—Section 923(a)(1) of title 18, United States Code, is amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices, armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $10 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $50 per year."

SEC. 4. LICENSING OF NONDESTRUCTIVE DEVICES.

Section 923(a)(1) of title 18, United States Code, is amended to read as follows:

"(c) LICENSING OF NONDESTRUCTIVE DEVICES.—Section 923(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) of destructive devices, ammunition for destructive devices, armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $10 per year; or

"(2) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $50 per year."

SEC. 5. IMPORTERS.

Section 923(a)(2) of title 18, United States Code, is amended to read as follows:

"(2) of the applicant is an importer—

"(A) of destructive devices, ammunition for destructive devices, armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $10 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $50 per year."

SEC. 6. MARKING AMMUNITION AND PACKAGES.

Section 923 of title 18, United States Code, is amended by adding at the end the following:

"(m) Licensed importers and licensed manufacturers shall mark all .25 and .32 caliber and 9 millimeter ammunition and packages containing such ammunition for distribution, in the manner prescribed by the Secretary by regulation."

SEC. 7. USE OF RESTRICTED AMMUNITION.

Section 923(a)(1) of title 18, United States Code, is amended by adding—

(1) by inserting "or", with .25 or .32 caliber and 9 millimeter ammunition, after "armor-piercing handgun ammunition{}";

(2) by inserting "or", .25 or .32 caliber and 9 millimeter ammunition, after "armor-piercing handgun ammunition{}";

SEC. 8. EFFECTIVE DATE.

This Act may be cited as the "Violent Crime Reduction Act of 1999".
Section 2. Expansion of the Definition of Armor Piercing Ammunition.
Section 921(a)(17)(B) of title 18, United States Code, as amended—
(1) by striking “or” at the end of clause (i);
(2) by striking the period at the end of clause (ii) and inserting “;”;
and
(3) by adding the following: “(iii) a projectile that may be used in a handgun and that the Secretary of the Treasury, in consultation with the Attorney General, for the uniform testing of projectiles to determine whether such projectiles are capable of penetrating National Institute of Justice Level II-A body armor.”.

Section 3. Determination of Armor Piercing Capability of Projectile.
Section 926 of title 18, United States Code, is amended by adding at the end the following:
“(d) Not later than 1 year after the date of enactment of this subsection, the Secretary shall promulgate regulations based on standards to be developed by the Secretary of the Treasury, in consultation with the Attorney General, for the uniform testing of projectiles to determine whether such projectiles are capable of penetrating National Institute of Justice Level II-A body armor.”.

There are authorized to be appropriated such sums as may be necessary for the Secretary of the Treasury and the Attorney General to—
(1) develop and implement performance standards for armor piercing ammunition; and
(2) promulgate regulations for performance standards for armor piercing ammunition.

By Mr. MOYNIHAN:
S. 159. A bill to amend chapter 121 of title 18, United States Code, to increase the fees paid to Federal jurors, and for other purposes; to the Committee on the Judiciary.

Increase the Fees Paid to Federal Jurors.
Mr. MOYNIHAN. Mr. President, today I rise to introduce a bill aimed at raising the fee Federal jurors are paid to that of $45.00 per day. According to the current statute, Federal jurors are paid $40.00 per day for the first thirty days of a trial and $50.00 for each day thereafter. I also receive $3.00 a day for transportation costs. The $40.00 per day a juror receives for his or her full day service is below the prevailing minimum wage, and the daily $3.00 transportation fee falls far below that required for parking or riding a bus or the subway.

These inadequate sums place an undue hardship on those jurors who most need compensation: the self-employed, the commissioned, the temporary workers, and those who work for small employers often making it difficult for litigants to have representative jury panels. While undue hardship is often grounds for deferral or excusal from jury duty, it is important that we limit the financial hardship for those of our citizens engaged in this important civic duty.

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

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

SEC. 1. JUROR FEES.
Section 1871(b)(1) of title 28, United States Code, is amended by striking “$40 per day” and inserting “$45 per day.”

By Mr. MOYNIHAN:
S. 160. A bill to authorize the Architect of the Capitol to develop and implement a plan to eliminate Federal Capitol grounds through the elimination and modification of space allotted for parking; to the Committee on Rules and Administration.

ARC OF PARK CAPITAL GROUNDS IMPROVEMENT ACT OF 1999

Mr. MOYNIHAN. Mr. President, just over 98 years ago, in March 1901, the Senate Committee on the District of Columbia was directed by Senate Resolution to “report to the Senate plans and the development and improvement of the entire park system of the District of Columbia”. For the purpose of preparing such plans the committee may secure the services of such experts as may be necessary for a proper consideration of the subject.” And secure “such experts” the committee assuredly did. The Committee formed what came to be known as the McMillan Commission, named for committee chairman, Senator James McMillan of Michigan. The Commission’s membership was a “who’s who” of late 19th and early 20th century architecture, landscape design, and art: Daniel Burnham, Frederick Law Olmsted, Jr., Charles F. McKim, and Augustus St. Gaudens. The Commission traveled that summer to Rome, Venice, Vienna, Budapest, Paris, and London, studying the landscapes, architecture, and public spaces of the grandest cities in the world. The McMillan Commission returned and fashioned the city of Washington as we now know it.

We are particularly indebted today for the Commission’s preservation of the Mall. When the members left for Europe, the Congress had just given the Pennsylvania Railroad a 400-foot swath with a new station and trackage. It is hard to imagine our city without the uninterrupted stretch of greenery from the Capitol to the Washington Monument, but such a vision would be restored. Not so. The demand for space would simply rise to meet the available supply, and the unit block of the Nation’s main street remains a disaster.

Today, I am introducing legislation to improve the Capitol Grounds through the near-complete elimination of surface parking. As the Architect of the Capitol eliminates these unsightly lots, they will be reconstructed as public parks, landscaped in the fashion of the Capitol Grounds. I envision what I call an arc of park sweeping around the Capitol from Second Street, Northeast, around to the Capitol Reflecting Pool, and thence back to First Street, Southeast. Delaware Avenue between Columbus Circle and Constitution Avenue would be expanded and developed as a pedestrian walkway, a grand pathway to the Capitol from Union Station.

Finally, there is still the matter of parking. This legislation authorizes the Architect of the Capitol to construct underground parking facilities, as needed. These facilities, which will undoubtedly be expensive, will be financed simply by charging for the parking, a legitimate user fee.

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

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

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 “Arc of Park Capitol Grounds Improvement Act of 1999”.

SEC. 2. CAPITAL GROUNDS IMPROVEMENT PLAN.
(a) In General.—Not later than 1 year after the date of enactment of this Act, the Architect shall develop a plan to begin implementation of a comprehensive plan (referred to as the “comprehensive...
plan’’) for the improvement of the grounds of the United States Capitol as described in section 193a of title 40, United States Code.

(b) ARC OF PARK.—The comprehensive plan shall—

(1) be consistent with the 1981 Report on the ‘‘Master Plan for the Future Development of the Capitol Grounds and the U.S. Areas’’ prepared in accordance with Public Law 94-50 (July 25, 1975); and

(2) result in an ‘‘arc of park’’ sweeping from Second Street to the Capitol Reflecting Pool to First Street, Southeast, with the Capitol Building as its approximate center.

(c) DETAILS.—The comprehensive plan shall provide for—

(1) elimination of all current surface parking areas, excepting those areas which provide for parking spaces;

(2) replacement of off-street parking areas with public parks landscaped in a fashion appropriate to the United States Capitol grounds;

(3) reconstruction of Delaware Avenue, Northeast, between Columbus Circle and Constitution Avenue as a thoroughfare available principally to pedestrians as contemplated by the Master Plan;

(4) elimination of all but parallel parking on Pennsylvania Avenue, between First and Third Streets, Northwest;

(5) to the greatest extent practical, continuation of the Pennsylvania Avenue tree line onto United States Capitol Grounds and implementation of other appropriate landscaping measures necessary to conform Pennsylvania Avenue between First and Third Streets, Northwest, to the aesthetic guidelines adopted by the Pennsylvania Avenue Development Corporation;

(6) closure of Maryland Avenue to through traffic between First and Third Streets, Southwest, consistent with appropriate access to and visitor parking for the United States Botanic Garden; and

(7) construction of additional underground parking facilities, as needed, with—

(A) the cost of construction and operation of such parking facilities defrayed to the greatest extent practical by charging appropriate usage fees, including time-of-day fees; and

(B) the parking facilities being made available to the public, with priority given to employees of the Congress.

SEC. 3. APPLICABLE LOCAL LAW.

(a) IN GENERAL.—Subject to subsection (b), the operation of any improvements under this Act shall not be subject to—

(1) any law of the District of Columbia or any State or locality relating to taxes on sales, real estate, personal property, special assessments, uses, or any other interest or control over property; and

(2) the operation of any improvements under this Act as described in section 193a of title 40, United States Code.

(b) ARC OF PARK.—The Architect of the Capitol—

(1) shall be responsible for the structural, mechanical, and custodial care and maintenance of the facilities constructed under this Act and to discharge such responsibilities directly or by contract; and

(2) may permit the extension of steam and chilled water from the Capitol Power Plant on a reimbursable basis to any facilities or improvements constructed under this Act as a cost of such improvements.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

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

By Mr. MOYNIHAN:

S. 161. 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 ADMINISTRATION REFORM

Mr. MOYNIHAN. Mr. President, I rise to introduce the Power Marketing Administration Reform Act of 1999, a bill to require that the Federal Power Marketing Administrations (PMAs) and the Tennessee Valley Authority (TVA) sell electricity at market rates and recover all costs.

Mr. President, in 1935 only 15 percent of rural Americans had access to electricity. President Roosevelt’s administration established the PMAs to sell power to rural Americans below market rates because so many rural areas could not afford to install the transmission and generation equipment required to bring electricity. Commencement of the massive public works projects such as TVA filled a desperate need for jobs during the Depression years and brought electricity to the many areas of our country which lacked access to this most basic amenity of modern life.

The PMAs served an essential function in lifting our nation out of the Depression, Mr. President, but that time has passed. Sixty years after its inception, public power is less expensive and more accessible than ever before. The discounted rates provided by public power are a benefit which goes to a relatively few recipients at a tremendous expense to the American taxpayer. Nearly 60 percent of Federal sales go to just four states: Tennessee, Alabama, Washington, and Oregon. PMAs have failed to recover their operating costs for too long, and it is taxpayers who bear the cost of the discrepancy between cost of generation and consumer rates. This discrepancy has brought about a fiscal shortfall and significant environmental damage.

Reports over past years from the General Accounting Office (GAO), the Congressional Budget Office (CBO), and the U.S. Department of Energy confirm this view. In 1997, for instance, the GAO reported that the Bonneville Power Administration, the Rural Utilities Service, and three other PMAs cost American taxpayers $1.5 billion from electricity-related activities in these four states. In 1998 the GAO showed that the Federal government incurred a net cost of $1.5 billion from electricity-related activities in the Southeastern, Southwestern, and Western PMAs between 1992 and 1996. Up to $1.4 billion of the approximately $7 billion of Federal investment in assets derived from electricity-related activities in these PMAs is at risk of nonrecovery.

The GAO has also reported on fairness in lending to the PMAs. The Federal Treasury incurs approximately 9 percent in debt when lending to the PMAs, but recovers only 3.5 percent from the PMAs on their outstanding debt. This is a loss to the U.S. Treasury of $1.5 billion on interest payments alone. It is taxpayers who are required to account for this interest shortfall.

Mr. President, my bill would provide for full cost recovery of rates for power sold by the PMAs and the TVA. Under the bill, PMAs would be recalculated to conform to market rates and be resubmitted to the Federal Energy Regulatory Commission (FERC) for approval. The bill would also require that PMAs and TVA transmission facilities be subject to open-access regulation by the FERC, and that FERC would be authorized to revise such rates when necessary to maintain a competitive environment. Cooperatives and public power entities will be given the right of first refusal on power from the PMAs and TVA at market prices. Revenue accrued from the revaluation of these rates will go first to the U.S. Treasury to recover all costs. The residual amount will then be disbursed by formula to the Treasury to mitigate damage to the environment attributed to the operation of PMAs and the TVA, and to support renewable electricity generating resources.

Mr. President, the time has come for public power to be held accountable for the use of public dollars. I urge my colleagues to join me in supporting this legislation.

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

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

S. 161

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 1999’’.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the PMAs have failed to recover their costs properly recoverable through power rates by the Federal Power Marketing Administrations and the Tennessee Valley Authority; and

(2) the imposition of unreasonable burdens on the taxpaying public;

(2) existing underallocations and under recoveries 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) Purpose—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 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 depreciable costs) 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 paragraphs (1)—

(A) shall include all fish and wildlife expenditures required under treaty and legal obligations; (B) shall be recovered under any full cost recovery rates required by a Federal Power Marketing Administration or the Tennessee Valley Authority; (C) shall be recovered under any market rates; and (D) shall be included in the full cost recovery rates required by such Administration or Authority.

3. Application of rates.—

(A) Purpose. —The purposes of this Act are to provide for—

(a) application of rates to all Federal power sold by the Federal Power Marketing Administrations or the Tennessee Valley Authority; (b) recognition of depreciable costs during construction and pending repayment for any project and recognition of actual interest costs; (c) determination of proposed rates for the sale of power by a Federal Power Marketing Administration or the Tennessee Valley Authority; and

(b) 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; (B) shall be recovered under any full cost recovery rates required by a Federal Power Marketing Administration or the Tennessee Valley Authority; (C) shall be recovered under any market rates; and (D) shall be included in the full cost recovery rates required by such Administration or Authority.

(C)USE.—Amounts in the Fund shall be available for making expenditures—

1. 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

2. to cover all costs incurred in establishing and administering the Fund.

(D) PROJECT-SPECIFIC PLANS.—

1. In general.—The Board of Directors of the Fund shall develop project-specific plans 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.

2. Use of existing data, information, and plans.—In developing plans under clause (i), the Board may, to the extent practicable, rely on existing data, information, and mitigation and restoration plans developed by—

(A) the Commission of the Bureau of Reclamation; (B) the Director of the United States Fish and Wildlife Service; (C) the Administrator of the Environmental Protection Agency, or his or her designee; (D) the heads of other Federal, State, and tribal agencies.

(E) Surplus amount.—

1. In general.—The Fund shall maintain a balance of more than not $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.

2. 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 the Fund.
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. —In the Fund shall be available for making expenditures—
   (i) to pay the incremental cost (above the expected 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 transferred to the Treasury for purposes of reducing the Federal budget deficit.

   (E) PREFERENCES.—
   (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 operating on the basis 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 only 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).

   (C) 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.

   (D) REFORMS.—The Secretary of Energy shall require each Federal Power Marketing Administration to implement—
   (i) 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 and operating services for other entities); and
   (ii) 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).

   (I) 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 part II.

   (b) EXEMPTIONS OR TRANSMISSIONS.—Subsection (a) does not require a Federal Power Marketing Administration or the Tennessee Valley Authority to expand a transmission or interconnection capability that is not commercially feasible.

   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) BASIC REQUIREMENTS FOR REVISION OF RATE SCHEDULES.—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 taxing 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, it 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. 829).

   (e) CERTIFICATION.—The Federal Energy Regulatory Commission shall by regulation establish procedures to carry out this section.

Mr. BREAUX. Mr. President, I rise today to introduce legislation allowing certain U.S. legal tender coins to be qualified investments for an individual retirement account (IRA). Certificated U.S. legal tender coins—collectibles, such as antiques, gold and silver bullion, and legal tender coinage, as appropriate for contribution to IRAs in 1981. The primary reason was the concern that individuals would get a tax break when they bought collectibles for personal use. For example, a taxpayer might deduct the purchase of an antique rug for his/her living room as an IRA investment. Congress was also concerned about how the many different types of collectibles are valued.

SEC. 6. CONFORMING AMENDMENTS.


(b) USE OF FUNDS TO STUDY NONCOST-BASED METHODS.—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, this Act shall apply to a power sales contract entered into by a Federal Power Marketing Administration or the Tennessee Valley Authority after July 22, 1997.

By Mr. BREAUX:

S. 163. A bill to amend the Internal Revenue Code of 1986 to allow certain coins to be acquired by individual retirement accounts and other individually directed pension plan accounts; to the Committee on Finance.

CERTIFIED U.S. LEGAL TENDER COINS ALLOWED IN IRAS

Mr. BREAUX. Mr. President, I rise today to introduce legislation allowing certain U.S. legal tender coins to be qualified investments for an individual retirement account (IRA). Certificated U.S. legal tender coins—collectibles, such as antiques, gold and silver bullion, and legal tender coinage, as appropriate for contribution to IRAs in 1981. The primary reason was the concern that individuals would get a tax break when they bought collectibles for personal use. For example, a taxpayer might deduct the purchase of an antique rug for his/her living room as an IRA investment. Congress was also concerned about how the many different types of collectibles are valued.

Over the years, however, certain coins and precious metals have been excluded from the definition of a collectible because they are independently valued investments that offer investors protection of principal, diversification, and liquidity. For example, Congress excluded gold and silver U.S. American Eagles from the definition of collectibles in 1986, and the Taxpayer Relief Act of 1997 took the further step of excluding certain precious metals bullion.

My legislation would exclude from the definition of collectibles only those U.S. legal tender coins which meet the following three standards; certification by a nationally-recognized grading service; tradability on a nationally-recognized network and held by a qualified trustee as described in the Internal Revenue Code. In other words, only investment quality coins that are independently valued and not held for personal use may be included in IRAs.

There are several nationally-recognized grading services. Full-time professional graders (numismatists) examine each coin for authenticity and grade them according to established standards. Full-time professional graders individually-sealed (preserved) to ensure them according to established standards. Full-time professional graders individually-sealed (preserved) to ensure
Legal tender coins are then traded via two independent electronic networks—the Certified Coin Exchange and Certified CoinNet. These networks are independent of each other and have no financial interest in legal tender coinage or precious metal markets. The networks function in precisely the same manner as the NASDAQ with a series of published "bid" and "ask" prices and last trades. The buys and sells are enforceable prices that must be honored as posted until updated.

Mr. President, the liquidity provided through a bona fide national trading network, combined with published prices, makes legal tender coinage a practical investment that offers investors diversification and liquidity. Investment in these tangible assets has become a safe and prudent course of action for both the small and large investor and should be given the same treatment under the law as other financial investments. I urge the Senate to enact this important legislation as soon as possible.

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

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

S. 163

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

SECTION 1. Legal tender coins not treated as collectibles.

(a) In General.—Subparagraph (A) of section 408(m)(3) of the Internal Revenue Code of 1986 (relating to certain precious metal bullion) is amended to read as follows:

"(A) any coin certified by a recognized grading service and traded on a nationally recognized electronic network, or listed by a recognized wholesale reporting service, and—

(i) which is or was at any time legal tender in the United States, or

(ii) issued under the laws of any State, or"

(3) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

By Mr. MOYNIHAN:

S. 164. A bill to improve mathematics and science instruction; to the Committee on Health, Education, Labor, and Pensions.

LEGISLATION TO IMPROVE AMERICAN MATH AND SCIENCE ACHIEVEMENT

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation intended to help students in those States that do not fare well in academic comparisons with students from other nations. It authorizes grants to States whose students continue to be outperformed by students in a majority of the nations which took the Third International Mathematics and Science Study, or TIMSS.

TIMSS showed us that indisputably our students are not faring as well in international competition. The most striking finding was that American students do worse, comparative speaking, the longer they are in our schools. Our fourth graders performed in the middle range of scores in math and were second to Japan in science. Our seniors are bringing up the rear.

American high school seniors performed among the lowest of the 21 countries in mathematics. Our students were outperformed by those of 14 countries, were statistically similar to 4 countries, and outperformed only 2 countries. In science our students were outperformed by those of 11 countries, similar to 7 countries, and again outperformed only 2 countries. Asian countries such as Korea, Japan, and Singapore did not participate in the twelfth grade study. Just as well, for morale purposes. Their students embarrassed our students at the fourth and eighth grade levels.

The two questions that come to mind are what did we expect and what are we to do?

Our expectations were high at the beginning of the nineties. In September 1989, President Bush met with the Nation's governors in Charlottesville to set out goals for education. Four months later he devoted a sizable portion of his State of the Union Address to setting forth the agreed-upon goals. Some were measurable and some were unmeasurable: "By the year 2000 every child must start school ready to learn." Most children are. "Every adult must be a skilled, literate worker and citizen." We know what it means to be a skilled mechanic, but a skilled citizen? Others were lofty, measurable, and the product of a leakage of reality that was stupefying then as now. First and foremost that "By the year 2000 U.S. students would be first in the world in math and science achievement."

President Bush was speaking to Congress in a vocabulary created in the 1960's by J. S. Coleman, then professor of sociology at Johns Hopkins University. One student in five was unskilled in math or science. The "Coleman Report" in 1966 linked the states' outputs. Previously we spoke of inputs: student-teacher ration, money per student, and such. Coleman introduced the idea of outputs, and measuring our standing in the world is one such.

With Coleman we had a new vocabulary for education, but sadly not a new understanding. The first finding of his remarkable report was "that the schools are remarkably similar in the effect they have on the achievement of their pupils when the socioeconomic background of the students is taken into account." This was seismic. Family background is more important than schools. But 24 years later, in 1990, it had not been learned, or could still be ignored.

Stating that our goal was to become the leader in math and science was folly. I wrote in the Winter 1991 Public Interest that "no account could the President make of "ubiquitously quantified, specific goals—reasonably achievable in capability of achievement." I cited the general decline in high school graduation rates that began in 1970 and the lack of success we had in meeting very similar goals President Reagan set out in 1984. Most basically, we were ignoring Coleman's findings that we would have to start with the American family before we could expect improvements in American students.

I concluded the Public Interest piece by saying, "If, as forecast here, the year 2000 arrives and the United States is nowhere near meeting the educational goals set out in 1990, the policy analysis is unthinkable exist for serious debate as to why what was basically a political plan went wrong. We might even consider how it might have turned out better."

Our children will not meet the goals set for math and science leadership. How can we help them do better? The TIMSS report says that it is too early to draw specific conclusions about how to improve performance in twelfth grade, that it will take some time to analyze all the data therein. I should think the higher our priority would be at the forefront of this effort, for the colleges are the most immediately affected by undereducated high school graduates. One student in five takes remedial courses in at least one subject.

Without giving short shrift to helping our elementary school students, we must focus on finding ways to keep them at the level they have achieved by fourth grade as they continue through school. This will provide a small contribution to that effort by providing grants of $500,000 to $1,000,000 to states whose students collectively fall below the median score among the nations whose eighth graders retake the TIMSS tests this year or next. The money would be used to improve mathematics or science education. The grants would be awarded competitively; states whose students' scores qualify them must propose constructive ways of using the grants, such as for equipment, teacher training, or other purposes.

The Department of Education last year released Linking the National Assessment of Educational Progress and the Third International Mathematics and Science Study: Eighth grade results. This study showed how the states' NAEP scores and other nations' TIMSS scores could be compared. The Department of Education would use the same methods to determine where states rank in comparison with the upcoming results of the TIMSS exams by a new group of eight graders around the world. Those states whose students score below the median in either math or science would be eligible to apply for these grants.

Mr. President, money is not the answer to our dismal showing among the nations of the world. Better families is the place to start. These grants, however, would help the states that need them the most. I thank my colleagues for their support and 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. 164

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

SECTION 1. GRANTS TO IMPROVE MATHEMATICS AND SCIENCE INSTRUCTION.

(a) Grants Authorized.—The Secretary of Education is authorized to award grants to the Governor or State educational agency of a State if the Secretary determines that the average score of 8th grade students in the State on the 1999 retake of the Third International Mathematics and Science Study (TIMSS) is or would be lower than the median of the scores of the countries participating in the 1999 retake of the Third International Mathematics and Science Study.

(b) Amount.—The Secretary of Education shall award a grant under this section in an amount not less than $500,000 and not more than $1,000,000.

(c) Comparison.—The Secretary of Education shall use the results of the most recent National Assessment of Educational Progress for comparisons between States and countries with respect to the 1999 retake of the Third International Mathematics and Science Study.

(d) Competitive Basis.—The Secretary shall award grants under this section on a competitive basis.

(e) Use.—Each Governor or State educational agency receiving a grant under this section shall use the grant funds to improve mathematics and science instruction in the State.

(f) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section for each of the fiscal years 2000 through 2003.

SEC. 2. SHORT TITLE.

This Act may be cited as the “Math and Science Learning Improvement Act of 1999”.

By Mr. MOYNIHAN (for himself, Mr. JEFFORDS, and Mr. LIEBERMAN):

S. 165. A bill to require the Secretary of Education to account for cost of living differences; to the Committee on Health, Education, Labor, and Pensions.

LEGISLATION TO REQUIRE POVERTY STATISTICS BE ADJUSTED FOR LOCAL COSTS OF LIVING

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation with a simple purpose: to require that the formulas for distributing grants under the Elementary and Secondary Education Act use poverty statistics adjusted for the costs of living in subnational areas. While residents of some states such as New York earn more as a whole than residents of many other states, they must also spend more. In some areas of New York, they spend twice as much for the same necessities as families in urban areas elsewhere in the nation. Children whose families live just above the poverty threshold in New York and other wealthier states are demonstrably worse off than children from families just below the poverty threshold in states where the cost of living is lower.

As we begin the process of reauthorizing the Elementary and Secondary Education Act this year, I hope this disparity will be considered in the distribution of funds targeted to schools in areas with high incidences of poverty (primarily the Title One grants as now authorized).

In 1995, a National Academy of Sciences (NAS) panel of experts released a study on redefining poverty. Our poverty indexdates back to the work of Social Security Administration economist Mollie Orshansky who, in the early 1960s, hit upon the idea of a nutritional standard, not unlike the “pennyloaf” of bread of the 18th century British poor laws. Our poverty standard would be three times the cost of the Department of Agriculture-defined minimally adequate “food basket.”

During consideration of the Family Support Act of 1998, I included a provision mandating the National Academy of Sciences to determine if our poverty measure is outdated and how it might be improved. The study, edited by Constance E. Citro and. T. Michael, is entitled “Measuring Poverty: A New Approach.” A Congressional Research Service review of the report states: The NAS panel makes several recommendations which, if fully adopted, could dramatically change the way the Federal government determines eligibility for Federal programs. The recommended poverty measure would be based on more than income—on the cost of the necessities of life; the value of noncash benefits and taxes into account, and would be adjusted for regional differences in living costs.

Mr. President, our current poverty data are inaccurate. And these substandard data are used in allocation formulas used to distribute millions of Federal dollars each year. As a result, States with high costs of living—states like New York, Massachusetts, Connecticut, New Hampshire, New Jersey and California, just to name a few—are not getting their fair share of Federal dollars because differences in the cost of living are not factored into the allocation formula. And the poor of these high cost states are penalized because they happen to live there. It is time to correct this inequity. The ESEA realtorization will be one of the most significant measures we take up this year. For the children most in need of good schools and a good education, we should use adjusted poverty rates in the ESEA formulas. A national poverty rate leads to inequities. Poverty rates adjusted for subnational areas would be a significant step towards correcting them. This bill would do so.

Mr. President, I ask my colleagues for their support and, with the unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
within three years of the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall direct by law.

Opponents of adjustment often say that this Constitution calls for an “actual enumeration”, and this requires an actual headcount rather than any statistical inference about those whom we know we miss every time. That seems to take the phrase out of context. I note that we have not taken an “actual enumeration” the way the Founding Fathers envisioned since 1960, after which enumerators going to every door were replaced with mail-in responses. The net result is a denser-effective population, but did not direct that the census be taken by mail. Yet we do it that way.

More significantly, the undercount is not distributed evenly. The differential undercount, as it is known, of minorities has increased since 1940. By disproportionately missing minorities, we deprive them of equal representation in Congress and of proportionate funding from Federal programs based on population. The Census Bureau estimates that the total undercount will reach 1.9 percent in 2000 if the 1990 methods are used instead of sampling.

Mr. President, I have some history with the undercount issue. In 1966, when I became Director of the Joint Center for Urban Studies at MIT and Harvard, I asked Professor David Heer to work with me in planning a conference to publish the white undercount in the 1960 census and to foster concern about the problems of obtaining a full enumeration, especially of the urban poor. I ask that my forward to the report from that conference be printed following my remarks, for it is, save for some small numerical changes, disturbingly still relevant.

My hope is that if governors and other interested parties learn the financial consequences of the undercount, support may grow for correcting it. It is regrettable that we don't do it, simply because we should. But if a yearly reminder of how the undercount affects formula grant programs can change some minds, it is worth the effort.

I ask my colleagues for their support and I ask unanimous consent that the bill and additional material, be printed in the Record.

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

S. 166

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

SECTION 1. DEFINITIONS.

In this Act:

(1) COVERED FEDERAL FORMULA GRANT.—The term “covered Federal formula grant” means any grant awarded by the Federal Government on the basis of a formula that provides for the distribution of funds to States.

(2) SECRETARY.—The term “Secretary” means the Secretary.

(3) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 2. CALCULATIONS OF SHORTFALLS AND SURPLUS AMOUNTS.

(a) IN GENERAL.—

(1) DETERMINATION OF FUNDING AMOUNTS.—As soon as practicable after receiving the information concerning the fiscal year immediately preceding the date of enactment of this Act, and annually thereafter, the Secretary, in consultation with the Comptroller General of the United States and the heads of appropriate Federal agencies, shall determine, for the immediately preceding fiscal year—

(A) the amount of funds made available for that fiscal year for each covered Federal formula grant program; and

(B) for each covered Federal formula grant program, the amount distributed to each grant recipient.

(2) INFORMATION.—Not later than 120 days after the date of enactment of this Act, and not later than 120 days after the end of each fiscal year thereafter, the head of each Federal agency that administers a covered Federal formula grant program shall submit to the Secretary—

(A) the amount of funds made available for that program for that fiscal year; and

(B) for each State recipient of a covered Federal formula grant, the amount distributed as a grant award under that grant to that recipient.

(b) DETERMINATIONS FOR FORMULA GRANT PROGRAMS THAT RECEIVED THE GREATEST AMOUNT OF FUNDING.—Upon making the determinations under subsection (a), the Secretary shall determine—

(1) the 100 covered Federal formula grant programs that received the greatest amounts of funding during the preceding fiscal year; and

(2) whether, on the basis of undercounting for the most recent decennial census (as determined by the Secretary, acting through the Bureau of the Census), any State recipient of a grant award under paragraph (1) received a grant award that is less than or greater than the amount that the recipient would otherwise have received if an adjustment to the grant award had been made for undercounting.

(c) REPORTS.—

(1) IN GENERAL.—Upon making the determinations under subsection (b), the Secretary shall prepare, for each State, an annual report that includes—

(A) a listing of any grant award under subsection (b)(1) provided to that State that was an amount less than or greater than an amount that the State would otherwise have received if an adjustment for undercounting referred to in that subsection had been made; and

(B) for each grant award listed under subparagraph (A), the amount of the shortfall or surplus determined under subsection (b)(2).

(2) DISTRIBUTION.—The Secretary shall provide to the Governor of each State (or the equivalent official) a copy of the report prepared under paragraph (1) for that State.

At one point in the course of the 1950’s John Kenneth Galbraith observed that it is only theπtions, a single group, who shape public policy, for the simple reason that societies never really become effectively concerned with social problems until they learn to measure them. An unassured program in may, perhaps, a minority, one and one that did more than he may know to sustain morale in a number of Washington bureaucracies (hateful period when the relevant cabinet officers had on their own reached very much the same conclusion—and distrusted their charges all the more, so «consequence of the ironies of American government that individuals and groups that have been most resistant to liberal social change have quite accurately perceived that social statistics are all too readily transformed into political dynamite, whilst in a curious way the reform temperament has tended to view the whole statistical process as plodding, overcautious, and somehow a brake on progress. (Why must every statistic be accompanied by detailed notes about the size of the “standard error”?)

The answer, of course, is that this is what must be done if the fact is to be accurately stated, and ultimately accepted. But, given the atmosphere of suspicion and some hand and impatience on the other, it is something of a wonder that the statistical offices of the federal government have with such formidable fairness maintained faith to a high intellectual calling, and an even more demanding public trust.

There is no agency of which this is more true than the Bureau of the Census, the first, and still the most important, information-gathering agency of the federal government. For getting on, now, for two centuries, the Census has collected and compiled the essential facts of the American experience. Of late the ten-year cycle has begun to modulate somewhat, and as more and more current reports have been forthcoming, the Census has been quietly transforming itself into a continuously flowing source of information about the American people. In turn, American attitudes toward Census and somehow shaped by Census information. And yet for all this, it is somehow ignored. To declare that the Census is without friends would be absurd. But partisanship? When Census figures are cut and Capitol Hill or in the Executive Office of the President? The answer is almost everyone in general, and therefore no one in particular. But the result, too often, is the abuse, of an indispensable public institution, which often of late has served better than it has been served.

The papers in this collection, as Professor Heer’s introduction explains, were presented at a conference held in June 1967 with the avowed purpose of arousing a measure of concern about this phenomenon encountered by the Census in obtaining a full count of the urban poor, especially perhaps the Negro poor. It became apparent, for example, that in 1960, on the one hand, females aged 25-29 had in effect disappeared and had been left out of the Census count altogether, invisible men. Altogether, one tenth of the non-white has been “missed.” The ramifications of this fact were considerable, and its implications will suggest themselves immediately. It was hoped that the public airing of the facts would lead to greater public support to ensure that the Census would have the resources in 1970 to do
what is, after all, its fundamental job, that of counting all the American people. As the reader will see, the scholarly case for providing this support was made with considerable energy and with skill. But perhaps the most compelling argument arose from a chance remark by a conference participant to the effect that if the decennial census were not required, the Constitution, this observer would doubtless never have survived the economy drives of the nineteenth century. The thought flashed: the full enumeration of the American population is not simply an optional public service provided by government for the use of sales managers, sociologists, and regional planners. It is, rather, the constitutionally mandated process whereby political representation in the Congress is distributed as between different areas of the Nation. It is a matter not of convenience but of the highest seriousness, affecting the very foundations of sovereignty. That being the case, there is no lawful course but to provide the Bureau with whatever resources are necessary to obtain a full enumeration. Inasmuch as Negroes and other "minorities" are concentrated in specific urban locations, to undercount significantly the population in those areas would be to discriminate against residents of the city whose rights are guaranteed under Article I, Section 2 of the Constitution, as well, no doubt, as under Section I of the Fourteenth Amendment. Given the further, or practice of distributing Federal, State, and local categorical aid on the basis not only of the number but also social and economic characteristics of local population, the Constitutional case for full enumeration would seem to be further strengthened.

A sound legal case? Others will judge; and possibly one day the courts will decide. But of one thing the conference had no doubt: the common-sense case is irrefutable. America needs to count all its people. (And reciprocally, all its people need to make themselves available to be counted.) But if the legal case adds any strength to the common-sense argument, it remains only to add that should either of the arguments bring some improvement in the future, it will be but another instance of the generosity of the Carnegie Corporation, which provided funds for the conference and for this publication.

By Mr. MOYNIHAN (for himself and Mr. SCHUMER):

S. 167. A bill to extend the authorization for the Upper Delaware Citizens Advisory Council and to authorize construction and operation of a visitor center for the Upper Delaware Scenic and Recreational River, New York and Pennsylvania; to the Committee on Energy and Natural Resources.

UPPER DELAWARE SCENIC AND RECREATIONAL RIVER LEGISLATION

Mr. MOYNIHAN. Mr. President, I rise today to introduce, along with my friend and colleague Senator SCHUMER, a bill to extend the authorization for the Upper Delaware River Citizens Advisory Committee and authorize the construction of a visitors center. The Upper Delaware is a 73-mile stretch of free flowing water between Hancock and Sparrowbush, New York along the Pennsylvania border. The area is home to the Zane Gray Museum and to Roebling's Delaware Aqueduct, which is believed to be the oldest existing wire cable suspension bridge. The Upper Delaware is an ideal location for canoeing, kayaking, rafting, tubing, sightseeing, and fishing.

In 1987 the Secretary of the Interior approved a management plan for the Upper Delaware Scenic and Recreational River which called for the development of a visitors center at the south end of the river corridor. It would be owned and constructed by the National Park Service. In 1993 New York State authorized a lease with the Park Service for the construction of a visitor center on State-owned land in the town of Deepark in the vicinity of Mongaup. This bill allows the Secretary of the Interior to construct and operate the visitor center.

Mr. President, the many thousands of visitors to this wonderful river would benefit greatly from a place to go to find out about the recreational opportunities, the history, and the flora and fauna of the river. This bill would move that process along to its conclusion. It would also reauthorize the Citizens Advisory Council which ensures that the views and concerns of local residents are kept in mind when management decisions are made. My colleague from New York and I ask for the support of other Senators, and I ask unanimous consent that the bill be printed in the RECORD.

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

S. 167

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

SECTION 1. EXTENSION OF AUTHORIZATION FOR UPPER DELAWARE CITIZENS ADVISORY COUNCIL. (a) FINDINGS. Congress finds that:

(1) on September 29, 1987, the Secretary of the Interior approved a management plan for the Upper Delaware Scenic and Recreational River, as required by section 704(c) of the National Parks and Recreation Act of 1978 (16 U.S.C. 1274 note; Public Law 95-625) is amended in the last sentence by striking "20" and inserting "30";

(2) the management plan called for the development of a primary visitor contact facility located at the southern end of the river corridor;

(3) the management plan determined that the visitor center would be built and operated by the National Park Service;

(4) section 704 of that Act limits the authority of the Secretary of the Interior to acquire land within the boundaries of the river corridor; and

(5) on June 21, 1993, the State of New York authorized a 99-year lease between the New York State Office of Environmental Conservation and the National Park Service for construction and operation of a visitor center by the Federal Government on State-owned land in the Town of Deepark, Orange County, New York, in the vicinity of Mongaup, which is the preferred site for the visitor center.

(b) AUTHORIZATION OF VISITOR CENTER.—Section 704(d) of the National Parks and Recreation Act of 1978 (16 U.S.C. 1274 note; Public Law 95-625) is amended—

(1) by striking "Notwithstanding" and inserting the following:

"(d) ACQUISITION OF LAND.—"

(2) by adding at the end the following:

"(2) VISITOR CENTER.—For the purpose of constructing and operating a visitor center for the segment of the Upper Delaware River designated as a scenic and recreational river by section 3(a)(19) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(19)), subject to the provisions of such Act, the Secretary of the Interior may—

(A) enter into a lease with the State of New York, for a term of 99 years, for State-owned land within the boundaries of the Upper Delaware River located at an area known as 'Mongaup' near the confluence of the Mongaup and Upper Delaware Rivers in the Town of New York, as follows:

(8) construct and operate the visitor center on the land leased under subparagraph (A).

By Mr. MOYNIHAN:

S. 168. A bill for the relief of Thomas J. Sansone, Jr.; to the Committee on the Judiciary.

PRIVATE RELIEF BILL

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill that will provide compensation under the National Vaccine Injury Compensation Program (VICP) to Tommy Sansone, Jr. Tommy was injured by a DPT vaccine in June 1969 and has continued to suffer seizures and brain damage to this day. Tommy is the untended and helpless victim of a drug designed to help him. He needs our help because while the Vaccine Injury Program is meant to make reparations for these injuries, it is hampered by regulations that challenge the worth of claims.

Back in 1986, Congress passed the Vaccine Injury Act to take care of vaccine injuries because the shots that we required our children to get were not as safe as they could have been. Since the program was established, more than 1100 children have been compensated. Over the first ten years, a great percentage of those with seizures or brain damage or other symptoms were recognized as DPT-injured, and, they were summarily uncompensated. But, by 1995, the Institutes of Medicine (IOM) and others concluded that because the symptoms had no unique clinical profile, they were not necessarily DPT injuries. So, HHS changed the definitions of encephalopathy (inflammation of the brain), and of vaccine injury. Those new definitions had unintended consequences. Now, the program that we set up to be expeditious and fair, uses criteria that are so strict that the fund from which these claims are paid pays fewer claims than before and the fund has ballooned to over $1.2 billion. As a result, families of children like Tommy find it nearly impossible to win a claim against the Vaccine Injury Compensation Program. The program is failing its mission.

To be clear, VICP is not a medical insurance policy. The program is not designed to take care of those who cannot get or receive care. VICP is a compensation program, where the government makes amends for a failure in the system that it established. Claims are
Tommy was in all ways normal, but for the first six months of his life, he suffered to this day. Tommy also has a seizure didn't occur within 72 hours of the time of a bad DPT vaccine, yet his case is not the case any longer. He's the victim before the 1995 changes, but that is not the case any longer. He's the victim because the DPT vaccine that Tommy received on June 1, 1994, was removed in and out of countless hospitals, and consulted with doctors and experts at the Centers for Disease Control and the Health Resources and Services Administration. The committee of experts that recommended the vaccine was dismissed in the Federal Court of Claims, but they and Tommy's doctor feel (and I agree with them) that they should have known more about the potential dangers of the DPT vaccine that Tommy received on June 1, 1994. No one told them that there was a chance that the DPT vaccine could cause such trauma. No one told them about “hot lots,” an unofficial term for a batch of shots that has had an abundance of adverse reactions. The lot that Tommy received is known to have had 44 such reactions from March-November 1994, including 2 deaths. These are reactions beyond the short-lived fever and rashes that accompany many vaccines. Their doctor didn't know about the availability of the “new” acellular strain of pertussis vaccine that is replacing the whole cell version that had been used since the 1930s. Sure, it costs a couple of dollars more, but who wouldn't choose that for their child? Who wouldn't choose that for their child?

Tommy's claim would have been covered before the 1995 changes, but that is not the case any longer. He's the victim of a bad DPT vaccine, yet his case continues to be denied because the first seizure didn't occur within 72 hours of the shot. It occurred 18 days later, and he suffers to this day. Tommy also has brain damage (encephalopathy) because of the DPT shot, but it doesn't fit that new definition either. He cried and screamed even at that moment, and now he can't speak. The signal that we send to the people of the United States and we the members of the Congress of the United States is one that under-stands the critical needs of military members and their families. Twenty-five years ago Americans opted to end the draft and to establish an all-volunteer military force to provide for our national security. That policy carried with it a requirement that we invest the needed resources to bring into existence a competent and professional military. Currently, all services are having difficulty in attracting and retaining qualified individuals. Seasoned, qualified persons are leaving in alarming numbers. Specifically, the Navy is not making its recruiting goals. The Army cites pay and retention, and overall quality of life as three of the top four reasons soldiers are leaving. The Air Force is currently 850 pilots short. The Marine Corps is hampered by inadequate funding of the pay and retirement and quality of life accounts in meeting its readiness and modernizing needs. All services, including the Guard and Reserve Components, are experiencing similar recruiting and retention problems. These shortfalls must be addressed if our Nation is to continue to have a highly capable, cutting edge military force.

In light of our recent successful operations around the world, in the Persian Gulf and elsewhere, we must redouble our efforts to ensure that we continue to recruit, train and retain the best of America to serve in our armed forces, the goal of which is to help his son. Now he has turned to his parents hold him helplessly until the seizure subsides, sometimes for as long as five minutes. Tommy will then look into his mother's loving eyes, and say, "No more, mommy. Make them stop."

At the very least, Tommy's parents know that the strain of vaccine used on Tommy is now being phased out because of the rash of adverse reactions it causes. Does no one tell Tommy or his parents, who have been in and out of countless hospitals, and consulted with doctors and experts at the Centers for Disease Control and the Health Resources and Services Administration. The committee of experts that recommended the vaccine was dismissed in the Federal Court of Claims, but they and Tommy's doctor feel (and I agree with them) that they should have known more about the potential dangers of the DPT vaccine that Tommy received on June 1, 1994. No one told them that there was a chance that the DPT vaccine could cause such trauma. No one told them about “hot lots,” an unofficial term for a batch of shots that has had an abundance of adverse reactions. The lot that Tommy received is known to have had 44 such reactions from March-November 1994, including 2 deaths. These are reactions beyond the short-lived fever and rashes that accompany many vaccines. Their doctor didn't know about the availability of the “new” acellular strain of pertussis vaccine that is replacing the whole cell version that had been used since the 1930s. Sure, it costs a couple of dollars more, but who wouldn't choose that for their child? Who wouldn't choose that for their child?

Tommy's claim would have been covered before the 1995 changes, but that is not the case any longer. He's the victim of a bad DPT vaccine, yet his case continues to be denied because the first seizure didn't occur within 72 hours of the shot. It occurred 18 days later, and he suffers to this day. Tommy also has brain damage (encephalopathy) because of the DPT shot, but it doesn't fit that new definition either. He cried and screamed even at that moment, and now he can't speak. The signal that we send to the people of the United States and we the members of the Congress of the United States is one that under-stands the critical needs of military members and their families. Twenty-five years ago Americans opted to end the draft and to establish an all-volunteer military force to provide for our national security. That policy carried with it a requirement that we invest the needed resources to bring into existence a competent and professional military. Currently, all services are having difficulty in attracting and retaining qualified individuals. Seasoned, qualified persons are leaving in alarming numbers. Specifically, the Navy is not making its recruiting goals. The Army cites pay and retention, and overall quality of life as three of the top four reasons soldiers are leaving. The Air Force is currently 850 pilots short. The Marine Corps is hampered by inadequate funding of the pay and retirement and quality of life accounts in meeting its readiness and modernizing needs. All services, including the Guard and Reserve Components, are experiencing similar recruiting and retention problems. These shortfalls must be addressed if our Nation is to continue to have a highly capable, cutting edge military force.

In light of our recent successful operations around the world, in the Persian Gulf and elsewhere, we must redouble our efforts to ensure that we continue to recruit, train and retain the best of America to serve in our armed forces, the goal of which is to help his son. Now he has turned to
January 19, 1999

CONGRESSIONAL RECORD – SENATE

The basic GI Bill benefit from $528 to $600 per month and eliminate the current requirement for entering service members to contribute $1,200 of their own money in order to participate in the program. These changes should dramatically increase the quality and number of those who enter the military, and our Service Secretaries a powerful recruiting incentive.

Our legislation also adopts the Principi Commission recommendations to allow service members to transfer their earned GI Bill benefits to one or more immediate family members. Mr. President, this idea is innovative, it is powerful and it sends the right message to both those young people we are trying to attract into the military and those we are trying to retain.

The Military Recruiting and Retention Improvement Act of 1999 includes a provision that would allow military members to participate in the current Thrift Savings Plan. The Authority now through the end of 2002, we will provide military managers with these crucial retention tools. By acting on the Principi Commission recommendations made by the Congressional Commission on Servicemembers and Veterans Transition Assistance, military members are permitted to contribute up to 5 percent of their basic pay, and all or any part of any enlistment or reenlistment bonus, to the Thrift Savings Plan.

Another section of our legislation extends for three years—through December 31, 2002—the authority for the military services to pay a maximum of $600 per month to existing and potential recruits, and give our Service Secretaries a powerful recruiting incentive.

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of our Services. The President has announced a very good plan, as has the distinguished Majority Leader. We must move forward, together, in addressing these important personnel and readiness issues.

In closing, I want to recognize the leadership of Senator Levin, and the other members of the Armed Services Committee who are co-sponsoring this legislation. We are all absolutely committed to the welfare of our service- men and women and their families. They provide for us, and it is time for us to provide our obligation to them. I look forward to working with Senator Levin, Chairman Warner, and all of our colleagues on the Armed Services Committee in the months ahead to honor that obligation. I know I speak for myself and all of my co-sponsors in pledging to do our utmost to achieve that goal.

Mr. President, I now ask an unanimous consent that a summary and the text of the Military Recruitment and Retention Improvement Act of 1999 be printed into the RECORD. There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 169

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 “Military Recruiting and Retention Improvement Act of 1999”.

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**Congressional Record — Senate**

**January 19, 1999**

**SEC. 101. FISCAL YEAR 2000 INCREASE AND RE-STRUCTURING OF BASIC PAY.**

(a) **WAIVER OF SECTION 1009 ADJUSTMENT.** Any adjustment required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services by section 203(a) of such title to become effective during fiscal year 2000 shall not be made.

(b) **JANUARY 1, 2000, INCREASE IN BASIC PAY.** Effective on January 1, 2000, the rates of monthly basic pay for members of the uniformed services shall be increased by 4.8 percent.

(c) **BASIC PAY REFORM.** Effective on July 1, 2000, the rates of monthly basic pay for members of the uniformed services are as follows:

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**Pay Grade** | **2 or less** | **Over 2** | **Over 3** | **Over 4** | **Over 6**
--- | --- | --- | --- | --- | ---
O−5 | $8,900.00 | $9,475.00 | $10,050.00 | $10,625.00 | $11,200.00
O−4 + E−1 | $7,120.00 | $7,695.00 | $8,270.00 | $8,845.00 | $9,420.00
O−4 + E−2 | $6,501.00 | $7,076.00 | $7,651.00 | $8,226.00 | $8,801.00
O−4 + E−3 | $6,012.00 | $6,587.00 | $7,162.00 | $7,737.00 | $8,312.00
O−3 + E−1 | $5,460.00 | $5,935.00 | $6,515.00 | $7,090.00 | $7,665.00
O−3 + E−2 | $4,970.00 | $5,445.00 | $6,020.00 | $6,595.00 | $7,170.00
O−3 + E−3 | $4,500.00 | $4,975.00 | $5,550.00 | $6,125.00 | $6,700.00
O−2 + E−1 | $3,939.00 | $4,414.00 | $4,989.00 | $5,564.00 | $6,139.00
O−2 + E−2 | $3,459.00 | $3,934.00 | $4,509.00 | $5,084.00 | $5,659.00
O−2 + E−3 | $3,003.00 | $3,478.00 | $4,053.00 | $4,628.00 | $5,203.00
O−1 + E−1 | $2,544.00 | $3,019.00 | $3,594.00 | $4,169.00 | $4,744.00
O−1 + E−2 | $2,185.00 | $2,660.00 | $3,235.00 | $3,810.00 | $4,385.00
O−1 + E−3 | $1,826.00 | $2,291.00 | $2,866.00 | $3,441.00 | $4,016.00
O−1 + E−4 | $1,517.00 | $1,982.00 | $2,557.00 | $3,132.00 | $3,707.00
O−1 + E−5 | $1,297.00 | $1,762.00 | $2,337.00 | $2,912.00 | $3,487.00
O−1 + E−6 | $1,087.00 | $1,552.00 | $2,127.00 | $2,692.00 | $3,267.00
O−1 + E−9 | $897.00 | $1,362.00 | $1,937.00 | $2,511.00 | $3,086.00
O−1 + E−10 | $707.00 | $1,172.00 | $1,747.00 | $2,321.00 | $2,896.00

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**WARRANT OFFICERS**

**Pay Grade** | **2 or less** | **Over 2** | **Over 3** | **Over 4** | **Over 6**
--- | --- | --- | --- | --- | ---
W−5 | $7,020.00 | $7,595.00 | $8,170.00 | $8,745.00 | $9,320.00
W−4 | $6,348.00 | $6,923.00 | $7,503.00 | $8,083.00 | $8,663.00
W−3 | $5,500.00 | $6,096.00 | $6,692.00 | $7,288.00 | $7,883.00
W−2 | $4,632.00 | $5,216.00 | $5,812.00 | $6,408.00 | $7,003.00
W−1 | $3,764.00 | $4,348.00 | $4,932.00 | $5,516.00 | $6,101.00
W−0 | $2,896.00 | $3,478.00 | $4,062.00 | $4,646.00 | $5,231.00

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**ENLISTED MEMBERS**

**Pay Grade** | **2 or less** | **Over 2** | **Over 3** | **Over 4** | **Over 6**
--- | --- | --- | --- | --- | ---
E−5 | $5,460.00 | $6,035.00 | $6,610.00 | $7,185.00 | $7,760.00
E−4 | $4,872.00 | $5,447.00 | $6,022.00 | $6,597.00 | $7,172.00
E−3 | $4,284.00 | $4,859.00 | $5,434.00 | $6,009.00 | $6,584.00
E−2 | $3,696.00 | $4,271.00 | $4,846.00 | $5,421.00 | $5,996.00
E−1 | $3,108.00 | $3,683.00 | $4,258.00 | $4,833.00 | $5,408.00
E−0 | $2,520.00 | $3,095.00 | $3,670.00 | $4,245.00 | $4,820.00

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**Note:** Basic pay for these officers is limited to the rate of basic pay for level V of the Executive Schedule.

1. While serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, basic pay for this grade is calculated to be $12,441.00 regardless of cumulative years of service computed under section 205 of title 37, United States Code. Nevertheless, basic pay for these officers is limited to the rate of basic pay for level V of the Executive Schedule.

2. Does not apply to commissioned officers who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.
(f) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 308i(f) of title 37, United States Code, is further amended—

(ii) by redesignating paragraph (3) as paragraph (2); and

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308c(f) of title 37, United States Code, is amended by striking “December 31, 1999” and inserting “December 31, 2002”.

(g) PRIOR SERVICE ENLISTMENT BONUS.—Section 308(f) of title 37, United States Code, is amended by striking “December 31, 1999” and inserting “December 31, 2002”.

(h) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE.—Section 308l of title 37, United States Code, is amended by striking “January 1, 2000”, and inserting “July 1, 2002”.

(i) SELECTED RESERVE REENLISTMENT BONUS.—Section 308h(f) of title 37, United States Code, is amended by striking “December 31, 1999” and inserting “December 31, 2002”.

(j) ACQUISITION BONUS FOR REGISTERED NURSES, NURSE ANESTHETISTS.—Section 308a(h)(1) of title 37, United States Code, is amended by striking “December 31, 1999” and inserting “December 31, 2002”.

(k) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 308a(h)(2) of title 37, United States Code, is amended by striking “December 31, 1999” and inserting “December 31, 2002”.

(l) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308a(i) of title 37, United States Code, is amended by striking “December 31, 1999” and inserting “December 31, 2002”.

(m) SELECTED RESERVE REENLISTMENT BONUS.—Section 308(h) of title 37, United States Code, is amended by striking “December 31, 1999” and inserting “December 31, 2002”.

(n) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(b)(6) of title 37, United States Code, is further amended—

(iii) by deleting “; and

SEC. 102. PAY INCREASES FOR FISCAL YEARS 2001 THROUGH 2006 AT ECI PLUS ONE-HALF PERCENT.

Notwithstanding subsection (c) of section 1009 of title 37, United States Code, the percentage of the increase in the rates of basic pay or any other rate of basic pay that is effective under that section during each of fiscal years 2001 through 2006 shall be the percentage equal to the sum of one percent plus the percentage increase calculated as provided under subsection (b) of section 1009 of title 37, United States Code, for such fiscal year (without regard to whether rates of pay under the statutory pay system were increased by the percentage calculated under such section 1009(a) during such fiscal year).

SEC. 103. THREE-YEAR EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY.

(a) AVIATION OFFICER RETENTION BONUS.—Section 308b(c) of title 37, United States Code, is amended by striking “December 31, 1999,” and inserting “December 31, 2002.”

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308c(c) of title 37, United States Code, is amended by striking “December 31, 1999,” and inserting “December 31, 2002.”

(c) ENLISTMENT BONUSES FOR MEMBERS WITH CRITICAL SKILLS.—Sections 308a(c) and 308f(c) of title 37, United States Code, are each amended by striking “December 31, 1999,” and inserting “December 31, 2002.”

(d) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking “December 31, 1999,” and inserting “December 31, 2002.”

(e) NUCLEAR CAREER ACCESSION BONUS.—Section 312(c) of title 37, United States Code, is amended by striking “December 31, 1999,” and inserting “December 31, 2002.”

(f) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312(d) of title 37, United States Code, is amended by striking “December 31, 1999,” and inserting “December 31, 2002.”

(g) SEPARATIONS.—A transfer of a member from active service.

(h) THEAMENDMENTS MADE BY THIS TITLE SHALL TAKE EFFECT ON OCTOBER 1, 1999.

TITLE III—THRIFT SAVINGS PLAN

SEC. 301. PARTICIPATION IN THRIFT SAVINGS PLAN.

(a) AUTHORITY.—Subchapter III of chapter 84 of title 5, United States Code, is amended by striking “(as amended by section 8440a)” and inserting “(as amended by sections 8440a and 8440e)”.

(b) SURVIVOR BENEFIT PLAN.—Chapter 73 of title 5 is further amended—

(i) in the heading of chapter 73, by striking “December 31, 1999,” and inserting “December 31, 2002,”

(ii) in subsection (a), by striking “December 31, 1999,” and inserting “December 31, 2002,”

(iii) by redesignating paragraph (3) as paragraph (2); and

(iv) by redesignating paragraph (4) as paragraph (3).

SEC. 302. MODIFIED “CPI-1” COST-OF-LIVING ADJUSTMENT.

Par. 3 of section 1401(a) of title 37, United States Code, is amended to read as follows:

(iii) and (iv) the other sections of title 5, United States Code, are each amended by striking “December 31, 1999,” and inserting “December 31, 2002,”

(i) in subsection (a), by striking “December 31, 1999,” and inserting “December 31, 2002,”

(ii) by redesignating paragraph (3) as paragraph (2); and

(iii) by redesignating paragraph (2) as paragraph (1).

(b) SEPARATIONS.—A transfer of a member from active service.

(c) THEAMENDMENTS MADE BY THIS TITLE SHALL TAKE EFFECT ON OCTOBER 1, 1999.

TITLE III—THRIFT SAVINGS PLAN

SEC. 301. PARTICIPATION IN THRIFT SAVINGS PLAN.

(a) AUTHORITY.—Subchapter III of chapter 84 of title 5, United States Code, is amended by striking “(as amended by section 8440a)” and inserting “(as amended by sections 8440a and 8440e)”.

(b) SURVIVOR BENEFIT PLAN.—Chapter 73 of title 5 is further amended—

(i) in the heading of chapter 73, by striking “December 31, 1999,” and inserting “December 31, 2002,”

(ii) in subsection (a), by striking “December 31, 1999,” and inserting “December 31, 2002,”

(iii) by redesignating paragraph (3) as paragraph (2); and

(iv) by redesignating paragraph (4) as paragraph (3).

SEC. 302. MODIFIED “CPI-1” COST-OF-LIVING ADJUSTMENT.

Par. 3 of section 1401(a) of title 37, United States Code, is amended to read as follows:

(iii) and (iv) the other sections of title 5, United States Code, are each amended by striking “December 31, 1999,” and inserting “December 31, 2002,”

(i) in subsection (a), by striking “December 31, 1999,” and inserting “December 31, 2002,”

(ii) by redesignating paragraph (3) as paragraph (2); and

(iii) by redesignating paragraph (2) as paragraph (1).

(b) SEPARATIONS.—A transfer of a member from active service.

(c) THEAMENDMENTS MADE BY THIS TITLE SHALL TAKE EFFECT ON OCTOBER 1, 1999.

"(g) REGULATIONS. — The Executive Director, after consultation with the Secretary of Defense, may prescribe regulations to carry out this section.

SEC. 402. TERMINATION OF REDUCTIONS OF BASIC PAY. 

(a) INCREASE. — Section 3015 of title 38, United States Code, is amended—

(1) in paragraph (1), by striking "Each employee" and inserting "Except as provided in paragraph (a), each employee;"

(2) by redesigning paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraphs:

``(4) No contribution may be made under this section for a period for which an employee made a contribution under section 3040a.

(b) CLERICAL AMENDMENT. — The table of sections at the beginning of chapter 84 of title 38, United States Code, is amended by adding the following new item:

``8440e. Members of the uniformed services in active service.''.

SEC. 403. ACCELERATED PAYMENTS OF EDUCATIONAL ASSISTANCE. 

(a) INCREASE. — Section 3015 of title 38, United States Code, is amended—

(1) in subparagraph (A), by striking "subsection (c)" and inserting "subsection (f)"; and

(2) in subparagraph (B), by striking "subsection (c)" and inserting "subsection (f)".

(b) CLERICAL AMENDMENT. — The table of sections at the beginning of such chapter is amended by adding the following new item:

``3015. Accelerated payments of educational assistance.''.

SEC. 404. TRANSFER OF ENTITLEMENT TO EDUCATIONAL ASSISTANCE. 

(a) AUTHORITY TO TRANSFER TO FAMILY MEMBER. — Subchapter II of chapter 30 of title 38, United States Code, is amended by adding at the end the following new section:

``§ 3020. Transfer of entitlement to basic educational assistance.

(a) The Secretary may, for the purpose of enhancing recruiting and retention, and at the Secretary's sole discretion, permit an individual entitled to educational assistance under this subchapter for the period of the course in a lump-sum amount the allowance otherwise payable under this subchapter for the period without regard to the adjustment under that section; and

(b) pay on the date of the adjustment any additional amount of the allowance that is payable for the period as a result of the adjustment.

(2) The entitlement to a basic educational assistance allowance under this subchapter shall be charged against the amount of the basic educational assistance allowance otherwise payable under this subchapter for the period without regard to the adjustment under that section.

(b) CLERICAL AMENDMENT. — The table of sections at the beginning of such chapter is amended by adding after the item relating to section 3020 the following:

``3020. Transfer of entitlement to basic educational assistance.''.

TITLE IV—MONROE GI BILL BENEFITS

SEC. 405. INCREASE IN RATES OF EDUCATIONAL ASSISTANCE FOR FULL-TIME EDUCATION. 

(a) INCREASE. — Section 3015 of title 38, United States Code, is amended—

(1) in subsection (a), by striking "$528" and inserting "$600"; and

(2) in subsection (b), by striking "$249" and inserting "$488".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999, and shall apply with respect to educational assistance allowances paid for months after September 1999. However, no adjustment in rates of educational assistance allowances shall be made under subsection (g) of section 3015 of title 38, United States Code, for fiscal year 2000.

SEC. 406. TERMINATION OF REDUCTIONS OF BASIC PAY. 

(a) REPEALS.—(1) Section 3011 of title 38, United States Code, is amended by striking subsection (b).

(2) Section 3012 of such title is amended by striking subsection (c).

(3) The amendments made by paragraphs (1) and (2) shall take effect on the date of the enactment of this Act and shall apply to individuals whose initial obligated period of active duty under sections 3011 or 3012 of title 38, United States Code, as the case may be, begins on or after such date.

(b) TERMINATION OF REDUCTIONS IN PROGRESS.—Any reduction in the basic pay of an individual referred to in section 3011(b) or 3012(b) of title 38, United States Code, by reason of such section 3011(b), or of any individual referred to in section 3012(c) of such title by reason of such section 3012(c), as of the date of the enactment of this Act shall cease commencing with the first month beginning after such date, and any obligation of such individual referred to in section 3011(b) or 3012(c), as the case may be, of the date before such date shall be deemed to be fully satisfied as of such date.

(c) CLERICAL AMENDMENT.—Section 3034(e)(1) of title 38, United States Code, is amended in the second sentence by striking "as soon as practicable" and all that follows through "such additional times" and inserting "at such times".

SEC. 407. ACCELERATED PAYMENTS OF EDUCATIONAL ASSISTANCE. 

(a) AUTHORITY TO TRANSFER TO FAMILY MEMBER.—Subchapter II of chapter 30 of title 38, United States Code, is amended by adding at the end the following new section:

``§ 3020. Transfer of entitlement to basic educational assistance.

(a) The Secretary may, for the purpose of enhancing recruiting and retention, and at the Secretary's sole discretion, permit an individual entitled to educational assistance under this subchapter for the period of the course in a lump-sum amount the allowance otherwise payable under this subchapter for the period without regard to the adjustment under that section; and

(b) pay on the date of the adjustment any additional amount of the allowance that is payable for the period as a result of the adjustment.

(2) The entitlement to a basic educational assistance allowance under this subchapter shall be charged against the amount of the basic educational assistance allowance otherwise payable under this subchapter for the period without regard to the adjustment under that section.

(b) CLERICAL AMENDMENT. — The table of sections at the beginning of such chapter is amended by adding after the item relating to section 3020 the following:

``3020. Transfer of entitlement to basic educational assistance.''.

TITLE V—REPORT

SEC. 501. ANNUAL REPORT ON EFFECTS OF INITIATIVES ON RECRUITMENT AND RETENTION. 

(a) REQUIREMENT FOR REPORT.—On December 1 of each year, the Secretary of Defense shall submit to Congress a report that sets forth the Secretary of Defense's findings on the effects that the provisions of this Act and the amendments made by the Act are having on
Mr. ROBB. Mr. President, I am pleased to lend my support to the Military Recruiting and Retention Improvement Act of 1999. For the first time since the late 1970's, military readiness is suffering significantly. We are now paying the price for asking our people to do much more with less and less. As the Service Chiefs have testified, the feedback from our soldiers, sailors, airmen and marines is clear and unambiguous. Low pay, the 40 percent retirement system, military health and education benefits that could stand a shot in the arm—we now have plenty of evidence these things are keeping us from retaining our best and brightest. Equally troubling, our recruiting picture across the services is dismal. These downward trends cannot continue. The Chairman of the Joint Chiefs of Staff warns that “there is no more shock absorber left in the system,” and further that if the trends continue, we will “find ourselves in a nosedive that might cause irreparable damage to this great force.” The Army and Air Force Chiefs of Staff, the Chief of Naval Operations, and the Commandant of the Marine Corps all agree that we are only five years away from a hollow force. Put simply, we are placing at risk the future readiness of the finest fighting force in the world.

Mr. President, this bill provides the resources to reverse the steady downward spirals we’ve seen in military recruiting and retention. It is also a strong signal to our most important asset—our men and women in uniform and their families—that we are serious about them. In my view, it is nothing more than adequately compensating our people for the job they are already performing. And it is exactly the kind of “fix” we in the Congress can, and should, support.

I would like to make one additional point. While we have many pressing longer-term concerns, such as modernizing and recapitalizing our forces for the next century and doing something about the trillions of dollars of excess infrastructure the services continue to carry, we simply can’t afford to take a “wait and see” approach when it comes to taking care of our people. To do otherwise places at risk our future readiness and everything we’ve worked for, like the ability to mount an operation like “Desert Fox” and execute it brilliantly. We can’t let that happen.

Mr. LEVIN. Mr. President, I am pleased to join Senator CLELAND, Senator ROSE, and a number of my colleagues today in introducing The Military Recruiting and Retention Improvement Act of 1999. Secretary Cohen, General Shelton, and the Joint Chiefs have told us that the single greatest challenge they face right now is recruiting and retaining the people we need to man our military services. This legislation will go a long way to ensuring that we continue to attract and retain the high quality people that make up our military services today. Just last month, the men and women of our Armed Forces demonstrated once again that they are by far the best trained, best equipped, best disciplined and most highly skilled and motivated military force in the world. Operation Desert Fox was a large-scale military operation that was carried out flawlessly. It involved 40,000 troops from bases virtually around the world. Over 40 ships performed strike and support roles. Over 600 aircraft sorties were flown in 4 days, and 300 of these were night strike operations.

General Zinni, the commander in charge of Operation Desert Fox, pointed out that even in peacetime an exercise of this scale is very dangerous and stressful. To have achieved all of the objectives of Operation Desert Fox without a single United States or British casualty and without any degradation of our ongoing efforts in Bosnia, Korea, and other critical areas around the world was truly remarkable.

Mr. President, the key to the success of Operation Desert Fox was and is the strength and capability of our Armed Forces—the men and women who serve in uniform. We must do everything we can to ensure that we continue to recruit, train and retain the finest fighting force in the world.

Over the past year, there have been growing indications that the military services were beginning to have problems in both recruiting and retention, particularly retaining highly skilled mid-grade officers and enlisted whose skills are in demand in the private sector. To address these problems, last month Secretary Cohen and General Shelton announced improvements in military pay and retirement benefits that will be part of President Clinton’s fiscal year 2000 budget. In testimony before the Armed Services Committee on January 5 of this year, General Shelton and all of the Joint Chiefs said that enactment of this package of pay and benefits was their highest priority.

Mr. President, the bill my colleagues and I are introducing today includes all three parts of the Department’s pay and retirement package, as well as some of the key recommendations from the recent report of the Congressional Commission on Servicemembers and Veterans Transition Assistance.

First, it includes an across-the-board pay raise for all military members of 4.8 percent, effective January 1, 2000. This is slightly higher than the 4.4 percent recommended by Secretary Cohen and the Joint Chiefs, but it carries out their stated objective of increasing military pay in FY 2000 by one-half a percentage point above the annual increase in the Employment Cost Index (ECI). This 4.8 percent increase will be the largest increase in military pay since 1982.

In addition, our legislation calls for annual increases in military pay of one-half a percentage point above the increase in the ECI in each year of the Future Years Defense Plan. Again, this reflects DOD’s current plan, and is designed to bring military pay more in
line with private sector wages as measured by the ECI.

The second part of DOD's plan included in our legislation is a targeted pay raise that would be effective July 1, 2000. Taken in conjunction with the January 1, 2000 across-the-board pay raise, this targeted pay increase would increase the pay of mid-grade officers and enlisted personnel, and also for key promotions points, between 4.8 and 10.3 percent.

The third part of the DOD plan included in this legislation is a revision to the Military Retirement Reform Act of 1986. This portion of the legislation would restore the 50-percent basic pay benefit for military members who retire at 20 years of service.

In addition to the package of pay and retirement benefits proposed by Secretary Cohen and the Joint Chiefs, the legislation we are introducing today includes several key recommendations from the recent report of the Congressional Commission on Servicemembers and Veterans Transition Assistance specifically designed to help the military services recruiting and retention efforts.

The most important of these recommendations is a series of improvements to the Montgomery GI Bill. Education benefits are a very important attraction for young people entering the armed forces. Our legislation would increase the basic GI Bill benefit for both active duty and reserves from $328 to $400 per month and eliminate the current requirement for entering service members to contribute $1,200 of their own money to participate in the program. Both of these changes were recommended by the Congressional Commission on Servicemembers and Veterans Transition Assistance to increase the attractiveness of the GI Bill to potential new recruits.

The Commission also recommended, and our legislation includes, a provision that would allow service members to transfer their earned GI bill benefits to one or more immediate family members. It is my view, Mr. President, that this will prove to be a very powerful recruiting and retention incentive.

This legislation also includes a provision that would allow military members to participate in the current Thrift Savings Plan available to federal civil servants. Under our proposal, which follows the recommendation of the Congressional Commission on Servicemembers and Veterans Transition Assistance, military members would be permitted to contribute up to 5 percent of their basic pay, and all or any part of any enlistment or reenlistment bonus, to the Thrift Savings Plan.

Finally, this legislation includes a very important provision that extends for 3 years—through December 31, 2002—the authority for the military services to pay certain bonuses and special and incentive pays that are critical to recruiting and retaining highly skilled military members. Under current law, the authority to pay these bonuses and special pays runs out at the end of this year. Reextending this authority now through the end of 2002 will reassure military personnel managers—and military members themselves—that these crucial authorities will continue to be available to them.

Mr. President, detailed costing of this legislation will have to be done by the Congressional Budget Office over the next several weeks. In my view, however, the provisions contained in this legislation will not require us to increase the funding for national defense above the levels I understand will be proposed in President Clinton's FY 2000-2006 defense budget. We should be able to accommodate any increase in funding necessary for these initiatives from lower priority programs.

I believe this package of pay and benefits is fair and will ensure that we continue to attract and retain high-quality people to serve in our armed forces. All of us are committed to the well-being of our military members and their families. There may be some sectors of society that respect the need for improvement or modification, and that can be done as the Armed Services Committee begins to review this bill and any other bills that are introduced to address the concerns we all have in this area.

In closing, I want to recognize the leadership of the author of this legislation, Senator MAX CLELAND. Fortunately for the Senate and for the men and women of our Armed Forces, he will continue to serve as the Ranking Democratic member of the Personnel Subcommittee of the Armed Services Committee during the 106th Congress. Senator ROBB of our Committee has also played an important role in drafting this legislation. Both Senator CLELAND and Senator ROBB have a tremendous commitment to the welfare of the men and women of the Armed Forces and their families.

Mr. President, I look forward to working with Senator CLELAND, Senator ROBB, and all of the cosponsors of this legislation and with all of our colleagues on the Armed Services Committee in the months ahead to secure enactment of this important legislation.

Mr. KENNEDY. Mr. President, all of us commend our troops for their superb performance. Their extraordinary efforts in Operation Desert Fox, Hurricane Mitch, Operation Provide Comfort, and in Kenya, and Tanzania highlighted only a few of their significant contributions to the Nation in 1998.

America continues to rely heavily on its Armed Forces, and we want our service members and families to know how proud we in Congress are of their contributions to our country and to our national defense. We are deeply indebted to them for their service, and we have the highest respect for their dedication, their patriotism, and their courage.

This past year once again demonstrated the importance of guaranteeing that our military forces are well prepared to meet any challenge. However, I am very concerned about the future readiness of our Armed Forces. I am troubled by reports of declining readiness, poor retention, and recruiting shortfalls.

Two years ago the Army reduced its recruiting standards, and now the Navy has followed suit. Secretary of the Navy Danzig has announced that the Navy is lowering its standards for new recruits. This and other reductions in personnel standards by the Navy are taking place because the Navy fell short of its recruiting goals last year for the first time since the draft ended in 1973. Secretary Danzig also recently announced that retention of Naval Officers is so low that the Navy will have 50 percent fewer officers than required to man its ships in the coming years. These are serious concerns that must be addressed, and this legislation does so.

Congress must do all it can to provide for our men and women in the Army, Navy, Air Force, and Marine Corps. They have worked hard for us. Now we must provide the support they need to do their jobs and care for their families.

The Military Recruiting and Retention Improvement Act is a substantial step toward meeting these urgent needs of our service members, and will encourage more of these highly skilled and well-trained men and women to remain in the military ranks. I also hope that the provisions in this act will encourage more of the Nation's young men and women to join the military and serve their country in that way.

Our proposal increases base pay for our troops.

It contains pay table reforms and guaranteed pay raises above inflation.

It restores equity to the military retirement system by providing active-duty service members 50 percent retirement after 20 years of service.

It allows service members to transfer hard-earned educational benefits to others in their family.

It provides stability by extending authorities for bonus pay and special pay.

I'm reminded of the words of President Kennedy during an address at the U.S. Naval Academy in August of 1963. That is what he said about a career in the Navy. He said:

"I can imagine a no more rewarding career. And any man who may be asked in this century what he did to make his life worth while, I think can respond with a good deal of pride and satisfaction: 'I served in the United States Navy.'"

My brother was a Navy man, but I'm sure that veterans of all the other services in those years felt the same way.

I want to do all I can to see that our service men and women feel the same way today and on into the next century. These personnel issues are important, and Congress has to deal with them effectively and responsibly. The
Military Recruiting and Retirement Improvement Act moves our Nation in the right direction, and I look forward to early and favorable action on it by the Senate.

Mr. LEGGERO. Mr. President, I want to thank Senator CLELAND and Senator LEVIN for their leadership in developing and offering this bill, and I am pleased to join the other Democratic members of the Senate Armed Services Committee in cosponsoring this legislation aimed at addressing the problem of attracting and retaining the right men and women in the right numbers for our military. The effectiveness of our military, and its readiness to act immediately to protect our national interests, must always be a priority concern of Congress, as the continuing challenges around the world today demonstrate. There are few things that we will do this year that are more important, because the security of our country rests squarely on the shoulders of the men and women that provide our defenses and protect our interests. The outstanding performance of our forces in Desert Fox shows that the American military remains more than equal to the task, and that we are unequivocally number one force in the world. In fact, it may well be the best we have ever fielded. Even at the height of the cold war, with the largest military budgets ever, it is difficult to see those units being the most effective and efficiently execute the range of complex operations with the expertise that our units today are doing.

Nonetheless, our military faces readiness problems, many of them serious. They include falling recruiting and retention rates, critical skill shortages, aging equipment that costs more to keep operating at acceptable levels of reliability, a need for more support services for a force with a high percentage of married personnel, and frequent deployments. Some of these problems will get much more serious unless we act to fix them soon. The military Chiefs of Staff have said that continuing to struggle with these readiness challenges and problems will cost more to keep our military forces prepared and meeting our nation’s needs. The Joint Chiefs of Staff have made readiness a number one priority. And we need to act to solve these problems.

However, I consider this a good point of departure, not a final product. I believe we have not yet done all of the critical analysis necessary to know where the priority should go within the broad category of pay and allowances to most effectively attract and retain personnel. As the Senate Armed Services Committee, we will make this task our highest priority when it is referred to our committee for action. I am sure we will act in a completely bipartisan way to arrive at the best possible solution. It is a proud bipartisan tradition of the Senate Armed Services Committee that attracting, retaining, and providing adequately for our men and women in uniform is among our most important responsibilities.

Mr. REED. Mr. President, today I join my colleagues as an original co-sponsor of Senator Cleland’s Military Recruiting and Retention Improvement Act of 1999.

I am glad we are introducing this bill today because it demonstrates our interest and support for one of the greatest needs of our fighting men and women—improved pay and benefits. As my colleagues know, this is one of the most serious issues likely to come before the Armed Services Committee this year.

Last week, I attended my first hearing as a new member of the committee. I carefully listened to the Joint Chiefs of Staff as they outlined their priorities for the fiscal year 2000 budget. Without exception, each named recruitment and retaining skilled personnel as their top priority. The Joint Chiefs asked us unequivocally to address this issue, and I believe the bill we introduce today places us on the proper path.

This bill will make a difference to men and women when they are deciding to begin or continue a military career. The 4.8 percent pay increase will make their daily lives easier and more enjoyable. Reforming the pay table to provide increases in salaries for midcareer NCOs and officers will not only reward these dedicated men and women for the years they have served our country, but provide an incentive for them to continue their valued work. Renewing the various bonuses for three more years will let our men and women in uniform know that we realize and appreciate the sacrifices they make in performing dangerous missions for months at a time far from home.

Perhaps the most unique provisions of the Military Recruiting and Retention Improvement Act are the education benefits. These benefits would no longer have to contribute $1,200 to take advantage of the Montgomery GI bill and they would have increased monthly benefits. In addition, the Service Secretaries would be given the discretion to offer military personnel who qualify to transfer their education benefit to a spouse or child. Education is vital in today’s society, yet financing needed training is an enormous burden to shoulder. I believe that many of our men and women in uniform choose to leave the service because they must find a job which will allow them to pay for their children’s education. With the provisions in this bill, military personnel can continue their careers and more readily afford the cost of education.

Mr. President, taking care of America’s military personnel is one of the most serious responsibilities Congress has. Every day our men and women in uniform risk their lives to defend our country and the principles we champion. It is our obligation to let them know that we appreciate the sacrifices they make on our behalf. If we do not, the entire country will suffer.

The best way to improve our troop’s quality of life is a difficult and complex task. The Military Recruiting and Retention Improvement Act is a sound proposal, but it is only the beginning to a comprehensive solution. We will not find a solution if Demo- crats and Republicans do not work together. Indeed, care of America’s troops has always been an issue in which we have been united and it is my sincere hope that this tradition can continue in the 106th Congress.

Mr. BINGAMAN. Mr. President, I rise...
Mr. President, these matters are really matters requiring bipartisan cooperation in the Congress that will benefit our service personnel and the Nation. I understand that Senator Warner, Chairman of the Armed Services Committee, has introduced similar legislation. However, I believe that the way to improve recruitment and retention goes beyond a bigger paycheck. Senator Cleland's bill includes an important provision directed toward other motivations to choose military service. I'm speaking of enhancements to the Montgomery GI bill for education benefits.

Mr. President, this bill will provide major new educational benefits to service members and their families that will serve as an incentive to attract high-quality recruits to the military. By improving the educational attainment of service personnel and their families, the nation stands to benefit in the long term with a better educated workforce. Surely, we are now able to observe the benefits of full GI bill assistance for veterans of World War II, the Korean War and the Vietnam war who were able to receive sufficient resources to complete college and postgraduate degree programs in compensation for military service. The nation as a whole has prospered by the talented and trained workforce who benefitted from the GI bill.

Senator Cleland's bill goes beyond even those benefits which, I believe, were only extended to service members themselves. According to the legislation proposed, the military services can choose to permit service members to transfer those educational benefits to immediate family members should they choose to use them for themselves. Again, I believe the nation's labor force will benefit greatly from such flexibility, not to mention the families of our men and women in uniform.

Educational benefits provided by the Military Recruiting and Retention Improvement Act would be increased to reflect the rising cost of education. Monthly benefits would increase from $528 to $600 per month for member who served at least three years, and from $528 to $600 per month for member who was able to file an irrevocable exemption from Social Security coverage; to the Committee on Finance.

OPEN SEASON FOR CLERGY TO ENROLL IN SOCIAL SECURITY

Mr. Smith of New Hampshire. Mr. President, today I am introducing a bill to allow qualified members of the clergy of all faiths to participate in the Social Security program.

This bill would provide a two-year "open season" during which certain ministers who previously had filed for an exemption from Social Security coverage could revoke their exemption. These members of the clergy would become subject to self-employment taxes, and their earnings would be credited for Social Security and Medicare purposes.

Before 1968, a minister was exempt from Social Security coverage unless he or she chose to elect coverage. Since 1968, ministers have been covered by Social Security unless they file an irrevocable exemption with the Internal Revenue Service, usually within two years of beginning their ministry.

On two other occasions, in 1977 and again in 1986, ministers were given a similar opportunity to revoke their exemption from Social Security coverage. Despite the existence of these brief "open season" periods, many exempt ministers did not take advantage of or have not had the opportunity to revoke their exemption from Social Security coverage. Because the exemption from Social Security is irrevocable, there is no way for them to gain access to the program under current law.

Only "individual who is a duly ordained, commissioned, or licensed minister of a church, or a member of a religious order or a Christian Science practitioner, and which is effective for the taxable year in which this Act is enacted, may be revoked by filing an application therefor (in such form and manner, with such fees, as may be prescribed in regulations made under chapter 2 of such Code), if such application is filed after the due date of the Federal income tax return (extension therefor) of the applicant's taxable year beginning after December 31, 1999.
Any such revocation shall be effective (for purposes of chapter 2 of such Code and title II of the Social Security Act), as specified in the application, either with respect to the applicant's first taxable year beginning after December 31, 1999, or with respect to the applicant's second taxable year beginning after such date, and for all succeeding taxable years in the case of anysuch application. The revocation may not thereafter again file application for an exemption under such section 1402(e)(1). If the application is filed after the due date of the applicant's Federal income tax return for a taxable year and is effective with respect to that taxable year, it shall include a payment by the applicant of an amount equal to the total of the taxes that would have been imposed by section 1401 of such Code with respect to all of the applicant's income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of such Code (notwithstanding paragraph (a) or (b) of section 1402(c) of such Code) but for the exemption under section 1402(e)(1) of such Code.

(b) EFFECTIVE DATE. Ð Subsection (a) shall apply with respect to service performed (to the extent specified in such subsection) in taxable years beginning after December 31, 1999, with respect to monthly insurance benefits payable under title II of the Social Security Act on the basis of the wages and self-employment income of any individual for months beginning in the calendar year in which such individual's application for revocation (as described in such subsection) is effective (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year).

Mr. MOYNIHAN. Mr. President, today I join my colleague, Senator Bob Smith of New Hampshire, in introducing a bill to allow certain members of the clergy who are currently exempt from Social Security an open season to "opt in." Under section 1402 of the Internal Revenue Code, a member of the clergy who is conscientiously, or because of religious principles, opposed to participation in a public insurance program generally will be eligible for Social Security coverage and payroll taxes by filing an application of exemption with the Internal Revenue Service within two years of beginning the ministry. To be eligible for the exemption, the member of the clergy must be an "individual who is a fully ordained, commissioned, or licensed minister of a church, or a member of a religious order who has not taken a vow of poverty. Once elected this exemption is irrevocable.

This legislation would allow members of the clergy who are not eligible for Social Security a two-year open season in which they could revoke their exemption. At the time of exemption, many clergy did not fully understand the ramifications of their actions, and it is not until later, when they are blocked from coverage, that they realize their need for Social Security and Medicare. This decision to "opt in" would not only mean that all post-election earnings would be subject to the payroll tax and credited for the purposes of Social Security and Medicare.

The Congressional Budget Office estimates that this legislation would affect approximately 3,500 members of the clergy and would increase revenues by about $45 million over the next five years. Similar legislation was passed both in the 1977 Social Security Amendments of 1977 and in the Tax Reform Act of 1986 (Section 1704). This bill has been endorsed by the United States Catholic Conference and the National Conference of Catholic Bishops. I look forward to much-needed measure, and I urge every member of the Senate to support it.

By Mr. MOYNIHAN (for himself, Mr. LEVIN, Mr. LEAHY, Mr. SCHUMER, Mrs. BOXER, and Mr. CLELAND).

S. 171. A bill to amend the Clean Air Act to limit the concentration of sulfur in gasoline used in motor vehicles; to the Committee on Environment and Public Works.

THE ACID DEPOSITION AND OZONE CONTROL ACT OF 1999

By Mr. MOYNIHAN (for himself, Mr. SCHUMER, and Mr. LIEBERMAN).

S. 172. A bill to reduce acid deposition under the Clean Air Act, and for other purposes; to the Committee on Environment and Public Works.

THE CLEAN GASOLINE ACT OF 1999

Mr. MOYNIHAN. Mr. President, I rise today to introduce two bills which will make significant reductions in the pollutants which most degrade our national air quality. The Acid Deposition and Ozone Control Act of 1999 and the Clean Gasoline Act of 1999 would reduce sulfur dioxide and nitrogen oxide emissions through national "cap and trade" programs, and reduce the sulfur content in gasoline, respectively.

We have come a long way since the Clean Air Act Amendments of 1990. Since that last reauthorization effort, we have successfully reduced emissions of the pollutants we set out to regulate and tremendously expanded our understanding of the causes and effects of major environmental problems such as acid deposition, ozone pollution, decreased visibility, and eutrophication of coastal waters. We can be proud of these accomplishments, but we have a long way to go yet. Since 1990 we have learned, for instance, that the sulfur dioxide (SOx) emissions reductions required under the Clean Air Act Amendments of 1990 are insufficient to prevent continued damage to human health and sensitive ecosystems. Sulfate levels, as evidenced by the 1996 North American Precipitation and Air Pollution Assessment Program (NAPAP) indicates that sulfate concentrations of surface waters in the Southern Appalachian Mountains have been increasing steadily for more than a decade, making for an increasingly inhospitable environment for trout and other fish species. There are other types of problems, too. Visitors to our nation's national parks and wilderness areas find that it is more difficult than ever before to enjoy these scenic vistas. It is becoming increasingly difficult to see through the haze which cloaks the air in our national parks.

Scientists have produced volumes of scientific literature on ozone, acid deposition, regional deposition, and other air quality problems over the past decade. We now know much more about the causes of these problems than we did in 1990. We know that NOx emissions, which we underestimated as a cause of air pollution, in fact play an important role in the formation of ground level ozone, acide deposition, and nitrogen deposition. We know that sulfur dioxide not only contributes significantly to acid deposition, but also to reduced visibility in our great scenic vistas. The most recent NAPAP report reflects this changing body of knowledge. The NAPAP report notes that NOx make a highly significant contribution to the occurrence of acid deposition and nitrogen saturation on both land and water. According to NAPAP, a majority of Adirondack lakes have not shown recovery from high acidity levels first detected decades ago. Forests, streams, and rivers outside of New York, in the front Range of Colorado, the Great Smoky Mountains of Tennessee, and the San Gabriel and San Bernardino Mountains of California are also now showing the effects of acidification and nitrogen saturation.

And mountains are not the only ecosystems affected. The Ecological Society of America, the nation's leading professional society of ecologists, issued a report in late 1997 which notes that airborne deposition of nitrogen accounts for a significant percentage of the nitrogen content in water bodies stretching from the Gulf Coast up and around the entire length of the eastern seaboard. The Chesapeake Bay is believed to receive 27 percent of its
nitrification load directly from the atmosphere. For Tampa Bay, the figure is 28 percent. For the coastal waters of the Newport River in North Carolina, more than 35 percent.

Clearly, any serious effort to address these problems must address NOx emissions and further reduce SO2 emissions. My bills address the major sources of NOx and SO2. The Acid Deposition and Ozone Control Act of 1998 would affect "stationary sources" of NOx and SO2, mainly electric utilities, and the Clean Air Act of 1999 would affect "mobile sources", mainly cars and trucks, of NOx and other tailpipe emissions.

ACID DEPOSITION AND OZONE CONTROL ACT: CONTROLLING STATIONARY SOURCES

When we designed the SO2 Allowance Program in 1990, our task was simplified by the fact that over 85 percent of SO2 emissions originated in fossil fuel-fired electric utilities. Utility emissions account for just under 30 percent of total NOx emissions, a smaller share than SO2 because of the high costs of NOx control. My bill establishes a year-round cap-and-trade program for NOx emissions from the utility sector and mandates a further 50 percent cut in emissions of SO2 through the existing cap and trade program for sulfur. Because of the human health risks of urban ozone pollution during the summer months, the Acid Deposition and Ozone Control Act requires utilities to surrender two allowances for each ton of NOx emitted between May and September. During the remainder of the year, only one allowance is required to produce one ton of NOx emissions. In this way, utilities are encouraged to make the greatest reductions during the summer, when the collective risk to human health from these emissions is higher.

In light of the impressive success and cost-effectiveness of the cap and trade program which regulates SO2, the Acid Deposition and Ozone Control Act is designed to build on, not to replace, that success. As I mentioned earlier, I am proud of what we accomplished in enacting the Clean Air Act Amendments of 1990. The SO2 Allowance Program established by that legislation has achieved extraordinary benefits at program compliance costs less than half of initial projections. The efficacy of the approach is proven. The current science indicates, however, that we did not go far enough in 1990 in setting our emissions reduction targets. The bills I have introduced endeavor to build upon our accomplishments thus far, and to build the work which remains to be done. I encourage my colleagues to join myself and Mr. Schumer in sponsoring the Acid Deposition and Ozone Control Act of 1999, and to join myself and Mr. Levin, Mr. Leahy, Mr. Schumer, Mrs. Boxer, Mr. Cleland, and Mr. Jeffords in sponsoring the Clean Air Act of 1999.

Mr. President, I ask unanimous consent that the text of the bills be printed in the Record, as follows:

S. 171

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 "Clean Gasoline Act of 1999." 

SEC. 2. FINDINGS. Congress finds that—

(1) according to the National Air Quality and Emissions Trends Report of the Environmental Protection Agency, dated September 1999, motor vehicles account for a major portion of the emissions that degrade the air quality of the United States: 40 percent of nitrogen oxides emissions, 26 percent of emissions of particulate matter with an aerodynamic diameter smaller than or equal to 10 micrometers (PM10), and 78 percent of carbon monoxide emissions;

(2)(A) failure to control gasoline sulfur concentration adversely affects catalytic converter function for all vehicles in the national vehicle fleet; and

(B) research performed collaboratively by the auto and oil industries demonstrates that when sulfur concentration in motor vehicle gasoline is reduced from 450 parts per million (referred to in this section as "ppm") to 20 ppm—

(i) hydrocarbon emissions are reduced by 18 percent;

(ii) carbon monoxide emissions are reduced by 10 percent; and

(iii) nitrogen oxide emissions are reduced by 8 percent;

(3)(A) recent studies conducted by the Association of International Automobile Manufacturers, and the Coordinating Research Council confirm that sulfur in vehicle fuel impairs an even greater degree the emission controls of Low-Emission Vehicles (referred to in this section as "LEVs") and Ultra-Low-Emission Vehicles (referred to in this section as "ULEVs")

(B) because sulfur-induced impairment of advanced technology emission control systems is not fully reversible under normal in-use driving conditions, a nationwide, year-round sulfur standard is necessary to prevent impairment of vehicles' emission control systems as the vehicles travel across State lines;

(C) industry research on LEVs and ULEVs demonstrates that when gasoline sulfur concentration is lowered from 330 ppm to 40 ppm—

(i) hydrocarbon emissions are reduced by 34 percent;

(ii) carbon monoxide emissions are reduced by 43 percent; and

(iii) nitrogen oxide emissions are reduced by 51 percent;

(D) failure to control sulfur in gasoline will inhibit the introduction of more fuel-efficient technologies, such as direct injection engines and "NO, trap" after-treatment technology, which require fuel with a very low concentration of sulfur;

(E) the technology for removing sulfur from fuel during the refining process is readily available and currently in use; and

(F) the reduction of sulfur concentrations in fuel to the level required by this Act is a cost-effective means of improving air quality;

(4)(A) gasoline sulfur levels in the United States—

(i) average between 300 and 350 ppm and ranges as high as 1000 ppm; and

(ii) are far higher than the levels allowed in many other industrialized nations, and higher than the levels allowed by some developing nations;

(B) the European Union recently approved a standard of 150 ppm to take effect in 2000, to be phased down to 30 through 50 ppm by 2005;

(C) Japan has a standard of 50 ppm; and

(D) gasoline and diesel fuel in Australia, New Zealand, Taiwan, Hong Kong, Thailand, and Finland have significantly lower sulfur concentrations than comparable gasoline and diesel fuel in the United States.

(5)(A) California is the only State that regulates sulfur concentration in all gasoline sold; and

(B) in June 1996, California imposed a 2-part limitation on sulfur concentration in gasoline for all motor vehicles—40 ppm per gallon maximum, or a 30 ppm per gallon annual average with an 80 ppm per gallon maximum;
(6)(A) A 1998 regulatory impact analysis by the California Air Resources Board reports that air quality improved significantly in the year following the introduction of low sulfur gasoline.

(B) The California Air Resources Board credits low sulfur gasoline with reducing ozone levels by 10 percent on the South Coast, 2 percent in Sacramento, and 2 percent in the Bay Area; and

(7)(A) reducing sulfur concentration in gasoline to the level required by this Act is a cost-effective pollution prevention that will provide significant and immediate benefits; and

(B) Unlike vehicle hardware requirements that affect only new model years, sulfur control produces the benefits of reduced emissions of air pollutants across the vehicle fleet immediately upon implementation.

SEC. 3. SULFUR CONCENTRATION REQUIREMENTS FOR GASOLINE.

(a) In General.—Section 211 of the Clean Air Act (42 U.S.C. 7541) is amended—

(1) by redesignating subsection (o) as subsection (p); and

(2) by inserting after subsection (n) the following:

``(o) SULFUR CONCENTRATION REQUIREMENTS FOR GASOLINE.—

(1) REQUIREMENT.—Subject to subparagraph (B), effective beginning 4 years after the date of enactment of this paragraph, a person shall not manufacture, sell, supply, offer for sale or supply, dispense, transport, or introduce into commerce motor vehicle gasoline that contains a concentration of sulfur that is greater than 40 parts per million per gallon of gasoline.

(2) ALTERNATIVE METHOD OF MEASURING COMPLIANCE.—A person shall not be considered to be in violation of paragraph (1) if the person manufactures, sells, supplies, offers for sale or supply, dispenses, transports, or introduces into commerce by the person during the period of less than 30 parts per million per gallon of gasoline.

(b) REGULATIONS.—The Administrator shall promulgate such regulations as are necessary to carry out this paragraph.

``(1) LOWER SULFUR CONCENTRATION.—

(A) REQUIREMENT.—Subject to subparagraph (B), effective beginning 4 years after the date of enactment of this subsection, the Administrator shall establish, or, as an alternative, the State shall establish, standards for the concentration of sulfur in motor vehicle gasoline.

(B) ALTERNATIVE METHOD OF MEASURING COMPLIANCE.—A person shall not be considered to be in violation of paragraph (1) if the person manufactures, sells, supplies, offers for sale or supply, dispenses, transports, or introduces into commerce by the person during the period of less than 30 parts per million per gallon of gasoline.

(c) REGULATIONS.—The Administrator shall promulgate such regulations as are necessary to carry out this paragraph.

``(2) SULFUR CONCENTRATION REQUIREMENTS FOR GASOLINE.—

(1) REQUIREMENT.—Subject to subparagraph (B), effective beginning 4 years after the date of enactment of this paragraph, a person shall not manufacture, sell, supply, offer for sale or supply, dispense, transport, or introduce into commerce motor vehicle gasoline that contains a concentration of sulfur that is greater than 40 parts per million per gallon of gasoline.

(2) ALTERNATIVE METHOD OF MEASURING COMPLIANCE.—A person shall not be considered to be in violation of paragraph (1) if the person manufactures, sells, supplies, offers for sale or supply, dispenses, transports, or introduces into commerce by the person during the period of less than 30 parts per million per gallon of gasoline.

(d) REGULATIONS.—The Administrator shall promulgate such regulations as are necessary to carry out this paragraph.

SEC. 4. NITROGEN OXIDE ALLOWANCE PROGRAM.

(a) In General.—(1) ESTABLISHMENT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall establish a program to be known as the "Nitrogen Oxide Allowance Program.

(2) SCOPE.—The Program shall be conducted in the 48 contiguous States and the District of Columbia.

(3) ALLOCATIONS.—(A) ALLOCATION.—The Administrator shall allocate under paragraph (4)—

(i) for calendar years 2002 through 2004, 5,400,000 NOx allowances; and

(ii) for calendar year 2005 and each calendar year thereafter, 3,000,000 NOx allowances.

(B) USE.—Each NO allowance shall authorize an affected facility to emit—

(i) 1 ton of nitrogen oxide during each of the months of October, November, December, January, February, March, and April of any year; or

(ii) 1½ tons of nitrogen oxide during each of the months of May, June, July, August, and September of any year.

(4) ALLOCATION.—(A) DEFINITION OF TOTAL ELECTRIC POWER.—In this paragraph, the term "total electric power" means all electric power generated by utility and nonutility generators for distribution, including electricity generated from solar, wind, hydro power, nuclear power, cogeneration facilities, and the combustion of fossil fuel.

(B) ALLOCATION OF ALLOWANCES.—The Administrator shall allocate annual NOx allowances for each of the States in proportion to the State's share of the total electric power generated in all of the States.

(C) PUBLICATION.—The Administrator shall publish in the Federal Register a list of each State's NOx allowance allocation—

(i) by December 1, 2000, for calendar years 2002 through 2004;

(ii) by December 1, 2002, for calendar years 2005 through 2007; and

(iii) by December 1 of each calendar year after the calendar year that begins 61 months thereafter.

(5) INTRASTATE DISTRIBUTION.—(A) IN GENERAL.—A State may submit to the Administrator a request for the distribution of NOx allowances to affected facilities in the State—

(i) not later than September 30, 2001, for calendar years 2002 through 2004;

(ii) not later than September 30, 2003, for calendar years 2005 through 2012; and

(iii) not later than September 30 of each calendar year after the calendar year that begins 61 months thereafter.

(B) ACTION BY THE ADMINISTRATOR.—If a State submits a report under subparagraph (A), the Administrator shall distribute the NOx allowances to affected facilities in the State as detailed in the report.

(C) LATE SUBMISSION OF REPORT.—A report submitted by a State after September 30 of a specified year shall be of no effect.

(D) DISTRIBUTION IN ABSENCE OF A REPORT.—

(i) IN GENERAL.—Subject to subsection (e), if a State does not submit a report under subparagraph (A) not later than September 30 of the calendar year specified in subparagraph (A), the Administrator shall distribute the NOx allowances to affected facilities in the State as detailed in the report.

(ii) SUBSTITUTION.—In the case of a nonutility generator, the Administrator shall distribute the NOx allowances to affected facilities in the State specified in subparagraph (A) to affected facilities in the State in proportion to
the affected facility’s share of the total electric power generated in the State.

(ii) Determination of Facility’s Share.—In determining an affected facility’s share of total electric power generated in a State, the Administrator shall consider the net electric power generated by the facility and the State to be:

(1) for calendar years 2002 through 2004, the average annual amount of electric power generated, by the facility and the State, respectively, in calendar years 1997 through 1999;

(ii) for calendar years 2005 through 2012, the average annual amount of electric power generated, by the facility and the State, respectively, in calendar years 1999 through 2001; and

(iii) for calendar year 2013 and each calendar year thereafter, the amount of electric power generated, by the facility and the State, respectively, in the calendar year 5 years previous to the year for which the determination is made.

(E) Judicial Review.—A distribution of NOx allowances by the Administrator under subparagraph (D) shall not be subject to judicial review.

(B) ALLOWANCE TRANSFER SYSTEM.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Administrator shall promulgate a NOx allowance allocation, distribution, and use plan or plans, including a wholesale NOx allowance auction system, to carry out this paragraph.

(2) ALLOWANCE TRACKING SYSTEM.—

Not later than 18 months after the date of enactment of this Act, the Administrator shall promulgate regulations for issuing, recording, and tracking the use and transfer of NOx allowances that shall specify all necessary procedures and requirements for an orderly and competitive functioning of the NOx allowance system.

(3) Use of NOx allowances.—The regulations shall—

(A) prohibit the use but not the transfer in accordance with subparagraph (E) of any NOx allowance before the calendar year for which the NOx allowance is allocated; and

(B) provide that the unused NOx allowances shall be carried forward and added to NOx allowances allocated for subsequent years.

(4) Certification of Transfer.—

A transfer of a NOx allowance shall not be effective until a written certification of the transfer, signed by a responsible official of the person making the transfer, is received and recorded by the Administrator.

(C) NOx ALLOWANCE TRACKING SYSTEM.—

Not later than 18 months after the date of enactment of this Act, the Administrator shall promulgate regulations for issuing, recording, and tracking the use and transfer of NOx allowances that shall specify all necessary procedures and requirements for an orderly and competitive functioning of the NOx allowance system.

(d) Permit Requirements.—A NOx allowance allocation or transfer shall, on recordation by the Administrator, be considered to be a permit for the affected facility’s operation, permit requirements, without a requirement for any further permit review or revision.

(e) New Source Reserve.—

(i) IN GENERAL.—For a State for which the Administrator distributes NOx allowances under subsection (a)(5)(D), the Administrator shall place 10 percent of the total annual NOx allowances of the State in a new source reserve, and shall distribute to each new source a number of NOx allowances sufficient to allow emissions by the source at a rate equal to the lesser of (I) for calendar years 1997 through 2004, the average annual amount of electric power generated by the facility and the State, respectively, in calendar years 1997 through 1999; or (II) for calendar years 2005 through 2012, the average annual amount of electric power generated, by the facility and the State, respectively, in calendar years 1999 through 2001; and (III) for calendar year 2013 and each calendar year thereafter, the amount of electric power generated, by the facility and the State, respectively, in the calendar year 5 years previous to the year for which the determination is made.

(ii) CERTIFICATION OF TRANSFER.—A transfer of a NOx allowance, for purposes of paragraph (i), shall be effective only if the Administrator certifies in writing that the transfer is consistent with paragraph (i) of this subsection.

(iii) USE OF NOx ALLOWANCES.—Notwithstanding any other provision of law, the Administrator may terminate or limit a NOx allowance as provided in this Act.

(f) PROHIBITIONS.—

(i) IN GENERAL.—After January 1, 2000, it shall be unlawful—

(A) for the owner or operator of an affected facility to operate the affected facility in such a manner that the affected facility emits in excess of the amount permitted by the quantity of NOx allowances held by the designated representative of the affected facility; or

(B) for any person to hold, use, or transfer a NOx allowance allocated under this Act except as provided under this Act.

(ii) Other Emission Limitations.—

Section 407 of the Clean Air Act (42 U.S.C. 7407) is repealed.

(3) Time of use.—A NOx allowance may not be used before the calendar year for which the NOx allowance is allocated; and

(4) Permitting, Monitoring, and Enforcement.—Nothing in this section affects—

(A) the permitting, monitoring, and enforcement authority of the Administrator under the Clean Air Act (42 U.S.C. 7401 et seq.); or

(b) the requirements and liabilities of an affected facility under that Act.

(h) Saving Provisions.—Nothing in this section—

(i) affects the application of, or compliance with, the Clean Air Act (42 U.S.C. 7401 et seq.) for an affected facility, including the provisions related to applicable national pollutant emission standards and State implementation plans;

(ii) requires a change in, affects, or limits any State law regulating electric utility rates or charges, including prudency review under State law;

(iii) affects the application of the Federal Power Act (36 U.S.C. 71a et seq.), or the authority of the Federal Energy Regulatory Commission under that Act; or

(iv) interferes with or impairs any program for competitive bidding for power supply in a State in which the Program is established.

SEC. 5. INDUSTRIAL SOURCE MONITORING.

Section 412(a) of the Clean Air Act (42 U.S.C. 7602(a)) is amended by striking paragraph (3) and inserting the following:

(4) PROPOSED PLAN.—Not later than 60 days after the end of the year in which excess emissions occur, the owner or operator of an affected facility shall submit to the Administrator and the State in which the affected facility is located a proposed plan to achieve the offset required under paragraph (1), including a provision for approval of the proposed plan by the Administrator, as submitted, or as modified or conditioned by the Administrator, the plan shall be considered to have satisfied the offset requirement for the affected facility without further review or revision of the permit.

(c) Penalty Adjustment.—The Administrator shall annually adjust the amount of the penalty specified in subsection (a) to reflect changes in the Consumer Price Index as determined by the Bureau of Labor Statistics.

SEC. 7. SULFUR DIOXIDE ALLOWANCE PROGRAM REVISIONS.

Section 402 of the Clean Air Act (42 U.S.C. 7653a) is amended by striking paragraph (3) and inserting the following:
"(3) ALLOWANCE.—The term ‘allowance’ means an authorization, allocated to an affected unit by the Administrator under this title, to emit, during or after a specified calendar year.

(A) in the case of allowances allocated for calendar years 1997 through 2004, 1 ton of sulfur dioxide; and

(B) in the case of allowances allocated for calendar year 2005 and each calendar year thereafter, ¾ ton of sulfur dioxide.”

SEC. 8. REGIONAL ECOSYSTEMS.

(a) REPORT.—

(1) IN GENERAL.—Not later than December 31, 2002, the Administrator shall submit to Congress a report identifying objectives for the regional ecosystems referred to in paragraph (1), the Administrator, that are sufficient to protect sensitive ecosystems of the Adirondack Mountains, mid-Appalachian Mountains, Rocky Mountains, and Southern Blue Ridge Mountains and water bodies of the Great Lakes, Lake Champlain, Long Island Sound, and the Chesapeake Bay.

(2) ACID NEUTRALIZING CAPACITY.—The report under paragraph (1) shall—

(A) include acid neutralizing capacity as an indicator of the effects of air pollution on the regional ecosystems referred to in paragraph (1); and

(B) identify as an objective under paragraph (1) the objective of increasing the proportion of water bodies in sensitive receptor areas having acid neutralizing capacity greater than zero from the proportion identified in surveys begun in 1984.

(3) UPDATED REPORT.—Not later than December 31, 2008, the Administrator shall submit to Congress a report updating the report under paragraph (1) and assessing the status and trends of various environmental indicators for the regional ecosystems referred to in paragraph (1).

(b) REPORTS UNDER THE NATIONAL AIR QUALITY STANDARDS PROGRAM.—The Administrator shall submit a report updating the information contained in the initial report.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) to carry out subsection (a), $1,000,000 for each of fiscal years 2000 through 2005; and

(2) to carry out subsection (b), $1,000,000 for each of fiscal years 2000, 2001, 2007, and 2008.

Mr. MOYNIHAN. Mr. President, today I rise to introduce a bill that will amend several parts of our existing immigration laws, specifically those that fall under the umbrella of the Immigration and Nationality Act.

AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT

By Mr. MOYNIHAN:

S. 173. A bill to amend the Immigration and Nationality Act to require the Immigration and Naturalization Service to treat aggravated felons in a manner consistent with the requirements of the Act; and for other purposes.

Mr. MOYNIHAN. Mr. President, today I rise to introduce a bill that will amend several parts of our existing immigration laws, specifically those that fall under the umbrella of the Immigration and Nationality Act. These changes are aimed at making our immigration laws not only fairer but more efficient.

The first change will amend Section 240(a) of the Immigration and Nationality Act. In 1996, the laws applying to aliens convicted of crimes were made retroactive. For example, all persons guilty of aggravated felonies—the number of crimes that fall into this category was greatly expanded and made retroactive in 1996—are now ineligible for any form of legal immigration.

Another of my amendments made the transitional rules permanent governing Section 236(c) of the Immigration and Nationality Act. This section now requires that all criminal aliens be detained from the time of their release on criminal charges until their deportation hearing. This requirement was so harsh and expensive that Congress provided a two-year transition period, ending on October 1998, that allowed immigration judges to use their discretion in evaluating whether or not an individual was a risk of flight or a danger to the community. This discretion has been continued because it has led to many injustices because of the sheer number of offenses that are now aggravated felonies. I propose that we deny relief only to those who have been convicted of aggravated felonies that carry a penalty of five years or more in prison.

In conjunction with this, I propose that we amend Section 240A(d)(1). This provision says that the time for determining the above seven years residency period stops when an aggravated crime charge is filed. This provision has led to many injustices because the countable residence period stops only when formal immigration charges are filed bringing a criminal proceeding and not when the crime is or was committed.

Another of my amendments made the transitional rules permanent governing Section 236(c) of the Immigration and Nationality Act. This section now requires that all criminal aliens be detained from the time of their release on criminal charges until their deportation hearing. This requirement was so harsh and expensive that Congress provided a two-year transition period, ending on October 1998, that allowed immigration judges to use their discretion in evaluating whether or not an individual was a risk of flight or a danger to the community. This discretion has been continued because it has led to many injustices because of the sheer number of offenses that are now aggravated felonies. I propose that we deny relief only to those who have been convicted of aggravated felonies that carry a penalty of five years or more in prison.

I also propose that we restore judicial review in deportation cases. The 1996 reforms ostensibly banned criminal aliens from seeking a judicial review of their case. The courts have reached many different outcomes over this ban and the situation, frankly, is a mess. I believe that criminal aliens should have the right to have their convictions reviewed by a United States circuit court of appeals.

Similarly, I believe that aliens should have the right to legal counsel when they are faced with removal. The law now provides that an alien is entitled to counsel if he can afford to retain one. In reality, this has created great expense and delay for the Federal government because cases are often continued because it is expensive for aliens to try to find counsel or counsel they can afford. My bill creates a pilot program in selected Immigrations and Nationalization districts.
where free, expert counsel would be provided to aliens. A study of the impact on overall Department of Justice costs would be required to decide if this program should be extended nationwide.

My last amendments are concerned with what should be admitted to this country. The most objectionable element of our current admission system is the delay—estimated to be five years—for a vitally important family reunion category, part A of the second family preference category (FS-2A). This category, for admission of spouses and minor children of lawful permanent residents, is now limited to 114,000 per year. Nuclear families should live together. To obtain more spaces for the FS-2A preference, the diversity lottery visas should be eliminated, freeing 55,000 spaces annually.

Lastly, I believe that the EB-5 preference for investors should be repealed. The rich should not be able to buy their way into this country. This category was added in 1990 to encourage investment. Instead, this provision has led to the creation of some highly questionable investment schemes that have cost the Immigration and Naturalization Service untold hours and resources in attempting to reign them in. Moreover, the evidence of new jobs being created is very thin and not worth the administrative costs.

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

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

S. 173

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

SECTION 1. AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.

(a) Cancellation of Removal.—
(1) IN GENERAL.—Section 240A(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1229a(a)(3)) is amended to read as follows:

``(3) has not been convicted of any aggravated felony punishable by imprisonment for a period of more than one year;'';
(2) Termination of Continuous Period.—
Section 240A(d)(1) of that Act (8 U.S.C. 1229a(d)(1)) is amended by striking ``or when'' and all that follows through ``earliest'';
(b) Custody Rules.—
(1) IN GENERAL.—Section 290(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1225c(c)(2)) is amended by striking ``or when'' and all that follows through ``earliest'';
(2) Release.—The Attorney General may release an alien described in paragraph (1) or (2) of subsection (a) of this section if the alien is not a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding; or
(3) The alien was lawfully admitted to the United States and satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding; or
(4) The alien was not lawfully admitted to the United States and cannot be removed because the designated country of removal will not accept the alien, and satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding;''.

(2) REPEAL.—Section 303(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is repealed.

(c) Judicial Review.—Section 242(a)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(2)(C)) is amended by striking ``no court shall have jurisdiction to review any'' and inserting ``a court of appeals for the judicial circuit in which a final order of removal was issued shall have jurisdiction to review the''.

(D) Right to Counsel.—Section 292 of the Immigration and Nationality Act (8 U.S.C. 1362) is amended—

(1) by striking ``in'' and inserting Except as provided in paragraph (2), in''; and
(2) by adding the following:

``(2) In any removal proceedings before an immigration judge and in any appeal proceedings before the Attorney General from such removal proceedings (in three designated districts), the person concerned shall have the privilege of being represented by court-appointed counsel who shall be paid by the United States and who are authorized to practice in such proceedings, as he shall choose.''

(e) Repeals.—The following provisions of the Immigration and Nationality Act are repealed:

(1) Section 238(b)(5) (8 U.S.C. 1165(b)(5)).
(2) Section 238(c) (8 U.S.C. 1165(c)).
(3) Section 203(a)(3) and (201(e) (8 U.S.C. 1151(a)(3), 1151(e)).
(4) Section 203(a)(1)(F) and (G) (8 U.S.C. 1154(a)(1)(F) and (G)).

(B) Mr. MOYNIHAN (for himself, Mr. BENNETT, and Mr. DODD):

S. 174. A bill to provide funding for States to correct Y2K problems in computers that are used to administer State and local government programs; to the Committee on Finance.

Y2K State and Local Gap (Government Assistance Programs) Act of 1999

Mr. MOYNIHAN. Mr. President, I rise today to introduce the "Y2K State and Local Government Assistance Programs (GAP) Act of 1999." I am pleased to have Senators ROBERT F. BENNETT (R-Ut) and CHRISTOPHER I. DODD (D-CT), the Chairman and Vice Chairman, respectively, of the Special Committee on the Year 2000 Technology Problem, as original cosponsors of this legislation.

This bill provides a matching grant for states to work on the millennium computer problem. While the Federal government and large corporations are expected to have their computers intact on January 1, 2000, state governments lag behind in fixing the problem. Failure of state computer systems could have a devastating effect on those individuals who rely on essential state-administered poverty programs, such as Medicaid, food stamps, and child welfare and support. These individuals cannot go a day, week, or a lifetime without their computers working properly. I am hopeful that the bill will have widespread support from states, municipalities, and those programs, working progress. It is for this reason that Senators BENNETT, DODD, and I are introducing this bill today.

The "Y2K State and Local Gap Act of 1999" provides for states to allocate Y2K assistance funds to solve problems that may impede public services and infrastructure, which may have a devastating effect on the United States. The bill will add the following:

S. 174. A bill to provide funding for States to correct Y2K problems in computers that are used to administer Federal government programs; to the Committee on Finance. CRS issued the report to me with the following comments: "The Year 2000 problem is indeed serious, and fixing it will be costly and time-consuming. The problem deserves the careful and coordinated attention of the Federal government, as well as the private sector. In my major disruption on January 1, 2000," I wrote the President on July 31, 1996 to relay the findings of CRS and make him aware of this grave problem. In the letter, I warned the President of the "extreme negative consequences" of the Y2K Time Bomb," and suggested that "a presidential aide be appointed to take responsibility for assuring that all Federal agencies, including the military, be Y2K compliant by January 1, 1999 [leaving a year for 'testing'] and that all commercial and industrial firms doing business with the Federal government must also be compliant by that date."

Since that time, the government has taken some of the necessary steps to combat the millennium bug. President Clinton last year appointed a presidential aide to oversee the Federal government's efforts to fix the millennium bug. The President has since appointed a Federal Coordinating Council to monitor the progress of the Federal government's millennium computer problem. The President has also requested an extra $1 billion in Y2K funding from Congress, and the government has found remarkably few date-related problems.

Mr. Koskinen predicts that the bug's impact will be similar to a powerful winter storm—minor inconveniences for many people and severe, but short-term disruptions in certain communities. I agree with Mr. Koskinen and that Y2K experts have become optimistic enough to dismiss doomsday predictions of widespread power outages, telephone failures, and grounded jetliners in the U.S. Businesses and Federal agencies that were lagging in their repair work last year have redoubled their efforts in recent months; telephone and electric networks, which are crucial to the operation of almost all large computer systems, are in better-than-expected shape; and technicians have found remarkably few date-related problems.

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food stamps, child support enforcement, child care, and child welfare programs—be listed as priority programs. The people dependent on these programs will be the most adversely affected by the problem if state computers crash. To be eligible for federal support money, states must submit a plan describing their Y2K development and implementation program. A state that is awarded a grant under this legislation is required to expend $1 for every $2 in federal support money provided. The matching requirement will give states and local governments incentive to work on their computers. And the numbers indicate that states need a great amount of incentive and help on this issue.

According to a National Association of State Information Resource Executives survey, some states have not yet completed work on any of their critical systems, and those systems responsible for administering poverty programs are a real concern. A November 1998 General Accounting Office (GAO) report found that most of the systems used to administer these programs are not ready for the new millennium—84 percent of Medicaid systems, 76 percent of food stamps, and 75 percent of TANF systems were not compliant. Since these programs are administered at the state and local level, it is these computers which ensure that benefit payments are on time and accurate. Given the lack of means of those assisted by the programs, the possible disruption of benefit payments should be a cause for concern—a trillion dollars in benefits payments might not be delivered because of the millennial malady.

Historically the fin de siecle has caused quite a stir. Prophets, prelates, monks, mathematicians, and soothsayers warn Anno Domini 2000 will draw the world to its catastrophic conclusion. I am confident that the Y2K problem will not play a part in this. But the excuse to work on this problem with purpose and dedication. Disraeli wrote: “Man is not the creature of circumstances. Circumstances are the creatures of men.” We created the Y2K problem and we must fix it.

Mr. President, I ask unanimous consent that the Y2K State and Local Government Assistance Programs Act of 1999 be printed in the Record. There being no objection, the bill was ordered to be printed in the Record, as follows:

SEC. 3. GRANTS TO STATES TO MAKE LOCAL AND STATE DEVELOPMENT AND IMPLEMENTATION PROGRAMS Y2K COMPLIANT. (a) AUTHORITY TO AWARD GRANTS.—(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Commerce shall award grants in accordance with this section to States for purposes of making grants to assist the States and local governments in making programs administered by the States and local governments Y2K compliant. The Secretary of Commerce shall give priority to grant requests that relate to making Federal welfare programs Y2K compliant.

(b) LIMITATIONS.—(A) NUMBER OF GRANTS.—No more than 75 grants may be awarded under this section.
(B) PER STATE LIMITATION.—Not more than 2 grants authorized under this section may be awarded per State.
(C) APPLICATION DEADLINE.—45 days after enactment.
(D) APPLICATION.—(1) IN GENERAL.—A State, through the State Governor's Office, may submit an application for a grant under this section at such time within the constraints of paragraph Sec. 3(a)(2)(C) and in such manner as the Secretary of Commerce may determine.

SEC. 4. CONDITIONS FOR APPROVAL OF APPLICATIONS.—(A) A description of a proposed plan for the development and implementation of a Y2K compliance program for the State's programs or for a local government program, including a proposal for the period and a request for a specific funding amount.

(C) CONDITIONS FOR APPROVAL OF APPLICATIONS.—(A) MAPPING REQUIREMENT.—(1) IN GENERAL.—A State awarded a grant under this section may expend $1 for every $2 awarded under the grant to carry out the development and implementation of a Y2K compliance program for the State's programs or for a local government program.

(B) WAIVER FOR HARDSHIP.—The Secretary of Commerce may waive or modify the matching requirement described in subparagraph (A) in the case of any State that the Secretary of Commerce determines would suffer undue hardship as a result of being subject to the requirement.

At 10:35 a.m., Mr. MOYNIHAN explained:

S. 175. A bill to repeal the habeas corpus requirement that the federal court defer to State court judgments and up- hold a conviction regardless of whether the Federal court believes that the State court erroneously interpreted constitutional law, except in cases where the Federal court believes that the State court acted in an unreasonable manner; to the Committee on the Judiciary.

HABEAS CORPUS LEGISLATION

S. 175. A bill to repeal the habeas corpus requirement that the federal court defer to State court judgments and uphold a conviction regardless of whether the Federal court believes that the State court erroneously interpreted constitutional law, except in cases where the Federal court believes that the State court acted in an unreasonable manner; to the Committee on the Judiciary.

The provision reads:

A habeas corpus action by a person in custody pursuant to the judgment of State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

(A) was not decided in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

(B) resulted in a decision that was based on an unreasonable determination of the facts

SEC. 2. DEFINITIONS. In this Act—

(A) WAIVER FOR HARDSHIP.—The Secretary of Commerce may waive or modify the matching requirement described in subparagraph (A) in the case of any State that the Secretary of Commerce determines would suffer undue hardship as a result of being subject to the requirement.

(C) NON-FEDERAL EXPENDITURES.—(i) CASH OR IN KIND.—State expenditures required under subparagraph (A) may in part be in cash or in kind, fairly evaluated, including equipment, or services.

Mr. MOYNIHAN, Mr. President, I introduce this bill to repeal an unprecedented provision—unprecedented until the 104th Congress—to tamper with the constitutional protection of habeas corpus.
in light of the evidence presented in the State court proceeding.

In 1996 we enacted a statute which holds that constitutional protections do not exist unless they have been unreasonably violated, an idea that would have baffled the framers. Thus, we introduced a virus that will surely spread throughout our system of laws.

Article I, section 9, clause 2 of the Constitution stipulates, "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it."

We are mightily and properly concerned about the public safety, which is why we enacted the counter-terrorism bill. But we have not been invaded, Mr. President, and the only rebellion at hand appears to be against the Constitution itself. We are dealing here, sir, with a fundamental provision of law, the cornerstone of the essential civil liberties which precede and are the basis of political liberties.

The writ of habeas corpus is often referred to as the "Great Writ of Liberty." Two great lawyers of the Supreme Court, Mr. Justice Blackstone and Mr. Justice Marshall, called it "the most celebrated writ in English law, and the great and efficacious writ in all manner of illegal imprisonment."

I repeat what I have said previously here in the Senate floor: If I had to choose between living in a country with habeas corpus but without free elections, or a country with free elections but without habeas corpus, I would choose habeas corpus every time. Congress is also the first to admit that habeas corpus is a fundamental civil liberty on which every democratic society of the world has built political liberties that have come subsequently.

I make the point that the abuse of habeas corpus—appeals of capital sentences—is hugely overstated. A 1995 study by the Department of Justice’s Bureau of Justice Statistics determined that habeas corpus appeals by death row inmates constitute 1 percent of all federal filings. Federal habeas filings make up 4 percent of the caseload of federal district courts. And most federal habeas petitions are disposed of in less than 1 year. The serious delays occur in State courts, which take an average of 5 years to dispose of habeas petitions. If there is delay, the delay is with the State courts.

It is troubling that Congress has undertaken to tamper with the Great Writ, a remedy designed to respond to the tragic circumstances of the Oklahoma City bombing 1995. Habeas corpus has little to do with terrorism. The Oklahoma City bombing was a Federal crime and has been tried in Federal court.

Nothing in our present circumstance requires the suspension of habeas corpus, which was the practical effect of the provision in that bill. To require a Federal court to defer to a State court’s judgment unless the State court’s decision is "unreasonably wrong" effectively precludes Federal review. I find this disorienting.

Anthony Lewis has written of the habeas provision in that bill: "It is a new and remarkable concept in law: that mere wrongness in a constitutional decision is not to be noticed." We have agreed to this; to what will we be added? The question is: besides observation, a person of great experience, long a student of the courts, "It is a new and remarkable concept in law: that mere wrongness in a constitutional decision is not to be noticed." Backward read the Constitution.

On December 8, 1995, four former U.S. Attorneys General, two Republicans and two Democrats, all persons with whom I have the honor to be acquainted, Benjamin B. Civiletti, J. E., Edward H. Levi, Nicholas Katzenbach, and Elliot Richardson—I served in administrations with Mr. Levi, Mr. Katzenbach, Mr. Richardson; I have the deepest respect for them—wrote President Clinton. I paraphrase their unanimous consent that the full text be printed in the RECORD.

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

DECEMBER 8, 1995.


DEAR MR. PRESIDENT: The habeas corpus provisions in the Senate terrorism bill, which the House will soon take up, are unconstitutional. In order to expedite the death penalty review process, the litigation and constitutional rulings will in fact delay and frustrate the implementation of the statute. We strongly urge you to communicate to the Congress your resolve and your duty under the Constitution, to prevent the enactment of such unconstitutional legislation and the consequent disruption of so critical a part of our criminal punishment system.

The constitutional infirmities reside in three provisions of the legislation: one requiring federal courts to defer to erroneous state court rulings on federal constitutional matters, one imposing time limits which would virtually eliminate federal habeas corpus review at all, and one preventing the federal courts from hearing evidence necessary to decide a federal constitutional question. They violate the Habeas Corpus Suspension Clause, the judicial powers of Article III, and due process. None of these provisions appeared in the bill: "It is a new and remarkable concept in law: that mere wrongness in a constitutional decision is not to be noticed." Gutierrez de Martinez v. Casey, 517 U.S. (469 U.S.) (1996).

The deference requirement would bar any federal court from granting habeas corpus review of state court rulings on federal constitutional matters, one imposing time limits which would virtually eliminate federal habeas corpus review at all, and one preventing the federal courts from hearing evidence necessary to decide a federal constitutional question. They violate the Habeas Corpus Suspension Clause, the judicial powers of Article III, and due process. None of these provisions appeared in the bill: "It is a new and remarkable concept in law: that mere wrongness in a constitutional decision is not to be noticed." Gutierrez de Martinez v. Casey, 517 U.S. (469 U.S.) (1996).

Despite the deference requirements, the federal habeas corpus petition was filed, a federal court was assigned to hear it, and a habeas corpus review under certain circumstances, violates the Constitution’s Suspension Clause, which provides: "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." (Art. I, Sec. 9, cl. 1). Any doubt as to the operation of this guarantee under this legislation is rooted in America’s legal traditions and conscience. There is no case in which a "state court's incorrect legal determination has ever been allowed to stand because it was reasonable." Justice O’Connor found in Wright v. West, 116 S. Ct. 2485, 2491; "We have always held that federal courts, when reviewing habeas corpus, have an independent obligation to say what the law is." Indeed, Alexander Hamilton argued, in The Federalist No. 84, that the existence of just two protections—habeas corpus and the prohibition against ex post facto laws—obviated the need to add a Bill of Rights to the Constitution.

The deference requirement may also violate the powers granted to the judiciary under Article III. By stripping the federal courts of authority to exercise independent judgment and forcing them to defer to previous judgments made by state courts, the provision runs afoul of the oldest constitutional mission of the federal courts: "the duty...to say what the law is." Marbury v. Madison, 5 U.S. (1 Cranch) 137, 177 (1803). Although Congress is free to alter the federal courts’ jurisdiction, it cannot order them how to interpret the Constitution or to determine the case or state outcome in the merits. United States v. Klein, 90 U.S. (14 Wall.) 128 (1870). In 1996, the Supreme Court reiterated that Congress has the authority to assign "to any Article III court..." Congress may be free to establish a "...scheme that operates without court participation," the Court said, "but that is a matter quite different from instructing a court automatically to enter a judgment pursuant to a decision the court has not authority to evaluate." Gutiérrez de Martinez v. Casey, 517 U.S. (469 U.S.) (1996).

Finally, in prohibiting evidentiary hearings where the constitutional issue raised depends on guilt or innocence, the legislation again violates Due Process. A violation of constitutional rights cannot be judged in a vacuum. The determination of the facts as a matter of importance is as great as the validity of the substantive rule of law to be applied." Wingo v. Wedding, 418 U.S. 618, 618 (1974). In 1996, the last time habeas corpus legislation was debated at length in constitutional terms was in 1968. A bill substantially eliminating habeas corpus review, which was a State priority, failed because, as Republican Senator Hugh Scott put it at the end of debate, “if Congress tamper with the great writ, its action would have perhaps as much effect as any Constitution or the celebrated celluloid dog chasing the asbestos cat through hell.”
In more recent years, the habeas reform debate has been viewed as a mere adjunct of the debate over the death penalty. But when the Senate took up the terrorism bill this year, that argument sought to conflict with the large framework of constitutional liberties: “If I had to live in a country which had habeas corpus but not free elections,” he said, “I would take habeas corpus every time.” Senator Chafee noted that his uncle, a Harvard law scholar, has called habeas corpus “the most important human rights provision in the Constitution.” With the debate back on constitutional grounds, Senator Biden’s amendment to delete the deference requirement was defeated, with 46 votes.

We respectfully ask that you insist, first and foremost, on the preservation of independent federal review, i.e., on the rejection of any amendment that federal courts defer to state court judgments on federal constitutional questions. We also urge that separate time limits be set for filing federal and state habeas corpus petitions—a modest change which need not interfere with the setting of strict time limits—and that they begin to run only upon the appointment of competent counsel. And we urge that evidentiary hearings be permitted wherever the factual record is deficient on an important constitutional issue. We can either fix the constitutional flaws now, or wait through several years of litigation and confusion before being sent back to the drawing board. Ultimately, as the public’s interest in the prompt and fair disposition of criminal cases which will suffer. The passage of an unconstitutional bill helps no one.

We respectfully urge you, as both President and a former professor of constitutional law, to call upon Congress to remedy these flaws before sending the terrorism bill to your desk. We think it an opportunity to meet with you personally to discuss this matter so vital to the future of the Republic and the liberties we all hold dear.

Sincerely,

BENJAMIN R. CIVILETTI, J.R.,
Baltimore, MD.

EDWARD H. LEVI,
Chicago, IL.

NICHOLAS DEB.

CATZENBACK,
Princeton, NJ.

ELLIOT L. RICHARDSON,
Washington, DC.

Mr. MOYNIHAN. Let me read excerpts from the letter:

The habeas corpus provisions in the Senate bill * * * are nullified by the Constitution. The attempt in large part to expedite the death penalty review process, the litigation and the prohibition against ex post facto laws—obviated the need to add a Bill of Rights to the Constitution.

The letter from the Attorneys General continues, but that is the gist of it. I might point out that there was, originally, an objection to ratification of the Constitution, with those objecting arguing that there had to be a Bill of Rights added. Madison wisely added one during the first session of the first Congress. But he and Hamilton and Jay, as authors of the “Federalist Papers,” argued that with habeas corpus and the prohibition against ex post facto laws in the Constitution, there would be no need even for a Bill of Rights.

To cite Justice O’Connor again: “A state court’s incorrect legal determination has perhaps as much weight as a state court’s incorrect factual determination, because it was reasonable.”

Justice O’Connor went on: “We have always held that Federal courts, even on habeas, have an independent obligation to say what the law is.”

Mr. President, we can fix this now. Or, as the Attorneys General state, we “wait through several years of litigation and confusion before being sent back to the drawing board.” I fear that we will not fix it now.

We Americans think of ourselves as a new nation. We are not. Of the countries that existed in 1914, there are only eight which have not had their form of government changed by violence since then. Only the United Kingdom goes back to 1787 when the delegates who drafted our Constitution established this Nation, which continues to exist. In those other nations, sir, a compelling struggle took place, from the middle of the 18th century until the middle of the 19th century, and beyond into the 20th, in some countries, to establish those basic civil liberties which are the foundation of political liberties and, or those, none is so precious as habeas corpus, the “Great Writ.”

Here we are trivializing this treasure, putting in jeopardy a tradition of protection of individual rights by Federal courts that goes back to our earliest foundation. And the virus will spread. Why are we in such a rush to amend our Constitution? Why are we in such a rush to amend the Constitution, when the executive enforces them, it is the courts and the legislature makes the laws, and the executive enforces them, it is the courts that tell us what the law says and whether those conform to the Constitution.

This notion of judicial review has been part of our heritage for nearly two hundred years. There is no case in American jurisprudence than Marbury v. Madison and few more famous dicta than Chief Justice Marshall’s that “It is emphatically the province and duty of the judicial department to say what the law is.”

But in order for the court to interpret the law, it must decide cases. If it cannot hear certain cases, then it cannot protect certain rights.

We need to deal resolutely with terrorism. And we have. But under the guise of combating terrorism, we have dismantled the fundamental civil liberties that Americans have enjoyed for two centuries; therefore the terrorists will have won.

My bill will repeat this dreadful, unconstitutional provision now in public law. I ask unanimous consent that the article entitled “Footnote on Damage to Constitutional Liberties,” by Nat Hentoff from the Washington Post of November 16, 1996; and the article entitled “Clinton’s Sorriest Record” from the New York Times of October 14, 1996; be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:
There have been American presidents to whom the Constitution has been a nuisance to be overruled by any means necessary. In 1978, only seven years after the Bill of Rights was ratified, John Adams triumphantly led Congress to pass the Alien and Sedition Acts, which imprisoned a number of journalists and others for bringing the president or Congress into "contempt or disrepute." He made no mention of the First Amendment.

During the Civil War, Abraham Lincoln actually suspended the writ of habeas corpus. Alleged constitutional guarantees of peaceful dissent were swept away during the First Amendment War—with the approval of Woodrow Wilson. For example, there were more than 1,900 prosecutions for anti-war books, newspaper articles, pamphlets and speeches. And Richard Nixon seemed to regard the Bill of Rights as primarily a devilish source of aid to his enemies.

No American president, however, has done so much damage to constitutional liberties as Bill Clinton—often with the consent of the Republican Congress. But it has been Clinton who had the power and the will to seriously weaken our binding document in ways that were almost entirely ignored by the electorate and the press during the campaign.

Unlike Lincoln, for example, Clinton did a lot more than temporarily suspend habeas corpus. One of his bills that has been enacted into law guts the rights that Thomas Jefferson and others insisted be included in the Constitution. A state prisoner on death row now has only a year in which to sue in federal court to review the constitutionality of his trial or sentence in any previous cases of prisoners eventually freed after years of waiting to be executed, proof of their innocence has been discovered long after the present one-year limit.

Moreover, the Clinton administration is—like the ACLU's Laura Murphy recently told the National Law Journal—"the most wire-tap-friendly administration in history."

And Clinton ordered the Justice Department to appeal to the Supreme Court of Appeals decision declaring unconstitutional the Communications Decency Act censoring the Internet, which he signed into law.

There is a chilling insouciance in Clinton's elbowing the Constitution out of the way. He blithely, for instance, has stripped the courts of their power to hear certain kinds of cases. And as Anthony Lewis points out in the New York Times, Clinton has denied many people their day in court.

For example, says Lewis, "The new immigration law * * * takes away the rights of thousands of aliens who may be entitled to legal status, under a 1955 law, if the government has failed to give them amnesty to illegal aliens." Cases involving as many as 300,000 people who may still qualify for amnesty have been waiting to be heard under a 1955 law, a federal court has ruled, that has been largely vacant and "has been thrown open to the world by the new immigration law."

There have been other Clinton revisions of the Constitution, but in sum—as David Boaz of the Cato Institute has accurately put it—Clinton has shown "a breathtaking view of the power of the federal government, a view directly opposite the meaning of 'civil liberties.'"

During the campaign there was no mention at all of this breathtaking exercise of federal power over constitutional liberties. None by former President Ford, who has clearly been in agreement with this big government approach to constitutional "guarantees." The principal press the candidates about the Constitution.

Laur Murphy concludes that "both Clinton and Dole are indicative of how far the American public has moved from the notions embodied in the Bill of Rights." She omitted the role of the press, which seems focused primarily on that part of the First Amendment that deals with "terrorist"—that is to say, that which has been unable to do so because improper I.N.S. regulations discouraged them.

The Supreme Court held that those who could show they were entitled to amnesty but were put off by the I.N.S. rules could file late. Lawsuits involving thousands of people are pending. But the new immigration law throws all those cases—and individuals—out of court.

Another case, in the courts for years, is to be overruled by any means necessary. In 1993, the courts held that the Clinton administration's deeming aliens to be enemy aliens on the ground that they are suspected of a connection to terrorism, without letting them go to court. The Supreme Court held that those who could show they were entitled to amnesty but were put off by the I.N.S. rules could file late. Lawsuits involving thousands of people are pending. But the new immigration law throws all those cases—and individuals—out of court.

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There have been other Clinton revisions of the Constitution, but in sum—as David Boaz of the Cato Institute has accurately put it—Clinton has shown "a breathtaking view of the power of the federal government, a view directly opposite the meaning of 'civil liberties.'"

During the campaign there was no mention at all of this breathtaking exercise of federal power over constitutional liberties. None by former President Ford, who has clearly been in agreement with this big government approach to constitutional "guarantees." The principal press the candidates about the Constitution.

Laur Murphy concludes that "both Clinton and Dole are indicative of how far the American public has moved from the notions embodied in the Bill of Rights." She omitted the role of the press, which seems focused primarily on that part of the First Amendment that deals with "terrorist"—that is to say, that which has been unable to do so because improper I.N.S. regulations discouraged them.

The Supreme Court held that those who could show they were entitled to amnesty but were put off by the I.N.S. rules could file late. Lawsuits involving thousands of people are pending. But the new immigration law throws all those cases—and individuals—out of court.

Another case, in the courts for years, is to be overruled by any means necessary. In 1993, the courts held that the Clinton administration's deeming aliens to be enemy aliens on the ground that they are suspected of a connection to terrorism, without letting them go to court. The Supreme Court held that those who could show they were entitled to amnesty but were put off by the I.N.S. rules could file late. Lawsuits involving thousands of people are pending. But the new immigration law throws all those cases—and individuals—out of court.

There have been American presidents to whom the Constitution has been a nuisance to be overruled by any means necessary. In 1978, only seven years after the Bill of Rights was ratified, John Adams triumphantly led Congress to pass the Alien and Sedition Acts, which imprisoned a number of journalists and others for bringing the president or Congress into "contempt or disrepute." He made no mention of the First Amendment.

During the Civil War, Abraham Lincoln actually suspended the writ of habeas corpus. Alleged constitutional guarantees of peaceful dissent were swept away during the First Amendment War—with the approval of Woodrow Wilson. For example, there were more than 1,900 prosecutions for anti-war books, newspaper articles, pamphlets and speeches. And Richard Nixon seemed to regard the Bill of Rights as primarily a devilish source of aid to his enemies.

No American president, however, has done so much damage to constitutional liberties as Bill Clinton—often with the consent of the Republican Congress. But it has been Clinton who had the power and the will to seriously weaken our binding document in ways that were almost entirely ignored by the electorate and the press during the campaign.

Unlike Lincoln, for example, Clinton did a lot more than temporarily suspend habeas corpus. One of his bills that has been enacted into law guts the rights that Thomas Jefferson and others insisted be included in the Constitution. A state prisoner on death row now has only a year in which to sue in federal court to review the constitutionality of his trial or sentence in any previous cases of prisoners eventually freed after years of waiting to be executed, proof of their innocence has been discovered long after the present one-year limit.

Moreover, the Clinton administration is—as the ACLU's Laura Murphy recently told the National Law Journal—"the most wire-tap-friendly administration in history."

And Clinton ordered the Justice Department to appeal to the Supreme Court of Appeals decision declaring unconstitutional the Communications Decency Act censoring the Internet, which he signed into law.

There is a chilling insouciance in Clinton's elbowing the Constitution out of the way. He blithely, for instance, has stripped the courts of their power to hear certain kinds of cases. And as Anthony Lewis points out in the New York Times, Clinton has denied many people their day in court.

For example, says Lewis, "The new immigration law * * * takes away the rights of thousands of aliens who may be entitled to legal status, under a 1955 law, if the government has failed to give them amnesty to illegal aliens." Cases involving as many as 300,000 people who may still qualify for amnesty have been waiting to be heard under a 1955 law, a federal court has ruled, that has been largely vacant and "has been thrown open to the world by the new immigration law."

There have been other Clinton revisions of the Constitution, but in sum—as David Boaz of the Cato Institute has accurately put it—Clinton has shown "a breathtaking view of the power of the federal government, a view directly opposite the meaning of 'civil liberties.'"

During the campaign there was no mention at all of this breathtaking exercise of federal power over constitutional liberties. None by former President Ford, who has clearly been in agreement with this big government approach to constitutional "guarantees." The principal press the candidates about the Constitution.

Laur Murphy concludes that "both Clinton and Dole are indicative of how far the American public has moved from the notions embodied in the Bill of Rights." She omitted the role of the press, which seems focused primarily on that part of the First Amendment that deals with "terrorist"—that is to say, that which has been unable to do so because improper I.N.S. regulations discouraged them.

The Supreme Court held that those who could show they were entitled to amnesty but were put off by the I.N.S. rules could file late. Lawsuits involving thousands of people are pending. But the new immigration law throws all those cases—and individuals—out of court.

Another case, in the courts for years, is to be overruled by any means necessary. In 1993, the courts held that the Clinton administration's deeming aliens to be enemy aliens on the ground that they are suspected of a connection to terrorism, without letting them go to court. The Supreme Court held that those who could show they were entitled to amnesty but were put off by the I.N.S. rules could file late. Lawsuits involving thousands of people are pending. But the new immigration law throws all those cases—and individuals—out of court.
Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill to establish a cultural zone commemorating the Harlem Renaissance, one of this country's greatest cultural, literary, and musical movements. Pioneers of the Harlem Renaissance, W.E.B. DuBois, Alain Locke, and James Weldon Johnson, the Harlem Renaissance was at the forefront of this country's intellectual, literary, and artistic development in the 1920s. Langston Hughes, Zora Neale Hurston, Claude McKay, Countee Cullen, Jean Toomer, and Wallace Thurman were among this movement's most gifted writers. The Harlem Renaissance also included the music of Duke Ellington, the theatrical productions of Eubie Blake and Noble Sissle, and the rich nightlife of the Cotton Club, the Savoy, and Connie's Inn.

This bill empowers the Secretary of the Interior, acting through the National Park Service, to conduct a study to determine how best to memorialize this great movement and to preserve and maintain its rich history. Working and cooperating with the appropriate states and localities, I am confident that we can properly recognize and preserve one of this country's foremost cultural, literary, and historical periods.

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

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

S. 176

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Harlem Renaissance Cultural Zone Act of 1999."

SEC. 2. FINDINGS.

Congress finds that—

(1) the Harlem Renaissance was the dominant intellectual, literary, and artistic expression of the New Negro Movement of the 1920's;

(2) W.E.B. DuBois, Alain Locke, and James Weldon Johnson, and Alain Locke planted the seeds of the Harlem Renaissance also included the movement's most gifted writers; and

(3) the Harlem Renaissance also included the movement's most gifted writers; and

(3) recommendations for cooperative arrangements with State and local governments, historical organizations, and other entities.

(c) STUDY PROCESS.—The Secretary shall—

(1) conduct the study with public involvement and in consultation with State and local officials, scholarly and other interested organizations, and individuals;

(2) complete the study as expeditiously as practicable after the date on which funds are made available; and

(3) on completion of the study, submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings and recommendations of the study.

By Mr. INOUYE:

S. 177. A bill for the relief of Donald C. Pence, to the Committee on Veterans' Affairs.

PRIVATE RELIEF LEGISLATION

Mr. INOUYE. Mr. President, today I am introducing a private relief bill on behalf of Donald C. Pence of Sanford, North Carolina, for compensation for the failure of the Department of Veterans Affairs to pay dependency and indemnity compensation to Kathryn E. Box, the now deceased mother of Donald C. Pence. It is rare that a federal agency admits a mistake. In this case, the Department of Veterans Affairs has admitted that a mistake was made and explored ways to permit payment under the law, including equitable relief, but has found no provision to release the remaining benefits that were unpaid to Mrs. Box at the time of her death. My bill would correct this injustice and I urge my colleagues to support this measure.

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. 178

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

SECTION 1. RELIEF OF DONALD C. PENCE.

(a) RELIEF.—The Secretary of the Treasury shall pay, out of any moneys in the Treasury not otherwise appropriated, to Donald C. Pence, of Sanford, North Carolina, the sum of $31,128 in compensation for the failure of the Department of Veterans Affairs to pay dependency and indemnity compensation to Kathryn E. Box, the now deceased mother of Donald C. Pence, for the period beginning on July 1, 1990, and ending on March 31, 1993.

(b) LIMITATION ON FEES.—Not more than a total of 10 percent of the payment authorized by subsection (a) shall be paid to or received by agents or attorneys for services rendered in connection with obtaining such payment, any contract to the contrary notwithstanding. Any person who violates this subsection shall be fined not more than $1,000.

By Mr. INOUYE:

S. 178. A bill to amend the Public Health Service Act to provide for the establishment of a National Center for Social Work Research; to the Committee on Health, Education, Labor, and Pensions.

NATIONAL CENTER FOR SOCIAL WORK RESEARCH

Mr. INOUYE. Mr. President, I rise today to introduce legislation to amend the Public Health Service Act for the establishment of a National Center for Social Work Research.

Social workers provide a multitude of health care delivery services throughout America to our children, families, the elderly, and persons suffering from various forms of abuse and neglect.

The purpose of this center is to support and disseminate information with respect to basic and clinical social work research, training, and other programs in patient care, with emphasis on service to underserved and rural populations.

Social work research has grown in size and scope since the 1980's. In 1998, the National Institutes of Mental Health led the way with $17 million in funding for 61 social work research grants. Dr. Pat Ewald, Dean of the Department of Social Work at the University of Hawaii, is one of the foremost leaders in the field of social work research and has diligently to gain recognition of the many important contributions of social work to mental and behavioral health care delivery.

While the Federal Government provides funding for various social work research activities through the National Institutes of Health and other Federal agencies, there presently is no coordination or direction of these critical activities and no overall assessment of needs and opportunities for empirical knowledge development. The establishment of a Center for Social Work Research would result in improved behavioral and mental health care outcomes for our nation's children, families, and elderly, and others. In order to meet the increasing challenges of bringing cost-effective, research-based, quality health care to all Americans, we must recognize the important contributions of social work researchers to health care delivery and the critical role that the Center for Social Work can provide in facilitating this process.

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

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

S. 178

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Center for Social Work Research Act."

SEC. 2. ESTABLISHMENT OF NATIONAL CENTER FOR SOCIAL WORK RESEARCH.

(a) IN GENERAL.—Section 401(b)(2) of the Public Health Service Act (42 U.S.C. 261(b)(2)) is amended by adding at the end the following:

'(F) The National Center for Social Work Research;'

(b) ESTABLISHMENT.—Part E of title IV of the Public Health Service Act (42 U.S.C. 287..."
et seq.) is amended by adding at the end the following:

"Subpart 5—National Center for Social Work Research"

"SEC. 485G. PURPOSE OF CENTER.

The general purpose of the National Center for Social Work Research (referred to in this subpart as the ‘Center’) is the conduct and supervision of research, training and instruction and the provision of training and instruction and establishment, in the Center and in other nonprofit institutions, research traineeships and fellowships in the study and investigation of the prevention, treatment, and social work care of persons with and families of individuals with acute and chronic illnesses, including child abuse and neglect and child and family care.

(b) STIPENDS AND ALLOWANCES.—The Director of the Center may provide individuals receiving training and instruction or traineeships or fellowships under subsection (a) with such stipends and allowances (including amounts for travel and subsistence and dependency allowances) as the Director determines necessary.

(c) GRANTS.—The Director of the Center may make grants to nonprofit institutions to provide training and instruction and traineeships and fellowships under subsection (a).

SEC. 485H. SPECIFIC AUTHORITIES.

"(a) IN GENERAL.—To carry out the purposes described in section 485G, the Director of the Center may, in addition to the above authorities, provide research grants and cooperative agreements for research, health promotion, and the social work care of persons with and families of individuals with acute and chronic illnesses, including child abuse and neglect and child and family care.

(b) STIPENDS AND ALLOWANCES.—The Director of the Center may provide individuals receiving training and instruction or traineeships or fellowships under subsection (a) with such stipends and allowances (including amounts for travel and subsistence and dependency allowances) as the Director determines necessary.

(c) TERMS.—The advisory council for the Center may recommend to the Secretary the acceptance, in accordance with section 231, of conditional gifts for study, investigations, and research and for the acquisition of grounds, structures, equipment, or maintenance of facilities for the Center.

(3) OTHER DUTIES AND FUNCTIONS.—The advisory council, of which—

(A) not more than two-thirds of such individuals shall be appointed from among the professional social workers who are recognized experts in the area of clinical practice, education, or research; and

(B) not more than one-third of such individuals shall be appointed from the general public and shall include leaders in fields of public policy, law, public policy, economics, and management.

The Secretary shall make appointments to the advisory council in such a manner as to ensure that the members do not all expire in the same year.

(4) COMPENSATION.—Members of the advisory council who are officers or employees of the United States shall be compensated at a rate of pay for the service on the advisory council.

The remaining members shall receive, for each day (including travel time) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for an individual at grade GS-18 of the General Schedule.

(g) COMMENTS AND RECOMMENDATIONS.—The advisory council may prepare, for inclusion in the biennial report under section 483—

(1) comments with respect to the activities of the advisory council for the fiscal years for which the report is prepared.

(2) comments on the progress of the Center in meeting its objectives; and

(3) recommendations with respect to the future direction and program and policy emphasis of the center.

The advisory council may prepare such additional reports as it may determine appropriate.

SEC. 485J. BIENNIAL REPORT.

"The Director of the Center, after consultation with the advisory council for the Center, shall prepare and submit the biennial report under section 403, a biennial report that shall consist of a description of the activities of the Center and program policies during the fiscal years for which the report is prepared. The Director of the Center may prepare such additional reports as the Director determines appropriate. The Director of the Center shall provide the advisory council of the Center an opportunity for the submission of the written comments described in section 483(g)."

By Mr. INOUYE:

Mr. INOUYE. Mr. President, I rise today to introduce the Rural Preventive Health Care Training Act of 1999, a bill that responds to the dire need of our rural communities for quality health care and disease prevention programs.

Almost one fourth of Americans live in rural areas and frequently lack access to adequate physical and mental health care. As many as 21 million of the 34 million people living in underserved rural areas are without access to the full range of primary care services. Where providers exist, there are numerous limits to access, such as geography, distance, lack of transportation, and lack of knowledge about available resources. Due to the diversity of rural populations, language and cultural obstacles are often a factor in the access to medical care.

Compound these problems with limited financial resources and many
Americans living in rural communities go without vital health care, especially preventive care. Children fail to receive immunizations and routine checkups. Preventable illnesses and injuries occur needlessly and lead to expensive hospitalizations. Early symptoms of many chronic problems and substance abuse go undetected and often develop into full blown disorders.

An Institute of Medicine (IOM) report entitled, "Reducing Risks for Mental Disorders: Frontiers for Preventive Intervention Research" highlights the benefits of preventive care for all health problems. Training of health care providers in prevention is crucial in order to meet the demand for care in underserved areas. Currently, rural health care providers face a lack of preventive care training opportunities.

Interdisciplinary preventive training of rural health care providers must be encouraged. Through interdisciplinary training rural health care providers can build a strong foundation from the behavioral, biological and psychological sciences to form the most effective preventive care possible. Interdisciplinary team prevention training will also facilitate both health and mental health clinics serving single service sites and routine consultation between groups. Emphasizing the mental health disciplines and their services as part of the health care team will contribute to the overall health of rural communities.

The Rural Preventive Health Care Training Act of 1999 would implement the risk-reduction model described in the IOM study. This model is based on the identification of risk factors and targets specific interventions for those risk factors. The human suffering caused by poor health is immeasurable, and places a huge financial burden on communities, families and individuals. By implementing preventive measures to reduce this suffering, the potential psychological and financial savings are enormous.

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

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

S. 180. A bill to amend title XIX of the Social Security Act to provide for coverage of services provided by nursing school clinics under State Medicare programs; to the Committee on Finance.

NURSING SCHOOL CLINICS ACT OF 1999

Mr. INOUYE. Mr. President, I rise today to introduce the Nursing School Clinics Act of 1999. This measure builds on our concerted efforts to provide accessible health care for all Americans by offering grants and incentives for nursing schools to establish primary care clinics in underserved areas where additional medical services are most needed. In addition, this measure provides the opportunity for nursing schools to enhance the scope of student training and education by providing firsthand clinical experience in primary care facilities.

Nursing school administered primary care clinics or nonprofit entity primary care centers developed primarily in collaboration with university schools of nursing and the communities they serve. These centers are staffed by faculty and staff who are nurse practitioners and public health nurses. Students supplement patient care while receiving preceptorships provided by college of nursing faculty and primary care physicians, often associated with academic institutions, who serve as collaborators with nurse practitioners.

To date, the comprehensive models of care provided by nursing clinics have yielded excellent results including significantly fewer emergency room visits, fewer hospital inpatient days, and less use of specialists, as compared to conventional primary health care. The LaSalle Neighborhood Nursing Center, for example, reported that in 1997, fewer than 0.02 percent of primary care clients reported hospitalization for asthma; fewer than 4 percent of expectant mothers who enrolled delivered low birth rate infants; and 90 percent of infants and young children were immunized by age time. In addition, there was a 50 percent reduction in emergency room visits and a 97 percent overall patient satisfaction rate.

The 1997 Balanced Budget Act (P.L. 105-33) included a provision that, for the first time ever, authorized direct Medicare reimbursement of all nurse practitioners and clinical nurse specialists, regardless of the setting in which services are performed. This provision built upon previous legislation that allowed direct reimbursement to individual nurse practitioners for individual services provided in rural health clinics throughout America. Medicaid is gradually being reformed to incorporate their services effectively.

This bill reinforces the principle of combining health care delivery in underserved areas with the education of advanced practice nurses. To accomplish these objectives, Title XIX of the Social Security Act would be amended to designate that the services provided in these nursing school clinics are reimbursable under Medicaid. The combination of grants and the provision of Medicaid reimbursement furnishes the incentives and operational resources to establish the clinics.

In order to meet the increasing challenges of providing cost-effective and quality health care to all Americans, we must consider and debate various proposals, both large and small. Most importantly, we must approach the issue of health care with creativity and determination, ensuring that all reasonable avenues are pursued. Nurses have always been an integral part of health care delivery. The Nursing School Clinics Act of 1999 recognizes the central role they can perform as care givers to the medically underserved.

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

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

S. 188. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Preventive Health Care Training Act of 1999".

SEC. 2. PREVENTIVE HEALTH CARE TRAINING.

Part D of title VII of the Public Health Service Act, as amended by the Health Professions Education Partnership Act of 1998, is amended by inserting after section 754 the following:

"SEC. 754A. PREVENTIVE HEALTH CARE TRAINING.

"(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, horse practitioners to provide preventive health care training, in accordance with subsection (c),

"(b) LIMITATION.—To be eligible to receive training using assistance provided under subsection (c), a health care practitioner shall be determined by the eligible applicant involved to be practicing, or desiring to practice, in a rural area.

"(c) USE OF ASSISTANCE.—Amounts received under a grant made or contract entered into under this section shall be used—

"(1) to provide student stipends to individuals attending rural community colleges or other institutions that serve predominately rural communities, for the purpose of enabling the individuals to receive preventive health care training;

"(2) to increase staff support at rural community colleges or other institutions that serve predominantly rural communities to facilitate the provision of preventive health care training;

"(3) to provide training in appropriate research and program evaluation skills in rural communities;

"(4) to create and implement innovative programs and curricula with a specific prevention component;

"(5) for other purposes as the Secretary determines to be appropriate.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of fiscal years 2000 through 2002."

By Mr. INOUYE:

S. 180. A bill to amend title XIX of the Social Security Act to provide for coverage of services provided by nursing school clinics under State Medicare programs; to the Committee on Finance.

NURSING SCHOOL CLINICS ACT OF 1999

Mr. INOUYE. Mr. President, I rise today to introduce the Nursing School Clinics Act of 1999. This measure builds on our concerted efforts to provide accessible health care for all Americans by offering grants and incentives for nursing schools to establish primary care clinics in underserved areas where additional medical services are most needed. In addition, this measure provides the opportunity for nursing schools to enhance the scope of student training and education by providing firsthand clinical experience in primary care facilities.

Nursing school administered primary care clinics or nonprofit entity primary care centers developed primarily in collaboration with university schools of nursing and the communities they serve. These centers are staffed by faculty and staff who are nurse practitioners and public health nurses. Students supplement patient care while receiving preceptorships provided by college of nursing faculty and primary care physicians, often associated with academic institutions, who serve as collaborators with nurse practitioners.

To date, the comprehensive models of care provided by nursing clinics have yielded excellent results including significantly fewer emergency room visits, fewer hospital inpatient days, and less use of specialists, as compared to conventional primary health care. The LaSalle Neighborhood Nursing Center, for example, reported that in 1997, fewer than 0.02 percent of primary care clients reported hospitalization for asthma; fewer than 4 percent of expectant mothers who enrolled delivered low birth rate infants; and 90 percent of infants and young children were immunized by age time. In addition, there was a 50 percent reduction in emergency room visits and a 97 percent overall patient satisfaction rate.

The 1997 Balanced Budget Act (P.L. 105-33) included a provision that, for the first time ever, authorized direct Medicare reimbursement of all nurse practitioners and clinical nurse specialists, regardless of the setting in which services are performed. This provision built upon previous legislation that allowed direct reimbursement to individual nurse practitioners for individual services provided in rural health clinics throughout America. Medicaid is gradually being reformed to incorporate their services effectively.

This bill reinforces the principle of combining health care delivery in underserved areas with the education of advanced practice nurses. To accomplish these objectives, Title XIX of the Social Security Act would be amended to designate that the services provided in these nursing school clinics are reimbursable under Medicaid. The combination of grants and the provision of Medicaid reimbursement furnishes the incentives and operational resources to establish the clinics.

In order to meet the increasing challenges of providing cost-effective and quality health care to all Americans, we must consider and debate various proposals, both large and small. Most importantly, we must approach the issue of health care with creativity and determination, ensuring that all reasonable avenues are pursued. Nurses have always been an integral part of health care delivery. The Nursing School Clinics Act of 1999 recognizes the central role they can perform as care givers to the medically underserved.

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

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

S. 188. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Preventive Health Care Training Act of 1999".

SEC. 2. PREVENTIVE HEALTH CARE TRAINING.

Part D of title VII of the Public Health Service Act, as amended by the Health Professions Education Partnership Act of 1998, is amended by inserting after section 754 the following:

"SEC. 754A. PREVENTIVE HEALTH CARE TRAINING.

"(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, hospital practitioners to provide preventive health care training, in accordance with subsection (c),
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"(27) nursing school clinic services as defined in subsection (v) furnished by or under the supervision of a nurse practitioner or a clinical nurse specialist as defined in section 1861(aa)(9) whether or not the nurse practitioner or clinical nurse specialist is under the supervision of or, associated with, a physician or other health care provider; and"

(b) NURSING SCHOOL CLINIC SERVICES DEFINED.—Section 1905 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end of the section the following:

"(v) The term ‘nursing school clinic services’ means services provided by a health care facility operated by an accredited school of nursing which provides primary care, long-term care, mental health counseling, home health counseling, home health care, or other health care services which are within the scope of practice of a registered nurse."

(c) CONFORMING AMENDMENT.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended in subsection (a)(10)(C)(iv), by inserting ‘‘and (27)’’ after ‘‘(24)’’.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to payments made under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 and seq.) for calendar quarters commencing after the first calendar quarter beginning after the date of enactment of this Act.

By Mr. INOUYE:

S. 181. A bill to amend title XVIII of the Social Security Act to remove the restriction that a professional psychologist or clinical social worker provide services in a comprehensive outpatient rehabilitation facility to a patient only under the care of a physician, and for other purposes; to the Committee on Finance.

AUTONOMOUS FUNCTIONING OF CLINICAL PSYCHOLOGISTS AND SOCIAL WORKERS UNDER MEDICARE; COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY PROGRAM

Mr. INOUYE. Mr. President, today I rise to introduce legislation to authorize the autonomous functioning of clinical psychologists and clinical social workers under Medicare; comprehensive outpatient rehabilitation facility program.

In my judgment, it is truly unfortunate that Medicare requires clinical supervision of the services provided by certain health professionals and does not allow these health professionals to function to the full extent of their state practice licenses. It is especially inappropriate that those who need the services of outpatient rehabilitation facilities have access to a wide range of social and behavioral science expertise. Clinical psychologists and clinical social workers are recognized as independent providers of mental health care services through the Federal Employee Health Benefits Program, the Civilian Health and Medical Program of the Uniformed Services, the Medicare (Part B) Program, and numerous private insurance plans.

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

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

S. 181. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF DEPARTMENT OF DEFENSE COMMISSARY AND EXCHANGE STORES; TO THE COMMITTEE ON ARMS SERVICES.

Mr. INOUYE. Mr. President, today I rise to introduce legislation to enable former prisoners of war who have been separated honorably from their respective services and who have been forcibly detained or interned by an enemy government or a hostile force, during a period of war; or a period after such period; or a period of captivity which serves as the basis for the issuance of a prisoner-of-war medal to which he is entitled, the medal may be issued to the person’s representative, as designated by the President.

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. 182. A bill to amend title 5, United States Code, to require the appointment of a prisoner-of-war medal to civilians employed by the Federal Government who are forcibly detained or interned by an enemy government or a hostile force under wartime conditions; to the Committee on Armed Services.

USE OF DEPARTMENT OF DEFENSE COMMISSARY AND EXCHANGE STORES

Mr. INOUYE. Mr. President, today I rise to introduce legislation to authorize certain disabled former prisoners of war to use Department of Defense commissary and exchange stores; to the Committee on Armed Services.

SECT. 25. MISCELLANEOUS AWARDS...2501

(a) The President shall issue a prisoner-of-war medal to any person who, while serving in any capacity as an officer or employee of the Federal Government, was forcibly detained or interned, not as a result of such person’s own willful misconduct—

(1) by an enemy government or its agents, or a hostile force, during a period after a period of war; or

(2) by a foreign government or its agents, or a hostile force, during a period other than a period of war in which such person was held under circumstances which the President finds to have been comparable to the circumstances under which members of the armed forces have generally been forcibly detained or interned by enemy governments during periods of war.

(b) The prisoner-of-war medal shall be of appropriate design, with ribbons and appurtenances.

(c) Not more than one prisoner-of-war medal may be issued to a person under this section or section 1128 of title 10. However, for each succeeding service that would otherwise justify the issuance of such a medal, the President (in the case of service referred to in subsection (a) of this section) or the Secretary concerned (in the case of service referred to in section 1128(a) of title 10) may issue a suitable device to be worn as determined by the President or the Secretary, as the case may be.

(3) "For a person to be eligible for issuance of a prisoner-of-war medal, the person’s conduct must have been honorable for the period of captivity which serves as the basis for the issuance.

(4) In the case of a person who dies before the issuance of a prisoner-of-war medal to which he is entitled, the medal may be issued to the person’s representative, as designated by the President.

(5) Under regulations to be prescribed by the President, a prisoner-of-war medal that is lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was issued may be replaced without charge.

(6) In this section, the term ‘period of war’ has the meaning given such term in section 101(11) of title 38.

(7) The table of chapters at the beginning of part III of title 27 is amended by inserting after the item relating to chapter 23 the following new item:

"25. Miscellaneous Awards...2501."
§1064a. Use of commissary stores by certain disabled former prisoners of war

(a) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, former prisoners of war described in section 101(16) of title 38, who have a service-connected disability rated by the Secretary of Veterans Affairs at 30 percent or more, may use commissary and exchange stores.

(b) CEREMONIAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to former prisoners of war—

(1) the term "covered individual" has the meaning given the term in section 101(32) of title 38.

(c) DEFINITIONS.—In this section:

(1) "covered individual" means any former prisoner of war described in section 101(16) of title 38.

(2) "covered individual" includes only to the extent that a covered individual is an individual who—

(A) is a former prisoner of war described in section 101(16) of title 38.

(B) is a covered individual described in section 101(32) of title 38.

(Sec. 1064a. Use of commissary stores by certain disabled former prisoners of war.)

Mr. ASHCROFT. Mr. President, I rise today to introduce a bill with the Committee on Finance.

CHIEF AGRICULTURAL NEGOTIATOR

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agreements negotiated by the current administration were focused on high-tech industries, all but ignoring the plight of the American farmer.

The Canadian trade problem in Montana is monumental, however, it is just a small part of the larger agricultural trade problems with the European Union which has been less than compromising on many issues.

The European Union (E.U.) unfairly restricts imports of U.S. agricultural products. Breaking down these barriers to trade must be a top priority of the U.S.T.R. American farmers can compete for any market, anywhere in the world, but they must have access to a level playing field.

We currently have an extraordinary number of unresolved trade disputes with the E.U., yet the U.S.T.R. continues to seek U.S./E.U. trade pacts on issues unrelated to agriculture. It is critical that the U.S.T.R.'s agricultural trade negotiator be included in these discussions. Otherwise, we will be forced to react to poor planning and negotiating as we were last month in Canada.

In 1996, U.S. agricultural exports reached a record level of $60 billion, compared to a total U.S. merchandise trade deficit of $170 billion the same year. By establishing this position within the U.S.T.R., it is my hope the administration will recognize what America's farmers mean to our economy.

Thank you, Mr. President, I yield the floor.

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

S. 186. A bill to provide for the reorganization of the Ninth Circuit Court of Appeals, and for other purposes; to the Committee on the Judiciary.

NINTH CIRCUIT DIVISION

Mr. MURKOWSKI. Mr. President, I am pleased to be joined by my distinguished colleagues from Washington, Senators SLADE GORTON, in introducing legislation that will go far in improving the consistency, predictability and coherency of case law in the Ninth Circuit U.S. Court of Appeals.

Our bill, The Federal Ninth Circuit Reorganization Act of 1999, adopts the recommendations of a congressionally-mandated Commission that studied the alignment of the U.S. Court of Appeals. Retired Supreme Court Justice Byron White, chaired the scholarly Commission.

The Commission's Report, released last December, calls for a division of the Ninth Circuit into three regionally based adjudicative divisions—the Northern, Middle, and Southern. Each of these regional divisions would maintain a majority of its judges within its region. Each division would have exclusive jurisdiction over appeals from the judicial districts within its region. Further, each division would function as a semi-autonomous decisional unit. To resolve conflicts that may develop between regions, a Circuit Division for Conflict Resolution would replace the current limited and ineffective on banc system. Lastly, the Circuit would remain intact as an administrative unit, functioning as it now does.

It is important to note that the Commission adopted the arguments that I and several other Senators have put forth to justify a complete division of the Ninth Circuit—Circuit population, record caseloads, and inconsistency in judicial decisions. However, the Commission rejected an administrative division because it believed it would “...deny the current Ninth Circuit of the administrative advantages afforded by the present circuit configuration and deprive the West and the Pacific seaboard of a means for maintaining uniform federal law in that area.”

While I don’t necessarily reach the same conclusion as the Commission (that an administrative division of the Ninth Circuit is not warranted), I strongly agree with the Committee's recommendations that the restructuring of the Ninth Circuit as proposed in the Commission's Report will “...increase the consistency and coherence of the law, maximize the likelihood of genuine collegiality, establish an effective procedure for maintaining uniform federal law within the circuit, and relate the appellate forum more closely to the region it serves.”

Mr. President, swift congressional action is needed. One need only look at the contours of the Ninth Circuit to see the need for reorganization. Stretching from the Arctic Circle to the Mexican border, past the tropics of Hawaii and across the International Dateline to Guam and the Mariana Islands, by any means of measurement, the Ninth Circuit is the largest of all U.S. Circuit Courts of Appeal.

The Ninth Circuit serves a population of more than 49 million people, well over a third more than the next largest circuit. By 2010, the Census Bureau estimates that the Ninth Circuit’s population will be more than 63 million—a 40-percent increase in just 13 years, which inevitably will create an even more daunting caseload.

Because of its massive size, there often results a decrease in the ability of judges to keep abreast of legal developments within the Ninth Circuit. This unwieldy caseload creates an inconsistency in Constitutional interpretation. In fact, Ninth Circuit cases have an extraordinarily high reversal rate by the Supreme Court. During the Supreme Court’s 1996-97 session, the Supreme Court overturned 95 percent of the Ninth Circuit cases heard by the Court.) This lack of Constitutional consistency discourages settlements and leads to unwarranted litigation.

Ninth Circuit Judge, Diamirud O'Scanlained the problem as follows:

An appellate court must function as a unified body, and it must speak with a unified voice. It must maintain and shape a coherent body of law. . . . As the number of opinions increase, we judges risk losing the ability to keep track of precedents and the ability to know what our circuit’s law is. In short, bigger is not better.

The legislation that Senator GORTON and I introduce today is a sensible reorganization of the Ninth Circuit. The mandate of the Northern Division of the Ninth Circuit would join Alaska, Washington, Oregon, Montana, and Idaho. This proposal reflects legislation I introduced in the last Congress which created a new Twelfth Circuit consisting of the states located in the northwest. Like my previous legislation, the Commission’s report will go far in creating regional commonality and greater consistency and dependency in legal decisions.

However, it is my strong suggestion that when the Senate Judiciary Committee conducts hearings on their legislation, certain modifications be closely examined:

1. Elimination of the requirement that judges within a region are required to rotate to other regions of the Circuit;

2. Adjustment of the regional alignments to include Hawaii, the Mariana Islands and the Territory of Guam in the Northern Region; and

3. Shortening the time in which the Federal Judicial Center conducts a study of the effectiveness and efficiency of the Ninth Circuit divisions from 8 years to 3 years.

Mr. President, Congress has waited long enough to correct the problems of the Ninth Circuit. The 49 million residents of the Ninth Circuit are the persons that suffer. Many wait years before cases are heard and decided, prompting many to forgo the entire appellate process. The Ninth Circuit has become a circuit where justice is not swift and not always served.

Mr. President, we have known the problem of the Ninth Circuit for a long time. It’s time to solve the problem. The Commission's recommendations, at a first start. I hope we can resolve this issue this year.

By Mr. SARBANES (for himself, Mr. DODD, Mr. BRYAN, Mr. LEAHY, Mr. EDWARDS, and Mr. HOLLINGS):
This bill seeks to protect a fundamental right of privacy for every American who entrusts his or her highly sensitive and confidential financial information to a financial institution. Every American should know whether the financial institution with which he or she does business undertakes to sell or share that personal sensitive information with anyone else. Every American should know who would be obtaining that information, and why. Every American should have the opportunity to say “no” if he or she does not want that confidential information disclosed. Every American should be allowed to make certain that the information is correct. And these rights should be enforceable.

This bill, Mr. President, would accomplish these objectives.

A growing number of bankers, lawmakers, banking regulators and consumer advocates [are] worried about the potential dark side of the mergers sweeping the financial industry. As banks and insurance companies combine into huge new conglomerates, and with legislation before Congress to make such mergers even easier, there is increasing concern about the amount of personal financial and medical data that can be collected under one roof.

Surveys show that the public is widely concerned about its privacy. A November 1998 Louis Harris & Associates survey found that 68 percent of consumers are concerned about threats to their personal privacy — more than half, 55 percent, are “very concerned.” 82 percent of consumers say they have lost or stolen personal information used by companies and 61 percent do not believe that their rights to privacy as a consumer are adequately protected by law or business practices.

Major corporations have bumped up against privacy concerns when expanding their marketing services. For example, in the last 2 years, some major consumer companies announced that they would share or sell their customers’ private data to marketers. When customers learned through newspapers stories what was happening, they complained strongly and the companies abandoned the planned sales of the data.

Citizen groups have recently expressed serious concerns about the privacy implications of banks’ amassing large databases to meet proposed regulatory requirements to “know your customers.”

The Washington Post in an October 31, 1998 editorial entitled “Privacy Here and Abroad” observed widespread public concern over privacy, stating:

Concern over the privacy of personal data is sharpening as the problem appears in more and sometimes unexpected contexts—everything from employer testing of people’s genetic predisposition to resale of their online reading habits or their bank records. When the data are personal, especially financial, everyone but the sellers and resellers seems ready to agree that people should have some measure of control over how and by whom their data will be used.

Congress has protected citizens’ privacy on prior occasions. In response to public concerns, Congress passed privacy laws restricting private companies’ disclosure of customer information without customer consent, such as the Cable Communications Policy and the Video Privacy Protection Act. Yet while video rentals and cable television selections are prohibited by law from being disclosed, millions of Americans’ financial transactions each day have no Federal privacy protection.

Abuses have arisen from the sharing of financial information without a customer’s knowledge or permission. For example, the Securities and Exchange Commission (SEC) last year took enforcement action against a large bank that had been giving sensitive customer financial information, including lists of customers with maturing certificates of deposit, to an affiliated stockbroker. The SEC found the bank and the broker’s employees “blurred the distinction between the bank and the broker dealer” and the broker’s sales representatives “used materially false and misleading sales practices” which “culminated in unsuitable purchases by investors.” The SEC found many of the targeted bank customers were elderly.

Many groups have voiced support for legislative consumer financial privacy protections. The American Association of Retired Persons (AARP) submitted testimony to the Senate Banking Committee expressing concern about the vulnerability of citizens, particularly the elderly, and saying:

AARP supports the principle that consumers should have a voice in the use of their personal financial information. Currently, banks freely share information about their customers’ insured deposit accounts with their uninsured, non-banking affiliates. Brokerage affiliates routinely solicit bank customers based upon the relationship. This not only blurs the line between banking and non-banking functions, but furthers confuses consumers about which products are insured by the bank and which are merely sold by the bank’s securities affiliate without guaranties. Customers should be given the choice as to whether banks can share information about their accounts with any other entity.

Subsequently, in a letter dated August 25, 1998 with views on H.R. 10, AARP expressed its special concern about older Americans’ vulnerability:

Elderly Americans are among those most vulnerable to the complex and fundamental changes already occurring in the field of financial transformation—and they will be put at further risk by the financial mergers permitted by this proposed legislation if the issue of information privacy is not addressed.

In a written statement before the Banking Committee on June 24, 1998, Consumers Union testified:

As financial services firms diversify and create “one-stop shopping” an array of financial products, their interest in obtaining information about consumers is on a collision course with consumers’ interest in protecting their privacy. We believe legislation should prohibit depository institutions and their affiliates from sharing or disclosing information among affiliates or to third parties without first obtaining the customer’s written consent.

A group of seven privacy and consumer groups, representing conservative and liberal orientations, including The Free Congress Research and Education Foundation, Consumers Federation of America, Consumers Union, Electronic Privacy Information Center, Privacy International, Privacy Times,
tion which I introduced with Senators Dodd and Bry-

IRAD, along with medical records, financial and credit records probably rank among the kinds of personal data Americans most expect will be kept from prying eyes. As with medical data, though, the privacy of even highly sensitive data may be increas-

creasingly compromised by mergers, electron-

tic data-swapping and the move to an econ-

omy in which the selling of other people's personal information is highly profitable—and legal.

The Post editorial concluded that the privacy amendment to last year's proposed financial modernization legisla-

tion to protect the privacy of informa-

tion is much too important to ignore any longer. Therefore, I am, along with Senators Dodd, BRYAN, LEAHY, EDWARDS, and HOLLINGS, intro-

ducing the Financial Information Pri-

vacy Act of 1999. This bill would re-

quire the Federal banking regulators—

the Federal Deposit Insurance Com-

pany, Federal Reserve, Office of the

Comptroller of the Currency and the

Office of Thrift Supervision—and the

Securities and Exchange Commission to

enact rules to protect the privacy of fi-

nancial information relating to the cus-

omers of the institutions they regu-

late.

The regulators would define "confi-

dential customer information" in a way that includes balances, maturity dates, transactions, and payouts in savings accounts, certificates of de-

posit, securities holding and insurance policies. The regulators would require an institution to:

(1) tell its customers what informa-

tion it will sell or share, and when, to whom and for what purposes it will be sold or shared;

(2) give customers the right to "opt out," which means they can say "no" to the sharing or selling of information to affili-

ates—unless the customer objects, institutions could sell or share cus-


tomer financial information later;

(3) obtain a customer's informed con-

sent before selling or sharing confiden-

tial customer information with an unaffiliated third party.

Under the Act, regulated financial in-

stitutions would be required to allow the customer to review the information to be disclosed for accuracy and to cor-

rect errors. Also, these institutions could not use confidential customer informa-

tion obtained from another entity, such as an insurance underwriter, unless that entity had given its cus-


tomers the same type of privacy pro-

tections as the regulated entities had given their customers.

Disclosure of data under several cir-

cumstances would be exempt from cov-

erage, including disclosure of informa-

tion that is not personally identifi-

able, disclosure necessary to execute the customer's transaction, and other limited purposes. The Federal bank and securities regulators would enforce the rules.

The bill recognizes the complexity of the subject matter involved. Rather than have Congress micromanage a so-

lution, we would leave it to the regu-

lators with a direction as to the scope and purposes that should be followed. This approach would afford an opportunity for public notice and comment, so all those affected could present their arguments. The banking and securities regulators would develop the rules to implement these broad prin-

ciples in the way most appropriate for the industry, balancing the consumer's privacy choice with business' desire to sell or share their customer's sensitive financial information with others.

As we proceed in an age of technologi-

cal advances and cross-industry marketing of financial services, we need to be mindful of the privacy concerns of the American public. Consumers who wish to keep their sensitive financial information private should be given a right to do so. Congress can and should provide that privacy protec-

tion by giving consumers enforceable rights of notice, consent, and access through passage of the Financial Information Privacy Act.

Mr. President, I ask unanimous con-

sent that the full text of the Financial Information Privacy Act of 1999, to-

gether with a brief summary of the bill and some newspaper articles be printed in the RECORD.

There being no objection, the mate-

rials were ordered to be printed in the RECORD, as follows:

S. 187

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Financial Information Privacy Act of 1999".

SEC. 2. DEFINITIONS.

In this Act—

(1) the term "covered person" means a person that is subject to the jurisdic-

tion of any of the Federal financial regulatory authori-

ties;

(2) the term "Federal financial regulatory authorities" means:

(A) each of the Federal banking agencies, as that term is defined in section 3(2) of the Federal Deposit Insurance Act; and

(B) the Securities and Exchange Commis-

sion.

SEC. 3. PRIVACY OF CONFIDENTIAL CUSTOMER INFOR-

MATION.

(a) RULEMAKING.—The Federal financial regulatory authorities shall jointly issue final rules to protect the privacy of confidential customer information relating to the customers of covered persons, not later than 150 days after the date of enactment of this Act (and shall issue a notice of proposed rulemaking not later than 150 days after the date of enactment of this Act), which rules shall—

(1) define the term "confidential customer information" to be personally identifiable data that includes transactions, balances, maturity dates, payouts, and payout dates, of—

(A) deposit and trust accounts;

(B) certificates of deposit;

(C) securities holdings; and

(D) insurance policies;

(2) require that a covered person may not disclose or share any confidential customer information to or with an agent of that covered person if the customer to whom the information relates has provided
written notice, as described in paragraphs (4) and (5), to the covered person prohibiting such disclosure or sharing—

(A) with respect to an individual that be-
came a customer or that was a customer before the effective date of such rules, at the time at which the business relationship between the customer and the covered person is initiated and at least annually thereafter; and

(B) with respect to an individual that was a customer before the effective date of such rules, at such time thereafter that provides a reasonable and informed opportunity to the customer to prohibit such disclosure or sharing and at least annually thereafter;

(3) require that a covered person may not disclose or share any confidentiality customer information to or with any person that is not an affiliate or agent of that covered person unless the covered person has first—

(A) given written notice to the customer to whom the information relates, as described in paragraphs (4) and (5); and

(B) obtained the informed written or electronic consent of that customer for such disclosures or sharing;

(4) require that the covered person provide notices and consent acknowledgments to customers, by this Act and the rules prescribed under this section;

(5) require that the covered person provide notices to or with the customer to whom the information relates that describes what specific types of information would be disclosed or shared, and under what general circumstances to what specific types of businesses or persons, and for what specific types of purposes such information could be disclosed or shared;

(6) require that the customer to whom the information relates be provided access to the confidential customer information that could be disclosed or shared so that the information could be reviewed for accuracy and corrected or supplemented;

(7) require that, before a covered person may use any confidential customer information provided by a third party that engages, directly or indirectly, in activities that are financially sensitive, as defined by the Federal financial regulatory authorities, the covered person shall take reasonable steps to assure that procedures that are substantially similar to those described in paragraphs (2) through (6) are followed by the provider of the information (or an affiliate or agent of that provider); and

(8) establish a means of examination for compliance and enforcement of such rules and regulations and compliance and enforcement standards.

(b) Limitation.—The rules prescribed pursuant to subsection (a) may not prohibit the release of confidential customer information—

(1) that is essential to processing a specific financial transaction that the customer to whom the information relates has authorized;

(2) to a governmental, regulatory, or self-
regulatory authority having jurisdiction
over the covered financial entity for exam-
ination, compliance, or other authorized
purposes;

(3) to a court of competent jurisdiction;

(4) to a consumer reporting agency, as de-
fined in section 633 of the Fair Credit Report-
ing Act, which makes a credit report that may be released to a third party only for a purpose permissible under section 604 of that Act; or

(5) that is not personally identifiable.

(c) Construction.—Nothing in this section or the rules prescribed under this section shall be construed to amend or alter any provision of the Fair Credit Reporting Act.
deposit customers or sell stocks and bonds to holders of car loans. But bankers say they must be careful to balance this desire to sell new products against the need to maintain the trust of their customers. "We are very concerned," said Edward Yingling, executive director for government relations at the American Bankers Association. "There is, however, the proper balance between appropriate and valuable cross-marketing and invasions of privacy? No one believes medical records should be used for cross-marketing in ways that would be invasive. It's more difficult when financial information can be used to show our customers that other products might be very good for them. That's what everyone has to wrestle with."

PROMISES

Current law allows bank customers to sign "opt out" forms, preventing one part of a bank from giving personal information to the other. The Comptroller's office has found, however, that few banks highlight this option. "Most bank customers can't even recall seeing anything like this," Mr. Williams said.

As part of its merger application to the Federal Reserve, Citigroup readied its "Global Privacy Promise," which would "provide customers the right to prevent Citigroup from sharing customer information that includes address, phone number, account balances and credit information with unaffiliated third parties unless the customer has consented to disclosure (opt-in) for marketing purposes." Customers will also be given opt-out provisions and Travelers has pledged that it will not share the medical or financial information of its insurance customers "for marketing purposes."

Consumer advocates like Mr. Mierzewski say such protections should be a matter of law, and not case by case. Senator Christopher J. Dodd, Democrat of Connecticut, has been leading a push in Congress for greater financial privacy restrictions. "There are hardly any safeguards out there," Mr. Dodd told the Senate Banking Committee last month. "As each year goes by, the vulnerability of the people we represent becomes more exposed. The longer we delay, we are exposing millions to unfair access by people who should not have access."

[F from the Washington Post, October 31, 1998]

PRIVACY HERE AND ABROAD

Concern over the privacy of personal data is sharpening as the problem appears in more and more sectors. The most recent controversy is coming from employer testing of people's genetic predispositions to rescale of their online reading habits or their bank records. When the data are medical or financial, everyone but the sellers and resellers seems ready to agree that people should have some measure of control over how and by whom their data will be used. But how, other than piece-meal, can such control be established, and what would a more general right to data privacy look like?

One approach very different from that of the United States, as it happens, is about to be thrust upon the consciousness of many Americans. Europe, as a European Union directive called the European Union Data Privacy Directive goes into effect. The European directive has drawn attention not only because the European approach to and implementation of privacy on data privacy are sharply different from our own but also because the new directive comes with provisions on export that would prohibit the export of any personal information that does business both here and in Europe. The directive imposes sweeping prohibitions on the use of any personal data without the explicit consent of the person involved, for that purpose only (repeated uses or resale require repeated permission) and also bars companies from exporting any such data to any country not ruled by the EU to have "adequate" privacy protection measures already in place. The Europeans have not ruled the United States. In this regard—no surprise there—though individual industries may pass muster or fall under special exceptions. That's one thing, for instance, that multi-national companies cannot allow U.S. offices access to personnel data on European employees, and airlines can't swap reservations data on passengers. More to the point, if they can't share or sell the kinds of data on customers that in this country are now routinely treated as another possible income stream for banks, will they be able to sell or have their data used for other purposes, banks generally do little to alert customers to their rights—often burying it in legal boilerplate. If financial firms do not resist, they should erect Chinese walls to prevent confidential health records from being used in the marketing or lending process. Otherwise, the extra dollars generated from "synergy" will be diminished by the cost of incurring the public's wrath.

SUMMARY OF FINANCIAL INFORMATION PRIVACY ACT OF 1999

Sec. 1. Short title

The bill will be called the "Financial Information Privacy Act of 1999."

Sec. 2. Definitions

The Act defines "financial regulatory authorities" to include the Fed, FDIC, OTS, OCC and SEC, and the term "covered person" to mean persons subject to the regulatory authorities' jurisdictions.

Sec. 3. Privacy of confidential customer information

(A) Rulemaking.—The Act requires the Federal Reserve, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency and Securities and Exchange Commission to promulgate rules within 270 days of the Act's enactment to protect the privacy of financial information relating to the customers of the institutions they regulate.

(1) The regulators will define "confidential customer information," which will include transactions, balances, maturity dates, payouts and payout dates of deposit and trust accounts, certificates of deposit, securities held in brokerage and insurance policies.

(2) The customers will have the right to prohibit disclosure or sharing confidential customer information with affiliates of the institution (opt-out).

(3) The institutions could not disclose or share confidential customer information with unaffiliated third parties unless the customer has consented to disclosure (opt-in) after receiving notification.

(4) The notices and consent acknowledgments provided to customers must be "in a separate and easily identifiable and distinguishable form."

(5) The notices would describe the type of information to be disclosed or shared and under what circumstances to what types of businesses or persons and for what purposes the information could be disclosed or shared.

(6) The agencies may impose sanctions relating to the confidential customer information that could be shared to review for accuracy.

(7) Covered persons cannot use confidential customer information from other sources unless the covered persons have taken reasonable steps to assure that procedures substantially similar to those provided for in the Act are followed. The Act provides for exceptions, circumstances under which the privacy protections do not apply. The Act
would not prohibit the release of confidential customer information:
(1) that is essential to processing a specific financial transaction that the customer has authorized;
(2) to a government, regulatory or self-regulatory authority with jurisdiction over the financial institution for examination, compliance or other authorized purposes;
(3) to a court of competent jurisdiction;
(4) to a consumer reporting agency in connection with the inclusion in a consumer report to be released to a third party for a permissible purpose; or
(5) that is not personally identifiable.

Our law is less protective than EU standards in a variety of respects on a number of measures.

The Financial Information Privacy Act of 1999 would require banks and securities firms to protect the privacy of their customers' personal financial information. The customers would be given the opportunity to prevent banks and securities firms from disclosing or selling this information to affiliates. Before banks or securities firms could disclose or sell the information, customers would have the opportunity to object to disclosure.

Last September, Senator SARBASEN and I proposed legislation similar to the Financial Information Privacy Act as an amendment to HR 10, the Financial Services Modernization Act. Unfortunately, the amendment was defeated by a voice vote of 8-10 along party lines. I was disappointed by this outcome, but am heartened by comments from my colleagues on both sides of the aisle who acknowledge financial privacy as an important issue. I look forward to working with Democrats and Republicans on the Senate Banking Committee and other interested members on this critical issue, I urge my colleagues to support this proposal. I thank the Chair.

Mr. LEAHY. Mr. President, I am pleased to join Senator SARBASEN in introducing the Financial Information Privacy Act of 1999. Senator SARBASEN, along with Senators DODD and BRYAN, have been leaders on the Senate Banking Committee in protecting the privacy of personal financial information. Mr. President, the right to privacy is a personal and fundamental right protected by the Constitution of the United States. But the American people are growing more and more concerned over encroachments on their personal privacy. I seems that everywhere we turn, new technologies, new communications media, and new business services create unprecedented expectations and highest of expectations also pose a threat to our ability to keep our lives to ourselves, to live, work and think without having giant corporations looking over our shoulders.

This incremental encroachment on our privacy has happened through the lack of safeguards on personal, financial and medical information about each of us that can be stolen, sold or mishandled and find its way into the wrong hands of a button.

Our right of privacy has become one of the most vulnerable rights in the information age. The digitalization of information and the explosion in the growth of computing and electronic networking offer tremendous potential benefits to the way Americans live, work, conduct commerce, and interact with their government. But the new technology also presents new threats to our individual privacy and security, in particular our control over the terms under which our personal information is acquired, disclosed, and used.

In the financial services industry, for example, conglomerates are offering a wide variety of services, each of which requires a customer to provide financial, medical or other personal information. And nothing in the law prevents subsidiaries within the conglomerate from sharing this information for uses other than the use the customer thought he was providing it for. In the case of the Financial, a financial institution can sell, share, or publish savings account balances, certificates of deposit maturity dates and balances, stock and mutual fund purchases and sales, life insurance payouts and health insurance claims.

Our legislation would protect the privacy of this financial information by directing the Federal Reserve Board, Office of Thrift Supervision, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and the Securities and Exchange Commission to jointly promulgate rules requiring financial institutions to comply with:
(1) inform their customers what information is to be disclosed, and when, to whom and for what purposes the information is to be disclosed; (2) allow customers to review the information for accuracy; and (3) for new customers, obtain the customers' consent to disclosure, and for existing customers, give the customers a reasonable opportunity to object to disclosure. These financial institutions could receive information from other entities only if the entities had given their customers similar privacy protections.

I hope the Financial Information Privacy Act is just the beginning of this nation's efforts to protect the privacy issues raised by ultra competitive marketplaces in the information age.

For the past three Congresses, I have introduced comprehensive medical privacy legislation. I plan to soon introduce the Medical Information Privacy and Security Act to establish the first comprehensive federal medical privacy law. It would close the existing gaps in federal privacy law by protecting the privacy of personally identifiable health information. Medical records contain the most intimate, sensitive information about a person and must be safeguarded.

This Congress will also need to consider how our privacy safeguards for personal, financial and medical information measure up to the tough privacy standards established by the European Union Data Protection Directive, which took effect December 22, 1998. That could be a big problem for American businesses, since the new rules require EU member countries to prohibit the transmission of personal data to or through any non-EU country that fails to provide adequate data protection as defined under European law.

European officials have said repeatedly over the past year that the patchwork of privacy laws in the United States may not meet EU standards. Our law is less protective than EU standards in a variety of respects on a range of issues, including requirements to obtain data fairly and lawfully; limitations on the collection of sensitive data; limitations on the use of data collection; bans on the collection and storage of unnecessary personal information; requirements regarding data accuracy; limitations regarding duration of storage; and centralized supervision of privacy protections and practices.

The problem is not that Europe protects privacy too much. The problem is
our own failure to keep U.S. privacy laws up to date. The EU Directive is an example of the kind of privacy protection that American consumers need and do not have. It has encouraged European companies to develop good privacy practices and has produced policies, including policies on cryptography, that are consistent with the interests of both consumers and businesses.

The Financial Information Privacy Act updates U.S. privacy laws in the evolving financial services industry. It calls for fundamental protections of the personal, confidential financial information of all American citizens. I urge my colleagues to support it.

By Mr. WYDEN (for himself and Mr. BURNS):

S. 188. A bill to amend the Federal Water Pollution Control Act to authorize the use of State revolving loan funds for construction of water conservation and quality improvements; to the Committee on Environment and Public Works.

WATER CONSERVATION AND QUALITY INCENTIVES ACT

Mr. WYDEN. Mr. President, twenty-five years after enactment of the Clean Water Act, we still have not achieved the law's original goal that all our nation's lakes, rivers and streams would be safe for fishing and swimming.

After 25 years, it's time for the next generation of strategies to solve our remaining water quality problems. We need to give States new tools to overcome the new water quality challenges they are now facing.

The money that has been invested in controlling water pollution from factories and upgrading sewage treatment plants has gone a long way to controlling these urban pollution sources. In most cases, the remaining water quality problems are no longer caused by pollution of factories and farms. Instead, they are caused by runoff from a myriad of sources ranging from farm fields to city streets and parking lots.

In my home State of Oregon, more than half of the streams do not fully meet water quality standards. And the largest problems are contamination from runoff and meeting the standards for water temperatures.

In many cases, conventional approaches will not solve these problems. But we can achieve water temperature standards and obtain other water quality benefits by enhancing stream flows and improving runoff controls.

A major problem for many streams in Oregon and in many other areas of the Western United States is that water supplies are insufficient to meet current and expected demands. But we can achieve water temperature standards by providing financial incentives to help water users implement cost effective water conservation and efficiency measures consistent with State water law.

And, we can improve water quality throughout the nation by giving greater flexibility to States to use Clean Water Act funds to control polluted runoff, if that's where the money is needed most.

Today, I am pleased to be joined by my colleague, Senator Burns, in introducing legislation to authorize the Clean Water State Revolving Fund program to provide loans to water users to fund conservation measures or runoff controls. States would be authorized, but not required, to use their SRF funds for these purposes. Participation by water users, farmers, ranchers and other eligible loan recipients would also be entirely voluntary.

The conservation program would be structured to allow participating users to receive a share of the water saved through conservation or more efficient use, which they could use in accordance with State law. This type of approach would create a win-win situation with more water available for both the conservers and for instream flows. And, by using the SRF program, the Federal seed money would be repaid over time and gradually become available to fund conservation or other measures to solve water quality problems in other areas.

My proposal has the support of the Farm Bureau, Oregon water users, the Environmental Defense Fund and the Oregon Water Trust.

I urge my colleagues to support giving States greater flexibility to use their Clean Water Act funds for water conservation or runoff control when the State decides that is the best way to solve water quality problems and the water users voluntarily agree to participate.

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

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

SEC. 1. SHORT TITLE.

This Act may be cited as the "Water Conservation and Quality Incentives Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) in many parts of the United States, water supplies are insufficient to meet current or expected future demand during certain times of the year;

(2) a number of factors (including growing populations, increased demands for food and fiber production, and new environmental demands on existing water supply sources); and

(3) increased water conservation, water quality enhancement, and more efficient use of water supplies could help meet increased demands on water sources;

(4) in States that recognize rights to conserved water for persons who conserve it, irrigators and other water users could gain rights to use conserved water while also increasing the amount of water available for other uses by implementing conservation and efficiency measures to reduce water loss.

The Federal government can play a role in helping meet our nation's changing water needs. In many Western States, supply problems can be addressed by providing financial incentives to help water users implement cost effective water conservation and efficiency measures consistent with State water law.

And, we can improve water quality throughout the nation by giving greater flexibility to States to use Clean Water Act funds to control polluted runoff, if that's where the money is needed most.

Today, I am pleased to be joined by my colleague, Senator Burns, in introducing legislation to authorize the Clean Water State Revolving Fund program to provide loans to water users to fund conservation measures or runoff controls. States would be authorized, but not required, to use their SRF funds for these purposes. Participation by water users, farmers, ranchers and other eligible loan recipients would also be entirely voluntary.

The conservation program would be structured to allow participating users to receive a share of the water saved through conservation or more efficient use, which they could use in accordance with State law. This type of approach would create a win-win situation with more water available for both the conservers and for instream flows. And, by using the SRF program, the Federal seed money would be repaid over time and gradually become available to fund conservation or other measures to solve water quality problems in other areas.

My proposal has the support of the Farm Bureau, Oregon water users, the Environmental Defense Fund and the Oregon Water Trust.

I urge my colleagues to support giving States greater flexibility to use their Clean Water Act funds for water conservation or runoff control when the State decides that is the best way to solve water quality problems and the water users voluntarily agree to participate.

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:
conclusion, this legislation would authorize the President to issue a proclamation designating Memorial Day and Veterans' Day as days for prayer and ceremonies honoring American veterans. This legislation would help restore the recognition our veterans deserve for the sacrifices they have made on behalf of our nation.

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

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

S. 189

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

SECTION 1. RESTORATION OF TRADITIONAL DAY OF OBSERVANCE OF MEMORIAL DAY.

(a) In General.—Section 603(a) of title 5, United States Code, is amended in the item relating to Memorial Day by striking out "the last Monday in May," and inserting in lieu thereof "May 30."

(b) Display of Flag.—Section 2(d) of the joint resolution entitled "An Act to codify and consolidate the laws and customs pertaining to the display and use of the flag of the United States of America", approved June 22, 1942 (36 U.S.C. 174(d)), is amended by striking out "the last Monday in May," and inserting in lieu thereof "May 30."

(c) Proclamation.—The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe Memorial Day as a day for prayer and ceremonies showing respect for American veterans of wars and other military conflicts.

By Mr. INOUYE:

S. 190. A bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft to the Committee on Armed Services.

On Travel on Military Aircraft by Veterans with Service-Connected Disabilities

Mr. INOUYE. Mr. President, today I rise to introduce a bill which is of great importance to a group of patriotic Americans. This legislation is designed to extend space-available travel privileges on military aircraft to those who have been completely disabled in the service of our country.

Current and retired members of the Armed Forces are permitted to travel on a space-available basis on nonscheduled military flights within the continental United States and on scheduled overseas flights operated by the Military Airlift Command. My bill would provide the same benefits for 100 percent service-connected disabled veterans.

Surely, we owe these heroic men and women, who have given so much to our country, a debt of gratitude. Of course, we can never repay them for the sacrifices they have made on behalf of our nation, but we can surely try to make their lives more pleasant and fulfilling.

One way in which we can help is to extend military travel privileges to these distinguished American veterans.

I have received numerous letters from all over the country attesting to the importance attesting to this issue by veterans. Therefore, I ask my colleagues to join me in saying "thank you" by supporting this legislation.

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

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

S. 190

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

SECTION 1. TRAVEL ON MILITARY AIRCRAFT OF CERTAIN DISABLED FORMER MEMBERS OF THE ARMED FORCES.

(a) In General.—Chapter 59 of title 10, United States Code, is amended by adding after section 1006a the following new section:

"§1060b. Travel on military aircraft: certain disabled former members of the armed forces.

"The Secretary of Defense shall permit any former member of the armed forces who is entitled to compensation under the laws administered by the Secretary of Veterans Affairs for a service-connected disability rated as total to travel, in the same manner and to the same extent as retired members of the armed forces, on unscheduled military flights within the United States and on scheduled overseas flights operated by the Military Airlift Command. The Secretary of Defense shall permit such travel on a space-available basis."

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1006a the following new item:

"1060b. Travel on military aircraft: certain disabled former members of the armed forces."

By Mr. INOUYE:

S. 191. A bill to require the Secretary of the Army to determine whether certain nationalities of the Philippines performed military service on behalf of the United States during World War II, to the Committee on Armed Services.

FILIPINO VETERANS

Mr. INOUYE. Mr. President, I rise today to introduce legislation that would direct the Secretary of the Army to determine whether certain nationalities of the Philippines performed military service on behalf of the United States during World War II.

Mr. President, our Filipino veterans fought side by side and sacrificed their lives on behalf of the United States. This legislation would confirm the validity of their claims and further allow qualified individuals the opportunity to apply for military and veterans benefits to which, I believe, they are entitled. As this population becomes older, its importance for our nation to extend its firm commitment to the Filipino veterans and their families who participated in making us the great nation we are today.
I ask unanimous consent that the text of my bill be printed in the Record.

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

S. 192

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

SECTION 1. DETERMINATIONS BY THE SECRETARY OF THE ARMY.

(a) In General.—Upon the written application of any person who is a national of the Philippine Islands, the Secretary of the Army shall determine whether such person performed military service in the Philippine Islands in aid of the Armed Forces of the United States during World War II which qualifies such person to receive any military veterans' benefits by reason of this Act.

(b) Information To Be Considered.—In making a determination for the purpose of subsection (a), the Secretary shall consider all information and evidence (relating to service referred to in subsection (a)) available to the Secretary, including information and evidence submitted by the applicant, if any.

SEC. 2. CERTIFICATE OF SERVICE.

(a) Issuance of Certificate of Service.—The Secretary shall issue a certificate of service to each person determined by the Secretary to have performed military service in the Philippines in aid of the Armed Forces of the United States during World War II which qualifies such person to receive any military veterans' benefits by reason of this Act.

(b) Effect of Certificate of Service.—A certificate of service issued to any person under subsection (a) shall, for the purpose of any law of the United States, conclusively establish the person's military service and character of the military service described in the certificate.

SEC. 3. APPLICATIONS BY SURVIVORS.

An application submitted by a surviving spouse, child, or parent of a deceased person described in section 1(a) shall be treated as an application submitted by such person.

SEC. 4. LIMITATION PERIOD.

The Secretary shall not consider for the purpose of this Act any application received by the Secretary more than two years after the date of enactment of this Act.

SEC. 5. PROSPECTIVE APPLICATION OF DETERMINATIONS BY THE SECRETARY OF THE ARMY.

No benefits shall accrue to any person for any period prior to the date of enactment of this Act as a result of the enactment of this Act.

SEC. 6. REGULATIONS.

The Secretary shall issue regulations to carry out sections 1, 3, and 4.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY OF VETERANS AFFAIRS.

The Secretary shall issue regulations to carry out sections 1, 3, and 4.

SEC. 8. DEFINITIONS.

In this Act:

(1) the term "Secretary" means the Secretary of the Army;

(2) the term "World War II" means the period beginning on December 7, 1941, and ending on December 31, 1946;

By Mr. KENNEDY (for himself, Mr. DASCHLE, Mr. LEAHY, Mr. SARBAZ, Mr. MOYNIHAN, Mr. LEVIN, Mr. DODD, Mr. LAUTENBERG, Mr. BINGMAN, Mr. KERRY, Mr. HARKIN, Ms. MUKULSKI, Mr. AKAKA, Mr. WELLSTONE, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. MURRAY, Mr. FEINGOLD, Mr. WYDEN, Mr. DURBIN, Mr. TORRICELLI, Mr. REED, and Mr. SCHUMER):


THE FAIR MINIMUM WAGE ACT OF 1999

Mr. KENNEDY. Mr. President, it is an honor to stand with my colleagues Mr. DASCHLE and other Democratic Senators to introduce the Fair Minimum Wage Act of 1999. This proposal is strongly supported by President Clinton, and is also being introduced today in the House of Representatives by Congressman DAVID BONIOR, Democratic Leader RICHARD GEPHARDT, and many of their colleagues.

The federal minimum wage is now $5.15 an hour. Our bill will raise it by $1.00 over the next 18 months—a 50-cent increase on September 1, 1999, and another 50-cent increase on September 1, 2000, so that the minimum wage will reach the level of $6.15 by the turn of the century.

These modest increases will help 20 million workers and their families. Twelve million Americans earning less than $6.15 an hour today will see a direct increase in their pay, and another 8 million Americans earning between $6.15 and $7.25 an hour will also likely to benefit from the increase.

To have the purchasing power it had in 1968, the minimum wage should be at least $7.45 an hour today, instead of the current level of $5.15. The gap shows how far we have fallen short in giving low income workers their fair share of our extraordinary economic prosperity.

Since 1968, the stock market, adjusted for inflation, has gone up by over 150 percent—while the purchasing power of the minimum wage has gone down by 30 percent.

The nation's economy is the best it has been in decades. Under the leadership of President Clinton, the country as a whole is enjoying a remarkable period of growth and prosperity. Enterprise and entrepreneurship are flourishing—generating an unprecedented expansion, with impressive efficiencies and significant job creation. The stock market has soared. Inflation is low, unemployment is low, and interest rates are low.

But the benefits of this prosperity have not flowed fairly to minimum wage earners. These workers can barely make ends meet. Working 40 hours a week, 52 weeks a year, they earn $10,712—a year below the poverty line for a family of three. A full day's work should mean a fair day's pay. But for millions of Americans who earn the minimum wage, it doesn't.

According to the Department of Labor, 60% of minimum wage earners are women. Nearly three-fourths are adults. Minimum wage workers are teacher's aides and child care providers, home health care aides and clothing store workers. They care for vast numbers of elderly Americans in nursing homes. They stock shelves in the corner store. They mop the floors and empty the trash in thousands of office buildings in communities across the country.

Three-fifths of these workers are the sole breadwinners in their families. More than half work full time. These families need help. They work hard and they should be treated with dignity. They deserve this increase in the minimum wage.

Opponents typically claim that, if the minimum wage goes up, the sky will fall—small businesses will collapse and jobs will be lost. This hasn't happened in the past, and it won't happen in the future. In fact, in the time that has passed since the most recent increases in the federal minimum wage—a 50-cent increase on October 1, 1996 and a 40-cent increase on September 1, 1997—employment has increased in all sectors of the population.

The American people understand that you can't raise a family on $5.15 an hour. This issue is of vital importance to working families across the country. In the past election, for example, by a margin of 2 to 1, voters in the State of Washington approved a ballot initiative to increase the state minimum wage to $6.50 an hour. In many other states, raising the minimum wage was a potent issue in the election. A minimum wage increase is a family issue. It is a civil rights issue. It is a labor issue. It is a family issue. Above all, it is a fairness issue and a dignity issue. I intend to do all I can to see that the minimum wage is increased this year. No one who works for a living should have to live in poverty.

I ask 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. 192

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 "Fair Minimum Wage Act of 1999".

SEC. 2. MINIMUM WAGE INCREASE.

(a) Wage.—Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

'"(1) except as otherwise provided in this section, not less than—"

"(A) $5.65 an hour during the year beginning on September 1, 1999 and

"(B) $6.15 an hour beginning on September 1, 2000."

(b) Effective Date.—The amendment made by subsection (a) takes effect on September 1, 1999.

SEC. 3. APPLICABILITY OF MINIMUM WAGE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

Mr. DODD. Mr. President, today I join a number of my colleagues in introducing legislation to increase the minimum wage. There is no better way to reward work than by ensuring each and every worker be paid a living wage. During the last three decades, the purchasing power of the minimum wage has declined by 30 percent. Even after the modest minimum wage increase in 1996, a person working full-time for the minimum wage earns only $10,752 a year, nearly $3,000 below the poverty level for a family of three. That paycheck must pay for food, housing, health care, child care, and transportation. It is time to reward working families with living wages.

The legislation we are proposing would provide a modest 50-cent per hour increase this year, with an additional 50-cent increase in 2000, bringing the wage level to $6.15 per hour.

More than 10 million people would be helped by a raise in the minimum wage—an increase of more than $2,000 per year for a full-time worker. To put things in context, nearly three quarters of minimum wage earners are adults and 40 percent are the sole breadwinners for their families. Sixty percent of minimum wage workers are women, and 82 percent of all minimum wage earners work more than 20 hours per week.

Since the last minimum wage increase, our nation's economy has continued to grow steadily. In my home State of Connecticut, members of the State legislature saw the wisdom of increasing the minimum wage, and last year enacted a two-step minimum wage increase. The current level is now $5.65, and effective January 1, 2000, the wage will again increase to $6.15 an hour. Connecticut's unemployment rate is 3.8 percent and almost 60,000 new jobs were created in the last two years. The State is close to recovering nearly all of the 156,000 jobs lost during the recession that hit in the early 1990's.

I hope that Congress will follow Connecticut's lead and pass a similar law before the year is through. Congress should take a stand for millions of working Americans and raise the minimum wage.

By Mrs. BOXER:
S. 193. A bill to apply the same quality and safety standards to domestically manufactured handguns that are currently applied to imported handguns; to the Committee on the Judiciary.

AMERICAN HANDBUNG STANDARDS ACT OF 1999

By Mrs. BOXER:
S. 194. A bill to amend the Internal Revenue Code of 1986 to allow the first $2,000 of health insurance premiums to be fully deductible; to the Committee on Finance.

HEALTH INSURANCE TAX RELIEF ACT

By Mrs. BOXER:
S. 195. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit; to the Committee on Finance.

RESEARCH AND EXPERIMENTATION TAX CREDIT

By Mrs. BOXER:
S. 196. A bill to amend the Internal Revenue Code of 1986 to waive in the case of multi-employer plans the Section 415 limit on benefits to the participating individual's average compensation for his highest 3 years; to the Committee on Finance.

PENSION IMPROVEMENT LEGISLATION

By Mrs. BOXER:
S. 197. A bill to amend the Internal Revenue Code of 1986 to permanently allow the first $2,000 per family of health insurance premiums paid for health care for the self-employed. In the past, however, the credit has been enacted intermittently and only for very limited periods of time. The on-again, off-again nature of the R&E Tax Credit makes it very difficult for companies to plan long-term research projects. It should be made permanent.

The next bill would improve our pension system by exempting multi-employer plans from the annual income limits of Section 415 of the Internal Revenue Code. Current law sets pension compensation based on three consecutive years of pay. However, for workers whose income fluctuate from year-to-year, this requirement may lower annual benefits. To ensure fairness for these workers, multi-employer plans should be exempted from Section 415.

Next is the Coastal States Protection Act, which will provide necessary protections for the nation's Outer Continental Shelf (OCS) from the adverse effects of offshore oil and gas development by making management of the federal OCS consistent with state-managed protection of state waters. Simply put, my bill says that when a state establishes a drilling moratorium on part or all of its coastal waters, that protection would be extended to adjacent federal waters.

The final bill is the Domestic Violence Identification and Referral Act, which would help ensure that medical professionals have the training they need to recognize and treat domestic violence, including spouse abuse, child abuse, and elder abuse. The bill will amend the Public Health Service Act to require the Secretary of Health and Human Services to give preference in awarding grants to institutions that train health professionals in identifying, treating, and referring patients who are victims of domestic violence to appropriate services.

I ask that the text of the bills be printed in the Record.

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

S. 193
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the "American Handgun Standards Act of 1999".

SEC. 2. FINDINGS.
Congress finds that—
(1) the Gun Control Act of 1968 prohibited the importation of handguns that fail to meet minimum quality and safety standards;
(2) the Gun Control Act of 1968 did not impose any quality and safety standards on domestically produced handguns;
(3) domestically produced handguns are specifically exempted from oversight by the Consumer Product Safety Commission and are not required to meet any quality and safety standards;
(4) each year—
(A) gunshot wounds kill more than 35,000 Americans and wound approximately 250,000;
(B) approximately 75,000 Americans are hospitalized for the treatment of gunshot wounds;
(C) Americans spend more than $20 billion for the medical treatment of gunshot wounds; and
(D) gun violence costs the United States economy a total of $135 billion;
(5) the disparate treatment of imported handguns and domestically produced handguns has led to the creation of a high-volume market for junk guns, defined as those handguns that fail to meet the quality and safety standards required of imported handguns;
section 213 of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

``(A) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the sum of—

``(i) so much of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents as does not exceed $2,000.

``(ii) the applicable percentage of the amount so paid in excess of $2,000.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

S. 195

It is 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 "Domestic Violence Identification and Referral Act of 1999."
Mr. LAUTENBERG. Mr. President, today, I am introducing legislation for myself and Senator Johnson providing farmers with the option of receiving a refund from taxes paid in the past 5 years for their current operating losses.

I was pleased to see a net operating loss provision included in the Omnibus Appropriations measure allowing farmers to carry back for 5 years. But, a five year period is insufficient given the economic reality in agriculture.

Farmers are suffering huge losses through no fault of their own. No other business has less control of the price they can receive for what they produce. Farmers cannot control the world’s weather or the World economy. But, those factors determine the price of corn, soybeans and wheat. The Freedom to Farm bill passed in 1997 sharply reduced the farmer’s safety net. Farm prices have crashed to levels not seen in decades. Many farmers are going to have a very difficult time being able to acquire the funds needed to plant their crops in the coming year or maintain their annual operations. Grain farmers received some assistance in the Omnibus Appropriations measure. But, it was not sufficient. Livestock producers received very limited help in that measure. And, in the last few months we have seen hog prices drop to levels that were, adjusted for inflation, far lower than anything seen at the worst point of the Great Depression. Many farmers could lose the farm that have been in their families for generations.

Those low prices and the resulting sharp reduction in hog producers’ financial resources is changing the whole structure of hog production. Cattle prices also have been significantly below the cost of production for over a year. And, the economic difficulty is far broader. It is already having a terrible ripple effect on the economies of rural areas. Layoffs have been occurring at financial institutions, manufacturers and in stores of all kinds in small towns across the country. We are just at the beginning stages of what could become a very severe downturn in rural America.

A number of Senators and I are proposing a series of modifications in agricultural programs to help alleviate these programs. But, I believe the Congress needs to also pass a provision allowing existing farmers to recover taxes paid in the past to cover their net operating losses for 10 years.

I propose that the option to carry losses back for 5 years only apply to family farmers. To illustrate, those with gross sales of less than $7 million and the losses covered would be up to $200,000 per year in operating losses. The benefit would only go to farmers whose families are actively engaged in farming and whose business activity is mostly farming. The amount of the rebate would be dependent on the amount of the loss and the....
CONGRESSIONAL RECORD — SENATE

January 19, 1999

Mr. DODD (for himself, Mr. DASCHLE, Mr. KENNEDY, Mrs. MURRAY, Ms. MIKULSKI, Mr. HARKIN, Mr. KERRY, Mr. AKAKA, Mrs. BOXER, and Mr. WELLSTONE):

S. 201. A bill to amend the Family and Medical Leave Act of 1993 to apply the Act to a greater percentage of the United States workforce, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

THE FAMILY AND MEDICAL LEAVE FAIRNESS ACT OF 1999

Mr. DODD. Mr. President, six years ago, I came to the floor of the U.S. Senate to introduce the Family and Medical Leave Act. That introduction and the signing of the bill into law a few weeks later by President Clinton was the culmination of an eight-year struggle to make job-protected leave accessible for working Americans, in times of family or medical emergency. Today, at a time when many Americans are dealing with the intrinsically personal and profoundly important work we do here in Washington, the Family and Medical Leave Act stands in sharp contrast.

It responded to a deep and genuine need among American Families. Over the last six years, I have heard from many working Americans about what this law has meant to them. But no story captures the impact of our work better than the one expectant mother I heard from who kept a copy of the Family and Medical Leave Act in her bedside table. She had a difficult pregnancy and was often on doctor-ordered bed rest; she said she kept the FMLA nearby and read it as reassurance that she wouldn't lose her job or her health insurance.

The Family and Medical Leave Act has been a lifeline for tens of millions of families as they have responded at those key moments that define a family—when there is a new child or when serious illness strikes. With the FMLA, working Americans can take 12 weeks off with pay for the serious health condition of a spouse or a minor child, or if they need time to care for themselves following a serious health problem. Yet, even with the success of the FMLA there is still more work to be done.

Millions of Americans are not covered by the Family and Medical Leave Act and continue to face painful choices in balancing their competing responsibilities to family and work. In fact, over one-quarter of working Americans needed to take family and medical leave in 1998 but were unable to do so. Forty-four percent of these families ended up losing their jobs or their employers do not allow it.

Today, forty-three percent of private sector employees remain unprotected by the FMLA because their employer does not meet the current 50 or more employee threshold.

The legislation I introduce today—the Family and Medical Leave Fairness Act of 1999—will extend the Family and Medical Leave Act to millions of Americans who were uncovered. I am pleased to be joined in this effort by Senators DASCHLE, KENNEDY, MURRAY, MIKULSKI, HARKIN, KERRY, AKAKA, and BOXER.

This bill would lower the threshold to include coverage for companies with 25 or more workers.

This small step would provide 13 million additional workers with protection of the Family and Medical Leave Act—raising the total percentage of the private sector workforce covered by the FMLA to 71 percent.

In my view, these workers deserve the same job security in times of family and medical emergency that workers in larger companies receive from the Family and Medical Leave Act.

With this legislation they will receive it.

Now, for those of my colleagues who still harbor doubts about the success of the Family and Medical Leave Act, I strongly encourage you to examine the bipartisan Commission of Leave report and other studies that documents the positive impact of this legislation. When the bill was passed in 1993, provisions in the legislation established a commission to examine the impact of the act on workers and businesses.

The Family and Medical Leave Commission's analysis spanned two and a half years. It included independent research and field hearings across the country to learn first hand about the act's impact from individuals and the business community.

The report's conclusions are clear—the Family and Medical Leave Act is helping to expand opportunities for working Americans while at the same time not placing any undue burden on employers.

According to the Commission's final report, the Family and Medical Leave Act represents "A significant step in helping a large cross-section of working Americans meet their medical and family care giving needs while still maintaining their jobs and economic security."

Due to this legislation, Americans now possess greater opportunities to keep their health benefits, maintain job security, and take longer leaves for a greater number of reasons.

In fact, according to the bipartisan Commission—12 million workers took job-protected leave for reasons covered by the Family and Medical Leave Act during the 18 months of its study.

Not only are American workers reaping the benefits. The law is working for American business as well.

The conclusions of the bipartisan report are a far cry from the concerns that were voiced when this law was being considered in Congress.

The vast majority of businesses—over 98%—report little to no additional costs associated with the Family and Medical Leave Act. More than 92% reported no noticeable effect on profitability. And nearly 96% reported no noticeable effect on business growth. Additionally, 83% of employers reported no noticeable impact on employee productivity. In fact, 12.6% actually reported a positive effect on employee productivity from the Family and Medical Leave Act, twice as many as reported a negative effect.

And not only did employers report that compliance with the FMLA was relatively easy and of minimal cost, but work sites with a small number of employees generally reported greater ease of administration and even smaller costs than large work sites.

Today, I introduce this legislation with the hope and expectation that we can put aside our political differences and build on the success of the Family and Medical Leave Act.

Last November, the American people gave us mandate—a mandate for good governance. The Family and Medical Leave Act represents the fulfillment of that goal and I urge all my colleagues to join with me in supporting this critically important legislation for America's working families.

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. 201

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, in the NAME OF THE UNITED STATES OF AMERICA:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family and Medical Leave Fairness Act of 1999."

SEC. 2. FINDINGS.

Congress finds that—

(1) the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) has provided employers with a significant new tool in balancing the needs of their families with the demands of work;

(2) the Family and Medical Leave Act of 1993 has had a minimal impact on business, and over 90 percent of private employers covered by the Act experienced little or no cost and a minimal, or positive, impact on productivity as a result of the Act; and

(3) although both employers at workplaces with large numbers of employees and employers at workplaces with small numbers of
evolved very easy administration and low 
costs, the smaller employers found it easier 
and inexpensive to comply with the Act 
that the larger employers; 
(4) over three-quarters of worksites with 
under 50 employees covered by the Family 
and Medical Leave Act of 1993 reported no 
cost increases or small cost increases associated 
with compliance with the Act; 
(5) in 1998, 27 percent of Americans 
who lost their jobs or their employers 
did not allow it; 
(6) only 57 percent of the private workforce 
currently protected by the Family and 
Medical Leave Act of 1993; and 
(7) 13,000,000 more private employees, 
or an additional 14 percent of the private workforce, 
would be protected by the Family and 
Medical Leave Act of 1993 if the Act was 
expanded to cover private employers with 25 
or more employees. 

SEC. 3. COVERAGE OF EMPLOYEES. 

Paragraphs (2)(B)(ii) and (4)(A)(i) of section 
103 of the Federal Employees Health 
Benefit Act of 1993 (29 U.S.C. 6211(2)(B)(ii) and (4)(A)(i)) are 
amended by striking “50” each place it ap-
ppears and inserting “25”.

By Mr. MOYNIHAN (for himself, 
Mr. KENNEDY, and Mr. 
DASCHLE):

S. 202. A bill to amend title XVIII of 
the Social Security Act and the 
Employee Retirement Income Security 
Act of 1974 to improve access to health 
insurance and Medicare benefits for in-
dividuals ages 55 to 65, and for other 
insurance and Medicare benefits for in-

By Mr. MOYNIHAN (for himself, 
Mr. KENNEDY, and Mr. 
DASCHLE):

S. 202. A bill to amend title XVIII of 
the Social Security Act and the 
Employee Retirement Income Security 
Act of 1974 to improve access to health 
insurance and Medicare benefits for in-
dividuals ages 55 to 65, and for other 
insurance and Medicare benefits for in-

Mr. President, the problem of health 
insurance for the near elderly is get-
ing worse. Congress should act now to 
provide valuable coverage for these in-
dividuals.

I ask unanimous consent that the 
summary and the full text of the bill be 
printed in the RECORD.

There being no objection, the mate-
rials were ordered to be printed in the 
RECORD, as follows:

S. 202

Be it enacted by the Senate and House of Rep-
resentatives 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 
“Medicare Early Access Act of 1999”.

(b) TABLE OF CONTENTS.—The table of con-
tents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ACCESS TO MEDICARE BENE-

FITs FOR DISPLACED WORKERS 55-TO-

62 YEARS OF AGE.

Sec. 101. Access to Medicare benefits for 
individuals 62-65 years of age.

“PART D—PURCHASE OF MEDICARE BENEFITS 
BY CERTAIN INDIVIDUALS AGE 62-TO-65 
YEARS OF AGE.

“(a) IN GENERAL.—Title XVIII of the Social 
Security Act is amended—

(1) by redesignating section 1859 and part D 
as section 1858 and part E, respectively; and 
(2) by inserting after such section the fol-
lowing new part:

“PART D—PURCHASE OF MEDICARE BENEFITS 
BY CERTAIN INDIVIDUALS AGE 62-TO-65 
YEARS OF AGE.

“(b) ELIGIBILITY OF INDIVIDUALS AGE 62-TO-

65 YEARS OF AGE.

“(A) FEDERAL OR STATE COBRA CONTINU-
ATION PROVISION.—The term ‘Federal 
or State COBRA continuation provision’ has 
the meaning given the term ‘COBRA continu-
ation provision’ in section 2791(d)(4) of 
the Public Health Service Act and includes a 
comparable State program, as determined by 
the Secretary.

“(B) FEDERAL HEALTH INSURANCE PROGRAM 
DEFINED.—The term ‘Federal health insur-
ance program’ means any of the following:

“(i) MEDICARE.—Part A or part B of this 
title (other than by reason of this part),
“(ii) MEDICAID.—A State plan under title 
XIX,
“(iii) FEHBP.—The Federal employees 
health benefit program under chapter 89 of 
title 5, United States Code.

“(iv) TRICARE.—The TRICARE program 
(as defined in section 1072(7) of title 10, 
United States Code).

“(v) ACTIVE DUTY MILITARY.—Health bene-
fits under title 10, United States Code, to 
an individual as a member of the uniformed 
services of the United States.

“(C) GROUP HEALTH PLAN.—The term ‘group 
health plan’ has the meaning given such term 
in section 2791(a)(1) of the Public 
Health Service Act.

“(D) ELIGIBILITY OF INDIVIDUALS AGE 62-TO-

65 YEARS OF AGE.—

“(1) IN GENERAL.—Subject to paragraph (2), an 
individual who meets the following re-
quirements with respect to a month is eligi-
ble to enroll under this part with respect to 
such month:

“(A) AGE.—As of the last day of the month, the 
individual has attained 62 years of age, 
but has not attained 65 years of age.

“(B) PREMIUM.—The individual is entitled to 
Enroll under this part with respect to the 
month of enrollment, and the premium 
required for such enrollment is as follows:

Sec. 102. Premiums.

“(C) ADVANCE PREPAYMENT.—Each individu-
al who enrolls under this part shall pay 
advances the premium required for 
Enrollment to the Secretary.
"(B) MEDICARE ELIGIBILITY (BUT FOR AGE).—The individual would be eligible for benefits under part A or part B for the month if the individual were 65 years of age.

(3) TERMINATION OF COVERAGE PERIOD. (A) GENERAL PROVISIONS. The Secretary shall, during September of each year, determine the follow-

(3) LIMITATION ON PAYMENTS. No payments may be made under this title with respect to the individual or under title XIX during such month unless such expenses were incurred by such individual during a period which, with respect to the individual, is a coverage period under title XIX.

(4) TERMINATION OF COVERAGE. (A) NOTICE. The individual files notice (in a form and manner prescribed by the Secretary) that the individual no longer wishes to participate in the insurance program under this part.

(2) EFFECTIVE DATE OF TERMINATION. (A) NOTICE. The termination of a coverage period under paragraph (1)(A) shall take effect at the close of the month following for which the notice is filed.

(3) NONPAYMENT OF PREMIUMS. The individual fails to make payment of premiums required for enrollment under this part.

(3) LIMITATION ON PAYMENTS. No payments may be made under this title with respect to the individual or under title XIX during such month unless such expenses were incurred by such individual during a period which, with respect to the individual, is a coverage period under title XIX.

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(4) TERMINATION OF COVERAGE. (A) NOTICE. The individual files notice (in a form and manner prescribed by the Secretary) that the individual no longer wishes to participate in the insurance program under this part.

(2) EFFECTIVE DATE OF TERMINATION. (A) NOTICE. The termination of a coverage period under paragraph (1)(A) shall take effect at the close of the month following for which the notice is filed.

(3) NONPAYMENT OF PREMIUMS. The individual fails to make payment of premiums required for enrollment under this part.

(3) LIMITATION ON PAYMENTS. No payments may be made under this title with respect to the individual or under title XIX during such month unless such expenses were incurred by such individual during a period which, with respect to the individual, is a coverage period under title XIX.
"(3) ACTUARIAL COMPUTATION OF DEFERRED MONTHLY PREMIUM RATES.—The Secretary shall determine deferred monthly premium rates for individuals in such group in a manner so that—

(A) the estimated actuarial value of such premiums payable under section 1859(b), is equal to—

(i) the estimated actuarial present value of the differences described in paragraph (2).

Such rate shall be computed for each individual in the group in a manner so that the rate is based on the number of months between the first month of coverage under an enrollment under section 1859(b) and the month in which the individual attains 65 years of age.

(B) the estimated effective average interest rates that would be earned on investments held in the trust funds under this title during the period in question.

SEC. 1859C. PAYMENT OF PREMIUMS.

(a) PAYMENT OF BASE MONTHLY PREMIUM.—

(I) IN GENERAL.—The Secretary shall provide for payment and collection of the base monthly premium, determined under section 1859(b), during the period commencing with the first month of the individual's coverage period and ending with the month in which the individual's coverage under this title terminates.

(b) PAYMENT OF DEFERRED PREMIUM FOR INDIVIDUALS COVERED AFTER ATTAINING AGE 62.—

(I) RATE OF PAYMENT.—

(A) IN GENERAL.—If such an individual was entitled and enrolled under part D, payments they made for benefits provided under such part shall be treated for purposes of this title as being entitled to benefits under this title pursuant to the operation of this part.

(II) CONFORMING AMENDMENTS TO SOCIAL SECURITY ACT PROVISIONS.—

(1) Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking "or the Medicare Supplementary Medical Insurance Trust Fund" and inserting "the Federal Supplementary Medical Insurance Trust Fund, and the Medicare Early Access Trust Fund established by title XVII".

(2) Section 201(g)(1)(A) of such Act (42 U.S.C. 401(g)(1)(A)) is amended by striking "and the Federal Supplementary Medical Insurance Trust Fund" and inserting "the Federal Supplementary Medical Insurance Trust Fund, and the Medicare Early Access Trust Fund established by title XVII".

(3) Section 1821(i) of such Act (42 U.S.C. 1395d–4(i)) is amended by striking "part D" and inserting "part E".

(4) Section 1851(c) of title XVIII of such Act is amended—

(A) in section 1851(a)(2)(B) (42 U.S.C. 1395w–23(a)(2)(B)), by striking "1859(b)(3)" and inserting "1858(b)(3)";

(B) in section 1851(a)(2)(C) (42 U.S.C. 1395w–23(a)(2)(C)), by striking "1859(b)(5)" and inserting "1858(b)(5)";

(C) in section 1852(a)(1) (42 U.S.C. 1395w–24(a)(1)), by striking "A" and inserting "B";

(D) in section 1852(a)(2) (42 U.S.C. 1395w–24(a)(2)), by striking "1859(b)(5)" and inserting "1858(b)(5)";

(E) in section 1853(a)(1)(A) (42 U.S.C. 1395w–25(a)(1)(A)), by striking "1859(e)(4)" and inserting "1858(e)(4)";

(F) in section 1853(a)(3)(D) (42 U.S.C. 1395w–25(a)(3)(D)), by striking "1859(e)(4)" and inserting "1858(e)(4)";

(G) Section 1853(c) of such Act (42 U.S.C. 1395w–25(c)) is amended—

(A) in paragraph (1), by striking "or (7)" and inserting ", (7), or (8), and"; and

(B) by adding at the end the following:

"(8) ADJUSTMENT FOR EARLY ACCESS.—In applying this subsection with respect to individuals entitled to benefits under part D, the Secretary shall provide for an appropriate adjustment in the Medicare-Choice capitation rate as may be appropriate to reflect differences between the population served under part A and the population under parts A and B.".

(C) OTHER CONFORMING AMENDMENTS.—
is amended by adding at the end the following requirements with respect to a month involved:...

"(i) ELIGIBLE FOR UNEMPLOYMENT COMPENSATION.—The individual meets the requirements relating to period of covered employment and conditions of separation from employment to be eligible for unemployment compensation (as defined in section 553(b) of the Internal Revenue Code of 1986), based on a period of covered employment occurring on or after January 1, 1999. The previous sentence shall not be construed as requiring the individual to be receiving such unemployment compensation.

(ii) LOSS OF EMPLOYMENT-BASED COVERAGE.—Immediately before the time of such separation of employment, the individual was covered under a group health plan on the basis of such employment, and, because of such loss, is no longer eligible for coverage under such plan (including such eligibility based on the application of a Federal or State COBRA continuation provision) as of the last day of the month involved.

(iii) PREVIOUS CREDIBLE COVERAGES FOR ELIGIBILITY PURPOSES.—The aggregate of the periods of credible coverage described in clause (i), the period of employment covered under paragraph (i) and the period of coverage described in clause (ii), are provided notice and an opportunity to continue coverage in accordance with section 1859(c)(1)."

"(2) by adding at the end the following new paragraph:

"(b) ENROLLMENT.—Section 1859A of such Act, as so inserted, is amended—

(1) in subsection (a), by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting "; and", and by adding at the end the following new paragraph:

"(3) individuals whose coverage under this part would terminate because of subsection (d)(1)(B)(ii) are provided notice and an opportunity to continue enrollment in accordance with section 1859E(c)(1)."

"(2) in subsection (b), by inserting after Notwithstanding any other provision of law, (1) the following:

"(D) EXHAUSTION OF AVAILABLE COBRA CONTINUATION BENEFITS.—

(i) the individual (or spouse) elected coverage under section 1859(c) (as so inserted), or

(ii) the individual (or spouse) continues such coverage for all months described in clause (ii) in which the individual (or spouse) continues such coverage under section 1859(c) (as so inserted), or

(iii) INDIVIDUALS TO WHOM COBRA CONTINUATION COVERAGE MADE AVAILABLE.—An individual described in this clause is an individual—

"(i) who was offered coverage under a Federal or State COBRA continuation provision described in subparagraph (C)(i), or

"(ii) whose spouse was offered such coverage in a manner that permitted coverage of the individual's spouse.

"(C) OBTAINING ACCESS TO COVERAGE.—

(1) NATIONAL, PER CAPITA AVERAGE FOR AGE GROUPS.—The determination of the national, per capita average for individuals under 62 years of age.

(2) BASE MONTHLY PREMIUM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—A base monthly premium for individuals under 62 years of age, equal to 1/12 of the base annual premium rate computed under subsection (d)(3) for each premium area and age cohort.

(3) NATION, PER CAPITA AVERAGE —

(A) ESTIMATE OF AMOUNT.—The Secretary shall estimate the average, annual per capita average, based on the annual premium rate for such area and age cohort for the year 2000.

(B) SUBSEQUENT PERIODS.—The individual is eligible to enroll under such section for the month in which the individual first attains the age of 62, or the enrollment period based on such eligibility shall begin on the first day of the second month before the month in which the individual first attains age 62, and such enrollment shall end 44 months later; and

(4) in subsection (d)(3), by adding at the end the following:

"(C) OBTAINING ACCESS TO COVERAGE.—

(1) NATIONAL, PER CAPITA AVERAGE FOR AGE GROUPS.—

(2) BASE MONTHLY PREMIUM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—A base monthly premium for individuals under 62 years of age.
separate age cohorts in 5-year age increments for individuals who have not attained 60 years of age and a separate cohort for individuals who have attained 60 years of age.

(2) The term ‘qualified retiree’ means, with respect to a qualified beneficiary, any covered retiree who, on the day before such qualifying event, is a beneficiary the plan on the basis of the individual’s relationship to such qualified retiree.”.

(3) BASE ANNUAL PREMIUM.—The base annual premium under this subsection for a covered retiree shall reflect the portion of the month so covered.

(4) PRO-RATATION OF PREMIUMS TO REFLECT COVERAGE DURING A PART OF A MONTH.—If the Secretary provides for coverage of a month under section 2189A(c)(2), the Secretary shall pro-rate the premiums attributable to such coverage under this section to reflect the portion of the month so covered.

(d) ADJUSTMENT OF PREMIUMS.—Section 2189F of such Act, as so amended, is inserted by adding at the end the following:

(1) PROCESS FOR CONTINUED ENROLLMENT OF DISPLACED WORKERS WHO ATTAIN 62 YEARS OF AGE.—The Secretary shall provide a process for the continuation of enrollment of individuals who attain 62 years of age. Under such process such individuals shall be provided appropriate and timely notice before the date of such termination and of the requirement to enroll under this part pursuant to section 2189(b) in order to continue entitlement to benefits under this title after attaining 62 years of age.

(2) ARRANGEMENTS WITH STATES FOR TERMINATIONS RELATING TO UNEMPLOYMENT COMPENSATION ELIGIBILITY.—The Secretary may provide for cooperative arrangements with States for the determination of whether individuals in the State meet or would meet the requirements of section 2189(c)(1)(C)(i).

(e) CONFORMING AMENDMENT TO HEADING TO PART.—The heading of section D of title XVIII of the Public Health Service Act is amended by striking “62” and inserting “55”.

SECTION III—COBRA PROTECTION FOR EARLY RETIREES

Subtitle A—Amendments to the Employee Retirement Income Security Act of 1974

SEC. 301. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 603 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(3)), as so amended, is amended—

(A) by striking paragraph (a)(1)(A) and inserting—

(i) in subparagraph (A), by inserting ‘‘exacting as otherwise provided in this paragraph, and’’;

(ii) by inserting ‘‘with respect to a qualifying event described in section 603(7), the term ‘qualified beneficiary’ means a qualified beneficiary described in such section (other than a covered retiree or (in the case of a qualified beneficiary) such other coverage option as may be offered and elected by the qualified beneficiary involved.’’;

(d) INCREASED LEVEL OF PREMIUMS PERIOD.—Section 2003 of the Public Health Service Act (42 U.S.C. 300bb-3) is amended by inserting at the end the following:

SEC. 311. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 2303 of the Public Health Service Act (42 U.S.C. 300bb-3) is amended by inserting after paragraph (5) the following new subparagraph:

(ii) by inserting (B) in the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such that in no case shall notice be required under such amendment before such date.

Subtitle B—Amendments to the Public Health Service Act

SEC. 311. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 2303 of the Public Health Service Act (42 U.S.C. 300bb-3) is amended by inserting after paragraph (5) the following new subparagraph:

(ii) by inserting (B) in the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such that in no case shall notice be required under such amendment before such date.
"(5) QUALIFIED RETIREE.—The term ‘qualified retiree’ means, with respect to a qualifying event described in section 2203(6), a covered employee who, at the time of the event—

(A) has attained 55 years of age; and

(B) was receiving group health coverage under the plan by reason of the retirement of the covered employee.

(6) SUBSTANTIAL REDUCTION.—The term ‘substantial reduction’—

(A) means, as determined under regulations of the Secretary of Labor and with respect to a qualified beneficiary, a reduction in the average actuarial value of benefits under the plan (through reduction or elimination of benefits, increases in deductibles, copayments, and coinsurance, or any combination thereof), since the date of commencement of coverage of the beneficiary by reason of the retirement of the covered employee (or, if later, January 6, 1999), in an amount equal to at least 50 percent of the total average actuarial value of the benefits under the plan as of such date (taking into account an appropriate adjustment to permit comparison of values over time); and

(B) includes an increase in premiums required to an amount that exceeds the premium level described in the fourth sentence of subsection (f)(2)(C) of such Code.

(7) DURATION OF COVERAGE THROUGH AGE 65.—Section 2202(2)(A) of such Act (42 U.S.C. 300b–2(2)(A)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (iii) the following new clause:

‘‘(IV) in paragraph (4) in the case of a qualifying event described in section 2203(g) shall be provided at least 90 days before the date of the qualifying event.’’.}

Subtitle C—Amendments to the Internal Revenue Code of 1986

SEC. 321. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE GROUP HEALTH COVERAGE.

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 4980B(f)(3) of the Internal Revenue Code of 1986 is amended by inserting after subparagraph (F) the following new subparagraph:

‘‘(G) The termination or substantial reduction in benefits (as defined in subsection (g)(6)) of group health plan coverage as a result of plan changes or termination in the case of a covered employee who is a qualified retiree.’’.}

(b) QUALIFIED RETIREE; QUALIFIED BENEFICIARY; AND SUBSTANTIAL REDUCTION DEFINED.—Section 4980B(g) of such Code is amended—

(1) in paragraph (1)—

(i) in subparagraph (A), by inserting ‘‘except as otherwise provided in this paragraph’’ after ‘‘means’’; and

(ii) by adding at the end the following:

‘‘(B) certain retirees.—In the case of a qualifying event described in paragraph (3)(G), in the case of a qualified retiree (as defined under regulations of the Secretary of Labor) continued under the group health plan (or, if none, under the most prevalent coverage option (as determined under regulations of the Secretary of Labor) continued under the group health plan), the term ‘qualified retiree’ means a qualified retiree and any other individual who, on the day before such qualifying event, is a beneficiary under the plan on the basis of the individual’s relationship to such qualified retiree.’’;

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

‘‘(5) QUALIFIED RETIREE.—The term ‘qualified retiree’ means a beneficiary under the plan on the basis of the individual’s relationship to such qualified retiree who is not the qualified retiree or spouse of such retiree, the later of—

(a) the date that is 36 months after the earlier of the date the qualified retiree becomes entitled to benefits under title XVIII of the Social Security Act, or the date of the death of the qualified retiree; or

(b) the date that is 36 months after the date of the qualifying event.’’.}

(b) NOTICE.—Section 2206(a) of such Act (42 U.S.C. 300b–6(a)) is amended—

(1) by redesigning subparagraph (A) as subparagraph (F), or (G); and

(2) by adding at the end the following:

‘‘(H) in paragraph (2), by striking ‘‘(F)’’, ‘‘(G)’’ and inserting ‘‘(F), (G)’’.’’.

(c) TYPE OF COVERAGE IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—In the case of a qualifying event described in paragraph (3)(G), in the case of a qualified beneficiary described in paragraph (3)(G) who is not the qualified retiree or spouse of such retiree, the latter of—

(a) the date that is 36 months after the earlier of the date the qualified retiree becomes entitled to benefits under title XVIII of the Social Security Act, or the date of the death of the qualified retiree; or

(b) the date that is 36 months after the date of the qualifying event.’’.}

(c) INCREASED LEVEL OF PREMIUMS PERMITTED.—Section 4980B(f)(2)(A) of such Code is amended—

(1) by striking ‘‘The coverage’’ and inserting the following:

‘‘(1) CERTAIN RETIREEES.—In the case of a qualifying event described in paragraph (3)(G), in applying the first sentence of clause (i) and the fourth sentence of subparagraph (C), the coverage offered that is the most prevalent coverage option (as determined under regulations of the Secretary of Labor) continued under the group health plan (or, if none, under the most prevalent coverage option referred to in subparagraph (A)(ii)) shall be treated as the coverage described in such sentence, or (at the option of the plan and qualified beneficiary) such other coverage option as may be offered and elected by the qualified beneficiary involved.’’;

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

‘‘(2) increased level of premiums permitted.—Section 4980B(f)(2)(C) of such Code is amended by adding at the end the following new subparagraph:

‘‘(B) the date that is 36 months after the date of the qualifying event.’’.}

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Subsection (a) applies to events occurring on or after January 19, 1999.
The amendments made by this section (other than subsection (e)(2)) shall apply to qualifying events occurring on or after January 1, 2000, (2) had health insurance through their previous employer, or were enrolled in Medicare at the time they lost their insurance, or are enrolled in Medicare at the time this Act becomes effective and (3) do not have access to employer-sponsored, COBRA, or federal health insurance. Spouses and dependents of these eligible people may also buy into Medicare.

Premium Payments: Participants would pay two separate premiums—one before age 65 and one between age 65 and age 85. The base premium would be paid monthly between enrollment and when the participant turns age 65. It is the part of the premium that represents what Medicare would pay for all people in this age group. The Congressional Budget Office (CBO) estimates that this would be about $300 per month. It would be adjusted for geographic variation, but the maximum premium would be limited to ensure participation in all areas of the country.

Deferred premium: The deferred premium would be paid monthly beginning at age 65 until the beneficiary turns age 85. It is the part of the premium that covers the extra costs for participants who are sicker than average (premium cost sharing) before they enroll what their deferred premium will be. CBO estimates that this would be about $10 per month per year of participation.

Enrollment: Eligible persons can enroll within the either months of either turning 62 or losing access to employer-based or federal insurance.

Regarding Medicare Rules: Services covered would be, for paying participants, the same as those of Medicare beneficiaries. Participants would have the choice of fee-for-service or managed care. No Medicaid assistance would be offered to participants for premiums or cost sharing. Medicaid policy protections would apply, but the open enrollment provision remains at age 65.

Disenrollment: Persons who switch buying into Medicare at any time. People who disenroll would pay the deferred premium as though they had been enrolled for a full year (e.g., a person who pays in for 3 months in 2000 would pay the deferred premium as though they participated for 12 months). This is intended as a disincentive for temporary enrollment.

TITLES III. RETIREE HEALTH BENEFITS

The bill would also help retirees and their dependents whose employer unexpectedly drops their retiree health insurance, leaving them uncovered and with few options.

Eligibility: Persons ages 55 to 65 and their dependents who were receiving retiree health insurance when the insurance coverage was terminated or substantially reduced (benefits' value reduced by half or premiums increased to a level above 125 percent of the applicable premium) would qualify for "COBRA" continuation coverage.

Premium Payments: Participants would pay 125 percent of the applicable premium. This premium is higher than what most other COBRA participants pay (102 percent) because it is expected that those who enroll will be sicker (have higher costs) than other members of their age cohort.

Enrollment: Participants would enroll through their former employer, following the same rules as other COBRA eligibles.

Disenrollment: Only eligible until they turn 65 and older and can disenroll at any time.

Mr. KENNEDY. Mr. President, I commend Senator MOYNIHAN for his strong leadership on this issue. More than three million Americans ages 55 to 64 have no health insurance today. They are too young for Medicare, and unable to obtain private coverage they can afford. Often, they are victims of corporate downsizing, the result of a company's decision to cancel their health insurance.

In the past year, the number of the uninsured in this age group increased at a faster rate than other age groups. These Americans have been left out and left behind through no fault of their own—often after decades of hard work and reliable insurance coverage—and it is time for Congress to provide a helping hand.

Many of these fellow citizens have serious health problems that threaten to destroy the savings of a lifetime and that prevent them from finding or keeping a job. Even those without current health problems know that a single serious illness could wipe out their savings.

These uninsured Americans tend to be in poorer health than other members of their age group. Their health care costs to defray for the more general Medicare buy-in.

Even those with good coverage today can't be certain that it will be there tomorrow. No one retiring can be confident that the health insurance they have now will protect them until they qualify for Medicare at 65.

Our legislation provides three kinds of assistance. First, any uninsured American who is 62 years old or older and not yet eligible for Medicare can buy into the program. Participants will pay the full cost of their coverage, but to help keep premiums affordable, they can defer payment of part of the premium until they turn 65. Medicare starts to pay most of their health care costs. Once they turn 65, this deferred premium will be paid back over time at a modest monthly charge, currently estimated at about $10 per month for each year of participation in the buy-in program. Individuals age 55-61 who lose their health insurance because they are laid off or because their company closes will also be able to buy into Medicare. Finally, people who have retired before 65 with the expectation of employer-paid health insurance coverage would be allowed to buy into the company's program for active workers if the company dropped retirement coverage.

Today's proposal is a lifeline for all of these Americans. It is also a constructive step toward the day when every American will be guaranteed the fundamental right to health care.

In the past, opponents have waged a campaign of disinformation that this sensible plan is somehow a threat to Medicare. They are wrong—and the American people understand that they are wrong. Under our proposal, the participants themselves will ultimately pay the full cost of this new coverage. The modest short-term budget impact can be financed through savings obtained by reducing fraud or abuse in Medicare.

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Today's proposal is a lifeline for all of these Americans. It is also a constructive step toward the day when every American will be guaranteed the fundamental right to health care.
The current methodology for calculating match rates, per capita income, is a poor and inadequate measure of the states’ needs and abilities to participate in the Medicaid program. The current poverty guidelines for Alaska and Hawaii, for example, are different than those for the rest of the nation but there is no variation from the national calculation in the FMAP. The increased in Alaska’s FMAP demonstrates there is a recognition that a more accurate measurement is needed in the program.

The General Accounting Office (GAO) has studied the formula inequity for the past several years. In testimony before the Committee on Finance in 1995, GAO concluded:

The current formula has not moderated disparities across states with respect to the populations and benefits Medicaid covers and the relative financial burden states bear in funding their programs. Our work over the past decade utilized per capita income to reflect a state’s wealth sometimes overstates or understate the size of a state’s poverty population and its financial resources.

The legislation that I introduce today—The Equitable Federal Medical Assistance Percentage Act of 1999—would provide a more accurate and equitable formula by using more precise measures of a state’s relative capacity to raise revenue—its share of the population in need. The original concept is preserved: The goal of the matching formula is to offset the imbalance between state resources and the number of people in need in the state. I call this the state fiscal imbalance. A state with a larger share of resources compared to its share of need is in a strong fiscal position than a state with higher needs and fewer resources. The formula would measure the imbalance relative to its share of the national average: the state’s fiscal imbalance is its share of the nation’s resources compared to its share of the nation’s population in need.

State Share of Financing Resources. Per capita income reflects a portion of a state’s potential revenue. Perhaps in the 1950’s and 1960’s, per capita income was the best available indicator of state’s wealth. Currently, the Treasury Department estimates each state’s total taxable resources or TTR. In 1994, TTR replaced per capita income in the formula for distributing funds under the Alcohol, Drug Abuse and Mental Health Services block grant. This proposed formula compares the state’s TTRs to sum of all state’s TTRs. Funding capacity would be adjusted to account for the differences in regional health care costs. This provides a more accurate reflection of a state’s ability to purchase comparable services with similar tax efforts. The health care price index is based on the Medicare hospital payment adjuster that accounts for geographic wage differentials and on a proxy for office space costs.

The Population-in-Need. The number of persons in need of public assistance would be measured by the state’s population living below the poverty level. Per capita income—or the average mean income—is a particularly poor measure of poverty. An average income measure skews a state’s situation if a state has extreme differences in income levels among its residents, such as a state with a high portion of residents with high incomes and a high proportion of residents with low incomes. Despite similar per capita incomes, New York has a poverty rate that is nearly 50 percent greater than in Massachusetts, according to GAO.

The EFMAP would also use adjusted poverty levels to value the national variation in cost of living. Without a cost of living adjustment, the national poverty level underestimates what constitutes poverty in New York, with a cost of living 13 percent above the national average. In addition, the state’s adjusted poverty count would be weighted to account for higher cost populations. For example, health care costs for the elderly can be about two and a half times the cost for adults, and tax to eight times the cost for children.

Currently, New York’s FMAP is 50 percent. This proposed formula with more accurate and equitable measures of wealth and need would provide New York with a 70 percent matching rate.

In State Fiscal Year 1998-1999, this would yield $6.5 billion in additional federal Medicaid funds for New York. In fact, several other states and the District of Columbia would receive a greater matching rate under this bill.

In response to testimony from both then-Senator D’Amato and me in 1997, GAO determined that had New York had a similar equitable formula, the state would have received between $3.4 billion and $6.5 billion in additional federal assistance during the period of 1989 through 1996. These additional federal funds would go no means eliminate the existing $18 billion deficit in the balance of payments that New York annually has each year. However, I believe this is an important first step toward correcting a long-standing inequity in the Federal government’s balance of payments with the states.

I ask unanimous consent that the following be added at the end the following:

(1) I N GENERAL.ÐExcept as provided in paragraph (4), the equitable Federal medical
assistance percentage determined under this subsection is, for any State for a fiscal year, 100 percent reduced by the product of 0.45 and the ratio of—

(i) the State’s share of cost-adjusted total taxable resources determined under paragraph (2); to

(ii) the sum of the amounts determined under clause (ii) for all States.

(b) DETERMINATION OF STATE’S SHARE OF COST-ADJUSTED TOTAL TAXABLE RESOURCES.—

(i) IN GENERAL.—For purposes of subparagraph (A)(i), the geographic health care cost index for a State for a fiscal year is the ratio of—

(iii) 0.75 multiplied by the ratio of—

(aa) the most recent 3-year average annual wages for hospital employees in the State or the District of Columbia (as determined under clause (iii)); to

(bb) the most recent 3-year average annual wages for hospital employees in the 50 States and the District of Columbia, as determined under clause (ii); and

(iv) 0.15 multiplied by the State’s fair market rent index (as determined under clause (iii)).

(ii) DETERMINATION OF AVERAGE ANNUAL WAGES OF HOSPITAL EMPLOYEES.—The Secretary shall determine for each State the average annual wages for hospital employees in the 50 States and the District of Columbia, based on data made generally available by the Bureau of the Census from the Current Population Survey.

(iii) DETERMINATION OF STATE’S SHARE OF RESOURCES.—

(A) IN GENERAL.—For purposes of clause (ii), a State’s cost-of-living index is the sum of—

(aa) the product of 0.44 and the State’s fair market rent index determined under paragraph (2)(B)(ii); and

(bb) the State’s cost-of-living index (as determined under subclause (II)).

(B) ALTERNATE METHODOLOGY.—The Commissioner of Labor Statistics may use an alternate methodology to the formula set forth under subclause (II) to determine a State’s cost-of-living index for purposes of subclause (I). The Commissioner determines that the alternate methodology results in a more accurate determination of that index.

(C) DETERMINATION OF PROGRAM NEED.—

(A) IN GENERAL.—For purposes of clause (i), the products determined under this clause for each fiscal year are the following:

(i) the average annual fair market rent for 2-person units in the State for the fiscal year, as determined under clause (ii);

(ii) the sum of the products determined under clause (ii) for all States.

(B) DETERMINATION OF PROGRAM NEED.—

(i) IN GENERAL.—For purposes of subparagraph (A)(i), a State’s program need is equal to the average determined for the most recent 5 fiscal years for which data are available; to

(ii) the sum of the amounts determined under clause (ii) for each such fiscal year (based on the number of State residents who are below the State’s cost-of-living adjusted poverty income level (as determined under clauses (ii) and (iii)).

(iii) DETERMINATION OF NUMBER OF STATE RESIDENTS BELOW THE STATE’S COST-OF-LIVING ADJUSTED POVERTY LEVEL.—

(A) IN GENERAL.—For purposes of clause (iv), with respect to each State and the District of Columbia, the number of residents whose income for a fiscal year is below the State’s cost-of-living adjusted poverty income level applicable to a family of the size involved (as determined under clause (iii)) shall be determined.

(B) CENSUS DATA.—The determination of the number of residents whose income for a fiscal year is below the State’s cost-of-living adjusted poverty income level applicable to a family of the size involved (as determined under clause (iii)) shall be based on data made generally available by the Bureau of the Census from the Current Population Survey.

(c) EFFECTIVE DATE.—The amendments made by this Act take effect on October 1, 1999.

SUMMARY OF EQUITABLE FEDERAL MEDICAL ASSISTANCE PERCENTAGE

Purpose: This legislation would replace an outdated formula for determining the Federal Medical Assistance Percentage (FMAP) with one that more accurately accounts for geographic differences in cost of living. The new formula is based on several years of analysis by the Government Accountability Office (GAO).

A State’s Share of resources would be measured by the state’s Total Taxable Revenue (TTR)—the total amount of revenue raised in the state—compared to the sum of all states’ TTR. This state TTR amount is adjusted for geographic cost of living differences. The adjusted poverty count would also be weighted to account for higher cost populations, such as the elderly.

State Program Need would be measured by the number of residents with incomes below the poverty level compared to the sum of all people in the nation. To account for the incidence of residents living below poverty, the Federal Poverty Level would be adjusted for each state to account for geographic cost of living differences. The adjusted poverty count would also be weighted to account for higher cost populations, such as the elderly.

The proposal would apply the 50 percent floor and 83 percent ceiling to EFMAP rates for states. FMAP would be the federal matching rate for all programs that currently use the FMAP, such as the Children’s Health Insurance Program (CHIP) and foster care, as well as Medicaid.

By Mr. MOYNIHAN (for himself, Mr. JEFFORDS, and Mr. LIEBERMAN)

S. 204. A bill to amend chapter 5 of title 13, United States Code, to require that data on the incidence of poverty produced or published by the Secretary of Commerce for subnational areas is corrected for differences in the cost of living in those areas; to the Committee on Governmental Affairs.

INTRODUCTION OF THE POVERTY DATA CORRECTION ACT OF 1999

Mr. MOYNIHAN. Mr. President, I rise today to introduce the Poverty
Mr. MOYNIHAN. Mr. President, I join my distinguished colleague, Senator BOB KERREY of Nebraska, in introducing legislation to establish a Federal Commission on Statistical Policy. Congressman STEPHEN HORN of California and Congresswoman POLLY MALONEY of New York plan to introduce similar legislation in the House of Representatives.

This legislation is similar to S. 1404, the Federal Statistical System Act of 1997, a bill which was favorably reported out of the Senate Committee on Governmental Affairs October 6 of last year by a 9 to 0 vote.

This Senator first introduced legislation to study the Federal statistical system on September 25, 1996, for the 104th Congress, and again on January 21, 1997, for the 105th Congress. Over the past few years, I have testified before the Senate Subcommittee on Oversight of Government Management and the House Subcommittee on Government Management Information and Technology to explain this legislation. This bill represents more than 2 years of work and much bipartisan cooperation.

The Federal Commission on Statistical Policy would consist of 16 Presidential and congressional appointees with expertise in fields such as actuarial science, finance, and economics. Its members would conduct a thorough review of the U.S. statistical system, and issue a report that would include recommendations on whether statistical agencies should be consolidated into a centralized Federal Statistical Service. Of course, we have an example of a consolidated statistical agency just across our northern border. Statistics Canada, the most centralized statistical agency among OECD countries, was established in November 1918 as a reaction to a familiar problem. At that time, the Canadian Minister of Industry was trying to obtain an estimate of the manpower resources that Canada could commit to the war effort. And he got widely different estimates from the manpower resources that Canada could commit to the war effort. And he got widely different estimates from the statistical agencies scattered throughout the government. Consolidation seemed the way to solve this problem, and so it happened—as it can in a parliamentary government—rather quickly, just as World War I ended.

In April of 1997, a member of my staff met in Ottawa with the Assistant Chief Statistician of Statistics Canada. He reported that Statistics Canada is doing quite well. Decisions about the allocation of resources among statistical functions are made at the highest level of government. The Chief Statistician of Statistics Canada holds a position equivalent to Deputy Cabinet Minister. He communicates directly with Deputy Ministers in other

**SUBCHAPTER VI—POVERTY DATA**

§197. Correction of subnational data relating to poverty

(a) Any data relating to the incidence of poverty produced or published by or for the Secretary for subnational areas shall be corrected for differences in the cost of living, and data produced for State and sub-State areas shall be corrected for differences in the cost of living for at least all States of the United States.

(b) Data under this section shall be published in 1999 and at least every second year thereafter.

§198. Development of State cost-of-living index and State poverty thresholds

(a) To correct any data relating to the incidence of poverty for differences in the cost of living, the Secretary shall—

(1) develop or cause to be developed a State cost-of-living index which ranks and assigns an index value to each State using data on prices of basic needs, including state-by-state data; and

(2) multiply the Federal Government's statistical poverty thresholds by the index value for each State's cost of living to produce State poverty thresholds for each State.

(b) The State cost-of-living index and resulting State poverty thresholds shall be published before September 30, 2000, for calendar year 1999 and shall be updated annually for each subsequent calendar year.

1. **RIQUES ADJUSTMENT OF POVERTY DATA FOR DIFFERENCES IN COST OF LIVING**

The bill would require that any data relating to poverty on a subnational basis (including state-by-state data) be corrected for differences in the cost of living by state or sub-state areas. The costs of basic needs, such as housing, vary substantially from state-to-state and assessments of poverty in the United States should take this into account.

2. **REQUIRES DEVELOPMENT OF STATE COST-OF-LIVING INDEX AND POVERTY THRESHOLDS**

To enable the adjustments required above, the bill requires the development of a state-specific cost-of-living index based upon wage, housing, and other cost information relevant to the cost of living. The bill also requires that the Federal government's poverty thresholds be multiplied by this index to produce state-specific poverty thresholds. These thresholds, which vary by family size, are the "poverty lines" used to determine the number of individuals and families in poverty.

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

S. 205. A bill to establish a Federal Commission on Statistical Policy to study the reorganization of the Federal statistical system, to provide uniform safeguards for the confidentiality of information acquired from exclusively statistical purposes, and to improve the efficiency of Federal statistical programs and the quality of Federal statistics by permitting limited sharing of records among designated agencies for statistical purposes under strong safeguards; to the Committee on Governmental Affairs.

**FEDERAL COMMISSION ON STATISTICAL POLICY**
Cabinet Departments. In contrast, in the United States, statistical agencies are buried several levels below the Cabinet Secretaries, so it is difficult for the heads of these statistical agencies to bring issues to the attention of high-ranking administration officials and Congress.

Statistics are part of our constitutional arrangement, which provides for a decennial census that, among other purposes, is the basis for apportionment of membership in the House of Representatives. I quote from article I, section I:

... enumeration shall be made within three Years after the first meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall be Law direct.

But, while the Constitution directed that there be a census, there was, initially, no Census Bureau. The earliest censuses were conducted by U.S. marshall. Later on, statistical bureaus in state governments collected the data, with a Superintendent of the Census overseeing from Washington. It was not until 1902 that a permanent Bureau of the Census was created by the Congress, housed initially in the Interior Department. In 1902 the Bureau was transferred to the newly established Department of Commerce and Labor.

The Statistics of Income Division of the Internal Revenue Service, which was created in 1884, was also initially in the Interior Department. The first Commissioner, appointed in 1885, was Colonel Carroll D. Wright, a distinguished Civil War veteran of the New Hampshire Volunteers. A self-taught social scientist, Colonel Wright pioneered techniques for collecting and analyzing survey data on income, prices and wages. He had previously served as Chief of the Massachusetts Bureau of Statistics, a post he held for 15 years, and in that capacity had supervised the 1880 Federal census in Massachusetts.

In 1898, the Bureau of Labor became an independent agency. In 1903, it was once again made a Bureau, joining other statistical agencies in the Department of Commerce and Labor. When a new Department of Labor was formed in 1913, given labor an independent voice—as labor was “removed” from the Department of Commerce and Labor—what we now know as the Bureau of Labor Statistics was transferred to the newly created Department of Labor.

And so it went. Statistical agencies sprung up as needed. And they moved back and forth as new executive departments were formed. Today, some 99 different organizations in the Federal government comprise parts of our national statistical infrastructure. Eleven of these organizations have as their primary function the generation of data. These 11 organizations are:

<table>
<thead>
<tr>
<th>Agency</th>
<th>Department</th>
<th>Date established</th>
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</thead>
<tbody>
<tr>
<td>National Agricultural Statistical Service</td>
<td>Agriculture</td>
<td>1860</td>
</tr>
<tr>
<td>Statistics of Income Division, IRS</td>
<td>Treasury</td>
<td>1896</td>
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<tr>
<td>Economic Research Service</td>
<td>Commerce</td>
<td>1921</td>
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<tr>
<td>National Center for Education Statistics</td>
<td>Education</td>
<td>1958</td>
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<tr>
<td>Bureau of Labor Statistics</td>
<td>Labor</td>
<td>1884</td>
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<tr>
<td>Bureau of the Census</td>
<td>Commerce</td>
<td>1870</td>
</tr>
<tr>
<td>Bureau of Economic Analysis</td>
<td>Commerce</td>
<td>1922</td>
</tr>
<tr>
<td>National Oceanic and Atmospheric Administration</td>
<td>Commerce and Labor</td>
<td>1970</td>
</tr>
<tr>
<td>Bureau of Justice Statistics</td>
<td>Justice</td>
<td>1968</td>
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<tr>
<td>Energy Information Administration</td>
<td>Energy</td>
<td>1974</td>
</tr>
<tr>
<td>Bureau of Transportation Statistics</td>
<td>Transportation</td>
<td>1991</td>
</tr>
</tbody>
</table>

NEED FOR LEGISLATION

President Kennedy once said: Democracy is a difficult kind of government. It requires the highest qualities of the signatories including as a special statistical assistant to the President. In their fine history of the agency, The First Hundred Years of the Bureau of Labor Statistics, Isador Lubin, I say sometime because although Lubin headed the Bureau from 1933-1946, much of his time was spent “on leave” serving in various White House statistical assignments, including as a special statistical assistant to the President. In their fine history of the agency, The First Hundred Years of the Bureau of Labor Statistics, Joseph P. Goldberg and William T. Moye write that the Board was then established by Congress “in 1935 for a 5-year period to ensure consistency, avoid duplication, and promote economy in the work of government statistics.”

But in most cases little or no action has been taken on their recommendations. The result of this inaction has been an ever expanding statistical system. It continues to grow in order to meet new data needs, but with little or no regard for the overall objectives of...
the system. As Norwood notes in her book:

The U.S. system has neither the advantages that come from centralization nor the efficiency that comes from strong coordination in decentralization. As presently organized, therefore, the country’s statistical system will be hard pressed to meet the demands of a technologically advanced, increasingly internationalized world in which the demand for objective data of high quality is steadily rising.

In this era of government downsizing and budget cutting, it is unlikely that Congress will appropriate more funds for statistical agencies. It is clear that to preserve and improve the statistical system we must consider reforming it, yet we must not attempt to reform the system until we have heard from experts in the field.

The legislation establishes a Federal Commission on Statistical Policy for a three-year term. The Commission would consist of 16 members: eight of whom to be chosen by the President; four of whom by the Speaker of the House of Representatives in consultation with the Majority and Majority Leader; whom to be chosen by the President pro tempore of the Senate in consultation with the Majority and Minority Leader.

In an initial 18-month period, the Commission would determine whether to consolidate the Federal statistical system, and would also make recommendations with respect to ways to achieve greater efficiency in carrying out Federal statistical programs. If the Commission recommends creation of a newly established independent Federal statistical agency, designated as the Federal Statistical Service, the Commission’s report would contain draft legislation incorporating such recommendations.

Over the full term of the Commission, it would also conduct comprehensive studies and submit reports to Congress that:

Evaluate the mission of various statistical agencies and the relevance of such missions to current and future needs;

Evaluate key statistics and measures and make recommendations on ways to improve such statistics better serve the intended major purposes;

Review information technology and make recommendations of appropriate methods for disseminating statistical data; and

Compare our statistical system with the systems of other nations.

This legislation is only a first step, but an essential one. The Commission will provide Congress with the blueprint for reform. It will be up to us to finally take action after nearly a century of inattention to this very important issue.

I ask unanimous consent the full text of the letter from nine former Chairmen of the Council of Economic Adviser, a summary of the bill, and the full text of the bill be included in the RECORD.

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

S. 205
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 "Federal Commission on Statistical Policy Act of 1999."

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Establishment.
Sec. 4. Duties of Commission.
Sec. 5. Powers.
Sec. 6. Commission procedures.
Sec. 7. Personnel matters.
Sec. 8. Other administrative provisions.
Sec. 9. Termination.
Sec. 10. Fast-track procedures for statistical reorganization bill.

TITLE II—EFFICIENCY AND CONFIDENTIALITY OF FEDERAL STATISTICAL SYSTEMS

Sec. 201. Short title.
Sec. 203. Definition of Federal Statistical Data Centers.
Sec. 204. Statistical Data Centers.
Sec. 205. Statistical Data Center responsibility.
Sec. 206. Confidentiality of information.
Sec. 207. Coordination and oversight.
Sec. 208. Implementing regulations.
Sec. 209. Consideration of amendments and proposed changes in law.
Sec. 210. Effect on other laws.

SEC. 2. FINDINGS.
The Congress, recognizing the importance of statistical information in the development of national priorities and policies and in the administration of public programs, finds the following:

(1) While the demand for statistical information has grown substantially during the last 30 years, the difficulty of coordinating planning within the decentralized Federal statistical system has limited the usefulness of statistics in defining problems and determining national policies to deal with complex social and economic issues.

(2) Coordination and planning among the statistical programs of the Government are necessary to strengthen and improve the quality and quantity of Federal statistics and to reduce duplication and waste in information collected for statistical purposes.

(3) High-quality Federal statistical products and programs are essential for sound business and public policy decisions.

(4) The challenge of providing high-quality statistics has increased because our economy and society is so complex, new technologies are available, and decisionmakers need more complete and accurate data.

(5) Maintaining quality of Federal statistical products requires full cooperation between Federal statistical agencies and those persons and organizations that respond to their requests for data collection.

(6) Federal statistical products and programs can be improved, without reducing respondent cooperation, by permitting carefully controlled sharing of data with statistical agencies and other Federal agencies in a manner that is consistent with confidentiality commitments made to respondents.

SEC. 3. SENSE OF CONGRESS.
It is the sense of Congress that—

(1) a more centralized statistical system is integral to efficiency;

(2) with increased efficiency comes better integration of research methodology, survey design, and economies of scale;

(3) the Chief Statistician must have the authority, personnel, and other resources necessary to carry out the duties of that office effectively, including duties relating to statistical forms clearance; and

(4) statistical forms clearance at the Office of Management and Budget should be better distinguished from regulatory forms clearance.

TITLE I—FEDERAL COMMISSION ON STATISTICAL POLICY

SEC. 101. ESTABLISHMENT.
(a) Establishment.—There is established a commission to be known as the Federal Commission on Statistical Policy" (in this title referred to as the "Commission").

(b) Composition.—The Commission shall be composed of 16 members as follows:

(1) Appointments by President.—Eight members appointed by the President from among individuals who—

(A) are not officers or employees of the United States; and

(B) are qualified to serve on the Commission by virtue of experience relating to statistical agencies of the Federal Government;

or

(ii) have expertise relating to organizational reorganization, State sources and uses of statistical information, statistical analysis, or management of complex organizations;

(2) Appointments from the House of Representatives.—Four members appointed by the Speaker of the House of Representatives, in consultation with the majority leader and minority leader of the House of Representatives, from among individuals who—

(A) are not officers or employees of the United States; and

(B) are qualified to serve on the Commission by virtue of experience relating to statistical agencies of the Federal Government;

or

(ii) are also qualified to serve on the Commission by virtue of expertise relating to organizational reorganization, State sources and uses of statistical information, statistical analysis, or management of complex organizations;

(3) Appointments from the Senate.—Four members appointed by the President pro tempore of the Senate, in consultation with the majority leader and minority leader of the Senate, from among individuals who—

(A) are not officers or employees of the United States; and

(B) are qualified to serve on the Commission by virtue of experience relating to statistical agencies of the Federal Government;

or

(ii) are also qualified to serve on the Commission by virtue of expertise relating to organizational reorganization, State sources and uses of statistical information, statistical analysis, or management of complex organizations;

(c) Deadline for Appointment.—Members shall be appointed to the Commission not later than 4 months after the date of the enactment of this Act.

(d) Political Affiliation.—

(1) Appointments by President.—Of the members of the Commission appointed under subsection (b)(1), not more than 4 may be of the same political party.

(2) Appointments by Speaker of the House of Representatives.—Of the members of the Commission appointed under subsection (b)(2), not more than 2 may be of the same political party.

(3) Appointments by President pro tempore.—Of the members of the Commission appointed under subsection (b)(3), not more than 2 may be of the same political party.
(e) CHAIRMAN.The Commission shall select a Chairman from among the members of the Commission by a majority vote of all members.

(f) CONSULTATION BEFORE APPOINTMENTS.In making appointments under subsection (b), the President, the Speaker of the House of Representatives, the minority leader of the House of Representatives, the President pro tempore of the Senate, and the minority leader of the Senate shall consult with appropriate professional organizations, including State and local governments.

(g) PERIOD OF APPOINTMENT; VACANCIES.Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

SEC. 102. DUTIES OF COMMISSION.

(a) STUDY AND REPORT.Not later than 18 months after the date of enactment of this Act, the Commission shall study and submit to Congress and the President a written report and draft legislation as necessary and appropriate on the Federal statistical system including

(1) recommendations on whether the Federal statistical system could be reorganized by consolidating the statistical functions of agencies that carry out statistical programs;

(2) recommendations on how the consolidation described in paragraph (1) may be achieved without disruption in the release of statistical products;

(3) any other recommendations regarding how the Federal statistical system could be reorganized to achieve greater efficiency, improve quality, timeliness, and adaptability to change in carrying out Federal statistical programs;

(4) recommendations on possible improvements to procedures for the release of major economic and social indicators by the United States; and

(5) recommendations to ensure requirements that State data and information shall be maintained in a confidential, consistent, and comparable manner.

(b) PRESIDENTIAL REVIEW.

(1) IN GENERAL.Not later than 18 months after the receipt of the report (including any draft legislation) under subsection (a), the President shall approve or disapprove of the report.

(2) PROVISIONAL ACTION.If the President approves the report, the Commission shall submit the report to Congress on the day following such approval. If the President does not approve the report, the Commission shall submit the report to Congress on the day following the 15-day period described under subparagraph (A).

(c) APPROPRIATIONS.If the President disapproves the report, the President shall note his specific objections and any suggested changes to the Commission.

(d) REPORT AFTER DISAPPROVAL.The Commission shall consider any objections and suggested changes submitted by the President and may modify the report based on such objections and suggested changes. Not later than 10 days after receipt of the President's disapproval under subparagraph (C), the Commission shall submit the final report (as modified if modified) to Congress.

(c) STATISTICAL REORGANIZATION BILL.

(1) IN GENERAL.If the written report submitted under paragraph (a) contains recommendations on the consolidation of the Federal statistical functions of the United States into a Federal Statistical Service, the report shall contain draft legislation incorporating such recommendations under subsection (a)(1).

(2) DRAFT LEGISLATION.Draft legislation submitted to Congress under this subsection shall be strictly limited to implementation of recommendations for the consolidation or reorganization of the statistical functions of Federal agencies.

(3) PROVISIONS IN DRAFT LEGISLATION.Draft legislation submitted to Congress under this subsection shall establish a Federal Statistical Service that

(A) provide for an Administrator and Deputy Administrator of the Federal Statistical Service, and the creation of other offices as appropriate; and

(B) contain a provision designating the Administrator and the Interagency Council on Statistical Policy established under section 3500(e)(8) of title 44, United States Code.

(d) OTHER DUTIES OF THE COMMISSION.

(1) IN GENERAL.The Commission shall also conduct comprehensive studies and submit reports to Congress on all matters relating to the Federal statistical infrastructure, including longitudinal surveys conducted by private agencies and partially funded by the Federal Government for the purpose of identifying opportunities to improve the quality of statistics in the United States.

(2) INCLUSIONS.Studies under this subsection may include

(A) a review and evaluation of the mission of various statistical agencies and the relevancy of such missions to current and future needs;

(B) an evaluation of key statistics and recommendations on ways to improve such statistics so that the statistics better serve the intended major purposes;

(C) a review of interagency coordination of statistical data and recommendations of methods to standardize collection procedures and surveys, as appropriate, and presentation of data throughout the Federal system;

(D) a review of information technology and recommendations of appropriate methods for disseminating statistical data, with special emphasis on resources such as the Internet that allow the public to obtain information in a timely and cost-effective manner;

(E) an identification and examination of issues regarding individual privacy in the context of statistical data;

(F) a comparison of the United States statistical system to statistical systems of other nations for the purposes of identifying best practices;

(G) a consideration of the coordination of statistical data with other nations and international agencies, such as the Organization for Economic Cooperation and Development; and

(H) recommendations regarding the presentation to the public of statistical data collected by Federal agencies, and standards of accuracy for specified Federal agencies, including statistical data relating to

(i) the national poverty level and county poverty levels in the United States;

(ii) the Consumer Price Index; and

(iii) the gross domestic product; and

(iv) other indicators of economic and social activity, including marriage and divorce in the United States.

(e) DEFINITION OF FEDERAL STATISTICAL SERVICE.For the purposes of this section, the term "Federal Statistical Service" means an entity established after the date of the enactment of this Act as an independent agency in the executive branch, the major purposes of which is to carry out Federal statistical programs and to which the statistical functions of Federal statistical agencies are transferred.

SEC. 103. SERVICE OF COMMISSION.

(a) HEARINGS AND SESSIONS.The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(b) OBTAINING INFORMATION.The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties. Upon request of the Commission, the head of that department or agency shall furnish that information to the Commission.

(c) CONTRACT AUTHORITY.The Commission may contract with and compensate government and private agencies or persons without regard to section 3709 of the Revised Statutes.

SEC. 104. COMMISSION PROCEDURES.

(a) MEETINGS.The Commission shall meet at the call of the Chairman or a majority of its members.

(b) QUORUM.Eight members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(c) DELEGATION OF AUTHORITY.Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this Act.

(d) RECORD KEEPING.The Commission shall adopt any record keeping by any of its members.

SEC. 105. PERSONNEL MATTERS.

(a) PAY OF MEMBERS.Members of the Commission appointed under paragraphs (2)(B), (3), or (4) of section 101(b) shall be entitled to receive the daily equivalent of the rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which they are engaged in the performance of duties vested in the Commission.

(b) TRAVEL EXPENSES.Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) STAFF.The Commission may appoint and fix the pay of personnel as it considers appropriate, including an Executive Director.

(d) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.Staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid at rates in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5 that relate to classification and pay of Executive Branch employees.

SEC. 106. OTHER ADMINISTRATIVE PROVISIONS.

(a) POSTAL AND PRINTING SERVICES.The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the United States.

(b) ADMINISTRATIVE SUPPORT SERVICES.Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

(c) EXPERTS AND CONSULTANTS.The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

SEC. 107. TERMINATION.

The Commission shall terminate 3 years after the date of enactment of this Act.

January 19, 1999
 Such bills shall be referred to the Appropriations Committee of each House for consideration and to the extent that they are inconsistent with this section; and

(2) with full recognition of the constitutional right of either House to change the rules of its own deliberation and to such extent as may be necessary to carry out the functions of the Commission.

SEC. 202. FINDINGS AND PURPOSES

SEC. 202. FINDINGS AND PURPOSES

(a) FINDINGS.—Congress finds the following:

(1) High quality Federal statistical products and programs are essential for sound business and public policy decisions.

(2) The challenge of providing high quality statistics has increased because the Nation's economy and society are more complex, new technologies are available, and decision makers need more complete and accurate data.

(3) Maintaining quality requires full cooperation between Federal statistical agencies and persons and organizations that respond to information requests.

(4) Federal statistical products and programs can be improved, without reducing respondent cooperation, by permitting careful evaluation of how statistical agencies in a manner that is consistent with confidentiality commitments made to respondents.

(b) PURPOSES.—The purposes of this title are the following:

(1) To provide that individually identifiable information furnished either directly or indirectly to designated statistical agencies for exclusively statistical purposes shall not be disclosed in an individually identifiable form by such agencies for any other purpose without the informed consent of the respondent.

(2) To prohibit the use by such agencies, in individually identifiable form, of any information collected, compiled, or maintained solely for statistical purposes under Federal authority, to make any decision or take any action directly affecting the rights, benefits, and privileges of the person to whom the information pertains, except with the person's consent.

(3) To reduce the reporting burden, duplication, and expense imposed on the public by permitting interagency exchange, solely for statistical purposes, of individually identifiable information needed for statistical programs, and to establish secure conditions for such exchanges.

(4) To reduce the cost and improve the accuracy of statistical programs by facilitating cooperation between statistical agencies, and to create a secure environment where expertise and data resources that reside in different agencies can be brought together to address the information needs of the public.

(5) To reduce the risk of unauthorized disclosure of information maintained solely for statistical purposes by designating specific statistical agencies that are authorized to receive otherwise privileged information for such purposes from other agencies, and to prescribe specific conditions and procedures that must be complied with in any such exchange.

(6) To establish a consistent basis under the requirements of section 522 of title 5, United States Code (popularly known as the “Freedom of Information Act”) for exempting a defined class of statistical information from compulsory disclosure.

(7) To ensure that existing avenues for public access to administrative data or information under section 522 of title 5, United States Code (popularly known as the “Privacy Act”) or section 522 of such title (popularly known as the “Freedom of Information Act”) are retained.

(8) To establish consistent procedural safeguards for records disclosed exclusively for statistical purposes, including both public and private entities.

SEC. 203. DEFINITIONS.

In this title:

(1) The term “agency” means—

(A) any “executive agency” as defined under section 102 of title 31, United States Code; or

(B) any “agency” as defined under section 502 of title 44, United States Code.

(2) The term “agent” means a person designated by a Statistical Data Center to perform, either in the capacity of a Federal employee or otherwise, exclusively statistical activities authorized by law under the supervision of an officer or employee of that Statistical Data Center, and who has agreed in writing to comply with all provisions of law that affect information acquired by that Statistical Data Center.

(3) The term “identification” means any representation of information that permits information concerning individual subjects to be reasonably inferred by either direct or indirect means.

(4) The term “statistical activity” means any purpose that is not a statistical purpose, and includes any administrative, regulatory, adjudicatory, or other purpose that affects the rights, privileges, or benefits of a particular identifiable respondent.

(5) The term “respondent” means a person who furnishes or authorizes information for statistical purposes.

(a) is requested or required to supply information to an agency;

(b) is the subject of information requested or required to be supplied to an agency; or

(c) provides that information to an agency.

(6) The term “statistical purposes” means the collection, compilation, processing, or analysis of data for the purpose of describing or making estimates concerning the whole or relevant groups or components within, the economy, society, or the national environment.

(a) is the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or administrative procedures, or information practices.

(b) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or administrative procedures, or information practices.

(c) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or administrative procedures, or information practices.

(d) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or administrative procedures, or information practices.

(e) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or administrative procedures, or information practices.

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(r) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or administrative procedures, or information practices.

(s) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or administrative procedures, or information practices.

(t) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or administrative procedures, or information practices.

(u) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or administrative procedures, or information practices.

(v) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or administrative procedures, or information practices.

(6) The term “energy end use and integrated energy data” means any energy end use data that is maintained or supported in writing in the Senate by 10 Members of the Senate and in the House of Representatives by 40 Members of the House of Representatives and it shall be placed on the appropriate calendar.

(7) The term “official” means a member of the General Services Administration in the Department of Commerce.

(8) The term “Secretary” means the Secretary of Energy.

This title may be cited as the “Statistical Reorganization Act.”

SEC. 204. STATISTICAL DATA CENTERS.

(a) General.—Each of the following is designated as a Statistical Data Center:

(1) The Bureau of Economic Analysis in the Department of Commerce.

(2) The Bureau of the Census in the Department of Commerce.


(4) The National Agricultural Statistics Service in the Department of Agriculture.

(5) The National Center for Education Statistics in the Department of Education.

(6) The National Center for Health Statistics in the Department of Health and Human Services.

The Division of Science Resources Studies in the National Science Foundation. (b) Designation.—In the case of a reorganization that eliminates, or substantially alters, the functions of, an agency or agency component listed under subsection (a), the Director of the Office of Management and Budget shall consult with the head of the agency proposing the reorganization, may designate an agency or agency component that shall serve as a successor Statistical Data Center or Centers. Under the terms of this title, if the Director determines that—
(1) the primary activities of the proposed Statistical Data Center are statistical activities explicitly authorized by law;
(2) the successor agency or component would participate in data sharing activities that significantly improve Federal statistical programs or products;
(3) the successor agency or component has demonstrated its capability to protect the individual confidentiality of any shared data; and
(4) the statutes that apply to the proposed Statistical Data Center are not inconsistent with this title;
(3) the data or information are to be used exclusively for statistical purposes by the Statistical Data Center or Centers; and
(4) the disclosure is made under the terms of a summary report, if any, to the Statistical Data Center or Centers and the agency supplying information as authorized by this subsection, specifying—
(A) the data or information to be disclosed; and
(B) the purposes for which the data or information are to be used; and
(C) appropriate security procedures to safeguard the confidentiality of the data or information.
(d) Agreements.—Data or information supplied to a Statistical Data Center under subsection (b) or under a written agreement between an agency and a Statistical Data Center or Centers and the agency supplying information as authorized by this subsection shall be disclosed by an agency to 1 or more Statistical Data Centers, if—
(1) the data or information to be disclosed is supplied to the agency by a Statistical Data Center under subsection (b) or under a written agreement between an agency and a Statistical Data Center;
(2) the data or information to be disclosed by an agency under subsection (b) or under a written agreement between an agency and a Statistical Data Center shall report to the Office of Management and Budget that the terms and conditions of such data or information shall not be disclosed in identifiable form by that Center for any purpose, except that data or information collected directly by any party to such agreement may be disclosed to any other party to that agreement for exclusively statistical purposes specified in that agreement.
(e) Notice.—Whenever a written agreement authorized under subsection (c)(4) concerns data that respondents were required by law to report and the agreement contains terms that could not have been anticipated by respondents who provided the data that will be disclosed, or upon the initiative of any party to such an agreement, or whenever the Director of the Office of Management and Budget, after consultation with the head of the agency seeking designation as a successor agency component listed under subsection (a), determines upon which the designation is proposed to be based.
(f) Prohibition Against Increase in Number of Centers.—No action taken under this section shall increase the number of Statistical Data Centers authorized by this title.
SEC. 205. Statistical Data Center Responsions.
The Statistical Data Centers shall—
(1) identify opportunities to eliminate duplication of effort and reduce the burden and cost imposed on the public by sharing information for exclusively statistical purposes;
(2) enter into joint statistical projects to improve the quality and reduce the cost of statistical programs; and
(3) safeguard the confidentiality of individually identifiable information acquired for statistical purposes by assuring its physical security and by controlling access to, and uses made of, such information; and
SEC. 206. Confidentiality of Information.
(a) Data or information acquired by a Statistical Data Center for exclusively statistical purposes shall be used only for statistical purposes. Such data or information shall not be disclosed in identifiable form for any other purpose without the informed consent of the respondent.
(b) Rule Distinguishing Data or Information.—If a Statistical Data Center is authorized by any other statute to collect data or information for nonstatistical purposes, the head of the agency designated as the Data Center shall clearly distinguish such data or information by rule. Such rule shall provide for fully informing the respondents requested or required to supply such data or information of such nonstatistical uses before collecting such data or information.
(c) Disclosure or information may be disclosed by an agency to 1 or more Statistical Data Centers, if—
(1) the disclosure and use are not inconsistent with any law of law or Executive order that explicitly limit the statistical purposes for which such data or information may be used;
(2) the disclosure is not prohibited by law or Executive order in the interest of national security; and
SEC. 207. Coordination and Oversight.
(a) In General.—The Director of the Office of Management and Budget shall coordinate and oversee the confidentiality and disclosure policies established by this title.
(b) Report of Disclosure Agreements.—The Director of the Office of Management and Budget shall report to the Congress on the terms and conditions of any written agreement entered into under this title.
(c) The results of any review of information security undertaken at the request of the Director of the Office of Management and Budget, and the results of any similar review undertaken on the initiative of the Statistical Data Center or an agency supplying data or information to a Statistical Data Center.
(a) Department of Commerce.—The first section of the Act of January 27, 1938 (15 U.S.C. 176a; 52 Stat. 8) is amended by inserting “The” and “Except as provided in the ‘Statistical Confidentiality Act’” after “The Bureau of the Census is authorized to” and adding after subsection (l) the following new subsection:

“[m](A) The Bureau of the Census shall report to the Office of Management and Budget that the terms and conditions of such data or information shall not be disclosed in identifiable form by any party to such agreement may be disclosed to any other party to that agreement for exclusively statistical purposes specified in that agreement.
SEC. 208. Exchange of Census Information with Statistical Data Centers.
(1) The first section of the Act of January 27, 1938 (15 U.S.C. 176a; 52 Stat. 8) is amended by adding after subsection (l) the following new subsection:

“(A) The Bureau of the Census is authorized to provide data collected under this title to Statistical Data Centers (Centers) named in the Statistical Confidentiality Act, or their successors designated under the terms of that Act.”

(a) Exchange of Census Information with Statistical Data Centers.

“(A) The Bureau of the Census is authorized to provide data collected under this title to Statistical Data Centers (Centers) named in the Statistical Confidentiality Act, or their successors designated under the terms of that Act.”

(b) Department of Energy.—(1) Section 205 of the Department of Energy Organization Act (42 U.S.C. 7125) is amended by adding after subsection (l) the following new subsection:

“(A) The Administrator shall designate an organizational unit to conduct statistical activities pertaining to energy and environmental information. Such procedures authorized by the Statistical Confidentiality Act, the Administrator shall ensure the confidentiality of the information that has been submitted in identifiable form and supplied exclusively for statistical purposes either directly to the Administrator or by other Government agencies.”

“(B) To carry out this section, the Administrator shall establish procedures for the disclosure of these data to Statistical Data Centers for statistical purposes only consistent with the Paperwork Reduction Act and the Statistical Confidentiality Act.”
(1) in a manner that identifies any respondent.

(B) A person may not use statistical information designated in paragraph (1) for a nonstatistical purpose.

(C) The identity of a respondent who supplies, or is the subject of, information collected solely for statistical purposes—

(i) may not be disclosed through any process, including disclosure through legal process, unless the respondent consents in writing;

(ii) may not be disclosed to the public, unless information has been transformed into a statistical or aggregate form that does not allow the identification of the respondent who supplied the information or who is the subject of that information; and

(iii) may not, without the written consent of the respondent, be admitted as evidence or used for any purpose in an action, suit, or other judicial or administrative proceeding.

(D) Any person who violates subparagraphs (2)(A), (B), or (C), upon conviction, shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

(E) For purposes of this subsection—

(1) The term ‘person’ has the meaning given that term in section 101 of title 18, United States Code, but also includes a local, State, or Federal entity or officer or employee of a local State or Federal entity.


(3) Statistical information designated in paragraph (1) is exempt from disclosure under sections 205(f) and 407 of the Department of Energy Organization Act and paragraphs 12, 20, and 59 of the Federal Energy Administration Act of 1974, or any other law which requires disclosure of that information.

(2) Section 205(f) of the Department of Energy Organization Act (42 U.S.C. 713) is amended by inserting `, excluding information designated solely for statistical purposes under subsection (m)(1),’ after ‘‘analyti-

(c) Section 407 of the Department of Energy Organization Act (42 U.S.C. 717a) is amended by inserting `, excluding information designated solely for statistical purposes under subsection (m)(1),’ after ‘‘infor-

(d) The Federal Energy Administration Act of 1974 is amended—

(A) in section 12 (15 U.S.C. 77i), by adding after subsection (f) the following new subsection—

(B) in section 203(m)(1) of the Department of Energy Organization Act; and

(C) in section 59 (15 U.S.C. 790h), by inserting `, excluding information designated solely for statistical purposes under subsection (m)(1),’ after ‘‘informa-

(d) in section 59 (15 U.S.C. 790h), by inserting `, excluding information designated solely for statistical purposes under subsection (m)(1) of the Department of Energy Organization Act (42 U.S.C. 713) after ‘‘infor-

(e) The Department of Health and Human Services.—Section 306 of the Public Health Service Act (42 U.S.C. 242c) is amended, by adding at the end of the following new subsection—

(2) by striking ‘shall be fined not more than $1,000’ and inserting ‘shall be fined under this title’;

 SEC. 210. EFFECT ON OTHER LAWS

(a) TITLE 44, United States Code, including the amendments made by this title, does not diminish the authority under section 5310 of title 44, United States Code, of the Director of Management and Budget to direct, and of an agency to make, disclosures that are not inconsistent with any applicable law.

(b) STATE LAW.—Nothing in this Act shall be construed to abrogate applicable State law regarding the confidentiality of data collected by the States.

(c) The Act does not affect information acquired for exclusively statistical purposes as provided in section 206 is exempt from mandatory disclosure under section 552 of title 5, United States Code, pursuant to section 552(b)(3) of such title.

SUMMARY OF THE FEDERAL COMMISSION ON STATISTICAL POLICY ACT OF 1999

OVERVIEW

The Bill establishes a Federal Commission on Statistical Policy to study the reorganization of the Federal statistical system, and provides uniform safeguards for the confidentiality of information acquired exclusively for statistical purposes.

FINDINGS

The Congress, recognizing the importance of statistical information in the development of national policies and in the administration of public programs finds that: the decentralized Federal statistical system has limited the usefulness of statistics in defining and determining national policies to deal with complex social and economic issues; coordination is necessary to strengthen and improve the quality of statistics, and to reduce duplication and waste; high-quality Federal statistics are essential for sound business and public policy decisions; the challenge of providing high-quality statistics has increased because of the complexity of our economy and society and because of the need for more accurate information; maintaining the quality of Federal statistics requires cooperation between the Federal statistical agencies and respondents to Federal statistical surveys; and Federal statistics may be improved by developing uniform confidentiality standards and policies in a controlled manner that protects the confidentiality promised to respondents.

SENSE OF THE CONGRESS

The Bill expresses the Sense of Congress that: A more centralized statistical system is integral to efficiency; Increased efficiency would result in better integration of research methodology, survey design and economic and statistical policy to study the reorganization of the Federal statistical system, and provides uniform safeguards for the confidentiality of information acquired exclusively for statistical purposes.

TITLE I—FEDERAL COMMISSION ON STATISTICAL POLICY ESTABLISHMENT

A commission is established which is to be known as the “Federal Commission on Statistical Policy.” The Commission shall be composed of 16 members: eight to be appointed by the President; four to be appointed by the Speaker of the United States House of Representatives in consultation with the Majority and Minority Leader; and four to be appointed by the President pro tempore of the Senate in consultation with the Majority and Minority Leader.

Prepared by the staff of Senator Daniel Patrick Moynihan, 1999.
The Commission would have a term of 36 months from the date of enactment.

DUTIES OF THE COMMISSION

Within 18 months of its appointment, the Commission shall study and submit to Congress on Federal, statistical functions that makes recommendations on: whether the Federal statistical system could be reorganized by consolidating the statistical functions of the several agencies; how to carry out statistical programs; how such consolidation could be done without disruption in the release of statistical products; whether functions of other Federal agencies could be transferred to the Federal Statistical Service; and any other issues related to the reorganization of Federal statistical programs. During the 36 month term of the Commission, the recommend the Commission shall also make recommendations for nominating the Federal Office of the Federal Statistical Service.

During the 36 month term of the Commission, the recommend the Commission shall also make recommendations for nominating the Federal Office of Management and Budget and the Council of Economic Advisers. We write to support the basic objectives and approach of your bill to establish the Commission to Study the Federal Statistical System.

The United States possesses a first-class statistical system that in the past relied heavily upon the availability of reasonably accurate and timely federal statistics on the national economy. Similarly, our economic growth is dependent on the ability to recognize how important a good system of statistical information is for the efficient operations of government and for our economy. And we are also painfully aware that important problems of bureaucratic organization and methodology need to be examined and dealt with if the federal statistical system is to continue to meet essential public and private needs.

All of us have particular reason to remember the problems which periodically arise under the current system of widely scattered responsibilities. Instead of reflecting a balance among the priorities of one statistical collection effort against others, statistical priorities are set in a system within which individual Cabinet Secretaries recognize the need for judgment. We are also painfully aware that important problems of bureaucratic organization and methodology need to be examined and dealt with if the federal statistical system is to continue to meet essential public and private needs.

We are also aware, of course you are, of a number of longstanding substantive and methodological difficulties with which the current system is grappling. These include the increasing importance in the national economy of the service sector, whose output and productivity are especially hard to measure, and the pervasive effect both on measures of national output and income and on the official statistics of inflation (or inaccuracy) with which our measures of prices capture changes in the quality of the goods and services we buy. Moreover, long range planning of improvements in the federal statistical system to meet the changing nature and needs of the economy is hard to organize in the present framework. The Office of Management and Budget and the Council of Economic Advisers have put a lot of effort into trying to coordinate the system, often with success, but often swimming upstream against the system.

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Sincerely,

Professor Michael J. Boskin, Stanford University; Dr. Martin Feldstein, National Bureau of Economic Research; Alvin A. Parks Paul W. McCracken, University of Michigan; Raymond J. Saulnier; Charles L. Schultze, The Brookings Institution; Beryl W. Sprinkel; Herbert Stein, American Enterprise Institute; Professor Murray Weidenbaum, Center for the Study of American Business.

By Mr. MOYNIHAN (for himself and Mr. CHAFEE):

S. 206. A bill to amend title XXI of the Social Security Act, to provide for improved data collection and evaluation of State Children’s Health Insurance Programs, and for other purposes; to the Committee on Finance.

The CHIP DATA AND EVALUATION IMPROVEMENT ACT OF 1999

Mr. MOYNIHAN. Mr. President, today I am introducing with my colleagues Senator CHAFEE, the CHIP Data and Evaluation Improvement Act of 1999. The Welfare Indicators Act of 1997, CHIP was established to provide health coverage for low-income uninsured children. The Balanced Budget Act of 1997 provided $48 billion over ten years, mostly in the form of a block grant, for states to develop children’s health insurance programs.

New York and other states pioneered expanded children’s health programs well before the enactment of CHIP. With new federal CHIP funding, more states are beginning to develop their own programs. To date, 48 states have CHIP plans that have been approved by the Health Care Financing Administration, with most just beginning to implement their programs. We await reports on the effectiveness of their efforts to cover the nation’s uninsured children.

Implementing their programs is the first challenge before the states. For the Federal government, the first challenge clearly will be to track the experience of children and their programs. We strongly urge data to answer some basic questions: Is the number of uninsured children being reduced over time, and how effective are the state CHIP programs at serving them? What are the best practices and initiatives for finding and enrolling the nation’s uninsured children?

We cannot begin to solve a problem until we can measure it. Appropriate program data and evaluation contributes to sound policy and program development. The Welfare Indicators Act of that year—a bill that I introduced—became law. The bill directed the Secretary of Health and Human Services to study the most useful statistics for tracking and predicting trends in three means-tested cash and nutritional assistance programs. The first of these, of course, was AFDC, but the first full Report came two months after AFDC was repealed.

Without data to track its benefits, a program becomes vulnerable to reductions in funding. The most recent example is the Social Services Block Grant under Title XX of the Social Security Act, which funds a wide array of social services ranging from child care to home-delivered meals to the elderly. Little summary data on this program has been released and not all data is reported in a uniform manner. The welfare repeal bill enacted in 1996 reduced the block grant from $2.8 billion to $2.3 billion. Appropriations would ensure further reductions to $2.29 billion. The highway and mass transit bill enacted in 1998 further reduced grants to $1.7 billion by 2001.
Most recently, the Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 1999 accelerated that funding limitation to $1.9 billion in FY 1999.

The CHIP Data and Evaluation Improvement Act of 1990 calls for a detailed Federal CHIP evaluation by the Secretary of Health and Human Services. Current law requires a CHIP report from the Secretary to Congress; however, no funds were authorized. This bill would provide the necessary funds to conduct an evaluation. The evaluation would focus, in part, on outreach and enrollment and on the coordinated the existing Medicaid program and the new CHIP program.

In this era of devolution of social programs, the Federal government has an increasingly critical responsibility to ensure adequate and comparable national data. This bill would ensure that standardized CHIP data is provided. At the very least, the Federal government should provide, on a national level, estimates of the number of children below the poverty level who are covered by CHIP and by Medicaid.

The CHIP Data and Evaluation Improvement Act would provide funding so that existing national surveys would provide reliable and comparable state-by-state data. The most fundamental question we, as policy makers, will be asking is whether the number of uninsured children is going down. With an increasing percent of uninsured, a stable rate might be considered a success! This bill would provide additional funding to the Census Bureau for its Current Population Survey—a national data source of the uninsured—to improve upon the reliability of its state-by-state estimates of uninsured children.

In addition, the proposal would provide funding for another national survey to provide reliable state-by-state data on health care access and utilization for low-income children. Although this survey may also provide data on the number of uninsured, the CPS would be the primary source for such figures. Also, to develop more efficient and centralized statistics, this bill would coordinate a Federal clearinghouse for all data bases and reports on children’s health. Centralized and complete information is the key to sound policy and programs.

I ask unanimous consent that the summary and the full text of the bill be printed in the Record.

SEC. 2. FUNDING FOR RELIABLE ANNUAL STATE-BY-STATE ESTIMATES ON THE NUMBER OF CHILDREN WHO DO NOT HAVE HEALTH INSURANCE COVERAGE.

Section 2008 of the Social Security Act (42 U.S.C. 1397hh) is amended by adding at the end the following:

(1) ADJUSTMENT TO CURRENT POPULATION SURVEY TO INCLUDE STATE-BY-STATE DATA RELATING TO CHILDREN WITHOUT HEALTH INSURANCE COVERAGE.

(1) In general. The Secretary of Commerce shall make appropriate adjustments to the evaluation conducted by the Bureau of the Census in order to produce statistically reliable annual State data on the number of low-income children who do not have health insurance coverage, so that real changes in the uninsured rates of children can reasonably be detected. The Current Population Survey should produce data under this subsection that categorizes such children by family income, age, and race or ethnicity. The adjustments made to produce such data shall include, where appropriate, expanding the sample size used in the State sampling units, expanding the number of sampling units in a State, and an appropriate verification element.

(2) Appropriation. Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $10,000,000 for each fiscal year thereafter for the purpose of carrying out this subsection.

SEC. 3. FUNDING FOR CHILDREN’S HEALTH CARE ACTUAL AND PROJECTED UTILIZATION STATE-BY-STATE DATA.

Section 2008 of the Social Security Act (42 U.S.C. 1397hh), as amended by section 2, is amended by adding at the end the following:

(2) SURVEY DESIGN AND CONTENT. In selecting this subsection, the Secretary shall choose 10 States that utilize diverse approaches to providing child health assistance, represent various geographic areas (including a mix of rural and urban areas), and contain a significant portion of uncovered children.

(3) Matters included. In addition to the elements described in subsection (2), the evaluation conducted under this subsection shall include, but is not limited to, the following:

(A) Surveys of the target population (enrollees, disenrollees, and individuals eligible for but not enrolled in the program under this title).

(B) Evaluation of effective and ineffective outreach and enrollment practices with respect to children (for both the program under this title and the Medicaid program under title XIX), and identification of enrollment barriers and key elements of effective outreach and enrollment practices, including those that have a high impact on hard-to-reach populations such as children who are eligible for medical assistance under title XIX but who have not been enrolled previously in the Medicaid program under that title.

(C) Evaluation of the extent to which State CHIP eligibility practices and programs for children under title XIX are a barrier to the enrollment of children under that program, and the extent to which coordination (or lack of coordination) between that program and the program under this title affects the enrollment of children under both programs.

(D) An assessment of the effect of cost-sharing on utilization, enrollment, and coverage retention.

(E) Evaluation of disenrollment or other retention issues, such as switching to private coverage, failure to provide premiums, or barriers in the recertification process.

(F) Submission to Congress. Not later than January 1, 2001, the Secretary shall submit to Congress the results of the evaluation conducted under this subsection.

(G) Funding. Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $10,000,000 for fiscal year 2000 for the purpose of conducting the evaluation authorized under this subsection. Amounts appropriated under this paragraph shall remain available without fiscal year limitation.

SEC. 4. FEDERAL EVALUATION OF STATE CHILDERN’S HEALTH INSURANCE PROGRAMS.

Section 2008 of the Social Security Act (42 U.S.C. 1397hh), as amended by sections 2 and 3, is amended—

(1) by redesigning subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

(C) FEDERAL EVALUATION.

(I) In general. The Secretary, directly or through contracts or interagency agreements, shall conduct an independent evaluation of 10 States with approved child health plans.

(2) Selection of States. In selecting States for the evaluation conducted under this subsection, the Secretary shall choose 10 States that utilize diverse approaches to providing child health assistance, represent various geographic areas (including a mix of rural and urban areas), and contain a significant portion of uncovered children.

(3) Matters included. In addition to the elements described in subsection (2), the evaluation conducted under this subsection shall include, but is not limited to, the following:

(A) Surveys of the target population (enrollees, disenrollees, and individuals eligible for but not enrolled in the program under this title).

(B) Evaluation of effective and ineffective outreach and enrollment practices with respect to children (for both the program under this title and the Medicaid program under title XIX), and identification of enrollment barriers and key elements of effective outreach and enrollment practices, including those that have a high impact on hard-to-reach populations such as children who are eligible for medical assistance under title XIX but who have not been enrolled previously in the Medicaid program under that title.

(C) Evaluation of the extent to which State CHIP eligibility practices and programs for children under title XIX are a barrier to the enrollment of children under that program, and the extent to which coordination (or lack of coordination) between that program and the program under this title affects the enrollment of children under both programs.

(D) An assessment of the effect of cost-sharing on utilization, enrollment, and coverage retention.

(E) Evaluation of disenrollment or other retention issues, such as switching to private coverage, failure to provide premiums, or barriers in the recertification process.

(F) Submission to Congress. Not later than January 1, 2001, the Secretary shall submit to Congress the results of the evaluation conducted under this subsection.

(G) Funding. Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $10,000,000 for fiscal year 2000 for the purpose of conducting the evaluation authorized under this subsection. Amounts appropriated under this paragraph shall remain available without fiscal year limitation.

SEC. 5. STANDARDIZED REPORTING REQUIREMENTS FOR STATES.

Section 2108(a) of the Social Security Act (42 U.S.C. 1397hh(a)) is amended by—

(1) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively and indenting appropriately;

(2) by striking “The State shall—” and inserting the following:

“I. In general. The State shall—”;

and

(3) by adding at the end the following:

(2) STANDARDIZED REPORTING REQUIREMENTS. Each annual report submitted under this subsection shall, in addition to expenditure and other reporting requirements specified by the Secretary, include the following:

(A) Enrollee counts categorized by income level (at least income levels with income below the poverty line), age, and race or ethnicity, and, if income levels used in

S644 CONGRESSIONAL RECORD—SENATE J. January 19, 1999

S. 206 was 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 “CHIP Data and Evaluation Improvement Act of 1999.”
State reporting differ from that prescribed by the Secretary, a detailed description of the eligibility methodologies used by the State, including all relevant income disregards, exempted income, and eligibility family units.

"(B) The annual percentages of those individuals who sought coverage (as determined by the Secretary) through the screening and enrollment process established under the State program under this title who were—
(i) enrolled in the program under this title;
(ii) enrolled in the medicare program under title XIX; or
(iii) determined eligible for, but not enrolled under this title or the medicare program under title XIX".

SEC. 6. INSPECTOR GENERAL AUDIT AND GAO REPORT ON ENROLLEES ELIGIBLE FOR MEDICARE.

Section 2018 of the Social Security Act (42 U.S.C.1397hh), as amended by section 4, is amended by adding at the end the following:

                                            "(1) A Audit.—Beginning with fiscal year 2000, the Inspector General, through the Inspector General of the Department of Health and Human Services, shall audit a sample from among the States described in paragraph (2) in order to—

(A) determine the number, if any, of enrollees under the plan under this title who are eligible for medical assistance under title XIX (other than as an optional targeted low-income children under section 1902(a)(10)(A)(i)(IV)(a)); and

(B) assess the progress made in reducing the number of targeted uncovered low-income children relative to the goals established in the State child health plan, as reported to the Secretary in accordance with subsection (a)(2).

(2) State described.—A State described in this paragraph is a State with an approved State child health plan under this title that does not, as part of such plan, provide health benefits coverage under the State's medicaid program under title XIX.

(3) Monitoring and Report from GAO.—The Comptroller General of the United States shall monitor the audits conducted under this subsection and, not later than March 1 of each fiscal year after a fiscal year in which an audit is conducted under this subsection, shall submit a report to Congress on the results of the audit conducted during the prior fiscal year.

SEC. 7. COORDINATION OF DATA COLLECTION WITH DATA REQUIREMENTS UNDER THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT.

Subparagraphs (C)(ii) and (D)(ii) of section 506(a)(2) of the Social Security Act (42 U.S.C. 706(a)(2)) are each amended by inserting "or the State plan under title XXI" after "title XIX".

SEC. 8. COORDINATION OF DATA SURVEYS AND REPORTS.

The Secretary of Health and Human Services, through the Assistant Secretary for Planning and Evaluation, shall establish a clear and consolidated coordination of all Federal data bases and reports regarding children's health.

SUMMARY OF THE CHIP DATA AND EVALUATION IMPROVEMENT ACT OF 1999

In 1997, 10.7 million children were uninsured. The new State Children's Health Insurance Program (CHIP) and existing state Medicaid programs are intended to provide coverage for some children. The crucial question is whether the number of uninsured children has been reduced. Improved state-specific data is needed to provide that information. In addition, the Federal government should evaluate the effectiveness of these programs in finding and enrolling children in health insurance.

PROPOSAL

State-by-state Uninsured Counts and Children's Health Care Access and Utilization. (1) Provide funds ($10 million annually) to the Census Bureau to appropriate adjustments to the Current Population Survey (CPS) so that the CPS can provide reliable estimates of the number of state-by-state uninsured children.

(2) Provide funds ($9 million annually) to the National Center for Health Statistics to conduct the Children's Health portion of the State and Community Telephone Survey (SLAITS) in order to produce reliable state-by-state data on the health care access and utilization for low-income children covered by various insurance programs such as Medicaid and CHIP.

Federal Evaluation. With funding ($10 million), the Secretary of Health and Human Services would submit to Congress a Federal evaluation report that would include 10 states representing varying geographic, rural/urban and racial program designs. The evaluation would provide a more specific and comparable evaluation elements that are already included under Title XXI, such as include a Medicaid population (enrollees and other eligibles). The study would evaluate outreach and enrollment practices (for both CHIP and Medicaid), identify barriers to enrollment, assess states' Medicaid and CHIP program coordination, assess the effect of cost sharing on enrollment and coverage retention, and identify the reasons for disenrollment/retention.

Standardized Reporting. States would submit standardized data to the Secretary, including enrollee counts disaggregated by income, the Secretary, and any income could not be submitted in a standard form, the state would submit a detailed description of eligibility methodologies that outline relevant income disregards. States would also submit percentages of individuals screened that are enrolled in CHIP and in Medicaid, and the percent screened eligible for Medicaid but not enrolled.

Administrative Spending Reports for Title XXI. States would submit standardized spending reports for the following administrative block grant programs: data systems, outreach efforts, and program operation (eligibility/enrollment, etc.)

Coordinate CHIP Data with Title V Data Requirements. Existing reporting requirements for the Maternal and Child Health Block Grant provide data based on children's health insurance, including Medicaid. This bill would include the CHIP program in its reporting.

IG Audit and GAO Report. The Inspector General of the Department of Health and Human Services would audit CHIP enrollee data to identify children who are actually eligible for Medicaid. The General Accounting Office will report to Congress.

Coordination of all Children Data and Reports. The Assistant Secretary of Planning and Evaluation of Health and Human Services would consolidate all federal data base information and reports on children's health in a clearinghouse.

By Mr. MOYNIHAN:

S. 207. A bill to amend title V of the Social Security Act to increase the authorization of appropriations for the maternal and child health services block grant to promote integrated physical and mental health services for children and adolescents; to the Committee on Finance.
Title V programs are required to coordinate with other related Federal health, education, and social service programs. For example, MCH programs have provided the technical expertise and the service delivery systems to ensure the Medicaid eligibility of pregnant women and children and benefits result in improved access to services and improved health status of pregnant women and children.

The federal Title V mandate places a unique responsibility on state MCH agencies to assure that children with special health care needs are identified and when they need such services programs are required to develop family-centered, community-based, coordinated care systems for children with special health care needs. Services for these children are most often provided through specialty clinics and through purchase of private office or hospital-based outpatient and inpatient diagnostic, treatment, and follow up services. Three-fourths of the State MCH programs have supported local "one-stop" models integrating access to Title V, Medicaid, the WIC food program, and other health or social services at one site. In New York, MCH helps to fund or operate regional pediatric resource centers for children with special needs.

These centers offer multidisciplinary team care, family support and service coordination and they are beginning to integrate this approach into private practice settings where children are now receiving their specialty medical care. Yet, even though these programs have had encouraging results, most states' health care systems are unable to address all the needs of these vulnerable children—and adolescent youth with special health needs are particularly at risk. And that is why this legislation is important. Under current law, Title V is permanently authorized at $705 million. It was last extended in FY 1993 to conform to funding levels that went beyond the prior authorization level. This legislation would increase the MCH Block Grant authorization level from $705 million in FY 2000 to $840 million in FY 2000.

Health care information and education for families with special health care needs is critical to the success of any integrated physical and mental health service program. The MCHB has begun family support efforts for families of children with special health care needs, and has a promising pilot program to build a national network of statewide family-run support services in FY 1998. Additionally, funding in this bill is intended to expand upon these family support efforts. With increased funding for the MCH Block Grant, SPRANS and CISS programs, the MCH Bureau will be well-positioned to collaborate successfully with other Federal, State and partners to address this new project focus.

I ask unanimous consent that the full text of the bill be inserted in the RECORD.

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

S. 207

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

SECTION 1. AMENDMENTS TO THE MATERNITY AND CHILD HEALTH SERVICES BLOCK GRANT.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—Section 501(a) of the Social Security Act (42 U.S.C. 701(a)) is amended in the matter preceding paragraph (b) by striking "$705,000,000 for fiscal year 1999" and inserting "$840,000,000 for fiscal year 2000".

(b) PROMOTION OF INTEGRATED PHYSICAL AND SPECIALIZED MENTAL HEALTH SERVICES.—Section 425 of the Social Security Act (42 U.S.C. 701(a)) is amended—

(1) in paragraph (2)—

(A) by striking "and for" and inserting "for"; and

(B) by inserting ", and for the promotion of integrated physical and specialized mental health services for children and adolescents before the semicolon; and

(2) in paragraph (3)—

(A) in subparagraph (E), by striking "and" at the end;

(B) in subparagraph (F), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

``(G) integrated physical and specialized mental health services for children and adolescents.''

By Mr. MOYNIHAN: S. 208. A bill to enhance family life; to the Committee on Finance.

The ENHANCING FAMILY LIFE ACT of 1999

Mr. MOYNIHAN. Mr. President, I rise today to introduce the Enhancing Family Life Act of 1999, a bill inspired by an extraordinary set of proposals by one of our nation's most eminent social scientists, Professor James Q. Wilson.

On December 4, 1997, I had the honor of hearing Professor Wilson—who is an old and dear friend—deliver the Francis Boyer Lecture at the American Enterprise Institute (AEI). The Boyer Lecture is delivered at AEI's annual dinner by a thinker who has "made notable intellectual or practical contributions to improved public policy and social welfare." Previous Boyer Lecturers have included Irving Kristol, Alan Greenspan, and Henry Kissinger. In his lecture, Professor Wilson argued that "two nations" now exist within the United States. He said:

"In one nation, a child, raised by two parents, acquires an education, a job, a spouse, and a home kept separate from crime and disorder by distance, fences, or guards. In the other nation, a child is raised by an unwed single mother, and is shunted off to an overcrowded, impersonal school filled with many sexual men but few committed fathers, and finds gang life to be necessary for self-protection and valuable for self-advance.

"Sadly, this is an all-too-accurate portrait of the American underclass, the problems of which have been the focus of decades of unsuccessful welfare reform and crime control efforts. We have tried a great many "solutions," as Professor Wilson notes: Congress has devised community action, built public housing, created a Job Corps, distributed Food Stamps, given federal funds to low-income schools, supported job training, and provided cash grants to working families.

Yet still we are faced with two nations. Professor Wilson explains why: "[t]he family problem lies at the heart of this national emergency." He notes that as our families become weaker—as more and more American children are born outside of marriage and raised by one, not two, parents—the foundation of our society becomes weaker. This deterioration helps to explain why, as reported by the Census Bureau today, the poverty rate for American children is almost twice that for adults aged 18 to 64 (19.9 percent for children versus 10.9 percent for adults). And it grows increasingly difficult for government to address the problems of that "second nation." Professor Wilson even quotes the Senator from New York to this effect: "If you expect a government program to change families, you know more about government than I do.

"Even so, I think Wilson, quite characteristically, has fresh ideas about what might help. On the basis of recent scholarly research, and common sense, he urged in the Boyer Lecture that we re-focus our attention on the "critical period of early childhood. I was so impressed with his lecture that afterward I set about writing a bill to put his recommendations into effect."

The Enhancing the Family Life Act of 1999 contains four key elements, all of which are related to families. First, it supports "second change" maternity homes for unwed teenage mothers. These are group homes where young women would live with their children under strict adult supervision and have the support necessary to become productive members of society. The bill provides $45 million a year to create such homes or expand existing ones.

Second, it promotes adoption. The bill expands the number of children in foster care eligible for federal adoption incentives. Too many children drift in foster care; we should do more to find them permanent homes. The bill also encourages states to experiment with "near capita" approaches to finding these permanent homes for foster children, a strategy Kansas has used with success.

Third, it funds collaborative early childhood development programs. Recent research has reminded us of the critical importance of the first few years of a child's life. States would have great flexibility in the use of these funds; for example, the money could be used for pre-school programs for poor children or home visits of parents of young children. It provides $3.75 billion over five years for this purpose.

Finally, the legislation creates a new education assistance program to enable more parents to remain home with young children. A parent who temporarily leaves the workforce to raise a child would be eligible for an educational grant, similar to the Pell Grant, to help parent enter, or re-
enter, the labor market with skills and credentials necessary for success in to-
day's economy once the child is older.

Mr. President, this bill is a starting point. It is what Professor James Q.
Wilson and I believe just might make a difference. We will, of course, welcome the
comments of others. I first intro-
duced this legislation last September
and have received several helpful sug-
gestions. I look forward to further such
conversations and comments.

And I would commend to the atten-
tion of any interested persons the full text
of Professor Wilson's lecture "Two Nations," which is
available from my office or from the
American Enterprise Institute. I ask
unanimous consent that a summary of the
legislation and the full text of the
bill be included in the Record.

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

S. 208

SEC. 1. Short title; table of contents.

(a) Short Title.—This Act may be cited as the "Second Chance Act of 1996." (b) Table of Contents.—The table of Con-
tents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—ASSISTANCE FOR CHILDREN

Sec. 101. Second chance homes.
Sec. 102. Adoption promotion.
Sec. 103. Early childhood development.

TITLE II—PARENT GRANTS

Sec. 201. Parent grants.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The family is the foundation of public
life.

(2) The proportion of illegitimate births to
teenagers has increased astronomically from
13 percent of such births in 1950 to 76 percent
of such births in 1996.

(3) Children in one-parent families are more at risk for many types of anti-social
behavior.

(4) The future of children is crucially de-
determined during the first few years of life.

(5) The family is the foundation of public
life.

(6) The proportion of illegitimate births to
teenagers has increased astronomically from
13 percent of such births in 1950 to 76 percent
of such births in 1996.

(7) Children in one-parent families are more at risk for many types of anti-social
behavior.

(8) The future of children is crucially de-
determined during the first few years of life.

(9) The family is the foundation of public
life.

(10) The proportion of illegitimate births to
teenagers has increased astronomically from
13 percent of such births in 1950 to 76 percent
of such births in 1996.

(11) Children in one-parent families are more at risk for many types of anti-social
behavior.

(12) The future of children is crucially de-
determined during the first few years of life.

(13) The family is the foundation of public
life.

(14) The proportion of illegitimate births to
teenagers has increased astronomically from
13 percent of such births in 1950 to 76 percent
of such births in 1996.

(15) Children in one-parent families are more at risk for many types of anti-social
behavior.

(16) The future of children is crucially de-
determined during the first few years of life.

(17) The family is the foundation of public
life.

(18) The proportion of illegitimate births to
teenagers has increased astronomically from
13 percent of such births in 1950 to 76 percent
of such births in 1996.

(19) Children in one-parent families are more at risk for many types of anti-social
behavior.

(20) The future of children is crucially de-
determined during the first few years of life.

(21) The family is the foundation of public
life.

(22) The proportion of illegitimate births to
teenagers has increased astronomically from
13 percent of such births in 1950 to 76 percent
of such births in 1996.

(23) Children in one-parent families are more at risk for many types of anti-social
behavior.

(24) The future of children is crucially de-
determined during the first few years of life.

(25) The family is the foundation of public
life.

(26) The proportion of illegitimate births to
teenagers has increased astronomically from
13 percent of such births in 1950 to 76 percent
of such births in 1996.

(27) Children in one-parent families are more at risk for many types of anti-social
behavior.

(28) The future of children is crucially de-
determined during the first few years of life.

(29) The family is the foundation of public
life.

(30) The proportion of illegitimate births to
teenagers has increased astronomically from
13 percent of such births in 1950 to 76 percent
of such births in 1996.

(31) Children in one-parent families are more at risk for many types of anti-social
behavior.

(32) The future of children is crucially de-
determined during the first few years of life.

(33) The family is the foundation of public
life.

(34) The proportion of illegitimate births to
teenagers has increased astronomically from
13 percent of such births in 1950 to 76 percent
of such births in 1996.

(35) Children in one-parent families are more at risk for many types of anti-social
behavior.

(36) The future of children is crucially de-
determined during the first few years of life.

(37) The family is the foundation of public
life.

(38) The proportion of illegitimate births to
teenagers has increased astronomically from
13 percent of such births in 1950 to 76 percent
of such births in 1996.

(39) Children in one-parent families are more at risk for many types of anti-social
behavior.

(40) The future of children is crucially de-
determined during the first few years of life.

(41) The family is the foundation of public
life.

(42) The proportion of illegitimate births to
teenagers has increased astronomically from
13 percent of such births in 1950 to 76 percent
of such births in 1996.

(43) Children in one-parent families are more at risk for many types of anti-social
behavior.

(44) The future of children is crucially de-
determined during the first few years of life.

(45) The family is the foundation of public
life.
that continuation in the home would be contrary to the safety and welfare of such child, or was residing in a foster family home or child care institution with the child's minor parent, other pursuant to such a voluntary placement agreement or as a result of a judicial determination; and

(ii) has been determined by the State pursuant to the requirements of subsection (c) to be a child in need of special care or special significant needs, which needs shall be considered by the State, together with the circumstances of the adopting parents, in determining the amount of any payments to be made to the adopting parents.

(8) Notwithstanding any other provision of law, the Secretary shall be treated as meeting the requirements of subparagraph (A) who was determined eligible for such payments under the Adoption Assistance and Security Act of 1997, or was determined to meet the requirements of subparagraph (A) who was determined eligible for such payments under the Adoption Assistance and Security Act of 1978 and was brought into the United States; and

(b) Per Capita Child Welfare Demonstration Projects.—Section 473(a) of the Social Security Act (42 U.S.C. 673(a)), as amended by subsection (b), is amended by adding at the end the following:

``SEC. 480. DEFINITIONS.
``In this part:
``(A) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' means a State Early Learning Coordinating Board, the chief executive officer of the State and the members appointed by the chief executive officer of the State, the State Board of Education, or the State Early Learning Coordinating Board established under section 481(c).
``(B) RESERVATION.—Of the 10 demonstration projects authorized under this subsection, no payment may be made to the adopting parents.
``(C) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1999.
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(1) WAIVER.—A State may apply to the Secretary for a waiver of paragraph (1). The Secretary may grant the waiver if the Secretary finds that unusual circumstances prevent the State from complying with paragraph (1). A State that receives such a waiver may use not more than 7.5 percent of the funds made available through the allotment to pay allowable direct and indirect costs.

(2) USE OF FUNDS.—A local collaborative that receives a grant made under subsection (a)—

(I) shall use funds made available through the grant to provide, in a community, activities that consist of—

(1) offering services designed to strengthen the quality of child care for young children and expand the supply of high quality child care services for young children;

(II) support services; and

(II) activities designed to assist schools in providing educational and other support services to young children, and parents of young children, in the community, to be carried out during extended hours when appropriate;

(3) prepare and submit to the State board to enable the State board to implement the requirements under paragraph (1); and

(4) include—

(A) all public agencies primarily providing services to young children in the community;

(B) businesses in the community;

(C) representatives of the local government or school district in which the community is located;

(D) parents of young children in the community;

(E) nonprofit organizations that serve low-income individuals, as defined by the Secretary, in the community;

(F) community-based organizations providing child care services to young children and parents of young children, such as organizations providing child care, carrying out Head Start programs, or providing pre-kindergarten educational, mental health, or family support services; and

(G) rates for the salary and expenses of the administrative costs of the grant.

(2) PROVIDE IN THE GRANT.—In making grants for a fiscal year, the Secretary shall reserve not more than 1 percent of the funds made available through the allotment for each State to cover the costs of providing technical assistance. The Secretary shall use the reserved funds to enter into contracts with eligible entities to provide technical assistance to local collaboratives that receive grants under section 482(e) in accordance with such regulations as the Secretary shall prescribe.

(3) MULTI-YEAR FUNDING.—In making grants for a fiscal year, the State board may make grants for periods of more than 1 year to local collaboratives with demonstrated success in carrying out young child assistance activities.

(4) LOCAL COLLABORATIVE.—To be eligible to receive a grant under this section for a community, a local collaborative shall demonstrate that the collaborative—

(I) is able to provide, through a coordinated effort, young child assistance activities to young children in the community; and

(II) includes—

(A) all public agencies primarily providing services to young children in the community;

(B) businesses in the community;

(C) representatives of the local government or school district in which the community is located;

(D) parents of young children in the community;

(E) nonprofit organizations that serve low-income individuals, as defined by the Secretary, in the community;

(F) community-based organizations providing child care services to young children and parents of young children, such as organizations providing child care, carrying out Head Start programs, or providing pre-kindergarten educational, mental health, or family support services; and

(G) nonprofit organizations that serve the community and that are described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

(5) LOCAL SHARE.—To be eligible to receive a grant under this section, a local collaborative shall submit an application to the State board at such time, in such manner, and containing such information as the State board may require. At a minimum, the application shall contain—

(I) sufficient information about the entity to be described in subsection (d)(2) to enable the State board to determine whether the entity complies with the requirements of such subsection;

(II) a cooperative plan for carrying out young child assistance activities in the community, including information indicating—

(A) the young child assistance activities available in the community, as of the date of submission of the plan, including information on efforts to coordinate the activities;

(B) the manner in which funds made available through the grant will be used to provide funding to the young children, and parents of young children, in the community for young child assistance activities;

(C) the manner in which funds made available through the grant will be used to provide funding to the young children, and parents of young children, in the community for young child assistance activities; and

(II) to meet the needs, including expanding and strengthening the activities described in subparagraph (A) and establishing additional young child assistance activities; and

(iii) the extent to which the collaborative will coordinate the activities with such activities carried out by other entities through the collaborative; and

(III) the manner in which the collaborative will—

(A) evaluate the results achieved by the collaborative for young children and parents of young children through activities carried out through the grant;

(B) evaluate how services can be more effectively delivered to young children and the parents of young children; and

(c) DISTRIBUTE.—In making grants under this section, the State board shall ensure that at least 60 percent of the funds made available through each grant are used to provide the young child assistance activities described in subsection (d) and (e) of section 481; and

(d) ENFORCEMENT.—If the Secretary determines that a State that receives an allotment under this part is not complying with a requirement of this part, the Secretary may—

(I) reduce, by not less than 5 percent, an allotment made to the State under this section, for the second determination of non-compliance;

(II) revoke the eligibility of the State to receive allotments under this section, for the third determination of non-compliance; and

(iii) provide technical assistance to the State to improve the ability of the State to comply with the requirement;

(III) provide technical assistance to the State to improve the ability of the State to comply with the requirement; and

(IV) reduce, by not less than 5 percent, an allotment made to the State under this section, for the fourth or subsequent determination of non-compliance.

(3) M ONITORING.—The Secretary shall carry out monitoring under section 481(g), to pay for the State administrative costs.

(4) SOURCE.—The local collaborative shall provide for the local share of the cost through donations and other local resources.

(5) WAIVER.—The State board shall waive the requirement of paragraph (1) for poor

(6) USE OF FUNDS.—A local collaborative that receives a grant made under subsection (a)—

(I) shall use funds made available through the grant to provide, in a community, activities that consist of—

(1) offering services designed to strengthen the quality of child care for young children and expand the supply of high quality child care services for young children;

(II) support services; and

(II) activities designed to assist schools in providing educational and other support services to young children, and parents of young children, in the community, to be carried out during extended hours when appropriate; and

(3) prepare and submit to the State board to enable the State board to implement the requirements under paragraph (1); and

(4) include—

(A) all public agencies primarily providing services to young children in the community;

(B) businesses in the community;

(C) representatives of the local government or school district in which the community is located;

(D) parents of young children in the community;

(E) nonprofit organizations that serve low-income individuals, as defined by the Secretary, in the community;

(F) community-based organizations providing child care services to young children and parents of young children, such as organizations providing child care, carrying out Head Start programs, or providing pre-kindergarten educational, mental health, or family support services; and

(G) nonprofit organizations that serve the community and that are described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

(5) LOCAL SHARE.—To be eligible to receive a grant under this section, a local collaborative shall submit an application to the State board at such time, in such manner, and containing such information as the State board may require. At a minimum, the application shall contain—

(I) sufficient information about the entity to be described in subsection (d)(2) to enable the State board to determine whether the entity complies with the requirements of such subsection;

(II) a cooperative plan for carrying out young child assistance activities in the community, including information indicating—

(A) the young child assistance activities available in the community, as of the date of submission of the plan, including information on efforts to coordinate the activities;
rural and urban areas, as defined by the Secretary.

SEC. 3. DISTRIBUTION.-The State board shall monitor the activities of local collaboratives that receive grants under this part to ensure compliance with the requirements of this part.

SEC. 483. SUPPLEMENT NOT SUPPLANT.-

Funds appropriated under this part shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services for young children.

SEC. 484. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part-

(1) $750,000,000 for fiscal year 2002;

(2) $500,000,000 for fiscal year 2003;

(3) $1,000,000,000 for each of fiscal years 2002 through 2004 and thereafter, as such sums may be necessary for fiscal year 2005 and each subsequent fiscal year.

TITLE II—PARENT GRANTS

SEC. 201. PARENT GRANTS.

(a) PURPOSE.—It is the purpose of this section to provide parents with grants for career development and retraining after a period of child rearing.

(b) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

(1) IN GENERAL.—From amounts appropriated under subsection (f), the Secretary of Education (in this section referred to as the “Secretary”) may pay to each eligible institution such sums as may be necessary to pay to each qualifying parent for each academic year that the qualifying parent is in attendance at an institution of higher education, a parent grant, in an amount determined in accordance with subsection (c), for each child for which the qualifying parent remains outside the labor force.

(2) QUALIFYING PARENT.—In this section, the term “qualifying parent” means an individual who—

(A) is the custodial parent of a child under the age of 6;

(B) has no earned income and benefits under section 32(c)(2) of the Internal Revenue Code of 1986;

(C) is not receiving assistance under a State program funded under part IV of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1382l et seq.);

(3) DISTRIBUTION.—Funds under this section shall be disbursed and made available to qualifying parents in the same manner as Federal Pell Grants are disbursed and made available to institutions of higher education and students under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq.), except that in the case of a parent grant awarded to a qualifying parent for expenses incurred in obtaining a secondary school diploma or its recognized equivalent, the Secretary shall make the grant funds available to the qualifying parent.

(c) AMOUNT.—

(1) IN GENERAL.—Subject to paragraph (2), the amount of a parent grant for which a qualifying parent is eligible under this section for an academic year is equal to—

(A) the amount remaining in a parent grant for which a qualifying parent with an annual income of $50,000 or less, the maximum amount of the Federal Pell Grant awarded under subpart 1 of part A of title IV of the Higher Education Act of 1965 for such year; and

(B) in the case of a qualifying parent with an annual income of more than $50,000 but not more than $75,000, the remaining amount of the Federal Pell Grant so awarded for such year.

(2) SPECIAL RULES.—

(A) CALENDAR YEAR AWARDS.—A qualifying parent is eligible for a parent grant under this section for each complete calendar year the parent is outside the labor force, except that the Secretary shall prorate the amount for which the qualifying parent is eligible for the first year in which a child is born if the qualifying parent is outside the labor force for at least 4 months of the calendar year in which the child is born.

(B) SIMULTANEOUS AWARDS.—A qualifying parent may aggregate parent grants simultaneously for each child for which the parent remains outside the labor force.

(C) LIMITATION.—The Secretary shall not award a parent grant to a parent for any period the parent remains outside the labor force to pursue education with a parent grant awarded under this section.

(d) USES.—

(1) IN GENERAL.—A parent grant awarded under this section—

(A) shall be used not later than 15 years after the year for which the grant is awarded;

(B) shall be used to—

(i) the cost of attendance (as determined in accordance with section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087f(i)) at an institution of higher education (as defined in section 481 of the Higher Education Act of 1965)); or

(ii) for expenses incurred in obtaining a secondary school diploma or its recognized equivalent.

(2) AGGREGATION OF AWARDS.—A qualifying parent may aggregate parent grants awarded for more than 1 year or more than 1 child for use in a single academic year.

(3) ROLL-OVER.—A qualifying parent may use any grant funds awarded for an academic year that the qualifying parent is not used in the academic year for use in a subsequent academic year, subject to paragraph (1).

(e) RESEARCH AND EVALUATION.—

(1) IN GENERAL.—From the amounts appropriated to carry out this section for each fiscal year, the Secretary shall reserve 2 percent of such amounts to pay for the cost of conducting, through grant, contract, or interagency agreement, research and evaluation projects regarding the parent grants awarded in accordance with the requirements of this section. In conducting such projects, the Secretary shall give priority to projects that are conducted by independent and impartial organizations.

(2) REPORT.—Not later than 4 years after the date of enactment of this section, the Secretary shall submit to the Congress a report on the research and evaluation projects conducted in accordance with this subsection.

(f) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2000 and each succeeding fiscal year.

THE ENHANCING FAMILY LIFE ACT OF 1999—BRIEF DESCRIPTION OF PROVISIONS

(Based on the 1997 Francis Boyer Lecture by Professor James Q. Wilson)

SECTION I. SHORT TITLE

This Act may be cited as the “Enhancing Family Life Act of 1999.”

SECTION II. FINDINGS

The Congressional findings support the importance of families in society and social policy.

TITLE I—ASSISTANCE FOR CHILDREN

SECTION 101. “SECOND CHANCE HOMES”

The bill would provide $45 million annually to establish or expand “second chance” homes for pregnant or parenting mothers and their children. These are group homes where mothers live with their children under adult supervision and strict rules while learning good parenting skills.

SECTION 102. ADOPTION PROMOTION

The bill would expand the number of “special needs” children in foster care for which federal adoption subsidies are available. It would “de-link” eligibility for these subsidies from the income level of the foster child’s biological parents. (Under current law, a foster child is determined to be eligible for only federal adoption subsidy if the child’s birth parents are welfare-eligible.) The subsidies would help adoptive parents meet the particular emotional and physical challenges of troubled children and so they can provide the children permanent homes.

The Enhanced Safe Families Act authorizes the Department of Health and Human Services to grant child welfare demonstration waivers to ten states each year. The bill would reserve three of each ten waivers to states wishing to test “per capita” approaches to finding permanent homes for children in foster care, as Kansas has done. Under a per capita approach, states or localities contract on a fixed sum basis with agencies to reunite foster children with their biological families or place them with adoptive families because the agency, typically a non-profit social service agency, receives a fixed sum per child (rather than unlimited reimbursement of costs). The efficiency may place the child in a permanent home more quickly.

SECTION III. EARLY CHILDHOOD DEVELOPMENT

The bill provides $3.75 billion over five years for collaborative early childhood development programs, which has demonstrated the importance of the earliest years in a child’s life in the child’s intellectual and emotional development. States could use the funds for childcare programs, parenting education, high-quality child care, and preventive health services. States would have great flexibility in deciding which services to provide.

SECTION II—“PARENT GRANTS”

The bill would create a new education assistance program to provide grants to parents who choose to remain with young children. The grants would allow parents to obtain the training, or re-training, needed to prosper and advance careers after a period of time outside the labor force. A custodial parent, with a child under the age of 6, who has no earned income, welfare, or SS$I receipt would be eligible to receive a benefit equivalent to the largest Pell Grant available for that year on a fixed sum basis with agencies to reunite foster children with their biological families or place them with adoptive families. The bill would be called a “Parent Grant” — could only be used for expenses associated with post-secondary education or completion of high school. Parents could accumulate grants (one for each year outside of the labor market) but would be required to use the grant within 15 years of the year for which the grant was earned. Eligibility would be subject to income limits ($75,000/year maximum, subject to revision on the basis of cost estimates). The program would be administered by the Education Department, in conjunction with Pell Grants and other financial aid programs.

By Mr. MOYNIHAN. S. 209. A bill to prohibit States from imposing a family cap under the program of temporary assistance to needy families; to the Committee on Finance.

LEGISLATION TO PROHIBIT THE FAMILY CAP

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation to prohibit States from imposing the so-called "family cap" as part of their Temporary Assistance to Needy Families (TANF) programs. The "family
cap” is a policy under which a child born to a poor family on assistance is simply ignored when calculating the family’s benefit—as if the child, this new infant, did not exist and had no needs. More than 20 states have imposed this cap as part of their TANF programs.

As I have said in previous debate on this subject, these children have not been asked to be conceived, and they have not asked to come into the world. We have an элементary responsibility to them. And so states ought not deny benefits to these children because of the actions of their parents.

We recently received the results of an evaluation of the welfare reform in New Jersey, the first state to impose such a “family cap.” As it is only one study, one should be cautious about generalizing from the results. Still, it was striking to note according to the study, that over the four-year observation period “[m]embers of the experimental group [i.e. those under a family cap] also experienced an abortion rate that was 14 percent higher than the control group [i.e. those not under a cap].

The outcome that authors of the 1996 welfare law intended? Further, the evaluation notes of the New Jersey welfare reform effort, of which the cap as a component, that “[w]e found no evidence that [the program] had any systemic positive impact on employment, employment stability, or earnings among AFDC recipients.” That is, it did little to move welfare recipients to work, the ostensible objective of the 1996 welfare law. And so, with this bit of evidence to reinforce my original position, I propose today to end the family cap, and I ask unanimous consent that a summary of the legislation and its full text be included in the RECORD. There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 209

Bel et enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON IMPOSITION OF A FAMILY CAP UNDER THE TANF PROGRAM.

(a) PROHIBITION.—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by adding at the end the following:

"(12) BAN ON FAMILY CAP.—A State to which a grant is made under section 403 may not, under the State program funded under this part or under any other State program, impose a cap on the assistance that an individual will receive after the birth of another child, or deny additional assistance to another child.

(b) PENALTY.—Section 409(a) of the Social Security Act (42 U.S.C. 609(a)) is amended by adding at the end the following:

"(13) PENALTY FOR PROGRAM WITH FAMILY CAP.—Notwithstanding any other provision of this part, a State that violates section 408(a)(12) during a fiscal year shall remit to the Secretary all funds made available to the State under this part for the fiscal year, and no payment shall be made under this part to a State that has in effect a program that would permit them to impose this part of a law, regulation, or policy that is inconsistent with such section.

FAMILY CAP PROHIBITION ACT OF 1999—BRIEF DESCRIPTION OF PROVISIONS

I. Prohibition on Imposition of a Family Cap

The bill prohibits a state from imposing a “family cap” as part of its Temporary Assistance for Needy Families (TANF) program. Under the 1996 welfare law states are permitted to deny additional assistance to families on TANF when another child is born to that family. The bill would prohibit doing so in some way. This policy, known as the “family cap,” would be prohibited.

II. Penalty

A state found in violation of this policy would lose TANF funding.

By Mr. MOYNIHAN:

S. 210. A bill to establish a medical education trust fund, and for other purposes; to the Committee on Finance.

MEDICAL EDUCATION TRUST FUND ACT OF 1999

Mr. MOYNIHAN. Mr. President, today I introduce legislation that would establish a Medical Education Trust Fund to support America’s 144 accredited medical schools and 1,250 graduate medical education teaching institutions. These institutions are national treasures; they are the very best in the world. Yet today they find themselves in a precarious financial situation. In the wake of market forces reshaping the health care delivery system in the United States, explicit and dedicated funding for these institutions, which this legislation will provide, will ensure that the United States continues to lead in the world in the quality of its health care reform.

This legislation requires that the public sector, through the Medicare and Medicaid programs, and the private sector, through an assessment on health insurance premiums, contribute broad-based and fair financial support. My particular interest in this subject began in 1994, when the Finance Committee took up the President’s Health Security Act. I was Chairman of the Committee at the time. In January of that year, Dr. Paul Marks, M.D., President of Memorial Sloan-Kettering Cancer Center in New York City, if he would arrange a “seminar” for me on health care issues. He agreed, and gathered a number of medical school deans together one morning in New York.

Early on in the meeting, one of the seminarians remarked that the University of Minnesota might have to close its medical school. In an instant I realized I realized I had just found a budget hole for the fiscal year 1997 as passed by Congress also appeared to assume that a similar trust fund was to be included in the Medicare reconciliation bill—a bill which never materialized.

The Chairman of the House Ways and Means Committee, Representative Bill Archer, was largely responsible for the inclusion of trust fund provisions in the Balanced Budget Act of 1995 and the budget resolution for fiscal year 1996. And I strongly support long-term funding to ensure the continued success of our system of medical education. Indeed, Chairman Archer and I were both honored in 1996 to receive the...
American Association of Medical Colleges’ Public Service Excellence Award.

That is the history of this effort, briefly stated.

Medical education is one of America’s most precious public resources. Within our increasingly competitive health care system, it is rapidly becoming a public good—that is, a good from which everyone benefits, but for which no individual or group is willing to pay. Therefore, it should be explicitly financed with contributions from all sectors of the health care system, not just the Medicare program as is the case today. The fiscal pressures of a competitive health market are increasingly closing off traditional implicit revenue sources (such as additional payments from private payers) that have supported medical schools, graduate medical education, and research until now. In its June 1996 Report to Congress, the Prospective Payment Assessment Commission (ProPAC), created to advise Congress on Medicare Hospital Insurance (Part A) payment, summarized the situation of teaching hospitals as follows:

As competition in the health care system intensifies, the additional costs borne by teaching hospitals will place them at a disadvantage relative to other facilities. The role, scale, function, and number of these institutions increasingly will be challenged. . . . Accelerating price competition in the private sector . . . is reducing the ability of teaching hospitals to obtain the higher patient care rates from other payers that traditionally have contributed to financing the costs associated with graduate medical education.

ProPAC’s June, 1996 Report to Congress confirmed that “major teaching hospitals have the dual problems of higher overall losses from uncompensated care and less above-cost revenue from self-insured health plans.”

The State of New York provides a good example of what is happening as health care markets become more competitive. Effective at the end of the 1996 calendar year, New York replaced a state law that set hospital rates. Hospitals must now negotiate their fees with each and every health plan in the state. Where teaching hospitals were once guaranteed a payment that recognized, to some degree, its higher costs of providing services, the private sector is free to squeeze down payments to hospitals with no such recognition.

While the State of New York operates funding pools that provide partial support for its graduate medical education and uncompensated care, it is largely up to the teaching hospitals to try to win higher rates than other hospitals when negotiating contracts with health plans. Some may succeed in doing so, but more will probably not. New York’s state law was unique, but the same process of negotiation between hospitals and private health plans takes place across the country. Who, in this context, will pay for the higher costs of operating teaching hospitals?

It is worth mentioning that the NY state funding pools for GME were established as a temporary, yet important source of support for GME until Federal law—like the bill I am introducing today—can be passed by Congress. While New York has historically recognized the value of supporting GME through the state funding pools, this source of funding is currently in jeopardy of not being reauthorized by the state legislature.

It is obvious that teaching hospitals can no longer rely on higher payments from private payers to do so. Nor should they. The establishment of this trust fund, which explicitly reimburses teaching hospitals for the costs of graduate medical education, will ensure that teaching hospitals can pursue their vitally important patient care, training, and research missions in the face of an increasingly competitive health system.

Medical schools also face an uncertain future. There are many policy issues that need to be examined regarding the role of medical schools in our health system, but two threats faced by medical schools require immediate attention. This legislation addresses both. First, many medical schools are immediately threatened by the dire financial condition of their affiliated teaching hospitals. Medical schools rely on teaching hospitals to provide a place for their faculty to practice and perform research, a place to send third and fourth-year medical students for training, and for some direct revenues. By improving the financial condition of teaching hospitals, this legislation significantly improves the outlook for medical schools.

The second immediate threat faced by medical schools stems from their reliance on a portion of the clinical practice revenue generated by their facilities to support their operations. As competition within the health system intensifies and managed care continues to grow, the revenue from these sources is shrinking. This legislation provides payments to medical schools from the Trust Fund that are designed to partially offset this loss of revenue.

As we begin the 106th Congress, the Bipartisan Commission on the Future of Medicare as established in the Balanced Budget Act of 1997 is debating its recommendations to assure the long-term solvency and viability of the Medicare program. One of the most important policies the Commission has undertaken centers on Medicare’s role in the funding of Graduate Medical Education. In order to remain the world leader in graduate medical education, we must continue to maintain Medicare’s commitment to GME and to the nation’s teaching hospitals. I urge the Commission to maintain GME support through the Medicare program in order to assure a stable, federal source of funding. Several Commission members have raised the novel idea of subjecting GME to an annual appropriations process. I urge my colleagues to reject this dangerous notion. It would be a tragedy for our medical schools and teaching institutions. Pitting GME against other important federal priorities would likely result in a substantial reduction in the federal commitment to GME.

None of the foregoing is meant to suggest that the competitive forces reshaping health care have brought only negative results. To the contrary, the onset of competition has had many beneficial effects, the reorientation of growth in health insurance premiums being the most obvious. But as Monsignor Charles J. Fahey of Fordham warned in testimony before the Finance Committee in 1994, we must be wary of the “commercialization of health care,” by which he meant that health care is not just another commodity. We can rely on competition to hold down costs in much of the health system, but we must not allow it to bring a premature end to this great age of medical discovery, an age made possible by this country’s exceptionally well-trained health professionals and superior medical schools and teaching hospitals. This legislation complements a competitive health market by providing tax-supported funding for the public services provided by teaching hospitals and medical schools.

Accordingly, the Medical Education Trust Fund established in the legislation I have just reintroduced would receive funding from three sources broadly representing the entire health care system: a 1.5 percent tax on health insurance premiums (the private sector’s contribution), Medicare and Medicaid (the latter two sources comprising the public sector’s contribution). The relative contribution from each of these sources will be in rough proportion to the medical education costs attributable to their respective covered populations.

Over the five years following enactment, the Medical Education Trust Fund provides average annual payments of about $17 billion. The tax on health insurance premiums (including self-insured health plans) raises approximately $5 billion per year for the Trust Fund. Federal health programs contribute about $12 billion per year to the Trust Fund: $8 billion of current Medicare graduate medical education payments and $4 billion in federal Medicaid spending.

This legislation is only a first step. It establishes the principle that, as a public good, medical education should be supported by dedicated federal funding. To ensure that the United States continues to lead the world in the quality of its medical education and its health system as a whole, the legislation would also create a Medical Education Advisory Commission to conduct a thorough study and make recommendations, including the potential use of demonstration projects, regarding the following:

Alternative and additional sources of medical education financing;
are available to the Secretary for making payments under sections 2202 and 2203. *(c) INVESTMENT.—*

*(1) IN GENERAL.—The Secretary of the Treasury (as defined in subsection (d)) during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this subparagraph in the projected health care inflation factor.

*(2) AMOUNT OF PAYMENTS FOR MEDICAL SCHOOLS.—*

*(a) IN GENERAL.—Subject to the annual amount available under paragraph (1) for a fiscal year, the amount of payments required under subsection (a) to be made to a medical school under this paragraph for such fiscal year shall be equal to the sum of the amounts determined under subsections (b), (c), (d), and (e) with respect to such entity.

*(b) APPLICATION.—For purposes of paragraph (1) to an eligible entity for a fiscal year shall be made periodically, at such intervals and in such amounts as the Secretary determines to be appropriate (subject to applicable Federal law regarding Federal payments).

*(c) ADMINISTRATOR OF PROGRAMS.—The Secretary shall carry out responsibility under this title by acting through the Administrator of the Health Care Financing Administration.

*(d) ELIGIBLE ENTITY.—For purposes of this title, the term 'eligible entity', with respect to any fiscal year, means any entity which would be eligible to receive payments for such fiscal year under section 1886(d)(5)(B), if such payments had not been terminated for discharges occurring after September 30, 1990, and if such payments had been made periodically, at such intervals and in such amounts as the Secretary determines to be appropriate (subject to applicable Federal law regarding Federal payments).
Congressional Record — Senate
January 19, 1999

"(B) for payment under subsections (d) and (e) 
"(i) an entity which meets the requirements of subparagraph (A); or 

"(B) DETERMINATION OF AMOUNT FROM NON-MEDICARE Teaching Hospital INDIRECT ACCOUNT. 
"(1) In general.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Medicare Teaching Hospital Indirect Account for such fiscal year under section 1886(i)(2), and subsections (c)(3) and (d) of section 2201 for such fiscal year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for any fiscal year is equal to the percentage of the total payments which would have been made to the eligible entity in such fiscal year under section 1886(d)(5)(B) if such payments had not been terminated for discharges occurring after September 30, 1999.

"(C) DETERMINATION OF AMOUNT FROM Medicare Teaching Hospital DIRECT ACCOUNT. 
"(1) In general.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Medicare Teaching Hospital Direct Account under section 1886(i)(1), and subsections (c)(3) and (d) of section 2201 for such fiscal year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for any fiscal year is equal to the percentage of the total payments which would have been made to the eligible entity in such fiscal year under section 1886(h) if such payments had not been terminated for discharges occurring after September 30, 1999.

"(d) DETERMINATION OF AMOUNT FROM NON-MEDICARE Teaching Hospital INDIRECT ACCOUNT. 
"(1) In general.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Medicare Teaching Hospital Indirect Account for such fiscal year under section 1896, subsections (c)(3) and (d) of section 2201, and section 4503 of the Internal Revenue Code of 1986.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for any fiscal year is equal to the percentage of the total payments which, as determined by the Secretary, would have been made in such fiscal year under section 1886(d)(5)(B) if such payments had not been terminated for discharges occurring after September 30, 1999.

"(B) DETERMINATION OF AMOUNTS.—The Secretary shall make an estimate for the fiscal year involved of the amount equal to the amount determined under subsection (b) for each hospital, the Secretary shall make an estimate for the fiscal year involved of the amount equal to the amount determined under subsection (b) for each hospital.
"(C) Personal care services (as described in section 1905(a)(24)).

"(D) Private duty nursing services (as referred to in section 1905(a)(8)).

"(E) Home and community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915.

"(F) Home and community care furnished to self-established elderly individuals under section 1922.

"(G) Community supported living arrangements services under section 1930.

"(H) Home and community-based services (as described in section 1915(g)(2)).

"(I) Home health care services (as referred to in section 1905(a)(7)), clinic services, and rehabilitation services that are furnished to an individual who has a condition or disability that qualifies the individual to receive any of the services described in a previous subparagraph.

"(J) Services furnished in an institution for mental diseases (as defined in section 1905(i)).

"(K) ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to the Non-Medicare Teaching Hospital Indirect Account, the Non-Medicare Teaching Hospital Direct Account, and the Medical School Account of amounts determined in accordance with subsections (a) and (b).

"(b) EFFECTIVE DATE.—The amendment made by this subsection shall be effective on and after October 1, 1999.

SEC. 3. ASSESSMENTS ON INSURED AND SELF-INSURED HEALTH PLANS.

(a) GENERALLY.—Subtitle D of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by adding after chapter 36 the following new chapter—

"CHAPTER 37—HEALTH RELATED ASSESSMENTS

"Subchapter A.—Insured and self-insured health plans.

Subchapter A—Insured and Self-Insured Health Plans.

"Sec. 4501. Health insurance and health-related administrative services.

"Sec. 4502. Self-insured health plans.

"Sec. 4503. Transfer to accounts.

"Sec. 4504. Definitions and special rules.

"Sec. 4503. Transfer to accounts.

"Sec. 4504. Definitions and special rules.

"Sec. 4503. Transfer to accounts.

"Sec. 4504. Definitions and special rules.

"(a) IMPOSITION OF TAX.—There is hereby imposed—

"(1) on each taxable health insurance policy, a tax equal to 1.5 percent of the premiums received under such policy, and

"(2) on each amount received for health-related administrative services, a tax equal to 1.5 percent of the amount so received.

"(b) LIABILITY FOR TAX.—

"(1) HEALTH INSURANCE.—The tax imposed by subsection (a)(1) shall be paid by the issuer of the policy.

"(2) HEALTH-RELATED ADMINISTRATIVE SERVICES.—The tax imposed by subsection (a)(2) shall be paid by the person providing the health-related administrative services.

"(c) TAXABLE HEALTH INSURANCE POLICY.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term ‘taxable health insurance policy’ means any insurance policy providing accident or health insurance with respect to individuals residing in the United States.

"(2) EXEMPTION OF CERTAIN POLICIES.—The term ‘taxable health insurance policy’ does not include an insurance policy if substantially all of the coverage provided under such policy relates to—

"(A) liabilities incurred under workers’ compensation laws,

"(B) tort liabilities,

"(C) liabilities relating to ownership or use of property,

"(D) credit insurance, or

"(E) such other similar liabilities as the Secretary may specify by regulations.

"(3) SPECIFIC PLAN PROVIDES OTHER COVERAGE.—In the case of any taxable health insurance policy under which amounts are payable other than for accident or health care services, the amount of the tax imposed by subsection (a)(1) on any premium paid under such policy, there shall be excluded the amount of any charge for the nonaccident or nonhealth coverage if—

"(A) the charge for such nonaccident or nonhealth coverage is either separately stated in the policy, or furnished to the policyholder in a separate statement, and

"(B) such charge is reasonable in relation to the total charges under the policy.

"In any other case, the entire amount of the premium paid under such policy shall be subject to tax under subsection (a)(1).

"(4) TREATMENT OF PREPAID HEALTH COVERAGE ARRANGEMENTS.

"(A) IN GENERAL.—In the case of any arrangement described in subparagraph (B)—

"(i) such arrangement shall be treated as a taxable health care arrangement if the payments or premiums referred to in subparagraph (B)(i) are treated as premiums paid for a taxable health insurance policy under subpart (A), and

"(ii) the person referred to in subparagraph (B)(i) shall be treated as the issuer.

"(B) DESCRIPTION OF ARRANGEMENTS.—An arrangement described in this subparagraph if under such arrangement—

"(i) fixed payments or premiums are received as consideration for any person’s agreement to provide accident or health coverage for the provision of accident or health care coverage to residents of the United States, regardless of how such coverage is provided or arranged to be provided,

"(ii) substantially all of the risks of the rates of utilization of services is assumed by such person or the provider of such services.

"(C) TREATMENT OF REIMBURSEMENTS.—In the case of any arrangement (as described in subparagraph (B)) the term ‘plan sponsor’ means—

"(1) the entity that holds the policy or the person from whom premiums are paid,

"(2) if the policy is held by such entity (as defined in section 204C(b)(2)), the issuer of the policy as defined in section 204C(b)(3)(B), and

"(3) if the policy is held by any other entity, the entity that holds the policy.
Such amounts shall be transferred in the same manner as under section 9601.

SEC. 4904. DEFINITIONS AND SPECIAL RULES.

(a) Definitions.—For purposes of this subsection—

"(1) ACCIDENT OR HEALTH COVERAGE.—The term ‘accident or health coverage’ means any coverage which, if provided by an insurance policy, would cause such policy to be a taxable health insurance policy (as defined in subsection (c))."

"(2) INSURANCE POLICY.—The term ‘insurance policy’ means any policy or other instrument whereby a contract of insurance is issued, renewed, or extended.

"(3) PREMIUM.—The term ‘premium’ means the gross amount of premiums and other consideration (including advance premiums, deposits, fees, and assessments) arising from policies issued, renewed, or extended.

(b) DUTIES.—

"(1) IN GENERAL.—The Advisory Commission shall—

(A) conduct a thorough study of all matters relating to—

(i) the operation of the Medical Education Trust Fund established under section 2201 of the Social Security Act (as added by section 2);

(ii) alternative and additional sources of graduate medical education funding;

(iii) alternative methodologies for compensating teaching hospitals for graduate medical education;

(iv) policies designed to expand eligibility for graduate medical education payments to children’s hospitals that operate graduate medical education programs; and

(v) alternative and additional sources of graduate medical education funding.

(B) the operation of the Advisory Commission.

(C) any program established by Federal means of the House of Representatives, and the Senate, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate; and

(D) any program established by Federal means of the House of Representatives, and the Senate, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate; and

(E) the Secretary of Health and Human Services and the entities described in this paragraph are—

(i) the operation of the Medical Education Trust Fund established under section 2201 of the Social Security Act (as added by section 2);

(ii) the rule of medical schools in graduate medical education programs.

(f) Compensation and Reimbursement of Expenses.—Members of the Advisory Commission shall receive compensation for each day (including travel time) engaged in carrying out the duties of the Advisory Commission.

(g) Meetings.—The Advisory Commission shall meet not less than once during each 4-month period and shall otherwise meet at the call of the Secretary of Health and Human Services or the Chair.

(h) Compensation and Reimbursement of Expenses.—Members of the Advisory Commission shall receive compensation for each day (including travel time) engaged in carrying out the duties of the Advisory Commission.

(i) Vacancies.—If a member of the Advisory Commission does not serve the full term for which appointed, the Chair of the Advisory Commission shall designate an individual to serve as the Chair of the Advisory Commission.

(j) Chair.—The Secretary of Health and Human Services shall designate an individual to serve as the Chair of the Advisory Commission.

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

SEC. 7. DEMONSTRATION PROJECTS.

(a) Establishment.—The Secretary of Health and Human Services (in this section referred to as the ‘Secretary’) shall establish, by regulation, guidelines for the establishment and operation of demonstration projects which the Medical Education Advisory Commission recommends under section 6(b)(1)(B).

(b) Funding.—

(1) IN GENERAL.—For any fiscal year after 1999, amounts in the Medical Education Trust Fund under title XXII of the Social Security Act and the Medicare Trust Fund under title I of the Social Security Act shall—

(A) be available for the purposes of paragraph (3) of section 2201 of the Social Security Act (as added by subsection (b)(1)(B));

(B) be available for the purposes of paragraph (3) of section 2201 of the Social Security Act (as added by subsection (b)(1)(B));

(c) Limitation.—Nothing in this section shall be construed to authorize any change...
The legislation establishes a Medical Education Trust Fund to support America’s 144 medical schools and 1,250 graduate medical education teaching institutions. These institutions are in a precarious financial situation as market forces reshape the health care delivery system. Explicit and dedicated funding for these institutions will guarantee that the United States continues to lead the world in the quality of its health care system.

The Medical Education Trust Fund Act of 1999 recognizes the need to begin moving away from existing medical education payment policies. Funding would be provided for demonstration projects and alternative payment methods, but permanent policy changes would await a report from a new Medical Education Advisory Commission established by the bill. The primary and immediate purpose of the legislation is to establish as Federal policy that medical education is a public sector function and that all sectors of the health care system should be interested in the health of the nation.

To ensure that the burden of financing medical education is shared equally by all sectors, the Medical Education Trust Fund will receive funding from three sources: a 1.5 percent assessment on health insurance premiums (the private sector’s contribution), Medicare, and Medicaid (the public sector’s contribution). The relative contribution from each of these sources is in rough proportion to the medical education costs attributable to their respective covered populations.

Over the five years following enactment, the Medical Education Trust Fund will provide average annual payments of about $17 billion, roughly doubling federal funding for medical education. The assessment on health insurance premiums (including self-insured health plans) contributes approximately $5 billion per year to the Trust Fund. Federal health programs contribute about $12 billion per year to the Trust Fund: $8 billion in Medicare graduate medical education payments and $4 billion in federal Medicaid spending.

ESTIMATED AVERAGE ANNUAL TRUST FUND REVENUE BY SOURCE, FIRST FIVE YEARS

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<th>Source</th>
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INTERIM PAYMENT METHODOLOGIES
Payments to medical schools
Medical schools rely on a portion of the clinical practice revenue generated by their faculties to support their operations. As competition within the health system intensifies and managed care proliferates, these revenues are being constrained. Payments to medical schools from the Trust Fund are designed to mitigate this loss of revenue.

Initially, these payments will be based upon an interim methodology developed by the Secretary of Health and Human Services.

To cover the costs of education, teaching hospitals have traditionally charged higher rates on other hospitals. As private payers become increasingly unwilling to pay these higher rates, the future of these important institutions, and the patient care, training, and research they provide, is placed at risk.
tax law. Absent section 127, a worker receiving educational benefits from an employer is taxed on the value of the education received, unless the education is directly related to the worker’s current job and not remedial. Thus, it would be subject to tax if the education either qualifies him or her for a new job, or is necessary to meet the minimum educational requirements for the current job. Workers and employers—as well as the IRS in attempts to educate them—carefully review the facts of each situation and judge whether the education is taxable under these rules, and employers are subject to penalties if they fail to properly adjust wage withholding for employees who receive taxable education. More work for tax advisors. Permanent reinstatement of section 127 will allow workers who receive, and employers who provide, education assistance to do so without such complexity.

Section 127 has also helped to improve the quality of America’s public education system at a fraction of the cost of traditional programs. A study by the National Education Association a few years ago found that almost half of all American public schools systems provide tuition assistance to teachers seeking advanced training and degrees. This has enabled thousands of public schools teachers to obtain advanced degrees, enhancing the quality of instruction in our schools.

A well-trained and educated work force is a key to our Nation’s competitiveness in the global economy of the 21st century. Pressures from international competition and technological change require constant education and retraining to maintain and strengthen American industry’s competitive position. Alan Greenspan, the esteemed Chairman of the Federal Reserve System’s Board of Governors, remarked at Syracuse University in New York in December, 1997 that:

Our business and workers are confronting a dynamic set of forces that will influence our nations’ ability to compete worldwide in the years ahead. Our success in preparing workers and managers to harness these forces will be an important element in the outcome.

...America’s prospects for economic growth will depend greatly on our capacity to develop and to apply new technology. [A]n increasing number of workers are facing the likelihood that they will need retooling during their careers. The notion that formal degree programs at any level can be crafted to fully support the requirements of one’s lifework is being challenged. As a result, education is increasingly becoming a lifelong activity; businesses are now looking for employees who are prepared to continue learning.

Section 127 has an important, perhaps vital, role to play in this regard. It permits employees to adapt and retrain without incurring additional tax liabilities and a reduction in take-home pay. By removing the tax burden from workers seeking education and retraining, section 127 helps to maintain American workers as the most productive in the industrialized and developing world.

Indeed, recent evidence released by the Census Bureau demonstrates that the earnings gap between individuals with a college degree and those with only a high school education continues to grow. Those who hold bachelor’s degrees average $40,478 last year, compared with $22,895 earned by the average high school graduate. In other terms, college graduates now earn 76 percent more than their counterparts with less education, up significantly from 57 percent in 1975.

Despite efforts of the Senate, the most recent extension of section 127 excluded graduate level education. This was a mistake. Historically, one quarter of the individuals who have used section 127 went to graduate schools. Ask major employers about their employee training and they will say nothing is more helpful than being able to send a promising young person, or middle management person, to a graduate school to learn a new field that has developed since that person acquired his or her education. As Dr. Greenspan stated, education, especially to enhance advanced skills, is so vital to the future growth of our economy.

By eliminating graduate level education from section 127, we impose a tax increase on many citizens who work and go to graduate schools at the same time. But not all of them. Only the ones whose education does not directly relate to their current jobs. For these workers, the tax increase has not just created a barrier to their upward mobility. Who are these people? Perhaps an engineer seeking a master’s degree in geology to enter the field of environmental science, or a bank teller seeking an MBA in accounting, or a production line worker seeking an MBA in management.

Simple equity among taxpayers demands that section 127 be made permanent. Contrast each of the above examples with the case of the less-skilled worker, a lower skilled, the minorities, the women, the less-skilled, the less educated, are also the ones circumscribed by law.

This has been confirmed in practice. A study published by the National Association of Independent Colleges and Universities in December, 1995 found that the average section 127 recipient earned less than $33,000, and a Coopers & Lybrand study found that participation rates decline as salary levels increase.

I hope that Congress will recognize the importance of this provision, and enact it permanently. Our on-again, off-again approach to section 127 has created great practical difficulties for the employers and workers. Employees cannot plan sensibly for their educational goals, not knowing the extent to which accepting educational assistance may reduce their take-home pay. As for employers, the fits and starts of the legislative history of section 127 have been a serious administrative nuisance: there have been nine extensions of this provision since 1978, of which eight were retroactive. If section 127 is in force, then there is no need to withhold taxes on educational assistance provided if not, the job-relatedness of the educational assistance must be ascertained, a value assigned, and withholding adjusted accordingly. Uncertainty about the program’s continuance has magnified this burden, and discouraged employers from providing educational benefits.

For example, section 127 expired for a time after 1994. During 1995, employers did not know whether to withhold taxes or curtail their educational assistance programs. They did not know whether they would face large tax bills, and possible penalties and interest, and thus faced considerable risk in planning for their education. Constituents who called my office reported that they were taking fewer courses—or no courses—due to this uncertainty. And when we failed to extend the provision by the end of 1995, employers had to guess as to how to report their worker’s incomes on the W-2 tax statement, and employers had to instruct the IRS to issue guidelines to employers and workers on how to obtain refunds.

The current provision expires with respect to courses beginning after May 31, 2000. Will we subject our constituency once again to similar confusion? The legislation I introduce today would restore certainty to section 127 by maintaining it on a permanent basis for all education.
Encouraging workers to further their education and to improve their job skills is an important national priority. It is crucial for preserving our competitive position in the global economy. Permitting employees to receive educational assistance on a tax-free basis, without incurring significant cuts in take-home pay, is a demonstrated, cost-effective means for achieving these objectives. This is a wonderful piece of unobtrusive social policy. And it simplifies our tax system for one million workers and their employers.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, along with two letters, representative of many, I have received in support of the bill.

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

S. 211

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employee Educational Assistance Act".

SEC. 2. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) PERMANENT EXTENSION.—Section 127 of the Internal Revenue Code of 1986 (relating to exclusion for educational assistance provided by employers under section 127) is amended by striking subsection (d) to exclusion for educational assistance provided by employers under section 127(c) (1) of such Code is amended by striking "and" and inserting in lieu thereof "or" after "(2)"; and by redesignating subsection (e) as subsection (d).

(b) REPEAL OF LIMITATION ON GRADUATE EDUCATION.—The last sentence of section 127(c)(1) of such Code is amended by striking "; and" and inserting in lieu thereof "; and the amount of such payments may not exceed 5 percent of the employee's income for such year".

(c) EFFECTIVE DATES.—(1) EXTENSION.—The amendments made by subsection (a) shall apply with respect to expenses relating to courses beginning after the date of enactment of this Act.

(2) PERMANENT EXTENSION.—The amendment made by subsection (b) shall apply with respect to expenses relating to courses beginning after December 31, 1998.

SANDRA BOYD,
Assistant Vice President,
NATIONAL ASSOCIATION OF INDEPENDENT COLLEGES AND UNIVERSITIES,

Hon. Daniel Patrick Moynihan,
U.S. Senate, Hart Senate Office Building,
Washington, D.C.

DEAR SENATOR MOYNIHAN: On behalf of the National Association of Independent Colleges and Universities (NAICU), I thank you for your continued commitment to encouraging a well-educated and properly-trained workforce through the permanent extension of this tax credit.

As you know, this important provision of the tax code allows employees to exclude from their income the first $5,250 of educational benefits provided by their employers. While the Taxpayer Relief Act of 1997 temporarily extended the benefit for undergraduate and graduate courses, those courses are currently not included in the Act. Sec. 127 extension that is set to expire on May 31, 2000. Legislation that will permanently extend the credit for both graduate and undergraduate courses is absolutely critical.

Employees benefit from Sec. 127 by keeping current in rapidly advancing fields, improving basic skills, or, in extreme cases, learning new skills. Sec. 127 also serves as an effective means for entry level employees to move from low wage jobs to higher wage jobs while remaining in the workforce.

Sec. 127 also has a strong support in both the House and Senate, and as a time-tested initiative, it ought to be included in any tax package that comes before the 106th Congress. Although I applaud your continuing interest in working with you and the other supporters of this legislation to move the bill forward.

Again thank you for your continued efforts on this important matter.

Sincerely,

DAVID L. WARREN,
President.

By Mr. MOYNIHAN (for himself and Mr. SCHUMER):

S. 212. A bill to amend the Internal Revenue Code of 1986 to extend the economic activity credit for Puerto Rico, and for other purposes; to the Committee on Finance.

S. 213. A bill to amend the Internal Revenue Code of 1986 to repeal the limitation of the cover over of tax on distribution of spirits, and for other purposes; to the Committee on Finance.

S. 214. A bill to amend the Internal Revenue Code of 1986 to extend the research and development tax credit to manufacturers in the Commonwealth of Puerto Rico and the possessions of the United States; to the Committee on Finance.

S. 215. A bill to amend the Title XXI of the Social Security Act to increase the allotments for territories under the State Children's Health Insurance Program; to the Committee on Finance.

PUERTO RICO LEGISLATIVE PACKAGE

MR. MOYNIHAN. Mr. President, I rise today on behalf of myself and my distinguished colleague from New York, Mr. SCHUMER, to introduce three tax measures designed to strengthen our commitment to enhancing the prospects for long-term economic growth in the Commonwealth, and a fourth piece of legislation to ensure fair funding for its Children's Health Insurance Program.

This decade, Congress has imposed significant tax increases on companies doing business in Puerto Rico. Those tax increases in 1993 and 1996, agreed to in the context of broader deficit reduction and minimum wage legislation, substantially altered the economic relationship between the United States and the possessions. The legislation I introduce today will address several of the economic concerns caused by those tax increases and restore incentives for employment, investment, and business opportunities.

Federal tax incentives for economic activity in Puerto Rico are nearly as old as the income tax itself. Under the Revenue Act of 1921, U.S. corporations that met two gross income tests were exempt from tax on all income derived from sources outside the United States. The possessions corporation exemption remained unchanged until 1976. Section 936 of the Internal Revenue Code, added by the Tax Reform Act of 1976, maintained the exemption for income derived by U.S. corporations from operations in a possessions. It also exempted from tax the dividends remitted by a possessions corporation to its U.S. parent. However, to prevent the avoidance of tax on investments in foreign countries by possessions corporations, the 1976 Tax Reform Act eliminated the exemption for income derived outside the possessions.

In 1991 Congress imposed significant limitations on Section 936. The Omnibus Budget Reconciliation Act of 1993 subjected Section 936 to two alternative limitations (the taxpayer may choose which limitation applies). One limitation is based on factors that reflect the corporation's economic activity in the possessions. The other limitation is based on a percentage of the
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Mr. President, the first of the bills I introduce today, while not designed to reinstate prior law, seeks to build on the temporary wage credit that is currently provided in the Internal Revenue Code. The bill removes provisions that limit, in taxable years beginning after 2001, the aggregate taxable income taken into account in determining the amount of the credit. Employers would generally be eligible for a tax credit equal to 10 percent of wages and fringe benefit expenses for employees located in Puerto Rico. New as well as existing employers would be rewarded for providing local jobs. Instead of expiring at the end of 2005, the credit would terminate three years later for tax years starting after 2008. Thus, businesses would have a 10-year period in which to take advantage of these incentives.

A second proposal addresses the inequity of the Puerto Rico under the tax credit for increasing research activities (the R&D tax credit). The R&D credit has never applied to qualified research conducted in Puerto Rico and the other U.S. possessions. Until recently, U.S. companies paid no taxes on Puerto Rico source income. As a result, there were no tax consequences to Puerto Rico's exclusion from the R&D credit. With the phasing out of the R&D credit, applying the R&D credit to research expenditures in Puerto Rico has become a matter of fairness, and this legislation would ensure eligibility for companies operating in the possessions. The Government of Puerto Rico has made a center of its new economic model, and Puerto Rico's 1998 Tax Incentives Act created a deduction for research and development expenses incurred for new or improved products or industrial processes. While the immediate cost of extending the R&D credit to Puerto Rico is minimal (in 1998, the Joint Tax Committee estimated the total five-year revenue loss at $4 million), the long-term benefits for Puerto Rico's diversifying economic could be significant.

The third bill addresses a provision of the tax law a portion of which expired on September 30, 1998. The Puerto Rican Federal Relations Act and the Revised Organic Virgin Islands mandate that all federal collections on insular products be transferred (“covered-over”) to those unincorporated jurisdictions of our Nation. Further, the Caribbean Basin Economic Recovery Act provides that collections on all imported rum be transferred to the treasuries of Puerto Rico and the Virgin Islands. In 1994, because of a dispute concerning the use of the tax cover-over mechanism in Puerto Rico, the cover-over was limited to an amount of $10.50 per gallon tax on rum, rather than the full $13.50 per gallon tax. The dispute was discontinued many years ago. In 1993, Congress enacted a temporary increase in the rum cover-over, to $11.30, effective for five years that expired on September 30, 1998, and the rum cover-over dropped back to $10.50. The legislation would restore the cover-over to the full amount of the excise tax collected on rum ($13.50 per proof gallon), as mandated in the basic laws regarding those jurisdictions and in the Caribbean Basin Initiative. Since September, the congressional Budget Office estimated such a proposal would cost $350 million over 5 years and $700 million over 10 years.

Additionally, the proposal provides that, for a five-year period, 50 cents per gallon of the cover-over to Puerto Rico would be further transferred to the Puerto Rico Conservation Trust. The Conservation Trust Act, created for the protection of the natural resources and environmental beauty of Puerto Rico, was established by the Department of the Interior and the Commonwealth of Puerto Rico in 1964. The Trust was initially funded through an oil import fee. More recently, primarily financed through Section 936 of the Internal Revenue Code, the Trust lost over $500 million if it were to remain high at 12.5 percent. The needs of Puerto Rico, and the importance of this provision, were magnified by the devastation recently caused by Hurricane Georges. Mr. President, now is the time to reinforce our close economic relationship with Puerto Rico. I hope my colleagues in the Senate will join me in working toward swift passage of these measures.

Finally, Mr. President I ask unanimous consent that the text of the four measures be printed in full in the RECORD.
(b) AMENDMENT OF 1996 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a line of business, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. MODIFICATIONS OF PUERTO RICO ECONOMIC ACTIVITY CREDIT.

(a) CORPORATIONS ELIGIBLE TO CLAIM CREDIT.—Section 30A(a)(2) (defining qualified domestic corporation) is amended to read as follows:

``(2) QUALIFIED DOMESTIC CORPORATION.—For purposes of this paragraph (A) only with respect to the lines of business described in subparagraph (A) which it is actively conducting in Puerto Rico during the taxable year—

``(i) a line of business with respect to which the domestic corporation is an existing credit claimant under section 936(j)(9), or

``(ii) an eligible line of business not described in clause (i).''

``(B) LIMITATION ON LINES OF BUSINESS.—A domestic corporation shall be treated as a qualified domestic corporation for a taxable year if it is actively conducting within Puerto Rico during the taxable year—

``(i) a line of business with respect to which the domestic corporation is an existing credit claimant under section 936(j)(9), or

``(ii) an eligible line of business not described in clause (i).''

``(C) EXCEPTION FOR CORPORATIONS ELECTING REDUCED CREDIT.—A domestic corporation shall not be treated as a qualified domestic corporation under subparagraph (A) only with respect to the lines of business described in subparagraph (A) which it is actively conducting in Puerto Rico during the taxable year—

``(i) a line of business with respect to which the domestic corporation is a qualified domestic corporation under subsection (b), and

``(ii) a line of business with respect to which an election under subsection (b), as designated by subsection (b), is made by striking "January 1, 2006'' and inserting "January 1, 2007".

``(D) NEW LINES OF BUSINESS.—A corporation shall be treated as a qualified domestic corporation for a taxable year if it is actively conducting within Puerto Rico during the taxable year—

``(i) a line of business with respect to which the domestic corporation is an existing credit claimant under section 936(j)(9), or

``(ii) an eligible line of business not described in clause (i).''

``(E) APPLICATION ON SEPARATE LINE OF BUSINESS BASIS; ELIGIBLE LINES OF BUSINESS.—Section 30A is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

``(g) APPLICATION ON SEPARATE LINE OF BUSINESS BASIS; ELIGIBLE LINES OF BUSINESS.—For purposes of this section—

``(1) APPLICATION TO SEPARATE LINE OF BUSINESS.—

``(A) IN GENERAL.—In determining the amount of credit under section 30A(a)(4) for purposes of this paragraph, including rules for purposes of applying the limitation under subsection (a)(4)(B), the determination of whether a line of business is a substantial line of business shall not be treated as an existing credit claimant with respect to any substantial new line of business which is added after October 12, 1995, unless such addition is pursuant to an acquisition described in subparagraph (A).''

``(2) NEW LINES OF BUSINESS.—Section 936(j)(8)(A) is amended to read as follows:

``(A) IN GENERAL.—In the case of a domestic corporation which, during the taxable year, is actively conducting within a possession other than Puerto Rico—

``(i) a line of business with respect to which the domestic corporation is an existing credit claimant under section 936(j)(9), or

``(ii) an eligible line of business not described in clause (i).''

``(B) ELIGIBLE LINE OF BUSINESS.—For purposes of this subsection (other than paragraph (b) thereof), the determination of whether a line of business is a substantial line of business shall be determined by reference to 2-digit codes under the North American Industry Classification System (Fed. Reg. 17288 et seq., formerly known as "SIC codes").''

``(C) REPEAL OF BASE PERIOD CAP FOR ECONOMIC ACTIVITY CREDIT.—

``(1) IN GENERAL.—Section 30A(j)(3) is amended by striking "January 1, 2006'' and inserting "January 1, 2007".

``(2) CONFORMING AMENDMENTS.—

``(A) Section 30A(j)(3) is amended by striking "within a possession" each place it appears and inserting "within Puerto Rico").

``(B) Section 30A(j)(2)(j) is amended by striking "within a possession" each place it appears and inserting "within Puerto Rico").

``(C) Section 30A(j)(3)(A)(ii) is amended by adding at the end the following new paragraph:

``(9) Coordination with subsection (j)(4)(B).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(1)(B) shall be such income as reduced under this paragraph.''

``(D) ADDITIONAL RESTRICTED REDUCED CREDIT.—

``(A) IN GENERAL.—In the case of an existing credit claimant under paragraph (b)(2), the amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(1)(B) shall be such income as reduced under this paragraph.''

``(B) COORDINATION WITH SUBSECTION (j)(4)(B).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(1)(B) shall be such income as reduced under this paragraph.''

``(E) REPEAL OF BASE PERIOD CAP FOR ECONOMIC ACTIVITY CREDIT.—

``(1) IN GENERAL.—Section 30A(j)(3) is amended by striking "January 1, 2006'' and inserting "January 1, 2007".

``(2) CONFORMING AMENDMENTS.—

``(A) Section 30A(j)(3) is amended by striking "within a possession" each place it appears and inserting "within Puerto Rico").

``(B) Section 30A(j)(2)(j) is amended by striking "within a possession" each place it appears and inserting "within Puerto Rico").

``(C) Section 30A(j)(3)(A)(ii) is amended by adding at the end the following new paragraph:

``(9) Coordination with subsection (j)(4)(B).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(1)(B) shall be such income as reduced under this paragraph.''

``(D) ADDITIONAL RESTRICTED REDUCED CREDIT.—

``(A) IN GENERAL.—In the case of an existing credit claimant under paragraph (b)(2), the amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(1)(B) shall be such income as reduced under this paragraph.''

``(B) COORDINATION WITH SUBSECTION (j)(4)(B).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(1)(B) shall be such income as reduced under this paragraph.''

``(C) REPEAL OF BASE PERIOD CAP FOR ECONOMIC ACTIVITY CREDIT.—

``(1) IN GENERAL.—Section 30A(j)(3) is amended by striking "January 1, 2006'' and inserting "January 1, 2007".

``(2) CONFORMING AMENDMENTS.—

``(A) Section 30A(j)(3) is amended by striking "within a possession" each place it appears and inserting "within Puerto Rico").

``(B) Section 30A(j)(2)(j) is amended by striking "within a possession" each place it appears and inserting "within Puerto Rico").

``(C) Section 30A(j)(3)(A)(ii) is amended by adding at the end the following new paragraph:

``(9) Coordination with subsection (j)(4)(B).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(1)(B) shall be such income as reduced under this paragraph.''

``(D) ADDITIONAL RESTRICTED REDUCED CREDIT.—

``(A) IN GENERAL.—In the case of an existing credit claimant under paragraph (b)(2), the amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(1)(B) shall be such income as reduced under this paragraph.''

``(B) COORDINATION WITH SUBSECTION (j)(4)(B).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(1)(B) shall be such income as reduced under this paragraph.''

``(C) REPEAL OF BASE PERIOD CAP FOR ECONOMIC ACTIVITY CREDIT.—

``(1) IN GENERAL.—Section 30A(j)(3) is amended by striking "January 1, 2006'' and inserting "January 1, 2007".

``(2) CONFORMING AMENDMENTS.—

``(A) Section 30A(j)(3) is amended by striking "within a possession" each place it appears and inserting "within Puerto Rico").

``(B) Section 30A(j)(2)(j) is amended by striking "within a possession" each place it appears and inserting "within Puerto Rico").

``(C) Section 30A(j)(3)(A)(ii) is amended by adding at the end the following new paragraph:

``(9) Coordination with subsection (j)(4)(B).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(1)(B) shall be such income as reduced under this paragraph.''

``(D) ADDITIONAL RESTRICTED REDUCED CREDIT.—

``(A) IN GENERAL.—In the case of an existing credit claimant under paragraph (b)(2), the amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(1)(B) shall be such income as reduced under this paragraph.''

``(B) COORDINATION WITH SUBSECTION (j)(4)(B).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(1)(B) shall be such income as reduced under this paragraph.''

``(C) REPEAL OF BASE PERIOD CAP FOR ECONOMIC ACTIVITY CREDIT.—

``(1) IN GENERAL.—Section 30A(j)(3) is amended by striking "January 1, 2006'' and inserting "January 1, 2007".

``(2) CONFORMING AMENDMENTS.—

``(A) Section 30A(j)(3) is amended by striking "within a possession" each place it appears and inserting "within Puerto Rico").

``(B) Section 30A(j)(2)(j) is amended by striking "within a possession" each place it appears and inserting "within Puerto Rico").

``(C) Section 30A(j)(3)(A)(ii) is amended by adding at the end the following new paragraph:

``(9) Coordination with subsection (j)(4)(B).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(1)(B) shall be such income as reduced under this paragraph.'"
"(A) IN GENERAL.—In the case of an applicable possession—

"(i) this section (other than the preceding paragraphs of this subsection) shall not apply for taxable years beginning after December 31, 1995, and before January 1, 2006, with respect to any substantial line of business not described in clause (i) for taxable years beginning after December 31, 1998, and before January 1, 2006, with respect to any substantial line of business not described in clause (i) for taxable years beginning after December 31, 2001, and before January 1, 2006.

"(ii) with respect to any substantial line of business not described in clause (i) for taxable years beginning after December 31, 1998, and before January 1, 2006, with respect to any substantial line of business not described in clause (i) for taxable years beginning after December 31, 2001, and before January 1, 2006.

"(B) New Lines of Business.—The amendment made by subsection (b)(2) shall apply to taxable years beginning after December 31, 1995.

"(C) In General.—For the 5-year period beginning after September 30, 1999, the Secretary of the Treasury finds, after consultation with the Governor of Puerto Rico, that the failure by the Secretary of the Treasury to make a required transfer was for good cause, and notifies the Secretary of the Treasury of the finding of such good cause before the due date of the next cover over payment following the notification of nontransfer, then the Secretary of the Treasury shall not deduct the amount of such nontransfer from any cover over payment.

"(D) Puerto Rico Conservation Trust Fund.—For purposes of this paragraph, the term "Puerto Rico Conservation Trust Fund" means the fund established pursuant to a Memorandum of Understanding between the States Department of the Interior and the Commonwealth of Puerto Rico, dated December 24, 1968.

"(E) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

"(F) In General.—For the 5-year period beginning after September 30, 1999, the Secretary of the Treasury finds, after consultation with the Governor of Puerto Rico, that the failure by the Secretary of the Treasury to make a required transfer was for good cause, and notifies the Secretary of the Treasury of the finding of such good cause before the due date of the next cover over payment following the notification of nontransfer, then the Secretary of the Treasury shall not deduct the amount of such nontransfer from any cover over payment.

"(G) Conservation Trust Fund transfer.—(i) In General.—For purposes of this paragraph, the term "Conservation Trust Fund transfer" means a transfer to the Puerto Rico Conservation Trust Fund of an amount deductible and withheld, in the case of a non-transfer, from any substantial line of business not described in clause (i) for taxable years beginning after December 31, 1998, and before January 1, 2006.

"(ii) Treatment of transfer.—Each Conservation Trust Fund transfer shall be treated as principal for an endowment, the income from which to be available for use by the Puerto Rico Conservation Trust Fund for the purposes for which the Trust Fund was established.

"(iii) Result of nontransfer.—(i) In General.—Upon notification by the Secretary that a Conservation Trust Fund transfer has not been made by the treasury of Puerto Rico during the period described in subparagraph (A), the Secretary shall, except as provided in subclause (ii), deduct and withhold from the next cover over payment to be made to the treasury of Puerto Rico under section 7652(e) of such Code an amount equal to the appropriate Conservation Trust Fund transfer and interest thereon at the underpayment rate established under section 6621 of such Code as of the due date of such transfer. The Secretary of the Treasury shall transfer such amount deducted and withheld, in the case of a non-transfer, from any substantial line of business not described in clause (i) for taxable years beginning after December 31, 2001, and before January 1, 2006, with respect to any substantial line of business not described in clause (i) for taxable years beginning after December 31, 2001, and before January 1, 2006.

"(D) In General.—For purposes of this paragraph, the term "Puerto Rico Conservation Trust Fund" means the fund established pursuant to a Memorandum of Understanding between the States Department of the Interior and the Commonwealth of Puerto Rico, dated December 24, 1968.
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Mr. MOYNIHAN. Mr. President, today I am introducing with my colleague from New York, Senator MOYNIHAN, to introduce a bill that will eliminate an aspect of our internal revenue laws that is fundamentally unfair to taxpayers with income from foreign sources.

Under our system of taxation, U.S. citizens and domestic corporations are subject to the regular income tax on their worldwide income. The foreign tax credit is a value to be subtracted from the domestic tax liability. Because of this provision, some of which was incurred in years during which the company reported losses on a worldwide basis.

Second, the Energy Policy Act of 1992 allowed taxpayers to claim double taxation of their foreign source income and, to the extent that they are subject to the AMT, to claim the credit against the AMT liability. The Taxpayer Relief Act of 1997 allowed taxpayers to claim the foreign tax credit as a reduction from the alternative minimum tax liability. Thus, affected taxpayers pay at least 10 percent of their alternative minimum tax, no matter that the tax relates to foreign source income earned in a high-tax foreign jurisdiction and that the taxpayer has paid tax on that income.

Although Congress believed the 90 percent restriction on double taxation of a corporation's foreign source income was a lesser evil than allowing a corporation to fully use its foreign tax credits. The 1986 tax act provided that foreign tax credits could be used to offset up to 90 percent of a corporation's minimum tax liability. Thus, affected taxpayers pay at least 10 percent of their alternative minimum tax, no matter that the tax relates to foreign source income earned in a high-tax foreign jurisdiction and that the taxpayer has paid tax on that income.

Mr. MOYNIHAN. Mr. President, today I am introducing with my colleague from New York, Senator MOYNIHAN, to introduce a bill that will eliminate an aspect of our internal revenue laws that is fundamentally unfair to taxpayers with income from foreign sources.

Under our system of taxation, U.S. citizens and domestic corporations are subject to the regular income tax on their worldwide income. The foreign tax credit is a value to be subtracted from the domestic tax liability. Because of this provision, some of which was incurred in years during which the company reported losses on a worldwide basis.

Second, the Energy Policy Act of 1992 allowed taxpayers to claim double taxation of their foreign source income and, to the extent that they are subject to the AMT, to claim the credit against the AMT liability. The Taxpayer Relief Act of 1997 allowed taxpayers to claim the foreign tax credit as a reduction from the alternative minimum tax liability. Thus, affected taxpayers pay at least 10 percent of their alternative minimum tax, no matter that the tax relates to foreign source income earned in a high-tax foreign jurisdiction and that the taxpayer has paid tax on that income.

Although Congress believed the 90 percent restriction to have been fair policy in 1986, the restriction can no longer be justified.

First, we now have a decade of experience over which to judge the effect of the restriction. I am aware of at least one key employer in New York that allows its foreign tax credits that are allocable to the U.S., the retention of various rights that are described in a deed of gift or will, and how such rights are treated under state law, the retention of various rights in the papers donated, such as a right to limit or control access. The restrictions might be in place for many understandable reasons, such as to protect the privacy of colleagues, corresponding the limitations that serve as an incentive for a particular activity or behavior, rather, it simply reflects the fundamental principle that income should not be subject to multiple taxation. The 90 percent limitation was enacted as part of the 1986 tax bill solely to raise revenue. The bill that Senator MOYNIHAN and I are introducing today will eliminate the AMT's 90 percent limitation on foreign tax credits.

Eliminating this limitation will mean that taxpayers who have paid their personal papers and related items to a charitable organization for the historical record.

The issue arises in connection with the donation of personal papers and related items to a university, library, historical society, or other charitable organizations. In general, such a transfer has no estate or gift tax consequences. While the value of any such transfer may be subject to taxation as a theoretical matter, as a practical matter the gift will not be taxed because the corresponding deduction would be available. This is as it should be: the donor receives neither a tax benefit nor a tax burden, and the tax law is not a factor in the decision to make such a donation.

Recently, however, estate planning lawyers have become concerned about situations in which such a gift might give rise to adverse tax consequences.

The problem arises under a series of rules enacted in the Tax Reform Act of 1969 that were designed to prevent
abuses in the transfer tax system. These rules were written, in part, to address situations involving taxpayers who claimed a charitable contribution deduction significantly in excess of the value of property that the charity was expected to receive. This result was accomplished by making a charitable gift in the form of an income or remainder interest in a trust, claiming an inflated charitable deduction through favorable valuation methods, and adopting an investment policy for the trust that significantly favored the noncharitable interest to the detriment of the charitable interest. In response, Congress established certain requirements to ensure that the charity would actually receive the portion of the property for which a deduction was allowed, and to deny a charitable deduction in cases where a “split-interest” gift was made that did not meet the specified requirements.

These rules were not intended to apply to the donation of historically important papers. Unlike the abusive situations of the past where charities were unlikely to receive the benefit of the purported gifts, in this situation the charity takes physical possession of the papers. This is not a tax scheme designed to exploit weak rules.

I stated that there “may” be a problem with the estate and gift tax law because it is not clear whether the split-interest rule would disallow a charitable deduction in situations where donors have retained various rights to control and limit access to their papers. When do such limited rights reach the point of being recognized as a type of ownership interest under state law? I suspect that many prominent people have donated their papers in the past thirty years with similar restrictions, in reliance on documents prepared by knowledgeable legal advisors and curators, not realizing that there could be adverse tax consequences.

One way to get around this problem would be to avoid restrictions on the use of the papers. But that may not be practical, advisable, or desirable.

We can look to those who served across the street, in the Supreme Court of the United States, for examples of the types of restrictions that have been imposed on donations of important papers of public figures. Chief Justice Earl Warren donated his papers to the Library of Congress, restricted access to those papers for 10 years after his death. Justice Hugo Black, who also donated his papers to the Library of Congress, restricted access to those papers for 10 years after his death. Justice Thurgood Marshall donated his papers to “be made available to the public at the discretion of the library,” with the only restriction being that the use of the donated materials “be limited to private study on the premises of the library by researchers or scholars engaged in serious research.” This was interpreted to allow journalists to access the papers. The publication of certain information contained in the materials shortly after Justice Marshall’s death was criticized. Indeed, Chief Justice William Rehnquist warned that Supreme Court justices might no longer donate their papers to the Library of Congress.

Certainly, retained rights can have value, and could be subjected to commercial exploitation. One can imagine a publishing house would want access to the papers of prominent Members, Congressmen, or others, for use in biographies or on books related to the events that they helped shape.

However, any opportunity to retain and bequeath commercially exploitable rights in historical papers free of estate taxes is of little importance relative to the need to preserve the documents for scholarly research. Consider decision memoranda from key aides, correspondence, notes of strategy sessions, recordings of telephone conversations such as those made by President Lyndon Johnson and only now being aired—will these documents be destroyed if the choice were to open the items under death or to pay an estate tax on them? Consider Chief Justice Rehnquist’s chilling warning.

Yet, in most if not all cases, any retained rights can be expected to have little realizable value, and opportunities for commercial exploitation would appear to be quite limited in scope.

To this Senator, the right thing to do is clear. I am introducing legislation to clarify the tax law. In brief, this legislation provides that a person may retain or transfer to another person the right to control access to a use described in section 2055(a) or section 2522(c) or (b), and (2) if the transfer involves the right being acquired, or passed, from a decedent, section 1014 shall not apply and the basis of the right in the hands of the transferee shall be determined under rules similar to the rules under section 1015.

(c) QUALIFIED PROPERTY.—For purposes of this section, the term ‘qualified property’ means a collection substantially all of the items of which are in the form of letters, manuscripts and similar property described in section 1221(3).

(b) CONFORMING AMENDMENTS.—

(1) The heading for chapter 14 of such Code is amended to read as follows: “CHAPTER 14—SPECIAL VALUATION RULES; RULES AFFECTING SUBTITLE”.

(2) The item relating to chapter 14 in the table of chapters of subtitle B of such Code is amended by striking “rules; rules affecting” and inserting “rules affecting subtitle.”

(3) The table of sections of chapter 14 of such Code is amended by adding at the end the following new section:

“SEC. 2705. Treatment of charitable transfers of collections of personal papers with separate right to control access.”

(c) EFFECTIVE DATE.—The amendments made by this section apply to any transfer made before, on, or after the date of enactment of this Act.

U.S. Senate,


Hon. Daniel Patrick Moynihan,

U.S. Senate,

Washington, D.C.

Dear Senator Moynihan:

I am writing to bring your attention a recent interpretation of federal gift and estate tax law that threatens to interrupt the flow of historically significant papers of our Nation’s academic and public research institutions from public officials and public figures, including Members of Congress. Over the past decades, public officials have regularly donated their personal papers to educational institutions or historical societies, often upon their retirement, or bequeathed the papers at time of death. Senators and other public officials are allowed to restrict access to portions of their papers for a period of years after donation or bequest, in order
to protect the privacy interests of their correspondents, constituents, staffs, and others. These donations provide the donors with no income tax benefit, as government papers do not generate a personal income tax deduction under the Internal Revenue Code.

The shared understanding up until now has been that such donations also have no gift or estate tax consequence to the donor, as long as the donation is made to a recognized charitable organization. However, under a recent interpretation of provisions of the gift and estate tax law that render gifts of partial property interest eligible for the charitable deduction, the retained right to control access to papers after they are donated or bequeathed could disqualify these charitable gifts from the personal gift and estate tax deductions. This interpretation would render charitable gifts of personal papers with a retained right to control access subject to substantial and undeserved gift and estate taxation.

The possibility that these gift and estate tax provisions could be interpreted to apply to gifts and bequests of historical papers where rights of public access remain discretionary for a period of time has deterred a number of Senators in recent months from completing their plans to donate their papers to charitable institutions. Our office has been in contact with a number of Senators whose plans to donate their Senate papers have been interrupted by this problem. I’m unlikely that public officials will be willing to make charitable donations of their papers until this issue can be resolved so as to accommodate the important interests in both scholarly preservation and privacy.

Consideration of a legislative amendment to the charitable gift and estate tax deduction provisions that would clarify that charitable gifts and bequests of personal papers to charitable institutions are intended to be free from taxation would serve the public interest in ensuring that the personal records of Senators and other officials and public figures are preserved in the public domain so that they may one day become available to scholars and researchers who document our Nation’s history.

Sincerely,

Morgan J. Frankel.

By Mr. MOYNIHAN (for himself, Mr. SCHUMER, and Mr. DURBIN): S. 218. A bill to amend the Harmonized Tariff Schedule of the United States to provide for equitable duty treatment for certain wool used in making suits; to the Committee on Finance.

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill to correct an anomaly in our tariff schedule that harms American companies like Hickey-Freeman and other producers of fine wool suits. I refer of course to the tariff on fine wool fabric. Hickey-Freeman has produced fine tailored suits in Rochester, New York since 1899. However, the U.S. tariff schedule currently makes it difficult for Hickey-Freeman to continue producing such suits in the United States.

Companies like Hickey-Freeman that must import the very high quality wool fabric used to make men’s and boys’ suits pay a tariff of 30.6 percent. They compete with companies that import finished wool suits from a number of countries. If these imported suits are from Canada or Mexico, the importers pay no tariff whatever. From other countries, the importers pay a compound duty of 19.2 percent plus 26.4 cents per kilogram, or about 19.8 percent ad valorem. Clearly, domestic manufacturers of wool suits are placed at a significant price disadvantage. Indeed, the tariff structure provides an incentive to import finished suits from abroad, rather than manufacture them in the United States.

The bill Senators SCHUMER, DURBIN and I are introducing today would correct this problem, at least temporarily. It suspends through December 31, 2004 the duty on the finest wool fabrics (known in the trade as Super 90s or higher grade)—fabrics that are produced in only very limited quantities in the United States. And it would reduce the duty for slightly lower grade but still very fine wool fabric (known as Super 70s and Super 80s) to 19.8 percent—equivalent to the duty that applies to most finished wool suits. The bill also provides that, in the event the President proclaims a duty reduction on wool suits, corresponding changes would be made to the tariffs applicable to “Super 70s” and “Super 80s” grade wool fabric.

I introduced a similar measure last year. I do so again because of the obvious inequity of this tariff inversion, which so clearly puts U.S. producers and workers at a competitive disadvantage. This bill represents a small step toward modifying a tariff schedule that favors foreign producers of wool suits at the expense of U.S. suit makers. We should do so permanently, and perhaps, in time, will do so. In the meantime, we ought to make this modest start.

I ask unanimous consent that the text of the bill be inserted in the RECORD.

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

S. 218

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

SECTION 1. DUTY TREATMENT OF CERTAIN FABRICS.

(a) In General.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(1) by adding at the end of the U.S. notes the following new note:

``13. For purposes of headings 9902.51.11 and 9902.51.12, the term ‘suit’ has the same meaning as in section 9902.51.10..bz.

(2) by inserting in numerical sequence the following new headings:

(b) STAGED RATE REDUCTION.—Any staged reduction of a rate of duty set forth in heading 9902.51.11 of the Harmonized Tariff Schedule of the United States that is proclaimed by the President on or after the date of enactment of this Act shall also apply to the corresponding rate of duty set forth in heading 9902.51.11 of such Schedule (as added by subsection (a))

(c) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 12th day after the date of enactment of this Act.

By Mr. MOYNIHAN:

S. 219. A bill to authorize appropriations for the United States Customs Service; to the Committee on Finance.

INTRODUCTION OF THE NORTHERN BORDER TRADE FACILITATION ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce the Northern Border Trade Facilitation Act, a bill that addresses the urgent need for increased Customs cooperation and technology along the U.S.-Canadian border.

The U.S.-Canadian border is the longest undefended border in the world. Canada is also our largest trading partner, with two-way trade surpassing $1 billion a day, and resources that we have provided to the Customs Service to process traffic and trade across this border are woefully deficient. In a hearing before the Senate Finance Committee in September 1998, we learned that the current number of authorized Customs inspectors working on the northern border remains essentially the same as it was in 1980, despite the fact that the number of commercial entries they must process has increased sixfold since then, from 1 million to 6 million per year. The increased workload reflects of course the tremendous growth in U.S.-Canada trade: two-way trade in 1988, the year FTA was signed, was $62 billion; by 1997, the volume had doubled—to $337 billion. There has also been an enormous expansion in both
commercial and passenger traffic across this border.

The resources available to the Customs Service over the last decade have not kept pace with this enormous growth in workload. As a result, increased congestion and delays are evident at crossings all along the U.S.-Canadian border.

This bill aims to correct these problems by authorizing the additional manpower and technology necessary to handle the increase in trade and traffic between the United States and Canada. In particular, this bill authorizes 375 additional “primary lane” inspectors and 125 new cargo inspectors for the northern border, as well as 40 special agents and 10 intelligence agents. The bill also authorizes $29,240 million for equipment and technology for the northern border.

The bill will also accord Customs the statutory authority to continue providing so-called “preclearance services,” whereby Customs inspects passengers and baggage prior to their departure from a foreign country rather than upon arrival in the United States. This program began in 1952 and has helped facilitate travel and decrease congestion at JFK International Airport and other ports of entry. Customs has indicated that without this new statutory authority, it will be unable to continue providing these services.

Finally, this legislation gives Customs the authority to use $50 million of the total amounts collected from the merchandise processing fee to modernize its automated commercial systems used to track and process imports and exports. Customs’ efforts to modernize these systems are several years behind schedule and underfunded. The funds authorized by this bill constitute an essential step in providing Customs with the necessary resources to continue its modernization efforts. I ask unanimous consent that the text of the bill be inserted in the RECORD.

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

S 219

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Northern Border Crossing Facilitation Act”.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and Canada share the longest undefended border in the world.

(2) The United States and Canada enjoy the world’s largest bilateral trading relationship, and that relationship is continuing to expand. Two-way trade between the United States and Canada has more than doubled since the United States-Canada Free Trade Agreement came into effect in 1989, increasing from $153,000,000,000 in 1988 to $320,000,000,000 in 1997.

(3) On February 24, 1995, the United States and Canada agreed to the Canada/United States of America Accord on Our Shared Border (in this Act referred to as the “Shared Border Accord”) to promote common objectives along the border, including—

(A) facilitating the movement of commercial goods and people between both countries;

(B) reducing the costs of border management; and

(C) enhancing protections against drugs, smuggling, and the illegal and irregular movement of people.

(4) The Shared Border Accord has already resulted in increased harmonization, shared inspection and enforcement facilities between United States and Canadian customs agencies.

(5) Increased trade has resulted in a significant increase in the number of cross-border merchandise entries and cargo traffic between the United States and Canada. For example—

(A) formal entries of merchandise on the Northern border have increased sixfold from 1,000,000 in 1960 to 6,000,000 in 1997;

(B) the number of individuals crossing the Northern border has more than doubled from 54,000,000 in 1989 to 112,000,000 in 1997; and

(C) approximately 40,000,000 privately-owned vehicles cross the Northern land border annually.

(6) The staffing and technology acquisitions of the Customs Service have not kept pace with the increased trade and traffic along the Northern border. For example—

(A) the current number of authorized United States Customs inspectors along the United States-Canadian border is essentially the same as the number employed in 1952;

(B) United States Customs understaffing is the primary cause of congestion at border crossings;

(C) Customs Service acquisitions of new technology for border management have been principally deployed on the Southern border despite the enormous growth in trade and traffic across the United States-Canadian border; and

(D) outdated technology and inadequate equipment have increased congestion along the Northern border.

(7) Since 1992, the Customs Service has performed preclearance activities in Canada, inspecting passengers and baggage prior to their departure from Canada rather than upon arrival in the United States. Such preclearance activities have facilitated the movement of people and merchandise across the United States-Canadian border.

(8) The Customs Service has stated that it is eliminating the preclearance positions because it believes that it no longer has the statutory authority to fund the positions.

(9) Loss of these positions would increase congestion and delays at United States ports as the Customs Service would require inspections to be performed in the United States, rather than abroad.

(b) PURPOSE.—The purpose of this Act is to facilitate the movement of people and traffic across the United States-Canadian border, while maintaining enforcement—

(1) authorizing the funds necessary to open all of the Customs Service’s primary inspection lanes along the United States-Canadian border during peak hours;

(2) authorizing the funds necessary to supply the Customs Service with the appropriate advanced technology to conduct inspections along the United States-Canadian border and to participate fully in the Shared Border Accord;

(3) authorizing the Customs Service to pay for preclearance positions in Canada out of the funds already being collected from passenger processing fees; and

(4) authorizing the Customs Service to use a portion of the funds collected from the merchandise processing fee to develop automated commercial systems to facilitate the processing of merchandise.

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES CUSTOMS SERVICE FOR ENHANCED INSPECTION AND TRADE FACILITATION ALONG THE UNITED STATES-CANADIAN BORDER

SEC. 101. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

In order to reduce commercial delays and congestion, open all primary lanes during peak hours at ports on the northern border, and enhance the investigative resources of the Customs Service, such sums as may be authorized to be appropriated for salaries, expenses, and equipment for the United States Customs Service for purposes of carrying out this title may be—

(1) $75,896,800 for fiscal year 2000; and

(2) $43,931,790 for fiscal year 2001.

SEC. 102. PROVISIONAL AND USE-FACTOR-BASED REsource ENHANCEMENT FOR THE UNITED STATES-CANADA BORDER.

Of the amounts authorized to be appropriated under section 101, $49,314,800 in fiscal year 2000 and $41,273,590 in fiscal year 2001 shall be for—

(1) a net increase of 375 inspectors for the United States-Canadian border, in order to open all primary lanes during peak hours and enhance investigative resources;

(2) $29,240 million for equipment to be distributed at large cargo facilities on the United States-Canadian border as needed to process screen cargo (including rail cargo) and reduce commercial waiting times; and

(3) a net increase of 40 special agents, and 10 intelligence analysts to facilitate the activities of the additional inspectors authorized by paragraphs (1) and (2).

SEC. 103. CARGO INSPECTION EQUIPMENT FOR THE UNITED STATES-CANADA BORDER.

(a) FISCAL YEAR 2000.—Of the amounts authorized to be appropriated in fiscal year 2000 under section 101, $26,562,000 shall be available until expended for acquisition and other expenses associated with implementation and deployment of cargo inspection equipment along the United States-Canadian border as follows:

(1) $3,000,000 for 4 Vehicle and Container Inspection Systems (VACIS).

(2) $8,800,000 for 4 mobile truck x-rays with transmission and backscatter imaging.

(3) $3,600,000 for 41-MeV pallet x-rays.

(4) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(5) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(6) $240,000 for 10 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(7) $400,000 for 10 narcotics vapor and particle detectors to be distributed among border crossing points.

(8) $600,000 for 30 fiber optic scopes.

(9) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(10) $3,000,000 for 10 x-ray vans with particle detectors.

(11) $90,000 for 8 AM loop radio systems.

(12) $400,000 for 100 vehicle counters.

(13) $1,200,000 for 12 examination tool trucks.

(14) $2,400,000 for 3 dedicated commuter lanes.

(b) PROVISIONAL APPROPRIATIONS FOR THE UNITED STATES-CANADA BORDER.

(15) $1,050,000 for 3 automated targeting systems.

(16) $572,000 for 26 weigh-in-motion sensors.

(17) $480,000 for 20 portable Treasury Enforcement Communication Systems (TECS).

CONGRESSIONAL RECORD — SENATE
TRADE ADJUSTMENT ASSISTANCE

IMPROVEMENTS ACT OF 1999

Mr. MOYNIHAN. Mr. President, I am introducing today legislation that will preserve a decades-old commitment by the United States Government to the American worker. The Trade Adjustment Assistance Improvements Act of 1999 will ensure that the trade adjustment assistance programs for workers and for firms, first established in 1962 and now set to expire on June 30, 1999, will continue uninterrupted through September 30, 2001. The legislation also proposes a number of reforms to these programs to help make them into more effective tools for assisting workers who lose their jobs as a result of competition from imports or shifts in production to overseas sites.

By way of background, the Trade Adjustment Assistance program provides eligible workers with income support, training and other forms of assistance. It also grants technical help to eligible companies to improve their manufacturing, marketing and other capabilities in the face of import competition.

First outlined in 1954 by United Steel Workers President David MacDonald, the basic Trade Adjustment Assistance program was enacted in the Trade Expansion Act of 1962 as part of President Kennedy's vision of American trade policy. It was based on a modest and fair request from American labor: if someone loses their job as a result of a freer trade that benefits the country as a whole, a program should be established to help those workers find new employment. The Trade Adjustment Assistance program was the response. As Luther Hodges, President Kennedy's Secretary of Commerce, told the Finance Committee during consideration of the Trade Expansion Act:

"Both workers and firms may encounter special difficulties when they feel the adverse effects of competition. This import competition caused directly by the Federal Government when it lowers tariffs as part of a trade agreement undertaken for the long-term economic good of the country as a whole."

The Federal Government has a special responsibility in this case. When the Government has contributed to economic injuries, it should also contribute to the economic adjustments required to repair them.

The 1962 Act established the basic TAA programs for workers and for firms. Then in 1993, Congress included the implementation provision for the North American Free Trade Agreement a new adjustment assistance program for workers—the NAFTA Transitional Adjustment Assistance program. Unlike the basic TAA program for workers, which provides training and income support only for workers who lose their jobs as a result of competition from imports, the NAFTA-TAA program also provides assistance when workers lose their jobs because their company has shifted production to Mexico or Canada. Moreover, the training requirements under the two programs differ somewhat.

The bill I am introducing today incorporates a number of modifications to the worker TAA programs that the Administration, in consultation with concerned worker groups, has proposed. And I must also acknowledge the considerable efforts of Congressmen Matsui and Bonior on this matter during the last Congress, which yielded a reform bill similar to the one I am introducing today.

The most significant of the reforms would merge the two separate programs for workers, in an effort to make the program more effective and responsive to workers, while at the same time reducing administrative costs. Key features of the merged programs include the following:

(1) Eligible workers may receive benefits because production has shifted to any country, and not just to either Mexico or Canada as the law currently provides;

(2) The Secretary of Labor will expedite his consideration of petitions for assistance. Instead of the current 60-day review of TAA cases, this bill would require that determinations be made within 40 days;

(3) Certified workers will be required to enroll in training within 16 weeks of layoff or eight weeks after being certified as eligible for TAA benefits, whichever is later, in order to qualify for extended income support while in training. This provision is intended to promote the earliest possible adjustment;

(4) The bill provides for a net increase of $40 million in training funds to ensure that adequate resources will be available to provide workers with the training they need to make the transition to a new job.

Mr. President, it is essential that the United States Congress live up to its longstanding commitment to the American worker. The Trade Adjustment Assistance programs must not be allowed to lapse. We have an obligation, as well, to ensure that these programs operate in an effective and efficient manner. The reforms proposed by the Administration deserve the Senate's consideration. And I urge that the Senate act promptly to reauthorize the TAA programs.

I ask unanimous consent that the text of the bill be inserted in the RECORD.

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

S. 220

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 “Trade Adjustment Assistance Improvements Act of 1999”.

SEC. 2. AUTHORIZATION OF CONSOLIDATED TRADE ADJUSTMENT ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.

(1) IN GENERAL.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended to read as follows:

"SEC. 245. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Department of Labor for each of the
fiscal years 1999 through 2001, such sums as may be necessary to carry out the purposes of this chapter.

(2) **TEMPORARY EXTENSION OF NAFTA ASSISTANCE.** Section 250(d)(2) of such Act (19 U.S.C. 2231(d)(2)) is amended by striking "june 30, 1999, shall not exceed $15,000,000" and inserting September 30, 1999, shall not exceed $30,000,000.

(b) **REPEAL OF NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE PROGRAM.**

In chapter D of chapter 2 of title II of such Act (19 U.S.C. 2331) is hereby repealed.

(2) **CONFORMING AMENDMENTS.**—(A) Section 240A of such Act (19 U.S.C. 2232) is hereby repealed.

(b) **THE TABLE OF CONTENTS OF SUCH ACT IS AMENDED—**

(i) by striking the items relating to section 240A; and

(ii) by striking the items relating to subchapter D of chapter 2 of this chapter referred to as the 'Secretary');

(c) **TERMINATION.**—Section 285 of such Act (19 U.S.C. 2271 note) is amended—

(1) by amending subsection (c)(1) to read as follows:

(c)(1) Except as provided in paragraph (2), no assistance, vouchers, allowances, or other payments may be provided under chapter 2, and no assistance may be provided under chapter 3, after September 30, 2001;

and

(2) in subsection (c)(2), by striking "June 30, 1999," and inserting "September 30, 1999."
SEC. 8. PROVISION OF TRADE READJUSTMENT ALLOWANCES DURING BREAKS IN TRAINING.

Section 233(f) of the Trade Act of 1974 (19 U.S.C. 2293(f)) is amended to include the provision that makes the Act inapplicable to any worker not subject to an order under section 332 of the Trade Act of 1974 (19 U.S.C. 2292). As enacted, the Act requires that a worker be subject to an order under section 332 of the Trade Act of 1974 (19 U.S.C. 2292) in order to be eligible for a Trade Adjustment Assistance Program.

SEC. 9. INCREASE IN FRACTIONAL TOTAL AMOUNT OF PAYMENTS FOR TRAINING.

Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by striking "$80,000,000" and all that follows through "$150,000,000".

SEC. 10. ELIMINATION OF QUARTERLY REPORT.

The table of contents for chapter 5 of subtitle B of title I of the Workforce Reform Act of 1999, or under the provisions relating to dislocated worker employment and training activities set forth in section 238 of the Trade Act of 1974 (19 U.S.C. 2295), as amended by section 2 is amended—

(1) by striking "There are authorized''; and
(2) by inserting at the end of such section--
"authorizations and grants for the remainder of the fiscal year.''.

SEC. 11. COORDINATION WITH ONE-STOP DELIVERY SYSTEMS.

(a) COORDINATION WITH ONE-STOP DELIVERY SYSTEMS.—Section 255 of the Trade Act of 1974 (19 U.S.C. 2311) is amended by inserting "or subchapter D''.

(b) CONFORMING AMENDMENT.—The table of contents of such Act is amended by inserting "subchapter B of''.

SEC. 12. SUPPORTIVE SERVICES.

(a) IN GENERAL.—Part II of subchapter B of chapter 1 of the Trade Act of 1974 (19 U.S.C. 2295 et seq.) is amended by adding at the end of such section--
"SEC. 23A. SUPPORTIVE SERVICES."

SEC. 13. ADDITIONAL CONFORMING AMENDMENT.

(a) SECTION 225.—Section 225(b) of the Trade Act of 1974 (19 U.S.C. 2311(b)) is amended by striking "or subchapter B''.

(b) CONFORMING AMENDMENT.—The table of contents of such Act is amended by inserting "subchapter B of''.
of the activities undertaken by unprincipled people whose sole intent is to defraud hard-working men and women. This legislation will make it a federal crime to defraud persons through the sale of materials or services for clean-up, recovery, and recovery following a federally declared disaster.

While the Stafford Natural Disaster Act currently provides for civil and criminal penalties for the misuse of disaster funds, it fails to address contract fraud. And this gap, our legislation would make it a federal crime to take money fraudulently from a disaster victim and fail to provide the agreed upon material or service for the cleanup, repair, and recovery.

The Stafford Act also fails to address price gouging. Although it is the responsibility of the states to impose restrictions on price increases prior to a federal disaster declaration, federal penalties for price gouging should be imposed when a federal disaster has been declared. I am pleased to incorporate a provision in this bill initiated by our former colleague and cosponsor of this legislation in the 108th Congress, Mr. John Glenn, who, following Hurricane Andrew, sought to combat price gouging and excessive pricing of goods and services legislatively.

I am pleased to note that there is extensive cooperation among the various state and local offices that deal with fraud and consumer protection issues, and it is quite common for these fine men and women to lend their expertise to their colleagues from out-of-state during a disaster. This exchange of experiences and practical solutions has created a strong support network.

My bill would ensure that the Federal Emergency Management Agency develop public information in order to ensure that residents within a federally declared disaster area do not fall victim to fraud. The development of public information materials to advise disaster victims about ways to detect and avoid fraud would come under the jurisdiction of the Federal Emergency Management Agency.

At the present time, FEMA, under the guidance of its director, James Lee Witt, has done an outstanding job in meeting national disasters. I believe there is only admiration and praise for their cooperation that now exists between FEMA and state agencies dealing with natural disasters. Therefore, I have no doubt that government at all levels would benefit from the dissemination of federal anti-fraud related material following the declaration of a disaster by the President.

I look forward to working with my colleagues to pass legislation that sends a strong message to anyone thinking of defrauding a disaster victim or raising prices unnecessarily on everyday commodities during a natural disaster.

By Mr. LAUTENBERG (for himself and Mr. DeWINE):

S. 22. A bill to amend title 23, United States Code, to provide for national standard to prohibit the operation of motor vehicles by intoxicated individuals; to the Committee on Environment and Public Works.

SAFE AND SOBER STREETS ACT OF 1999

Mr. LAUTENBERG. Mr. President, today I am reintroducing the Safe and Sober Streets Act of 1999 with Senator DeWine—a bill that will, if enacted into law, save 500-700 lives a year. The Safe and Sober Streets Act establishes a legal limit for drunken driving at .08 Blood Alcohol Content (BAC) in all 50 states.

Mr. President, Senator DeWine and I offered this very bill last March as an amendment to the ISTEA reauthorization bill, now known as TEA-21, on behalf of the millions victims of drunk driving crashes. We were joined by 22 other cosponsors. I am proud to say that the Senate—this body—voted 62 to 32 to adopt this amendment. It was supported by all of the Republican national leaders. It is supported by 40 governors.

The Senate cast this strong vote because it knew that establishing .08 as the legal definition of drunken driving is responsible and will save lives. The Senate knew that this bill would encourage states to adopt .08 as the DWI standard. Without it, states will get bogged down in legislative gridlock and will not be able to pass their own .08 BAC laws. As a result, lives that could have been saved will have instead been lost.

Mr. President, the Senate spoke loud and clear when it voted to adopt .08. We voted to save lives. We voted to protect our families from the grief associated with losing a loved one to drunk driving. We resisted the pressure of a powerful special interest and voted against drunk driving. The President called on Congress to pass the bill and he would have signed it into law.

The problem came after the Senate's resounding vote. The special interests repeatedly lobbied to stop our .08 amendment. Despite commitments granted, the House Rules Committee denied a vote. Democracy was squelched in back-room politics.

Last May, Mr. President, the TEA-21 conference leaders—seven people—ignored the will of the Senate and the American people. The final TEA-21 bill dropped the .08 BAC provision and replaced it with a $500 million, six-year incentive grant program specifically for .08 BAC. The incentive grant program, as contained in TEA-21, will not produce national .08 standard.

Mr. President, when it comes to an issue like the minimum drinking age, which I authored here in the Senate in 1984, or the Zero Tolerance for underage drinking and driving, authored by Senator Byrd in 1995 or .08 in 1996, there are only two things the federal government can do. We can encourage the states to act by giving them money or withholding it until they have acted. The Senate has never worked, but the latter already has.

Withholding federal resources, which has been tested and proven constitutionally sound, has worked. All 50 states have a minimum drinking age of 21. The National Highway Traffic Safety Administration tells us that the 21 law has saved the lives of over 10,000 precious young Americans. South Carolina just became the 50th state to pass a 21 drinking age law. These states have never lost federal highway dollars because of the federal government's efforts to insure that our nation's young people do not drink and drive.

The only consequence has been that lives have been saved.

Mr. President, under the bill that I am introducing today, all states would have three years in which to adopt .08 BAC as the DWI definition. After those three years, states would, as with the 21 drinking age and Zero Tolerance, face a withholding of five percent of their highway construction funds. Those who voted against the Safe and Sober Streets Act or prevented a vote in the other body said this was a choice between safety and business. It is not. This was, and is, a choice between what works and what does not.

Worse, the incentive grant program contained in TEA-21 is a classic case of how not to construct an incentive grant program. For example, most of the money goes to states that have already adopted .08 laws. Why provide incentive grants to states which have already acted? What incentive does a state need to pass .08 if it has already done so? Yet, the $500 million incentive grant program does.

Mr. President, we have provided a fig leaf to cover our shame for failing to do what 70 percent of the American people expected us to do—to override the narrow special interest and act to protect public health and safety.

Mr. President, we know that .08 BAC is the right level for DWI. Adopting this level will simply bring the United States into the ranks of most other industrialized nations in setting reasonable drunk driving limits. Canada, Great Britain, Ireland, Italy, Austria and Switzerland have .08 BAC limits. France, Belgium, Finland and the Netherlands' limit is .05 BAC. Sweden's is .02 BAC.


But more important than the support of scores of businesses, health and science organizations, governmental agencies, public interest groups. It is the support from the families and friends of victims of drunk driving—like the Fraziers of Westminster, Maryland,
and Louise and Ronald Hammell, of Tuckerton, New Jersey. Brenda and Randy lost their nine year old daughter, Ashley, to drunk driving. Louise and Ronald lost their 17 year old son, Matthew, to drunk driving.

Mr. President, organizations who support this bill have one thing in mind: the public’s interest. The health and safety of our communities and of our roads is in the public’s interest.

Every minute, two people in America—a mother, husband, child, grandchild, brother, sister—die in an alcohol related crash. In the United States, 39 percent of all fatal crashes are alcohol related. Alcohol is the single greatest factor in motor vehicle deaths and injuries. .08 is a reasonable and responsible level at which to draw the line in fighting drunk driving. It is at .08 that a person is drunk and should not be driving.

Adopting .08 BAC is just common sense. Think of it this way: you are in your car at night, driving on a two lane road. Your child is sitting next to you. You see a car’s headlights approaching. The driver is a 170 pound man who just came from a bar, and drank five bottles of beer in one hour on an empty stomach. If he were driving in Maryland, he would not be considered drunk. But if he were driving in Virginia, he would be. Does this make sense? We should not have a patchwork quilt of laws when we are dealing with drunk driving.

This bill—.08—simply reflects what sound science and research proves, and interjects some reality into our definition of drunk driving and applies it to all 50 states.

No objective, credible person or organization can deny that adopting .08 BAC laws is the right thing to do. This bill does not eliminate the incentive grant program. In deference to those who authorized the incentive grant program, but who also supported my .08 bill, this bill specifically keeps the grant program, but who also supported my .08 BAC.

We know the condition of these schools, the list of problems is long. Inadequate facilities, lack of up-to-date educational equipment, need for new facilities. As the United States Civil Rights Commission has said, “there is a direct correlation between learning and the environment.” While .08 is a reasonable and responsible level, we must look ahead to the challenges of the new millennium, we must invest in our young people—our future. Congress must act with responsibility in the face of this opportunity. To help remedy this situation, the Public School Modernization Act will fuel a nationwide effort to renovate older schools and build new, state-of-art educational facilities.

Mr. President, that is why this legislation must be at the top of the agenda for the 106th Congress. As we face the new millennium, we must invest in our young people—our future. Congress must look ahead to the challenges of the next century and prepare a new generation of Americans to continue our world leadership in innovation, industry, arts and science.

Mr. President, this legislation will improve the very base, the very foundation of American education. Our children’s educational experience begins with the buildings they learn in every day.

We know the condition of these buildings has a direct impact on learning. A Georgetown University study revealed that the achievement levels of students taught in substandard educational facilities were 11 percent lower than students in modern facilities. Similarly, a 1996 Virginia study also found an 11 percentile point difference between students in substandard buildings and those in modern facilities. Both of these studies were controlled for other variables, such as a student’s socioeconomic status.

Mr. President, this data, and numerous other studies like it, allows us to formulate a simple equation: Modern Schools Equal Better Learning.
How can we expect our children to effectively focus on their lessons in such an environment?

In my home state of New Jersey we have a range of school modernization needs. The condition of low income, urban and rural school buildings are in a decades-long lawsuit that was recently settled. However, the problem is not just an urban problem. In my State, and across the U.S., it is a suburban and rural problem as well.

For example, suburban Montgomery Township has seen its enrollment grow by 99.6 percent over last 6 years. Another suburban district, South Brunswick, has seen enrollment grow by 60 percent in the past five years. One South Brunswick's student, sixth grader Amy Wolf, told me that the overcrowding of facilities has prevented teachers from working on a "one to one" basis with students.

This overcrowding often costs students their normal recreation area. Former playgrounds and sports fields on many suburban school campuses are becoming classroom trailer parks because of escalating enrollment.

In addition to overcrowding, suburban schools are crumbling. Many of these, built quickly in the 1960s, are not holding up well and need extensive repair.

And in older, urban schools the condition and age of buildings is making it hard to带来更多 computers into the classrooms or wire schools to the Internet. According to the GAO report, nearly half of all schools don't have an electrical system ready for the full scale use of computers. In addition, 60 percent lack the conduits necessary to connect classrooms to a computer network.

Mr. President, to remedy this situation, my Public School Modernization Act presents school districts all over the country with a unique opportunity to renovate existing buildings and build new schoolhouses from the ground up. The bill will provide special bond authority to school districts that will allow these districts to raise the necessary funds for school modernization by offering Federal tax credits to bondholders in lieu of traditional interest payments by States or school districts.

The low cost feature for school districts is a simple concept. The districts will not be obligated to pay interest to the bondholders. Rather the bondholders would receive a Federal tax credit equal to interest payments.

Mr. President, these savings will free up local school district funds for teaching and learning. The savings could also result in significant property tax relief for the community.

In addition, this federal legislation will not interfere in local control of education. The Public School Modernization Act recognizes that state and local voices, not continuous Federal oversight or Federal agency sign-off for every project. The act simply requires States and school districts to conduct a survey of their school facility needs and make sure that the bonding authority is distributed in a way that ensures that schools with the greatest needs and least resources do indeed benefit from the program.

This bond authority will be split between two programs. Most of the authority will result from a new program, called Qualified School Construction Bonds. The majority of this bond authority, 65 percent, will be allocated to States in proportion to each State's share of funds under the Title I Basic Grant formula. The remaining 35 percent of the authority to issue these special, 15 year bonds, would be allocated to the 100 school districts with the largest number of low income children and in addition, to as many as 25 districts that demonstrate a particular need, such as very high enrollment growth or a low level of resources.

The rest of the bond authority will come from an existing program, Qualified Zone Academy Bonds, created by the Taxpayer Relief Act of 1997. It also provides a tax credit in lieu of interest, but for a variety of school expenses, including school modernization. This bond program will be significantly expanded and improved by this legislation.

Mr. President, the time for this legislation is now, and it must be enacted during this Congress. The vast majority of Americans support a major federal investment in modernizing public schools. It is a bipartisan goal, and I hope that a number of Republicans will cosponsor this bill before it becomes law.

The Public School Modernization Act is long overdue, especially when you consider that President Eisenhower first called for Federal school construction legislation in his 1955 State of the Union address. I hope we can make this proposal a reality before the 45th anniversary of President Eisenhower's call to action.

I urge my colleagues to cosponsor 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. 223

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 "Public School Modernization Act of 1999".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings: 

(1) According to the General Accounting Office, one-third of all elementary and secondary schools in the United States, serving 14,000,000 students, need extensive repair or renovation.

(2) School infrastructure problems exist across the country, in urban, suburban, and rural schools.

(3) Many States and school districts will need to build new schools in order to accommodate increasing student enrollments; the Department of Education has predicted that the Nation will need an additional 6,000 schools by 2006.

(b) PURPOSE.—The purpose of this Act is to provide Federal tax credits to bondholders, in lieu of interest owed by school districts, to help States and localities to modernize public school facilities and build the additional public schools needed to educate the increasing number of students who will enroll in the next decade.

SEC. 3. EXPANSION OF INCENTIVES FOR PUBLIC SCHOOLS.

(a) IN GENERAL.—Part IV of subchapter U of chapter 1 of the Internal Revenue Code of 1986 (relating to incentives for education) is amended to read as follows:

``PART IV—INCENTIVES FOR QUALIFIED PUBLIC SCHOOL MODERNIZATION BONDS
``Sec. 1397E. Credit to holders of qualified public school modernization bonds. 
``Sec. 1397F. Qualified zone academy bonds. 
``Sec. 1397G. Qualified school construction bonds. 
``Sec. 1397E. Credit to holders of qualified public school modernization bonds.

``(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified public school modernization bond on the credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year the amount determined under subsection (b).

``(b) AMOUNT OF CREDIT.—
``(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any qualified public school modernization bond is the amount equal to the product of—
``(A) the credit rate determined by the Secretary under paragraph (2) for the month in which such bond was issued, multiplied by
``(B) the face amount of the bond held by the taxpayer on the credit allowance date.

``(2) DETERMINATION.—During each calendar month, the Secretary shall determine a credit rate which shall apply to bonds issued during the following calendar month. The credit rate for any month is the percentage which the Secretary estimates will on average permit the issuance of qualified public school modernization bonds without discount and without interest cost to the issuer.

``(c) LIMITATION BASED ON AMOUNT OF TAX.
``(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—
``(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over
``(B) the sum of the credits allowed under part IV of subchapter A (other than part C thereof, relating to refundable credits).

``(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowed under subsection (a) exceeds the amount determined by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and
added to the credit allowable under subsection (a) for such taxable year.

(1) QUALIFIED PUBLIC SCHOOL MODERNIZATION BOND: CREDIT ALLOWANCE. — For purposes of this section—

(A) the term ‘qualified public school modernization bond’ means—

(i) a bond issued, acquired, and held by a State educational agency (as defined in subsection (e)) for the purpose of providing public school construction; and

(ii) a bond insured or guaranteed by such a State educational agency for the purpose of providing public school construction; and

(2) the term ‘qualified investment company’ means—

(A) the issuer of a qualified public school modernization bond,

(B) a qualified school construction bond, and

(C) any other qualified investment company that is a subsidiary of the issuer of a qualified public school modernization bond.

(2) CREDIT ALLOWANCE. — The term ‘qualified investment company’ includes, with respect to another credit within the 3-year period beginning on the date of issuance of such credit and the last day of each successive 3-year period thereafter.

(3) OTHER DEFINITIONS. — For purposes of this part—

(A) ALLOCATION AMONG STATES. —

(i) 1999 LIMITATION. — The national zone academy bond limitation for calendar year 1999 shall be determined by the Secretary among the States in the manner prescribed by section 1397G(d); except that, in making the allocation under this subsection, the Secretary shall take into account any grants attributable to large local educational agencies (as defined in section 1397G(e)).

(ii) LIMITATION AMOUNT. — The maximum aggregate amount of bonds issued during any calendar year which may be designated under this subsection for and by each State shall be determined by the Secretary as follows:

(A) $400,000,000 for 1999,

(B) $1,400,000,000 for 2000,

(C) $2,400,000,000 for 2001,

(D) except as provided in paragraph (3), zero after 2001.

(3) LIMITATION ON AMOUNT OF BONDS DESIGNATED. —

(A) ALLOCATION AMONG STATES. —

(i) 1999 LIMITATION. — The national zone academy bond limitation for calendar year 1999 shall be determined by the Secretary among the States in the manner prescribed by section 1397G(d); except that, in making the allocation under this clause, the Secretary shall take into account any grants attributable to large local educational agencies (as defined in section 1397G(e)).

(B) ALLOCATION TO LOCAL EDUCATIONAL AGENCIES. — The limitation amount allocated to a State under paragraphs (A), (B), and (C) for such calendar year shall be allocated to the State education agency to qualified zone academies within such State.

(C) DESIGNATION SUBJECT TO LIMITATION AMOUNT. — The maximum aggregate amount of bonds issued during any calendar year which may be designated under subsection (a) with respect to all qualified zone academies within such State, shall be subject to the limitation amount allocated to such State under this section for such calendar year.

(D) CARRYOVER OF UNLIMITED USE. — If, for any calendar year—

(A) the limitation amount under this subsection for such State, (B) the amount of bonds issued during such calendar year, and (C) the amount of bonds issued during such calendar year which are designated under subsection (a) with respect to qualified zone academies within such State, exceed the limitation amount allocated to such State under this section for such calendar year, the difference shall apply for purposes of paragraph (1) for the following calendar year.

(4) QUALIFIED PURPOSE. — The term ‘qualified purpose’ means—

(A) the general obligation of the State (or area, if applicable) for which the funds are needed for the purpose for which such bond is issued,

(B) a qualified zone academy bond, and

(C) any other qualified zone academy bond.

(5) TEMPORARY PERIOD EXCEPTION. — A bond shall not be treated as failing to meet the requirement of paragraphs (1)(A) solely by reason of the fact that the issue of which such bond is a part are invested for a reasonable temporary period (but not more than 36 months) within such period shall be treated as proceeds of the issue for purposes of applying paragraph (1)(A) for such calendar year.

(6) LIMITATIONS ON AMOUNT OF BONDS DESIGNATED. —

(A) IN GENERAL. — There is a national zone academy bond limitation for each calendar year. Such limitation is—

(i) $400,000,000 for 1999,

(ii) $1,400,000,000 for 2000,

(iii) $2,400,000,000 for 2001, and

(iv) except as provided in paragraph (3) zero after 2001.

(7) LIMITATION AMOUNT ALLOCATED TO ACADEMIES. — The limitation amount allocated to each State under subsection (a) for such calendar year shall be allocated to such State by the Secretary among the qualified zone academies in the State and among any political subdivision of the State, as applied in paragraph (3) in the manner prescribed by section 1397G(d); except that, in making the allocation under this subsection, the Secretary shall take into account any grants attributable to the local educational agency of each qualified zone academy (as defined in section 1397G(e)).

(8) ALLOCATION TO LOCAL EDUCATIONAL AGENCIES. — The Secretary may allocate an amount specified in paragraph (7) as the Secretary determines is in the public interest to the local educational agency of a qualified zone academy for such academy.

(9) LIMITATION AMOUNT ALLOCATED TO ACADEMIES. — The limitation amount allocated to each State under subsection (a) for such calendar year shall be treated as the total amount of bonds issued for each calendar year.
such year, reduced, in the case of calendar years 2000 and 2001, by 1.5 percent of such amount.

"(2) DOLLAR AMOUNT SPECIFIED.—The dollar amount specified in this paragraph is—

(A) $9,700,000,000 for 2000.

(B) $9,700,000,000 for 2001, and

(c) except as provided in subsection (f), zero for all other years.

(d) 65 PERCENT OF LIMITATION ALLOCATED AMONG STATES.—

(1) IN GENERAL.—Sixty-five percent of the limitation applicable under subsection (c) for any calendar year shall be allocated among the States in proportion to the respective amounts each such State received for Basic Grants under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year. For purposes of the preceding sentence, Basic Grants attributable to large local educational agencies in such State for such fiscal year, is not less than an amount equal to such State’s minimum percentage of 65 percent of the national qualified school construction bond limitation under subsection (c) for the calendar year.

(2) MINIMUM PERCENTAGE.—A State’s minimum percentage for any calendar year is the percentage of the Appropriations Act for Fiscal Year 2000, as determined by the Office of Management and Budget, for the Education Administration, divided by 10. For purposes of this paragraph, such percentage shall be rounded to the nearest tenth of a percentage point.

(2) ALLOCATION FORMULA.—The amount to be allocated under paragraph (1) for any calendar year shall be allocated among the large local educational agencies in such State for such year.

(3) ALLOCATION FORMULA.—The amount to be allocated under paragraph (1) for any calendar year shall be allocated among the large local educational agencies in such State for such year.

(4) ALLOCATIONS TO CERTAIN POSSESSIONS.—The amount to be allocated under paragraph (1) to any possession of the United States, including the Commonwealth of Puerto Rico shall be the amount which would have been allocated if such excess. A similar rule shall apply to the amounts allocated under subsection (e). The limitation applicable under subsection (d) shall not apply if such following calendar year is after 2003.

(g) SET-ASIDE ALLOCATED AMONG INDIAN TRIBES.—

(1) IN GENERAL.—The 1.5 percent set-aside applicable under subsection (c) for any calendar year shall be allocated under paragraph (2) among Indian tribes for the construction, rehabilitation, or repair of tribal schools. No allocation may be made under the preceding sentence unless the Indian tribe has an approved application.

(2) ALLOCATION FORMULA.—The amount to be allocated under paragraph (1) for any calendar year shall be allocated among Indian tribes on a competitive basis by the Secretary of Education in consultation with the Secretary of the Interior, in consultation with the Secretary of the Department of Commerce that are in particular need of assistance, based on a self-determination plan approved under section 4 of the Self-Determination Act of 1996 (25 U.S.C. 4161(b)).

(i) determined on criteria described in paragraphs (1), (3), (4), (5), and (6) of section 1205(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8505(a)).

(j) APPROVED LOCAL AGENCY.—For purposes of paragraph (1), the term ‘approved local agency’ means an application which is approved by the Secretary of Education and which includes—

(A) the results of a recent publicly-available survey undertaken by the State with the involvement of local education officials, members of the public, and experts in school construction management, concerning the State’s needs for public school facilities, including descriptions of—

(i) health and safety problems at such facilities;

(ii) the capacity of public schools in the State to house projected enrollments, and

(iii) the extent to which the public schools in the State offer the physical infrastructure needed to provide a high-quality educational environment for all children, and

(B) a description of how the local educational agency will use its allocation under this subsection to address the needs identified under subparagraph (A), including a description of how it will—

(i) give highest priority to localities with the greatest needs, as demonstrated by inadequate school facilities coupled with a low level of resources to meet those needs,

(ii) use its allocation under this subsection to assist localities that lack the fiscal capacity to issue bonds on their own, including the issuance of bonds by the State on behalf of such localities,

(iii) ensure that its allocation under this subsection is used only to supplement, and not supplant, the amount of school construction, rehabilitation, and repair in the State that would have occurred in the absence of such allocation.

Any allocation under paragraph (1) by a State education agency shall be binding if the agency reasonably determined that the allocation was in accordance with the plan approved under this paragraph.

(k) CARRYOVER OF UNLIMITED USE.—If for any calendar year—

(1) the amount allocated under subsection (c) for any State, exceeds the limitation amount applicable under such subsection, and

(2) the amount of bonds issued during such year which are designated under subsection (a) pursuant to such subsection—

(i) is not less than an amount equal to such excess. A similar rule shall apply to the amounts allocated under subsection (e). The limitation shall not apply if such following calendar year is after 2003.

(l) DEFINITIONS.—For purposes of this subsection—

(A) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given such term by section 416(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 416(b)).

(B) TRIBAL SCHOOL.—The term ‘tribal school’ means a school that is operated by an Indian tribe for the education of Indian children and that is operated under a grant under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) or a contract with
the Bureau of Indian Affairs under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f et seq.)."

(b) REPORTING.—Subsection (d) of section 6099 of the Internal Revenue Code of 1986 (requiring returns regarding payments of interest) is amended by adding at the end the following:

"(A) IN GENERAL.—For purposes of subsection (a), the term ‘interest’ includes amounts attributable in gross income under section 1397E(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 1397E(d)(2))."

(b) EMERGENCY.—The Secretary of Education shall issue such regulations as may be necessary or appropriate to ensure that the more than 50,000 students attending Indian schools have access to facilities adequate for learning and for health, safety, and security.

(c) REPORTING.—The Secretary shall report to the Committee on Education and Labor of the House of Representatives on the condition of Indian schools.

(d) EMERGENCY.—The Secretary of Education shall issue such regulations as may be necessary or appropriate to ensure that the more than 50,000 students attending Indian schools have access to facilities adequate for learning and for health, safety, and security.

The need for school construction in Indian communities is critical. The Bureau of Indian Affairs operates more than 100 schools in Indian communities, and many of these schools are in disrepair. The Secretary of Education shall report to the Committee on Education and Labor of the House of Representatives on the condition of Indian schools.

(e) REPORTING.—The Secretary shall report to the Committee on Education and Labor of the House of Representatives on the condition of Indian schools.

(f) REPORTING.—The Secretary shall report to the Committee on Education and Labor of the House of Representatives on the condition of Indian schools.

(g) REPORTING.—The Secretary shall report to the Committee on Education and Labor of the House of Representatives on the condition of Indian schools.

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(k) REPORTING.—The Secretary shall report to the Committee on Education and Labor of the House of Representatives on the condition of Indian schools.

(l) REPORTING.—The Secretary shall report to the Committee on Education and Labor of the House of Representatives on the condition of Indian schools.

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(p) REPORTING.—The Secretary shall report to the Committee on Education and Labor of the House of Representatives on the condition of Indian schools.

(q) REPORTING.—The Secretary shall report to the Committee on Education and Labor of the House of Representatives on the condition of Indian schools.

(r) REPORTING.—The Secretary shall report to the Committee on Education and Labor of the House of Representatives on the condition of Indian schools.

(s) REPORTING.—The Secretary shall report to the Committee on Education and Labor of the House of Representatives on the condition of Indian schools.

(t) REPORTING.—The Secretary shall report to the Committee on Education and Labor of the House of Representatives on the condition of Indian schools.

(u) REPORTING.—The Secretary shall report to the Committee on Education and Labor of the House of Representatives on the condition of Indian schools.

(v) REPORTING.—The Secretary shall report to the Committee on Education and Labor of the House of Representatives on the condition of Indian schools.

(w) REPORTING.—The Secretary shall report to the Committee on Education and Labor of the House of Representatives on the condition of Indian schools.

(x) REPORTING.—The Secretary shall report to the Committee on Education and Labor of the House of Representatives on the condition of Indian schools.

(y) REPORTING.—The Secretary shall report to the Committee on Education and Labor of the House of Representatives on the condition of Indian schools.

(z) REPORTING.—The Secretary shall report to the Committee on Education and Labor of the House of Representatives on the condition of Indian schools.
amount of their investment income from income tax by purchasing tax-exempt bonds. Thus, we expressly forbid the use of “private activity” bonds for sports facilities, intending to eliminate tax-exempt financing of these facilities altogether.

Yet team owners, with help from clever tax counsel, soon recognized that the change could work to their advantage. As columnist Neal R. Pierce wrote, team owners “were not check-mate. They were not even invit-
ing the gall to ask mayors to finance their stadiums with [governmental] purpose bonds.” Congress did not antici-pate this. After all, by law, govern-
mental bonds used to build stadiums would be tax-exempt only if no more than 10 percent of the debt service is derived from stadium revenue sources. In other words, non-stadium govern-
mental revenues (i.e., tax revenues, lot-
tery proceeds, and the like) must be used to repay the bulk of the debt, free-
ing team owners to pocket the rest and leave the stadium to the city. Thus, using their monopoly power, owners threaten to move, forcing bid-
ing wars among cities. End result: new, tax-subsidized stadiums with fancy amenities and sweetheart lease deals.

To cite a case in point, Mr. Art Modell recently moved the Cleveland Browns professional football team from Cleveland to Baltimore to become the Ravens. Prior to relocating, Mr. Modell had said, “I am not about to rap the City [of Cleveland] as others in my league have done. You will never hear me say ‘if I don’t get this I’m moving.’ You can go to press on that one. I couldn’t live with myself if I did that.” Obviously Mr. Modell changed his mind. And why? An extraordi-nary stadium deal with the State of Maryland.

The State of Maryland (and the local sports authority) provided the land on which the stadium is located, issued $67 million in tax-exempt bonds (yielding interest savings of approximately $60 million over a 30-year period as com-
pared to taxable bonds), and contrib-
uted $30 million in cash and $54 million in state lottery revenues towards con-
struction of the stadium. Mr. Modell agreed to contribute $24 million toward the project and, in return, receives rent-free use of the stadium (the fran-
ces pays only for the operating and maintenance costs). In return for the inter-
ests right to purchase season tickets (so-called “personal seat licenses”), all revenues from selling the right to name the stadium, luxury suites, pre-
mium seats, in-part advertising, and concessions, and 50 percent of all reve-
ues from sources other than the Ravens’ games (with the right to con-
tral the booking of those events).

Financial World reported that the value of the Baltimore Ravens’ fran-
ces increased from $365 million in 1992 (i.e., before the move from Cleve-
land) to an estimated $250 million after its first season in the new stadium. It’s little wonder that Mr. Modell stated: “The pride and presence of a professional football team is far more impor-
tant than 30 libraries, and I say that with all due respect to the learning process.”

Meanwhile, the city of Cleveland has been building a new, $225 million sta-
tadium to house an expansion football team. Mr. Modell decided to move his team to Baltimore, the NFL agreed to grant Cleveland a new foot-
ball team with the same name: the Cleveland Browns. Most cities are not as fortunate when a team leaves. We have seen 24 teams, or 25 per cent at which stadiums are being abandoned before they have been used for 10 to 15 years. An article in Barron’s reported that a perception of “economic obso-
lescence” on the part of some owners has doomed even recently-built venues: The eight-year-old Miami Arena is facing a future without its two major tenants, the Florida Panthers hockey team and the Miami Heat basketball team, because of inadequate seating capacity and a paucity of luxury suites. The Panthers have already cut a deal to move to a new facility that nearby Broward County offered them at a cost of around $200 million. Plans call for Dade County to build a new $210 million arena before the end of the decade, despite the fact that the move will leave local tax-
payers stuck with servicing the debt on two Miami arenas rather than just one.

How do taxpayers benefit from all this? They don’t. Ticket prices go way up—and stay up—after a new stadium opens. So while fans are asked to foot the bills through tax subsidies, many no longer can afford the price of admis-
ion. A study by Newsday found that ticket prices rose by 32 percent in five new baseball stadiums, as compared to increases of 8 percent and 9 percent. Not to mention the refreshments and other concessions, which also cost more in the new venues.

According to Barron’s, the projects: ... cater largely to well-heeled fans, meaning the folks who can afford to pay for seats in glassed-in luxury boxes. While the suit-and-cell-phone crowd get all the best seats, the average taxpayer is consigned to “cheap seats” and, more often, to following his favorite team on tele-
vision.

Nor do these new stadiums provide much, if any, economic benefit to their local communities. Professors Roger G. Noll and Andrew Zimbalist recently published Sports, Jobs & Taxes with the Brookings Institution Press, in which they presented studies of the economic impact of professional sports facilities. The conclusion:

[In every case, the authors find that the local economic impact of sports teams and facilities is far smaller than alleged; in some cases it is negative. These find-
ings are valid regardless of whether the bene-
fits are measured for the local neighborhood, for the city, or for the entire metropolitan area in which a facility is located.]

Or, as concluded by Ronald D. Utt in his Heritage Foundation Backgrounder Cities in Denial: The False Promise of Subsidized Tourist and Entertainment Complexes:

As the record from around the country in-
dicates, the economic boost from public in-
vestment in entertainment complexes is ex-
ceptionally modest at best and counter-
productive at worst. It diverts scarce re-
ources and public attention from the less glamorous activities that make more mean-
ingful contributions to the public’s well-
being.

And what of the economic con-
sequences to the communities aban-
don by these stadium deals?

Any job growth that does result is ex-
tremely expensive. The Congressional Research Service (CRS) reported that the new $177 million football stadium for the Baltimore Ravens is expected to cost $277,000 per job. In con-
trast, the cost per job generated by Maryland’s economic development pro-
gram is just $6,250.

Finally, federal taxpayers receive absolutely no economic benefit for pro-
viding this subsidy. As CRS pointed out, “Almost all stadium spending is spending that would have been made on other activities within the United States, which means that benefits to the nation as a whole are zero.”

After all, these terms will invariably locate somewhere in the United States, it is just a matter of where. And should the federal taxpayers in the team’s current home town be forced to pay for the new team’s new stadium in a new city? The answer is unmistakably no.

Nevertheless, it seems that every day another professional sports team is de-
manding a new stadium, threatening a re-
location if the demand is not met. This is a growing phenomenon. Professors Noll and Zimbalist wrote that:

Between 1989 and 1997, thirty-one new sta-
tadiums were built. At least thirty-
nine additional teams are seeking new facili-
ties. The conclusion: the economic impact of professional sports facili-
ties. The conclusion:...
In closing, one note about implementation of this legislation, should it be enacted. It might be considered unfair that some teams have new taxpayer-subsidized sports facilities, while other teams do not, all due to the arbitrary effective date change in the tax law. After all, why should some team owners be rewarded with a stadium subsidy while those owners who were reluctant to threaten relocation or to exploit unwarranted tax benefits do without?

Perhaps Congress should consider some form of tax, or some limitation on use of bonds to situations that do not involve a relocating team. We could also consider requiring that stadium bonds be repaid by stadium revenues—or at the very least we could re-examine tax, or some limitation to provide such a use of stadium revenues. Or, we could consider tightening the prohibition on the use of tax-exempt bonds to finance luxury skyboxes so that it cannot be so easily circumvented.

The STADIA bill would save about $50 million a year now spent to subsidize professional sports stadiums. The question for Congress is should we subsidize the commercial pursuits of wealthy team owners, encourage escalating player salaries, and underwrite bidding wars among cities seeking or fighting to keep professional sports teams, or would our scarce resources be put to better use? To my mind, this is not a difficult choice.

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

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

S. 224

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 “Stop Tax-Exempt Arena Debt Issuance Act”.

SEC. 2. TREATMENT OF TAX-EXEMPT FINANCING OF PROFESSIONAL SPORTS FACILITIES.

(a) In General.—Section 141 of the Internal Revenue Code of 1986 (defining private activity bond and qualified bond) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the

(b) EFFECTIVE DATE. —

(1) IN GENERAL.—Except as provided in paragraphs (2), (3), and (5), the amendments made by this section shall apply to bonds issued on or after the date of enactment of this Act.

(2) EXCEPTION FOR CONSTRUCTION, BINDING AGREEMENTS, OR APPROVED PROJECTS.—The amendments made by this section shall not apply to bonds—

(A) that are part of a series of refundings of a qualified bond if—

(i) if the issuance of such bond would be treated as a use described in sub-

(ii) if the amount of the refunding bond does not exceed the principal amount of the refunding bond,

(iii) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue, and

(iv) the net proceeds of the refunding bond are not used to finance a professional sports facility (as defined in section 141(e)(3) of such Code, as added by subsection (a) issued before the date of enactment of this Act).

By Mr. INOUYE (for himself and Mr. AKAKA):

S. 225 A bill to provide housing assistance to Native Hawaiians; to the Committee on Indian Affairs.

THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT AMENDMENTS

Mr. INOUYE. Mr. President, I rise today to introduce a measure which now appears at the Senate floor as the close of the 105th session of the Congress to amend the Native American Housing Assistance and Self-Determination Act to provide Federal housing assistance to address the serious unmet housing needs of Native Hawaiians.

Mr. President, the primary objective of this measure is to enable Native Hawaiians who are eligible to reside on the Hawaiian Home Lands to have access to federal housing assistance that is currently provided to other eligible low-income American families based upon documented need.

In 1920, with the enactment of Hawaiian Homes Commission Act, the United States set aside approximately 200,000 acres of public lands that had been ceded to the United States in what was then the Territory of Hawaii to establish a permanent homeland for the native people of Hawaii, based upon findings of the Congress that Native Hawaiians were a landless people and a “dying” people. The Secretary of the Interior, Franklin Lane, likened the relationship between the United States and Native Hawaiians to the guardian-ward relationship that then existed between the United States and American Indians.

As a condition of its admission into the Union of States in 1959, the United States transferred title to the 200,000 acres of land to the State of Hawaii with the requirement that the lands be held “in public trust” for “the betterment of the conditions of Native Hawaiians, as defined in the Hawaiian Homes Commission Act of 1920”. The Hawaii Admissions Act also required that the Hawaii State Constitution provide for the assumption by the new State of a trust responsibility for the lands. The lands are now administered by a State agency, the Department of Hawaiian Home Lands.
However, similar to the responsibility with which the Secretary of the Interior is charged in the administration of Indian lands, the United States retained and continues to retain the exclusive authority to enforce the trust and to determine action against the State of Hawaii for any breach of the trust, as well as the exclusive right to consent to any actions affecting the lands which comprise the corpus of the trust and any amendments to the Hawaiian Homes Commission Act enacted by the Congress of the United States affecting the rights of the beneficiaries under the Act.

Within the last several years, three recent studies have documented the housing conditions that confront Native Hawaiians who either reside on the Hawaiian home lands or who are eligible to reside on the home lands.

In 1992, the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing, which is a bipartisan, non-biased, independent research group, published a report entitled, "Building the Future: A Blueprint for Change". This study compared housing data for Native Hawaiians with housing information for other citizens in the State of Hawaii. The Commission concluded that Native Hawaiians, like American Indians and Alaska Natives, lack access to conventional financing because of the trust status of the Hawaiian home lands, and that Native Hawaiians had the worst housing conditions in the State of Hawaii and the highest percentage of homelessness, representing over 30 percent of the State's homeless population.

Another study, which was conducted by the Department of Housing and Urban Development (HUD) and was entitled, "Housing Problems of Native Hawaiians", issued a report entitled, "Housing Problems of Native Hawaiians". The HUD report was particularly helpful because it compared the data on Native Hawaiian housing conditions with housing conditions nationally and with the housing conditions of American Indians and Alaska Natives.

The most alarming finding of the HUD report was that Native Hawaiians experience the highest percentage of overcrowding in the nation—49 percent—higher than that of American Indians and Alaska Natives (44 percent) and substantially higher than that of all U.S. households (27 percent). Additionally, the HUD study found that the percentage of overcrowding in the Native Hawaiian population is 36 percent as compared to 3 percent for all other households in the United States.

Applying the HUD guidelines, 70.8 percent of Native Hawaiians who either reside on the Hawaiian home lands or are eligible to reside on the Hawaiian home lands have incomes which fall below the median family income in the United States, and 50 percent of those Native Hawaiians have incomes below 30 percent of the median family income in the United States. Also in 1995, the Hawaii State Department of Hawaiian Home Lands published a study entitled, "Improving and Urban Development (HUD) in the Administration of Indian Lands, the United States revisited its legal position and found that the authority contained in the Hawaiian Homes Commission Act for general leases to non-Hawaiians meant that the land was not to be use exclusively for Native Hawaiians. The non-exclusive nature of the land set aside was thus found not to violate Constitutional prohibitions on racial discrimination.

In recent years, as a result of litigation involving third-party leaseholders of Hawaiian home lands, the United States was able to secure the State's earlier legal position was that Native Hawaiians who were eligible to reside on the Hawaiian Home Lands and would have otherwise been eligible by virtue of their low-income status to apply for Federal housing assistance were foreclosed from participating in Federal housing assistance programs that were available to all other eligible families in the United States.

Mr. President, if enacted into law, the measure which I introduce today will finally provide some relief and support to those who are in the greatest need for some roof over their heads and a place to raise their families.

Mr. President, I respectfully request that the text of this measure be printed in the Record.

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

S. 225

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 "Native American Housing Assistance and Self-Determination Amendments of 1996", or the "Native American Housing Act of 1996".


Congress finds that—

(1) the United States has undertaken a responsibility to promote the general welfare of the Native Hawaiian community and the Native Hawaiian population is comparable to that of American Indians, Alaska Natives, and Native Hawaiians is less than 30 percent of the median family income; and

(2) the percentage of overcrowding in Native Hawaiian homes is significantly higher than the percentage of overcrowding in the United States, Congress had the authority to address matters affecting the inalienable rights of beneficiaries of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), as added by section 3 of this Act to provide for the admission of the State of Hawaii into the Union, approved March 18, 1959 (73 Stat. 50). In addition to the State of Hawaii title to the public lands formerly held by the United States, and mandating that those lands be held in public trust, for the benefit of the Native Hawaiian people.

CONGRESSIONAL RECORD Ð SENATE

JANUARY 19, 1999

S679

TITLE VIII—HOUSING ASSISTANCE FOR NATIVE HAWAIIANS

"SEC. 801. DEFINITIONS.

"In this title—"

"(1) DEPARTMENT OF HAWAIIAN HOME LANDS;

"DEPARTMENT.—The term 'Department of Hawaiian Home Lands' or 'Department' means the Executive Office of the Department of the State of Hawaii that was ceded to the United States for homesteading by Native Hawaiians in order to rehabilitate a landless and dying people; and

"(2) DIRECTOR.—The term 'Director' means the Director of the Department of Hawaiian Home Lands.

"(A) in general.—The term 'elderly family' or 'near-elderly family' means a family whose head (or his or her spouse), or whose head's or spouse's parent, is 60 years of age or older; and

"(E) in the area of housing, the United States has recognized and reaffirmed the political relationship with the Native Hawaiian people through—"
"(iii) a description of the estimated housing needs for all families to be served by the Department.

(C) FINANCIAL RESOURCES.—An operating budget for the Department of Hawaiian Home Lands, in a form prescribed by the Secretary, that includes—

(i) an identification and a description of the financial resources reasonably available to the Department to carry out the purposes of this title, including an explanation of the manner in which amounts made available will be used to leverage additional resources; and

(ii) the uses to which the resources described in clause (i) will be included, including—

(A) eligible and required affordable housing activities; and

(B) administrative expenses.

(D) AFFORDABLE HOUSING RESOURCES.—A statement of the affordable housing resources currently available at the time of the submittal of the plan and to be made available during the period covered by the plan, including—

(i) a description of the significant characteristics of the housing market in the State of Hawaii, including the availability of housing from other public sources, private market housing; and

(ii) the manner in which the characteristics referred to in clause (i) influence the decision of the Department of Hawaiian Home Lands to use grant amounts to be provided under this title for—

(A) rental assistance;

(B) the production of new units;

(C) the acquisition of existing units; or

(D) the rehabilitation of units;

(iii) a description of the structure, coordination, and means of cooperation between the Department of Hawaiian Home Lands and any other governmental entities in the development, submission, or implementation of housing plans, including a description of—

(A) the involvement of private, public, and nonprofit organizations and institutions;

(B) the use of loan guarantees under section 184A of the Housing and Community Development Act of 1992; and

(C) other housing assistance provided by the United States, including loans, grants, and mortgage insurance;

(iv) a description of the manner in which the plan will address the needs identified pursuant to subparagraph (C); and

(v) a description of—

(A) any existing or anticipated homeownership programs and rental programs to be carried out during the period covered by the plan; and

(B) the requirements and assistance available under the programs referred to in subclause (I);

(vi) a description of—

(A) any existing or anticipated housing rehabilitation programs necessary to ensure the long-term viability of the housing to be carried out during the period covered by the plan; and

(B) the requirements and assistance available under the programs referred to in subclause (I);

(vii) a description of—

(A) all other existing or anticipated housing assistance provided by the Department of Hawaiian Home Lands during the period covered by the plan, including—

(aa) transitional housing;

(bb) homeless housing;

(cc) college housing; and

(dd) supportive services housing; and

(B) the requirements and assistance available under such programs; and

(C) the implementation of any housing assistance program required by this section.
..
et seq.) and other provisions of law that further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the Department of Hawaiian Home Lands, the Federal grants provided under this title; and

"(ii) to the public unimpaired protection of the environment.

(B) THAT ENVIRONMENTAL PROTECTION PROCEDURE.—In lieu of applying environmental protection procedures otherwise applicable, the Secretary may by regulation provide for the release of funds for specific projects to the Department of Hawaiian Home Lands if the Director of the Department of Hawaiian Home Lands certifies that such release of funds is consistent with the requirements of this Act and the regulations issued thereunder.

SEC. 807. REGULATIONS.

"The Secretary shall issue final regulations necessary to carry out this title not later than October 1, 1999.

SEC. 808. EFFECTIVE DATE.

"Except as otherwise expressly provided in this title, this title shall take effect on October 1, 1999.

SEC. 809. AFFORDABLE HOUSING ACTIVITIES.

(a) NATIONAL OBJECTIVES AND ELIGIBLE FAMILIES.

(1) PRIMARY OBJECTIVE.—The national objectives of this title are—

(A) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments for occupancy by low-income Native Hawaiian families;

(B) to ensure better access to private mortgage markets and to promote self-sufficiency of low-income Native Hawaiian families;

(C) to coordinate activities to provide housing for low-income Native Hawaiian families with public and local activities to further economic and community development;

(D) to plan for and integrate infrastructure resources on the Hawaiian Home Lands with housing development; and

(E) to—

(i) promote the development of private capital markets; and

(ii) allow the markets referred to in clause (i) to operate and grow, thereby benefiting Native Hawaiian communities.

(2) ELIGIBLE FAMILIES.

(A) IN GENERAL.—Except as provided under subparagraph (B), assistance for eligible housing activities under this section shall be limited to low-income Native Hawaiian families.

(B) EXCEPTION TO LOW-INCOME REQUIREMENT.

(i) IN GENERAL.—The Director may provide assistance for homeownership activities under—

(A) section 803(b); or

(B) model activities under section 801(f); or

(ii) LOAN GUARANTEES.—The Dir-ector may provide assistance for homeownership activities under this section to—

(A) finance single-family home purchases by individuals who are low-income Native Hawaiian families; or

(B) assist the development of affordable housing activities described in subsection (b).

(C) OTHER FAMILIES.—Notwithstanding paragraph (1), the Director may provide housing or housing assistance through the development of affordable housing activities assisted with grant amounts under this title to a family that is not composed of Native Hawaiian families if—

(i) the Department determines that the presence of the family in the housing involved is essential to the well-being of Native Hawaiian families; and

(ii) the need for housing for the family cannot be reasonably met without the assistance.

(D) PREFERENCE.

(i) IN GENERAL.—A housing plan submitted under section 803 may authorize a preference, for housing or housing assistance provided through affordable housing activities assisted with grant amounts provided under this title to be provided, to the extent practicable, to families that are eligible to receive the housing from the Hawaiian Home Lands.

(ii) APPLICATION.—In any case in which a housing plan provides for preference described in clause (i), the Director shall ensure that housing activities that are assisted with grant amounts under this title are subject to that preference.

(E) USE OF NONPROFIT ORGANIZATIONS.—As a condition of receiving grant amounts under this title, the Department of Hawaiian Home Lands, shall to the extent practicable, provide for the participation of nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians to carry out affordable housing activities with those grant amounts.

SEC. 810. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES.

(a) IN GENERAL.—Affordable housing activities under this section are activities conducted in accordance with the requirements of section 811 to—

(1) develop or to support affordable housing for rental or homeownership; or

(2) provide housing services with respect to affordable housing, through the activities described in subsection (b), to low-income Native Hawaiian families.

(b) ACTIVITIES.—The activities described in this subsection are the following:

(1) DEVELOPMENT.—The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include—

(A) real property acquisition;

(B) site improvement;

(C) the development of utilities and utilities services;

(D) conversion;

(E) demolition;

(F) financing;

(G) administration and planning; and

(H) other related activities.

(2) HOUSING SERVICES.—The provision of housing-related services for affordable housing, including—

(A) housing counseling in connection with rental or homeownership assistance;

(B) the establishment and support of resident organizations and resident management corporations;

(C) energy auditing;

(D) activities related to the provisions of self-sufficiency and other services; and

(E) management of tenant-based rental assistance.

(3) HOUSING MANAGEMENT SERVICES.—The provision of management services for affordable housing, including—

(A) the preparation of work specifications;

(B) loan processing;

(C) inspections;

(D) tenant selection;

(E) management of tenant-based rental assistance; and

(F) management of affordable housing projects.

(4) CRIME PREVENTION AND SAFETY ACTIVITIES.—The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime.

(5) MODEL ACTIVITIES.—Housing activities under model programs that are—

(A) designed to carry out the purposes of this title; and

(B) specifically approved by the Secretary as appropriate for the purpose referred to in subparagraph (A).

SEC. 811. PROGRAM REQUIREMENTS.

(a) RENTS.—
“(J) Establishment.—Subject to paragraph (2), as a condition to receiving grant amounts under this title, the Director shall develop written policies governing renting and homeownership, for the purpose of carrying out affordable housing activities in investment securities and other obligations, as approved by the Secretary.

SEC. 813. LOW INCOME REQUIREMENT AND INCOME TARGETING.

(a) In General.—Housing shall qualify for affordable housing for purposes of this title only if—

(1) each dwelling unit in the housing—

(A) is reasonably related to the rental income of the recipient; and

(B) is in the case of rental housing, is made available for occupancy by only a family that is a low-income family at the time of purchase; and

(2) the housing assisted pursuant to section 815 shall not be considered as being owned by any public agency, nonprofit sponsor, or other person or entity to an extent that the Director determines to be consistent with sound economics and the purposes of this title, except upon a foreclosure by the holder of a senior or other mortgage in lieu of foreclosure; and

(3) the Director, owner, or manager shall use leases that—

(A) do not contain unreasonable terms and conditions; and

(B) specify that, with respect to any notice of eviction or termination, notwithstanding any State or local law, a resident shall be provided with the opportunity, by any hearing or trial, to examine any relevant documents, record, or regulations directly related to the eviction or termination; and

(C) the Director, owner, or manager may not terminate the tenancy, during the term of the lease, except for serious or repeated violation of the terms and conditions of the lease, violation of applicable Federal, State, or local law, or for other good cause; and

(4) provide that the Director, owner, and manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident.

(b) Investments.—The Director may invest grant amounts in the housing activities in investment securities and other obligations, as approved by the Secretary.

(c) Other Factors for Consideration.—In establishing the formula under subsection (a), the Secretary shall consider the administrative capacities of the Department of Hawaiian Home Lands, the administrative capacity of the Department of Hawaiian Home Lands if the Department complies with the requirements under this title for a grant under this title.

SEC. 814. LEASE REQUIREMENTS AND TENANT SELECTION.

(a) Leases.—Except to the extent otherwise provided by or inconsistent with the laws of the State of Hawaii, in renting dwelling units in affordable housing assisted with grant amounts provided under this title, the Director, owner, or manager shall use leases that—

(1) provide that the Director, owner, or manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident.

(b) Tenant or Homebuyer Selection.—As a condition to receiving grant amounts under this title, the Director shall adopt and maintain policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.

(c) Management and Maintenance.—As a condition to receiving grant amounts under this title, the Director shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.

(d) Insurance Coverage.—As a condition to receiving grant amounts under this title, the Director shall require adequate insurance coverage for housing units that are owned or operated or assisted with grant amounts provided under this title.

(e) Eligibility for Admission.—As a condition to receiving grant amounts under this title, the Director shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.

(f) Management and Maintenance.—As a condition to receiving grant amounts under this title, the Director shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.

(g) Insurance Coverage.—As a condition to receiving grant amounts under this title, the Director shall require adequate insurance coverage for housing units that are owned or operated or assisted with grant amounts provided under this title.

(h) Eligibility for Admission.—As a condition to receiving grant amounts under this title, the Director shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.

(i)Management and Maintenance.—As a condition to receiving grant amounts under this title, the Director shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.

(j) Insurance Coverage.—As a condition to receiving grant amounts under this title, the Director shall require adequate insurance coverage for housing units that are owned or operated or assisted with grant amounts provided under this title.

(k) Eligibility for Admission.—As a condition to receiving grant amounts under this title, the Director shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.

(l) Management and Maintenance.—As a condition to receiving grant amounts under this title, the Director shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.

(m) Insurance Coverage.—As a condition to receiving grant amounts under this title, the Director shall require adequate insurance coverage for housing units that are owned or operated or assisted with grant amounts provided under this title.

(n) Eligibility for Admission.—As a condition to receiving grant amounts under this title, the Director shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.

(o) Management and Maintenance.—As a condition to receiving grant amounts under this title, the Director shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.

(p) Insurance Coverage.—As a condition to receiving grant amounts under this title, the Director shall require adequate insurance coverage for housing units that are owned or operated or assisted with grant amounts provided under this title.

(q) Eligibility for Admission.—As a condition to receiving grant amounts under this title, the Director shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.

(r) Management and Maintenance.—As a condition to receiving grant amounts under this title, the Director shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.

(s) Insurance Coverage.—As a condition to receiving grant amounts under this title, the Director shall require adequate insurance coverage for housing units that are owned or operated or assisted with grant amounts provided under this title.

(t) Eligibility for Admission.—As a condition to receiving grant amounts under this title, the Director shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.

(u) Management and Maintenance.—As a condition to receiving grant amounts under this title, the Director shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.
reduce payments under this title to the Department by an amount equal to the amount of such payments that were not expended in accordance with this title; or

may order evidence, in addition to the evidence submitted for review under this subsection, to be taken by the Secretary, and to be made part of the record.

(b) Action.—If the Secretary takes an action under subparagraph (A), (B), or (C) of paragraph (1), the Secretary shall determine that action until the Secretary determines that the Department may order evidence, in addition to the evidence submitted for review under this subsection, to be taken by the Secretary, and to be made part of the record.

(b) Secretary.—

(i) in general.—The Secretary, by reason of the additional evidence referred to in subparagraph (A) and filed with the court—

(ii) modify the findings of fact of the Secretary;

(iii) modify the findings of fact of the Secretary;

(iv) modify the findings of fact of the Secretary;

(v) the judgment of the court shall be final.

(b) Review by Supreme Court.—A judgment of the court shall be final.

(c) Public Availability.—

(1) Comments by beneficiaries.—In preparing a report under this section, the Director may determine.

(c) Submissions.—The Secretary shall—

(1) establish a date for submission of each report under section 803;

(2) review each such report;

(3) with respect to each such report, make recommendations as the Secretary considers appropriate to carry out the purposes of this title.

SEC. 821. REVIEW AND AUDIT BY SECRETARY.

(a) Annual Review.—

(i) in general.—The Secretary shall, not less frequently than on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether—

(ii) carried out eligible activities under this title in a timely manner;

(iii) carried out eligible activities under this title in a timely manner;

(iv) carried out eligible activities under this title in a timely manner;

(v) carried out eligible activities under this title in a timely manner;

(vi) carried out eligible activities under this title in a timely manner;

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(xiii) carried out eligible activities under this title in a timely manner;

(xiv) carried out eligible activities under this title in a timely manner;
deducted from future assistance provided to the Department of Hawaiian Home Lands.

SEC. 822. GENERAL ACCOUNTING OFFICE AUDITS. 

"To the extent that the financial transactions of the Department of Hawaiian Home Lands involving grant amounts under this title relate to amounts provided under this title, the Comptroller General of the United States shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the Department of Hawaiian Home Lands pertaining to property belonging to or in use by the Department of Hawaiian Home Lands from amounts borrowed from the United States, and to books, accounts, records, reports, files, or other papers, things, or property described in this subparagraph. Those transactions may be audited by the Comptroller General. The Comptroller General of the United States shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the Department of Hawaiian Home Lands pertaining to property belonging to or in use by the Department of Hawaiian Home Lands from amounts borrowed from the United States.

SEC. 823. REPORTS TO CONGRESS. 

(a) IN GENERAL.—Not later than 90 days after the conclusion of each fiscal year in which assistance under this title is made available, the Secretary shall submit to the Congress a report that contains—

(1) a description of the progress made in accomplishing the objectives of this title; 

(2) a summary of the use of funds available under this title during the preceding fiscal year; and 

(3) a description of the aggregate outstanding loan guarantees under section 194A of title I of the Housing and Community Development Act of 1992.

(b) RELATED REPORTS.—The Secretary may require the Director to submit to the Secretary such reports and other information as may be necessary in order for the Secretary to prepare the report required under subsection (a).

SEC. 824. AUTHORIZATION OF APPROPRIATIONS. 

"There are authorized to be appropriated to the Department of Housing and Urban Development for grants under this title such sums as may be necessary for each of fiscal years 2000, 2001, 2002, 2003, and 2004."

SEC. 4. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING. 

Subtitle E of title I of the Housing and Community Development Act of 1992 is amended by inserting after section 184 (12 U.S.C. 1715z-13a) the following:

SEC. 194A. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING. 

(a) DEFINITIONS.—In this section:

(1) DEPARTMENT OF HAWAIIAN HOME LANDS.—The term "Department of Hawaiian Home Lands" means the agency or department of the government of the State of Hawaii that is responsible for the administration of Hawaiian Home Lands.

(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a Native Hawaiian family, the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, private nonprofit or for profit organizations experienced in the planning and development of affordable housing for Native Hawaiians.

(3) FAMILY.—The term 'family' means 1 or more persons maintaining a household, as the Secretary shall by regulation provide.

(4) GUARANTEE FUND.—The term 'Guarantee Fund' means the Native Hawaiian Housing Loan Guarantee Fund established under subsection (l).

(5) HAWAIIAN HOME LANDS.—The term 'Hawaiian Home Lands' means lands that—

(A) have the status of Hawaiian Home Lands under section 204 of the Hawaiian Homelands Act of 1920 (42 Stat. 110 et seq.).

(B) are acquired pursuant to that Act.

(6) NATIVE HAWAIIAN.—The term 'Native Hawaiian' has the meaning given the term 'Native Hawaiian' in section 201 of the Hawaiian Homelands Act of 1920 (42 Stat. 108 et seq.).

(7) OFFICE OF HAWAIIAN AFFAIRS.—The term 'Office of Hawaiian Affairs' means the entity of that name established under the constitution of the State of Hawaii.

(b) AUTHORIZED.—To provide access to sources of private financing to Native Hawaiian families who otherwise could not acquire housing financing because of the unique legal status of the Hawaiian home lands or as a result of a lack of access to private financial markets, the Secretary may guarantee for a term not exceeding 30 years an amount not to exceed 100 percent of the unpaid principal and interest that is due on an eligible loan under subsection (b).

(c) ELIGIBLE LOANS.—A loan is an eligible loan if that loan meets the following requirements:

(1) ELIGIBLE BORROWERS.—The loans is made only to—

(A) a Native Hawaiian family; 

(B) the Department of Hawaiian Home Lands; 

(C) the Office of Hawaiian Affairs; or 

(D) a private nonprofit organization experienced in the planning and development of affordable housing for Native Hawaiians.

(2) ELIGIBLE HOUSING.—

(A) IN GENERAL.—The loan will be used to construct, acquire, or rehabilitate not more than 4-family dwellings that are standard family housing and are located on Hawaiian Home Lands for which a housing plan described in subparagraph (B) applies.

(B) HOUSING PLAN.—A housing plan described in this subparagraph is a housing plan that—

(i) has been submitted and approved by the Secretary under section 203 of the Native American Housing Assistance and Self-Determination Amendments of 1996; and 

(ii) provides for the use of loan guarantees under this section to provide affordable homeownership housing on Hawaiian Home Lands.

(3) SECURITY.—The loan may be secured by any collateral authorized under applicable Federal law or State law.

(d) ELIGIBLE LENDERS.—

(A) IN GENERAL.—The loan shall be made only by a lender approved by, and meeting qualifications established by, the Secretary, including any lender described in subparagraph (B), except that a loan otherwise inadmissible by the Secretary may be secured by a lender that has entered into a guaranteed loan program with the Federal Government or made by the Department of Hawaiian Home Lands from amounts borrowed from the United States.

(B) APPROVAL.—The following lenders shall be considered to be lenders that have been approved by the Secretary:

(i) Any lender that makes housing loans under chapter 37 of title 38, United States Code, that are automatically guaranteed under section 3702(d) of title 38, United States Code.

(ii) Any lender that makes housing loans under chapter 37 of title 38, United States Code, that are automatically guaranteed under section 3702(d) of title 38, United States Code.

(iii) Any lender approved by the Secretary for participation in the single family mortgage insurance program under title II of the National Housing Act (12 U.S.C.A. 1707 et seq.).

(iv) Any lender that makes housing loans under chapter 37 of title 38, United States Code, that are automatically guaranteed under section 3702(d) of title 38, United States Code.

(3) SECURITY.—The loan may be secured by any collateral authorized under applicable Federal law or State law.

(e) LIABILITY UNDER GUARANTEE.—The liability under a guarantee issued under this subsection as evidence of the loan guarantee approved.

(f) FRAUD AND MISREPRESENTATION.—This subsection may not be construed—

(A) to preclude the Secretary from establishing defenses against the original lender based on fraud or material misrepresentation; or 

(B) to bar the Secretary from establishing by regulations that an adverse determination of the date of issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

(g) GUARANTEE FEE.—

(A) IN GENERAL.—A certificate of guarantee issued under this subsection by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under this section and the amount of that guarantee.

(B) EVIDENCE.—The evidence referred to in subparagraph (A) shall be incontestable in the hands of the bearer.

(C) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for the obligations made by the Secretary under this section.

(d) LOAN GUARANTEES.—The term 'loan guarantee' means the guarantee fee for the guarantee of a loan under this section, which may not exceed the amount equal to 1 percent of the principal obligation of the loan.

(f).transfer.—The fee under this subsection shall—

(A) be paid by the lender at time of issuance of the guarantee; and 

(B) be adequate, in the determination of the Secretary, to cover expenses and probable losses.

(g) DEPOSIT.—The Secretary shall deposit any fees collected under this subsection in the Native Hawaiian Housing Loan Guaranty Fund established under subsection (l).

(h) LIABILITY UNDER GUARANTEE.—The liability under a guarantee provided under this section shall decrease or increase on a pro rata basis according to any decrease or increase in the amount of the unpaid obligation under the provisions of the loan agreement involved.

(i) TRANSFER AND ASSUMPTION.—The Secretary shall establish any regulations necessary to carry out the purposes of this section.
loan guaranteed under this section, including the security given for the loan, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the Federal Government or of any State or the District of Columbia.

(b) DISQUALIFICATION OF LENDERS AND CIVIL MONEY PENALTIES.—
``(1) IN GENERAL.—
``(A) GROUNDS FOR ACTION.—The Secretary may take action described in subparagraph (B) if the Secretary determines that any lender or holder of a guarantee certificate under subsection (c) has failed to—
``(i) to maintain adequate accounting records;
``(ii) to service adequately loans guaranteed under this section; or
``(iii) to exercise proper credit or underwriting judgment;
``(B) REQUIREMENTS.—Before any payment under a guarantee is made under paragraph (4), the Secretary may—
``(i) refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;
``(ii) bar such lender or holder from acquiring additional loans guaranteed under this section; and
``(iii) require that such lender or holder as- sume not less than 10 percent of any loss on further loans made or held by the lender or holder that are guaranteed under this section.
``(2) CIVIL MONEY PENALTIES FOR INTENTIONAL VIOLATIONS.—
``(A) IN GENERAL.—The Secretary may impose a civil money penalty on a lender or holder of a guarantee certificate under subsection (d) if the Secretary determines that the holder or lender has intentionally failed—
``(i) to maintain adequate accounting records;
``(ii) to adequately service loans guaranteed under this section; or
``(iii) to exercise proper credit or underwriting judgment.
``(B) PENALTIES.—A civil monetary penalty imposed under this paragraph shall be imposed in the manner and be in an amount prescribed in the manner and be in an amount that the Secretary determines to be in the best interest of the United States.
``(C) LIMITATION ON LIQUIDATION.—The rights of the Secretary shall be subrogated to the rights of the holder of the guarantee. The holder shall assign the obligation and security interest to the Secretary in return for payment of the claim under the guarantee. The Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interest of the United States.
``(D) LIMITATION ON COMMITMENTS TO GUARANTEE.—
``(1) E STABLISHMENT.ÐThere is established in the Guarantee Fund a request to assign the obligation and security to the Secretary.
``(2) REQUIREMENTS.ÐBefore any payment under a guarantee is made under subparagraph (A)(ii), the holder of the guarantee shall pay to the holder of the certificate the pro rata portion of the amount guaranteed (as determined pursuant to paragraph (c)(1)) plus reasonable fees and expenses as approved by the Secretary.
``(C) SUBROGATION.ÐThe rights of the Secretary shall be subrogated to the rights of the holder of the guarantee. The holder shall assign the obligation and security to the Secretary in return for payment of the claim under the guarantee. The Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interest of the United States.
``(D) LIMITATION ON COMMITMENTS TO GUARANTEE.—
``(1) E STABLISHMENT.ÐThere is established in the Guarantee Fund a request to assign the obligation and security to the Secretary.
``(2) REQUIREMENTS.ÐBefore any payment under a guarantee is made under subparagraph (A)(ii), the holder of the guarantee shall pay to the holder of the certificate the pro rata portion of the amount guaranteed (as determined pursuant to paragraph (c)(1)) plus reasonable fees and expenses as approved by the Secretary.
``(3) USE.ÐAmounts in the Guarantee Fund may be invested in obligations of the United States or of any State or the District of Columbia.

``(3) USE.ÐAmounts in the Guarantee Fund shall be available, to the extent provided in appropriations Acts, for—
``(A) fulfilling any obligations of the Sec- retary with respect to loans guaranteed under this section, including the costs (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of such guarantees;
``(B) paying taxes, insurance, prior liens, expenses necessary to make fiscal adjust- ments in connection with the application and transfer of collections, all additional costs and expenses and advances to protect the Secretary for loans which are guaranteed under this section or held by the Secretary in connection with this section; and
``(C) acquiring such security property at foreclosure sales or otherwise;
``(D) paying administrative expenses in connection with this section; and
``(E) reasonable and necessary costs of re- habilitation and repair to properties that the Secretary holds or owns pursuant to this sec- tion.

``(4) INVESTMENT.—Any amounts in the Guarantee Fund determined by the Secretary to be in excess of amounts currently required to carry out this section may be invested in obligations of the United States.

``(5) LIMITATION ON COMMITMENTS TO GUARANTEE.—
``(A) REQUIREMENT OF APPROPRIATIONS.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year to the extent, or in such amounts as, are or have been provided in appropriations Acts, without regard to the fiscal year for which such amounts were appropriated.

``(B) LIMITATIONS ON COSTS OF GUARANTEE.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent that amounts in the Guarantee Fund are or have been made available in appropriations Acts to cover the costs (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of such loan guaran- tees for such fiscal year. Any amounts appro- priated pursuant to this subparagraph shall remain available until expended.

``(C) LIMITATION ON ACQUIRING AGGREGATE PRINCIPAL AMOUNT.—Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section for each of the fiscal years 2000, 2001, 2002, and 2003, for each of which the aggregate outstanding principal amount not exceeding $100,000,000 for each such fiscal year.

``(D) LIABILITIES.—All liabilities and obligations of the assets credited to the Guarantee Fund shall be nonliability and obligations of the United States or of any State or the District of Columbia, and shall be nonliability and obligations of the United States or of any State or the District of Columbia.

``(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for each of fiscal years 2000, 2001, 2002, and 2003.

``(K) REQUIREMENTS FOR STANDARD HOUSING.—
``(1) IN GENERAL.—The Secretary shall, by regulation, establish housing safety and quality standards to be applied for use under this section.

``(2) STANDARDS.—The standards referred to in paragraph (1) shall—
``(A) provide sufficient flexibility to permit the use of various designs and materials in housing acquired with loans guaranteed under this section; and
``(B) require each dwelling unit in any housing acquired in the manner described in subparagraph (A) to—
``(i) be decent, safe, sanitary, and modest in size and design;
to ensure the rule of law and respect economic and legal reforms necessary for a West African nation. The Nigeria Democracy and Civil Society Empowerment Act of 1999 provides a clear framework for the country, upon request of the Department of Hawaiian Home Lands, to move forward with the implementation of this act.

By Mr. FEINGOLD:
S. 226. A bill to promote democracy and good governance in Nigeria, and for other purposes; to the Committee on Foreign Relations.

THE NIGERIA DEMOCRACY AND CIVIL SOCIETY EMPOWERMENT ACT OF 1999

Mr. FEINGOLD. Mr. President, I rise to introduce a bill regarding Nigeria, a country that stands today as a beacon of hope to the world, its rich history, abundant natural resources and wonderful cultural diversity, its potential to be an important regional leader in West Africa, and the entire African continent. But, sadly, too many of Nigeria’s leaders have squandered that potential and the good will of the world with repressive policies, human rights abuses and corruption.

The Nigeria Democracy and Civil Society Empowerment Act of 1999 that I offer today provides a clear framework for U.S. policy toward that troubled West African nation. The Nigeria Democracy and Civil Society Empowerment Act declares that the United States should encourage the political, economic and legal reforms necessary to ensure the rule of law and respect for human rights in Nigeria and should aggressively support a timely and effective transition to democratic, civilian government for the people of Nigeria.

This bill draws heavily from legislation introduced during the last two Congresses with the leadership of several other distinguished members of Congress. In the 104th Congress, I joined the former chair of the Senate Subcommittee on State, Senator Kasheiba, and 20 other Senators in introducing sanctions legislation. In the 105th Congress, I introduced an updated version of that bill, a companion measure of which was introduced in the House by the distinguished chair of the House International Relations Committee, Mr. Gilman of New York, and a distinguished member of that Committee and of the Congressional Black Caucus, Mr. Payne of New Jersey.

The bill draws heavily from legislation introduced during the last two Congresses with the leadership of several other distinguished members of Congress. In the 104th Congress, I joined the former chair of the Senate Subcommittee on State, Senator Kasheiba, and 20 other Senators in introducing sanctions legislation. In the 105th Congress, I introduced an updated version of that bill, a companion measure of which was introduced in the House by the distinguished chair of the House International Relations Committee, Mr. Gilman of New York, and a distinguished member of that Committee and of the Congressional Black Caucus, Mr. Payne of New Jersey.

The intent of this legislation is two-fold. First, it will continue to send an unequivocal message to whomever is ruling Nigeria that disregard for democracy, human rights and the institutions of civil society in Nigeria is simply unacceptable. Second, the bill provides some direction to the Clinton Administration which had considerable difficulty articulating a coherent policy on Nigeria throughout the Abacha regime, and which, I fear, has too quickly embraced the Abubakar regime despite several important outstanding problems.

Nigeria has suffered under military rule for most of its nearly 40 years as an independent nation. By virtue of its size, geographic location, and resource base, it is economically and strategically important both in regional and international terms. Nigeria is critical to American interests. But Nigeria’s future was nearly destroyed by the military government of General Sanji Abacha. Abacha presided over Nigeria stunted by rampant corruption, economic mismanagement, and the brutal subjugation of its people.

Gen. Abacha was by any definition an authoritarian leader of the worst sort. He routinely imprisoned individuals for expressing their political opinions and for opposing Nigeria’s precious resources for his own gains and that of his supporters and cronies. He pretended to set a timetable for a democratic transition, but each of the five officially sanctioned parties under his plan ended up endorsing Gen. Abacha as their candidate in what would have been nothing more than a circus referendum on Abacha himself.

During the dark days of the Abacha regime, any criticism of the so-called transition process was punishable by five years in a Nigerian prison. Nigerian human rights activists and government critics were commonly whisked away to secret trials before military courts and imprisoned, denied access to friendly media outlets were silenced; military courts and imprisoned; independent national human rights monitors and government critics were commonly imprisoned and tortured. Abacha was the worst sort. He routinely imprisoned individuals for expressing their political opinions and for opposing Nigeria’s precious resources for his own gains and that of his supporters and cronies. He pretended to set a timetable for a democratic transition, but each of the five officially sanctioned parties under his plan ended up endorsing Gen. Abacha as their candidate in what would have been nothing more than a circus referendum on Abacha himself.

Perhaps the most horrific example of repression by the Abacha government was the execution of human rights and environmental activist Ken Saro-Wiwa and eight others in November 1995 on trumped-up charges of murder. When this was finally revealed, the Nigerian government was forced to admit that it had executed 16 persons in the time of that barbaric spectacle and his death, Abacha appeared to be working even harder to tighten its grip on the country, wasting no opportunity to subjugate the people of Nigeria.

But with the replacement of Abacha by the current military ruler, Gen. Abdulsalami Abubakar, there has been reason to be optimistic about Nigeria’s future. Although he has not yet moved to repeal the repressive decrees that place severe restrictions on the basic freedoms of Nigerians, including the aforementioned Decree No. 2, Gen. Abubakar has made significant progress in enacting political reforms,
including the establishment of a realistic time line for the transition to civilian rule and guidelines for political participation. According to his transition plan, power will be handed over to a civilian government of May 29, 1999, after a period of transitional civilian administration, December 5, 1998 (local government), January 9, 1999 (state assembly and governors), February 20, 1999 (national assembly) and February 27, 1999 (presidential). Abubakar also agreed to release all political prisoners, and some have indeed been released including several prominent individuals. Most Nigerians appear to have embraced this transition program, and many in the international community have welcomed Gen. Abubakar’s bold statements. Nevertheless, observers remain apprehensive about the role of the security forces and of the military, perceived weaknesses in the electoral system, the lack of a clear constitutional order, and the possibility of violence during the electoral period. Nigerians also remain concerned about the important questions of federalism and decentralization—including the control and distribution of national wealth—which must be satisfactorily worked out. These concerns, which remain a backdrop to the current transition, tend to dampen what is otherwise a largely optimistic and enthusiastic attitude throughout the country. Thus, as pleased as I am to see the progress being made, I remain cautious about embracing the new dispensation until we can actually see it in place. Adding to my concerns is the disturbing behavior of the military over New Year’s weekend in Bayelsa state. According to unconfirmed reports, as many as 100 people may have been killed in the area around Yenagoa, and the military reinforcements have brought in a force of 10,000 to 15,000 troops to the area. The military government has declared a state of emergency for several days. While the circumstances surrounding the crackdown are unclear, it is troubling that—even during this sensitive time of political transition—the Abubakar regime would rely so heavily on hold orders. Minor disturbance? Send in thousands of troops to take care of it! I fear these troops do not know how to “maintain public order”; rather, they know only how to implement repression. How seriously Abubakar takes protesting statements about political reform, when he continues to use the instruments of repression learned under the Abacha regime?

Nigeria’s political transition is taking place in the context of economic and political collapse. Nigeria has the potential to be the economic powerhouse on the African continent, a key regional political leader, and an important American trading partner, but it is not in these things. Despite its wealth, economic activity in Nigeria continues to stagnate. Even oil revenues are not what they might be, but they remain the only reliable source of economic growth, with the United States purchasing an estimated 41 percent of the output.

Corruption and criminal activity in this military-controlled economic and political system have become common, including police and consumer fraud schemes that have originated in Nigeria and reached into the United States, including my home state of Wisconsin.

The last time Nigeria appeared poised finally to make a democratic transition, during the 1993 presidential election, the military quickly annulled the results, and promptly put into prison the presumed winner of that election Chief Moshood Abiola. Despite numerous domestic and international pleas for his release, he remained in prison until his tragic death in July. Years of neglect and months of solitary confinement took its toll on Chief Abiola, and barely one month after the death of General Abacha, Abiola dissolved an apparent heart attack during a meeting with senior American officials.

It is unfortunate, but Nigeria suffers greatly from the weight of its tortured history. I truly hope the transition to civilian rule will bring better results than previous ones, but we must not let hope and expectation cloud our standards for what is best for Nigeria. I am afraid that the international community, and particularly the Clinton administration, are so anxious to reward the “good governors” for good behavior, that they then trend to ignore continuing bad behavior. I have noticed this problem in U.S. relations with Indonesia, China, and elsewhere, and it certainly is a concern with Nigeria now.

It is in that light that I have decided to reintroduce my bill. This may sound odd, but I actually hope I don’t need to pursue this legislation in its current form. I sincerely hope that the transition in Nigeria goes according to all our best wishes, and that there will be no need to impose these sanctions. But if it does not, the spoilsers should be aware the U.S. Congress is watching, and will act. This bill provides the means for that action. We cannot let Nigeria spiral down into the quagmire that has overtaken so much of the continent.

I have long urged the Administration to take the toughest stance possible in support of democracy in Nigeria. The regime must know that anything less than a transparent transition to civilian rule will be met with severe consequences, including new sanctions as mandated in this bill.

Mr. President, the legislation I introduce today represents and effort to encourage the best that Nigeria has to offer, to support those Nigerians who have worked tirelessly and fearlessly for democracy and civilian rule and to move our own government toward a Nigerian democracy that truly reflects the best American values.

The provisions of my bill include benchmarks defining what would constitute an open political process in Nigeria. Despite all the tumultuous events that have taken place in these few months, I still believe these benchmarks are important, and I continue to call on Gen. Abubaker to implement as soon as possible these important reforms. Such a change can only come if the repressive decrees enacted under Abacha’s rule, so that genuine reform may flourish in Nigeria.

Mr. President, I ask unanimous consent that the bill be ordered to be printed in the RECORD.

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

SEC. 1. SHORT TITLE. This Act may be cited as the “Nigerian Democracy and Civil Society Empowerment Act of 1999”.

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS. Congress makes the following findings:

(1) The rule by successive military regimes in Nigeria has harmed the lives of the people of Nigeria, undermined confidence in the Nigerian economy, damaged relations between Nigeria and the United States, and threatened the political and economic stability of West Africa.

(2) The current military regime, under the leadership of Gen. Abdusalami Abubakar, has made significant progress in liberalizing the political environment in Nigeria, including the release of political prisoners, the establishment of a timeframe for a transition to civilian rule.

(3) Previous military regimes allowed Nigeria to become a haven for international drug trafficking rings and other criminal organizations, although the current government has taken some steps to cooperate with the United States Government in halting such trafficking.

(4) Since 1993, the United States and other members of the international community have imposed limited sanctions against Nigeria in response to human rights violations and the repressive behavior of the regime. Some of these sanctions have been lifted in response to recent political liberalization.

(5) Despite the progress made in protecting certain freedoms, numerous decrees are still in force that suspend the constitutional protection of fundamental human rights, allow indefinite detention without charge, and reveal the jurisdiction of civilian courts over executive actions.

(6) As a party to the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples’ Rights, and a signatory to the Harare Commonwealth Declaration, Nigeria is obligated to fairly conduct elections that guarantee the free expression of the will of the electorate.

(7) As the leading military force within the Economic Community of West African States (ECOWAS) peacekeeping force, Nigeria has played a major role in attempting to secure peace in Liberia and Sierra Leone.

(8) Despite the optimism expressed by many observers about the progress that has been made in Nigeria, the country’s recent history raises serious questions about the moral success of the transition process. In particular, events in the Niger Delta over the New Year underscore the critical need
for ongoing monitoring of the situation and indicate that a return by the military to repressive methods is still a possibility.

(b) DECLARATION OF POLICY.—Congress declares that the African Development Bank, the International Bank for Reconstruction and Development, the International Financial Corporation, the Multilateral Investment Guarantee Agency, and the International Monetary Fund.

SEC. 6. SENSE OF CONGRESS REGARDING ADMISSION INTO THE UNITED STATES OF CERTAIN NIGERIAN NATIONALS.

It is the sense of Congress that unless the President determines and certifies to the appropriate congressional committees that the President makes a determination under subsection (a) for that fiscal year and transmits a notification to Congress of that determination under subsection (c), the President should deny a visa to any alien who is a senior member of the Nigerian government or a military officer currently in a military government.

SEC. 7. WAIVER OF PROHIBITIONS AGAINST NIGERIA IF CERTAIN REQUIREMENTS meets.

(a) IN GENERAL.—The President may waive any of the prohibitions contained in section 5 or 6 for any fiscal year if the President makes a determination under subsection (b) for that fiscal year and transmits a notification to Congress of that determination under subsection (c).

(b) REQUIREMENT TO OPOSE MULTILATERAL AGREEMENTS. —It is the sense of Congress that unless the President determines and certifies to the appropriate congressional committees that the President makes a determination under subsection (b) for that fiscal year and transmits a notification to Congress of that determination under subsection (c), the President should deny a visa to any alien who is a senior member of the Nigerian government or a military officer currently in a military government.

SEC. 7. WAIVER OF PROHIBITIONS AGAINST NIGERIA IF CERTAIN REQUIREMENTS meets.

(a) IN GENERAL.—The President may waive any of the prohibitions contained in section 5 or 6 for any fiscal year if the President makes a determination under subsection (b) for that fiscal year and transmits a notification to Congress of that determination under subsection (c), the President should deny a visa to any alien who is a senior member of the Nigerian government or a military officer currently in a military government.
(3) the impact of corruption on United States business interests in Nigeria;
(4) the impact of advance fee fraud, and other fraudulent business schemes originating in Nigeria, on United States citizens; and
(5) the impact of corruption on Nigeria's foreign policy.

SEC. 5. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

Except as provided in section 6, in this Act, the term "appropriate congressional committees" means:
(1) the Committee on International Relations of the House of Representatives;
(2) the Committee on Foreign Relations of the Senate; and
(3) the Committees on Appropriations of the House of Representatives and the Senate.

SEC. 10. TERMINATION DATE.

The provisions of this Act shall terminate on September 30, 2004.

Mr. INOUYE. Mr. President, today I rise to introduce the Clinical Social Workers’ Recognition Act of 1999 to correct an outstanding problem in the Federal Employees Compensation Act. This bill will also provide clinical social workers the recognition they deserve as independent providers of quality mental health care services.

Clinical social workers are authorized to independently diagnose and treat mental illnesses through public and private health insurance plans across the Nation. However, Title V, United States Code, does not permit the use of mental health evaluations conducted by clinical social workers for use as evidence in determining workers’ compensation claims brought by Federal employees. The bill I am introducing corrects this problem.

It is a sad irony that Federal employees may select a clinical social worker through their health plans to provide mental health services, but may not go to them for workers’ compensation evaluations. The failure to recognize the validity of evaluations provided by clinical social workers unnecessarily limits Federal employees’ selection of a provider to conduct the workers’ compensation mental health evaluation and may well impose an undue burden on Federal employees where clinical social workers are the only available providers of mental health care.

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

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

S. 232

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

SECTION 1. IMPROVED REIMBURSEMENT FOR CLINICAL SOCIAL WORKER SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 1395x(h)(2) of the Social Security Act (42 U.S.C. 1395x(h)(2)) is amended by striking "services performed by a clinical social worker (as defined in paragraph (1))" and inserting "such services and such services and supplies furnished as an incident to such services performed by a clinical social worker (as defined in paragraph (1))".

(b) DEFINITION OF CLINICAL SOCIAL WORKER SERVICES.—Section 1833(a)(1)(F)(ii) of the Social Security Act (42 U.S.C. 1395x(h)(2)) is amended by striking "and services performed by a clinical social worker (as defined in paragraph (1))" and inserting "and services performed by a clinical social worker (as defined in paragraph (1))".

(c) TREATMENT OF SERVICES FURNISHED IN INPATIENT SETTING.—Section 1832(a)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395x(h)(2)) is amended by striking "and services performed by a clinical social worker (as defined in paragraph (1))" and inserting "and services performed by a clinical social worker (as defined in paragraph (1))".

(d) TREATMENT OF SERVICES FURNISHED IN INPATIENT SETTING.—Section 1832(a)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395x(h)(2)) is amended by striking "and services performed by a clinical social worker (as defined in paragraph (1))" and inserting "and services performed by a clinical social worker (as defined in paragraph (1))".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made for clinical social worker services furnished on or after January 1, 2000.
social work training for minorities; and it would encourage schools of social work to expand programs in geriatrics. Finally, the recognition of social work as a profession merely codifies current social work practice and reflects the policy changes made by the Medicare HMO legislation.

I believe it important to ensure that the special expertise and skill social workers possess continue to be available to the citizens of this nation. This legislation, by providing financial assistance to schools of social work and social work students, recognizes the long history and critical importance of the services provided by social work professionals. In addition, since social workers have provided quality mental health services to our citizens for a long time and continue to be at the forefront of establishing innovative programs to service our disadvantaged populations, I believe it is time to provide them with the recognition they clearly deserve.

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

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

S. 233

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

SECTION 1. SOCIAL WORK STUDENTS.

(a) HEALTH PROFESSIONS SCHOOL.—Section 736(g)(1)(A) of the Public Health Service Act, as amended by Public Law 105-392, is amended by striking “graduate program in behavioral or mental health” and inserting “graduate program in behavioral or mental health, including a school offering graduate programs in clinical social work, or programs in social work”.

(b) SCHOLARSHIPS, GENERALLY.—Section 737(d)(1) of the Public Health Service Act, as amended by Public Law 105-392, is amended by striking “offering graduate programs in behavioral or mental health” and inserting “offering graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work”.

(c) FACULTY POSITIONS.—Section 738(a)(3) of the Public Health Service Act, as amended by Public Law 105-392, is amended by striking “of social work practice” and inserting “of mental health practice including graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work”.

SEC. 2. GERIATRICS TRAINING PROJECTS.

Section 733(b)(1) of the Public Health Service Act, as amended by Public Law 105-392, is amended by inserting “offering graduate programs in behavioral and mental health” and inserting “offering graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work”.

SEC. 3. SOCIAL WORK TRAINING PROGRAM.

Subpart 2 of part E of title VII of the Public Health Service Act, as amended by Public Law 105-392, is amended as follows:

(1) by redesignating section 770 as section 770A;

(2) by inserting after section 769, the following:

“SEC. 770A. SOCIAL WORK TRAINING PROGRAM.

'(a) TRAINING GENERALLY.—The Secretary may make grants to, or enter into contracts with, any public or nonprofit private hospital, school offering programs in social work, or to or with a public or private nonprofit entity (which the Secretary has determined is capable of carrying out such grant or contract)—

(1) to plan, develop, and operate, or participate in, an approved social work training program (including an approved residency or internship program, preceptorship, internships, residents, or practicing physicians;

(2) to provide financial assistance (in the form of traineeships and fellowships) to students, interns, residents, practicing physicians, or other individuals, who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of social work;

(3) to plan, develop, and operate a program for the training of individuals who plan to teach in a social work training program;

(b) ACADEMIC ADMINISTRATIVE UNITS.—

(1) IN GENERAL.—The Secretary may make grants, awards, and contracts to schools offering programs in social work to meet the costs of projects to establish, maintain, or improve academic administrative units (which shall be departments, divisions, or other units) to provide clinical instruction in social work.

(2) PREFERENCE IN MAKING AWARDS.—In making awards under this section, the Secretary shall give preference to any qualified applicant for such an award that agrees to expend the award for the purpose of training social work professionals.

(c) DURATION OF AWARD.—The period during which payments are made to an entity from an award of a grant or contract under subsection (a) may not exceed 5 years.

(d) FUNDING.—(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $10,000,000 for each of the fiscal years 2000 through 2002.

(2) ALLOCATION.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available not less than 20 percent for awards of grants and contracts under subsection (b); and

(3) in awarding such grants and contracts, as so designated by inserting “other than section 770,” after “carrying out this subpart.”

SEC. 4. CLINICAL SOCIAL WORKER SERVICES.

Section 1302 of the Public Health Service Act (42 U.S.C. 300e-1) is amended—

(1) by striking “clinical social worker,” after “psychologist,” each place it appears;

(2) in paragraph (4)(A), by striking “and psychologists” and inserting “psychologists, and clinical social workers”; and

(3) in paragraph (5), by inserting “clinical social work,” after “psychology.”.

By Mr. INOUYE:

S. 234. A bill to recognize the organization known as the National Academies of Practice; to the Committee on the Judiciary.
SEC. 7. OFFICERS OF THE CORPORATION.

The officers of the corporation and the election of such officers shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 8. RESTRICTIONS.

(a) USE OF INCOME AND ASSETS.—No part of the income derived from the activities of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) POLITICAL ACTIVITY.—The corporation, any officer, or any director of the corporation, acting as such officer or director, shall not campaign, or in any manner attempt to influence legislation.

(d) ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.—The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) CLAIMS OF FEDERAL APPROVAL.—The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

SEC. 9. LIABILITY.

The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

SEC. 10. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.

(a) BOOKS AND RECORDS OF ACCOUNT.—The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving the actions of its members, the board of directors, or any committee having authority under the board of directors.

(b) NAMES AND ADDRESSES OF MEMBERS.—The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the corporation.

(c) RIGHT TO INSPECT BOOKS AND RECORDS.—All books and records of the corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time.

(d) APPLICATION OF STATE LAW.—Nothing in this section shall be construed to contravene any applicable State law.

SEC. 11. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit for such fiscal year required by section 3 of the Act referred to in section 11 of this Act. The report shall not be printed as a public document.

SEC. 12. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 13. DEFINITION.

In this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 14. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986 or any corresponding similar provision.
to them. The death rate from drugs jumped from 18 a year in 1988 to 150 in 1992. In addition, higher drug use followed implementation of the program.

Dr. James L. Curtis of New York, who has studied needle exchange programs, said in the Washington Times that the programs "should be recognized as reckless experimentation on human beings, the unproven hypothesis being that it prevents AIDS."

According to recent scientific studies, eight persons a day are infected with the HIV virus by using borrowed needles, while 352 people start using them every day.

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

S. 236

A bill to amend title VII of the Public Health Service Act to establish a psychology post-doctoral fellowship program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

THE PUBLIC HEALTH SERVICE ACT OF 1999

Mr. INOUYE. Mr. President, I am introducing legislation today to amend Title VII of the Public Health Service Act to establish a psychology post-doctoral program.

Psychologists have made a unique contribution in serving the nation's medically underserved populations. Expertise in behavioral science is useful in addressing many of our most distressing concerns such as violence, addiction, mental illness, adolescent and child behavior disorders, and family disruption. Establishment of a psychology post-doctoral program could be most effective in finding solutions to these pressing societal issues.

Similar programs supporting additional, specialized training in traditionally underserved settings or with underserved populations have been demonstrated to be successful in providing services to those same underserved during the years following the training experience. For example, mental health professional who have participated in these specialized federally funded programs have tended not to return to their pay back obligations, but have continued to work in the public sector with the underserved populations with whom they have been trained to work.

While the doctorate in psychology provides broad based knowledge and mastery in a wide variety of clinical skills, the specialized post-doctoral fellowships are currently recognized as training programs to develop particular diagnostic and treatment skills required to effectively respond to these underserved populations. For example, what looks like severe depression in an elderly person might actually be withdrawal related to hearing loss, or what appears to be poor academic motivation in a child recently relocated from Southeast Asia might be reflective of a cultural value of reserve rather than a disinterest in academic learning. Each of these situations requires very different interventions, of course, and specialized assessment skills.

Domestic violence is not just a problem for the criminal justice system, it is a significant public health problem. A single aspect of this issue, domestic violence against women, results in almost 300,000 hospital emergency room visits and 40,000 visits to physicians each year. Rates of child and spouse abuse in rural areas are particularly high as are the rates of alcohol abuse and depression in adolescents. A post-doctoral fellowship program in psychology of the rural populations could be of special benefit in addressing the problems.

Given the changing demographics of the nation—the increasing life span and numbers of elderly, the rising percentage of minority populations within the country, as well as an increased recognition of the long-term sequelae of violence and abuse—and given the demonstrated success and effectiveness of these kinds of specialized training programs, it is incumbent upon us to encourage participation in post-doctoral fellowships that respond to the needs of the nation's underserved.

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

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

S. 236

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

Part E of title VII of the Public Health Service Act (42 U.S.C. 294g et seq.) is amended by adding at the end the following:

"SEC. 779. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

(a) In general.—The Secretary shall establish a psychology post-doctoral fellowship program to make grants to and enter into contracts with eligible entities to encourage the provision of psychological training and services in underserved treatment areas.

(b) Eligible entities.—

(I) In general.—In order to receive a grant under this section an individual shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such individual—

(A) has received a doctoral degree through a program in psychology provided by an accredited institution at the time such grant is awarded;

(B) will provide services in a medically underserved population during the period of such grant;

(C) will comply with the provisions of subsection (c); and

(D) will provide any other information or assurances as the Secretary determines appropriate.

(II) State matching requirements.—Any State that desires to participate in the fellowship program under this section shall provide a State matching requirement at least equal to the Federal share of such grant.

"(2) INSTITUTIONS.—In order to receive a grant or contract under this section, an institution shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such institution—

(A) is an entity, approved by the State, that provides psychological services in medically underserved areas or to medically underserved populations (including entities that care for the mentally retarded, mental health institutions, and prisons);

(B) will use amounts provided to such institution under this section to provide financial assistance in the form of fellowships to qualified individuals who meet the requirements of subparagraphs (A) through (C) of paragraph (1);

(C) will not use in excess of 10 percent of amounts provided under this section to pay for the administrative costs of any fellowship programs established with such funds; and

(D) will provide any other information or assurance as the Secretary determines appropriate.

"(3) CONTINUED PROVISION OF SERVICES.—Any individual who receives a grant or fellowship under this section shall certify to the Secretary that such individual will continue to provide the type of services for which such grant or fellowship is awarded for at least 1 year after the term of the grant or fellowship has expired.

"(4) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that define the terms 'medically underserved areas' or 'medically underserved populations'.

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 2000 through 2002."

By Mr. INOUYE:

S. 237

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

THE PSYCHIATRIC AND PSYCHOLOGICAL EXAMINATIONS ACT OF 1999

Mr. INOUYE. Mr. President, today I introduce legislation to amend title 18 of the United States Code to allow our nation's clinical social workers to provide their mental health expertise to the federal judiciary.

I feel that the time has come to allow our nation's judicial system to have access to a wide range of behavioral science and mental health expertise. I am confident that the enactment of this legislation would be very much in our nation's best interest.

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

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

S. 237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. EXAMINATIONS BY CLINICAL SOCIAL WORKERS.

Section 4247(b) of title 18, United States Code, is amended, in the first sentence, by
S. 238. A bill to amend title 10, United States Code, to increase the grade provided for the heads of the nurse corps of the Armed Forces; to the Committee on Veterans’ Affairs.

U.S. MILITARY CHIEF NURSE CORPS AMENDMENT ACT OF 1999

Mr. INOUYE. Mr. President, today I introduce an amendment that would change the existing law regarding the designations and grades for the Chief Nurses of the United States Army, the United States Navy, and the United States Air Force. Currently, the Chief Nurses of the three branches of the military are one-star general officers; this law would change the current grade to Major General in the Army and Air Force and Rear Admiral (upper half) in the Navy.

Our military Chief Nurses have an awesome responsibility. Their scope of duties include peacetime and wartime health care doctrine, standards and policy for all nursing personnel within their respective branches. They are responsible for 80,000 Army, 5,200 Navy, and 20,000 Air Force officer and enlisted nursing personnel in the active, reserve and guard components of the military. This level of responsibility certainly supports the need to change the grade for the Chief Nurses which would ensure that they have an appropriate voice in the Department of Defense Health Program executive management.

Organizations are best served when the leadership is composed of a mix of specialties—of equal rank—who bring their unique talents to the policy setting and decision-making process. I believe it is time to ensure that military health care organizations utilize the expertise and unique contributions of the military Chief Nurses.

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

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

S. 239

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 “Perkins County Rural Water System Act of 1999”.

SEC. 2. FINDINGS AND PURPOSES.
(a) FINDINGS.—Congress finds that—
(1) there are insufficient water supplies of reasonable quality available to the members of the Perkins County Rural Water System, located in Perkins County, South Dakota, and the water supplies that are available do not meet minimum health and safety standards, thereby posing a threat to public health and safety;
(2) in 1977, the North Dakota State Legislature authorized and directed the State Water Commission to conduct a feasibility study for a Northwest Area Water Supply Study, which included water service to a portion of Perkins County, South Dakota;
(3) amendments made by the Garrison Division Unit Reformation Act of 1986 (Public Law 100–294) authorized the Southwest Pipeline Project as an eligible project for Federal cost share payment; and
(4) the Perkins County Rural Water System has continued to be recognized by the State of North Dakota, the Southwest Water Authority, the North Dakota Water Commission, the Department of the Interior, and Congress as a component of the Southwest Pipeline Project.
(b) PURPOSES.—The purposes of this Act are—
(1) to ensure a safe and adequate municipal, rural, and industrial water supply for the members of the Perkins County Rural Water Supply System, Inc., in Perkins County, South Dakota;
(2) to assist the members of the Perkins County Rural Water Supply System, Inc., in developing safe and adequate municipal, rural, and industrial water supplies; and
(3) to promote the implementation of water conservation programs by the Perkins County Rural Water System, Inc.

SEC. 3. DEFINITIONS.
In this Act:
(1) FEASIBILITY STUDY.—The term “feasibility study” means the study entitled “Feasibility Study for Rural Water System for Perkins County Act of 1999.”
SEC. 6. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available to the supplier to the water system for the construction of the water system under section 4; and

(b) CONDITIONS.—In no case may the water supply system contract for amounts that exceed 75 percent of the total project construction budget for the planning and construction of the water supply system under section 4; and

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the water supply system shall not exceed the Federal share under section 10.

(d) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the water supply system until

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are in full compliance with respect to the water supply system; and

(2) a final engineering report and a plan for a water conservation program have been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the system.

SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATES.

This Act shall not limit the authorization for water projects in South Dakota and North Dakota under law in effect on or before the date of enactment of this Act.

SEC. 8. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water; or

(2) alters the rights of any State to any appropriated share of the waters of any stream or to any ground water, whether determined by past or future legislative or final judicial allocation; or

(3) preempts or modifies any Federal or State law, or interstate compact, dealing with water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. 9. FEDERAL SHARE.

The Federal share under section 4 shall be 75 percent of—

(a) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(b) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. 10. NON-FEDERAL SHARE.

The non-Federal share under section 4 shall be 25 percent of—

(a) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(b) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. 11. CONSTRUCTION OVERSIGHT.

(a) AUTHORIZATION.—The Secretary may provide construction oversight to the water supply system for areas of the water supply system.

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the planning and construction of the water system as constructed in Perkins County, South Dakota.
have five years or less of post-doctoral experience. Psychologists leave the VHA system after five years because they have almost reached peak levels for salary and professional advancement. Furthermore, under the present system psychologists cannot be recognized or appropriately compensated for excellence or for taking on additional responsibilities such as running treatment programs.

In effect, the current system for hiring psychologists in the VHA supports mediocrity, not excellence and mental health disorders are deserving of better psychological care from more experienced professionals than they are currently receiving.

Currently, psychologists are the only doctoral level health care providers in the VHA who are not included in Title 38. This is without question a significant factor in the recruitment and retention difficulties which I have addressed. Title 38 appointment authority for psychologists would help alleviate the recruitment and retention problems. The length of time to recruit psychologists could be abbreviated by eliminating the requirement for applicants to be certified by the Office of Personnel Management. This would also encourage the recruitment of applicants who are not recent VHA interns by reducing the amount of time between identifying a desirable applicant and being able to offer that applicant a position.

It is expected that problems in retention will be greatly alleviated with the implementation of a Title 38 system that offers financial incentives for psychologists to pursue professional development. Achievements that would merit salary increases include such activities as assuming supervisory responsibilities for clinical programs, implementing innovative clinical treatments that improve the effectiveness and/or efficiency of patient care, earning significant contributions to the science of psychology, earning the ABPP diplomate state, and becoming a Fellow of the American Psychological Association.

The conversion of psychologists to Title 38, as proposed by this amendment, would provide relief for the retention and recruitment issues and enhance the quality of care for our Nation’s veterans and their families.

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

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

SEC. 1. REVISION OF AUTHORITY RELATING TO PROFESSIONAL PSYCHOLOGISTS IN THE VETERANS HEALTH ADMINISTRATION.

(a) IN GENERAL.—Section 7401(3) of title 38, United States Code, is amended by striking out “who hold diplomas as diplomates in psychology from an accrediting authority approved by the Secretary”.

(b) CERTAIN OTHER APPOINTMENTS.—Section 7405(a) of title 38, United States Code, is amended—

(1) in paragraph (1)(B), by striking out “Certified or” and inserting in lieu thereof “Professional psychologists, certified or”;

and

(2) in paragraph (2)(B), by striking out “Certified or” and inserting in lieu thereof “Professional psychologists, certified or”.

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

(d) APPOINTMENT REQUIREMENT.—Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall begin to make appointments of professional psychologists in the Veterans Health Administration under section 7401(3) of title 38, United States Code (as amended by subsection (a)), not later than 1 year after the date of the enactment of this Act.

By Mr. JOHNSON (for himself, Mr. DASCHLE, Mr. GRAMS, Mr. WELLSTONE, Mr. GRASSLEY, and Mr. HARKIN):

S. 244. A bill to authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

The LEWIS AND CLARK RURAL WATER SYSTEM ACT OF 1999.

Mr. JOHNSON. Mr. President. Today, I am proud to be introducing legislation, along with my colleagues, the Minority Leader Senator DASCHLE of South Dakota, Senator HARKIN and Senator GRASSLEY of Iowa, and Senator WELLSTONE and Senator GRAMS of Minnesota, to authorize the Lewis and Clark Rural Water System. We introduced similar legislation last Congress, and I am pleased with the progress we made on this matter in the Energy and Natural Resources Committees. The Committee held a hearing and passed the legislation during the 105th Congress, and I look forward to again working closely with my colleagues for timely consideration of this important measure.

The Lewis and Clark Rural Water System is made up of 22 rural water systems in southeastern South Dakota, southwestern Minnesota, and portions of Iowa. The States of South Dakota, Iowa, and Minnesota have all authorized the Lewis and Clark Rural Water System Act of 1999. The Department of Agriculture and the Department of Interior have expressed support for efforts to improve drinking water supplies in South Dakota. I look forward to continuing work with my colleagues to have that support extended to the Lewis and Clark Rural Water System.

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

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

S. 244

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 “Lewis and Clark Rural Water System Act of 1999”.

SEC. 2. DEFINITIONS.

In this Act:

(1) ENVIRONMENTAL ENHANCEMENT.—The term “environmental enhancement” means the addition and enhancement of activities that are carried out substantially in accordance with the environmental enhancement component of the feasibility study.

(2) ENVIRONMENTAL ENHANCEMENT COMPONENT.—The term “environmental enhancement component” means the component described in the report entitled “Wetlands and Water Enhancements for the Lewis and Clark Rural Water System”, dated April 1991, that is included in the feasibility study.

(3) FEASIBILITY STUDY.—The term “feasibility study” means the study entitled “Feasibility Level Evaluation of a Missouri River Regional Water Supply for South Dakota,
SEC. 3. FEDERAL ASSISTANCE FOR THE WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The Secretary shall make grants to the water supply system for the planning and construction of the water supply system.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, environmental enhancement, mitigation of wetland areas, and water conservation in—

(1) Sioux County, O'Brien County, Dickinson County, and Clay County, in northwestern Iowa;

(2) Marshall County, Clay County, O'Brien County, Sioux County, and Allamakee County, in northeastern Iowa;

(3) Lyon County, Sioux County, Osceola County, O'Brien County, Dickinson County, and Cook County, in northwestern Minnesota;

(4) Grant County, Clay County, and Potter County, in southwestern Minnesota; and

(5) Mower County, Olmsted County, and St. Charles County, in southeastern Minnesota.

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the water supply system shall not exceed the amount of funds made available under section 3(b) in existence on the date of enactment of this Act.

(d) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met;

(2) a final engineering report is prepared and submitted to Congress not less than 90 days before the commencement of construction of the water supply system; and

(3) a water supply system plan is developed and implemented.

SEC. 4. FEDERAL ASSISTANCE FOR THE ENVIRONMENTAL ENHANCEMENT COMPONENT.

(a) INITIAL DEVELOPMENT.—The Secretary shall make grants and other funds available to the water supply system for the planning, design, and construction of the water supply system.

(b) NON-REimbursABLE FUNDs.—Funds provided under subsection (a) shall be nonreimbursable and nonreturnable.

SEC. 5. WATER CONSERVATION PROGRAM.

(a) IN GENERAL.—The water supply system shall establish a water conservation program that ensures that users of water from the water supply system use the best practicable technology and management techniques to conserve water use.

(b) REQUIREMENTS.—The water conservation programs shall include—

(1) low consumption performance standards for all newly installed plumbing fixtures;

(2) leak detection and repair programs; and

(3) rate structures that include declining block rate schedules for municipal households and special water users (as defined in the feasibility study).

(c) PUBLIC EDUCATION.—Public education programs and technical assistance programs shall be established by the water supply system in cooperation with the Secretary.

SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the feasibility study.

SEC. 7. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—The use of Pick-Sloan Missouri Basin power shall be authorized for the operation of intake facilities, pumping stations, water treatment facilities, reservoirs, and pipelines up to the point of delivery of water by the water supply system to each member entity that distributes water at retail to individual users.

(b) CONSTRUCTION OF POWER FACILITIES.—The Western Area Power Administration shall provide for the construction of power facilities to generate electric energy required to meet the pumping and incidental operational requirements of the water supply system.

(c) CONTRACTS.—The power supplier of the entity described in subsection (a) shall make available the capacity and energy made available under subsection (a), to the Western Area Power Administration, in cooperation with the Secretary.

SEC. 8. NO LIMITATION ON WATER PROJECTS IN THE STATES.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water; or

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations.

Nothing in this Act preempts or modifies any Federal or State law, or interstate compact, governing water quality or disposal; or

(4) preempts or modifies any Federal, State, or other entity that exercises any Federal right to the waters of any stream or to any ground water resource.

SEC. 9. WATER RIGHTS.

Nothing in this Act—

SEC. 10. COST SHARING.

(a) FEDERAL COST SHARE.—In general, 80 percent of the costs allocated to the water supply system shall be 20 percent of the incremental cost to the city of participation in the project.

(b) NON-FEDERAL COST SHARE.—In general, except as provided in paragraph (2), the non-Federal share of the costs allocated to the project and construction of the water supply system shall be 80 percent of the amounts described in subsection (a).

(c) IN GENERAL.—Except as provided in paragraph (2), the non-Federal share of the costs allocated to the project and construction of the water supply system shall be 80 percent of the incremental cost to the city of participation in the project.

SEC. 11. BUREAU OF RECLAMATION.

(a) AUTHORIZATION.—The Secretary may allow the Director of the Bureau of Reclamation to carry out the purpose of this Act by providing for the construction and operation of the water supply system, as authorized under section 3(b), to provide for the water supply system, and the development of the water supply system in the States of South Dakota, Iowa, and Minnesota under law in effect on or after the date of enactment of this Act.

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Director of the Bureau of Reclamation to carry out the purpose of this Act shall be authorized in appropriation Acts for the Bureau of Reclamation.
drought, leading most of the communities in this region to impose severe water restrictions.

The situation has forced communities throughout the region to explore aggressively alternative water supplies, such as Lewiston and Worthington, both in southwestern Minnesota, have spent tens of thousands of dollars yearly in an unsuccessful search for another water source, always with the same disappointing results. Eventually, however, it was determined that working together with communities throughout the region and in all three states, a workable solution might be found.

That solution is the bill we are introducing today. Under this legislation, local communities will come together with the affected states and the federal government to form a strong, financial partnership, thereby ensuring an adequate, safe water supply while reducing the cost to the American taxpayers.

The Lewis and Clark Rural Water System is a fiscally responsible project that invests in the future economic health of the tri-state region by strengthening its critical infrastructure. With increasing population and economic development, new federal drinking water regulations, water demands, and shallow wells and aquifers which are subject to contamination, it is critical that the area encompassed by the Lewis and Clark Rural Water System establishes a clean, reliable water source to meet the demand for future water use that cannot be met by present resources.

Mr. President, this legislation has been before the Senate for the last two Congresses. Last year, we were successful in passing the legislation through the Energy and Natural Resources Committee. This year, we must see this bill passed by the Senate and the House and sent to the President for his signature.

Providing safe and available drinking water to our communities is one of the most basic functions of government. It is not a partisan issue, and therefore I am proud to join with a bipartisan group of my colleagues and the governors of Minnesota, South Dakota, and Iowa in supporting this bill.

By Mr. HATCH:
S. 245. A bill to reauthorize the Federal programs to prevent violence against women, and for other purposes; to the Committee on the Judiciary.

VIOLENCE AGAINST WOMEN ACT OF 1999

Mr. HATCH. Mr. President, I rise today to introduce a bill titled "Violence Against Women Act of 1999." I expect that this will be one of several bills introduced this week in both the Senate and the House of Representatives, reflecting an array of ideas and views on the reauthorization of existing programs and the creation of new ones.

Let me say at the outset, that one of my proudest accomplishments in this body was my work with Senator J OE BIDEN earlier this decade culminating in the passage of the Violence Against Women Act in 1994. I have great hopes that Senator BIDEN and I can duplicate that strong bipartisan effort in the 106th Congress.

Five years after the passage of VAWA I, I think it is fair to say that this Act has enhanced the efforts of law enforcement in combating violence against women and improved the services available to victims of domestic violence in my home state of Utah and across the nation.

But five years later, it is time to advance the process in three major respects: (1) It is time to review and evaluate the effectiveness of programs created by the 1994 Act and to reexamine the adequacy of the funding levels for these programs; (2) it is time to review law enforcement’s efforts and successes as a result of the 1994 Act; and (3) it is time to survey and consider the need for new programs and further changes in the law.

Thus, while I am today introducing a bill that reauthorizes the majority of current programs, many at increased funding levels, I think that these programs need to be evaluated as to whether available funds are being used in the most effective way possible. Further, I know that Senator BIDEN has a number of ideas for new programs and changes in the law, and I look forward to working with him on some of those ideas.

Finally, let me just note that my bill also contains some new proposals regarding campus violence, battered immigrant women, and the victims of domestic violence on military bases around the country. Like many Americans, I watched with some horror on Sunday night as “60 Minutes” detailed the degree of domestic violence on and around our military bases and the apparent lack of serious responsiveness by personal security. This situation, if inaccurately portrayed, is not acceptable, and this Administration needs to act swiftly and effectively to change what is reportedly happening. To that end, my bill includes a provision requiring a prompt review and report by the Secretary of Defense on the incidence of and response to domestic violence on our military bases.

In sum, Mr. President, I hope that enacting effective legislation to combat violence against women will be a priority in the 106th Congress. I intend to do my best, working in a bipartisan fashion, to ensure that it is.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. MCCAIN, Mr. DEWINE, Mr. KOHL, and Mr. LOTT):
S. 247. A bill to amend title 17, United States Code, to reflect the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes; to the Committee on the Judiciary.

THE SATELLITE HOME VIEWER IMPROVEMENTS ACT OF 1999

Mr. HATCH. Mr. President, I rise today to introduce legislation that will help provide for greater consumer choice and competition in television services, the “Satellite Home Viewer Improvements Act of 1999.” Joining me in introducing this bill are the Majority Leader, Senator LOTT, the distinguished Ranking Member of the Judiciary Committee, Senator LEAHY, the distinguished chairman of the Commerce Committee, Senator MCCAIN, and my colleagues on the Judiciary Committee, Senators DEWINE and KOHL.

The options consumers have for viewing television entertainment have vastly increased since that fatal day in September 1927 when television inventor and Utah native Philo T. Farnsworth, together with his wife and colleagues, viewed the first television transmission in the Farnsworth’s home workshop: a single black line rotating quickly on the screen, the forerunner of the forms of entertainment and the technologies for delivering that entertainment have proliferated over the 70 years since that day. In the 1940’s and 1950’s, televisions began arriving in an increasing number of homes. To pick up entertainment being broadcast into a growing number of cities and towns.

In the late 1960’s and early 1970’s, cable television began offering communities more television choices by initially providing community antenna systems for receiving broadcast television signals, and later by offering new created-for-cable entertainment. The development of cable television made dramatic strides with the enactment of the cable compulsory license in 1976, providing an efficient way of clearing copyright rights for the retransmission of broadcast signals over cable systems.

In the 1980’s, television viewers began to be able to receive television entertainment with their own home satellite equipment, and the enactment of the Satellite Home Viewer Act in 1988 helped develop a system of providing options for television service to Americans who lived in areas too remote to receive television signals over the air or via cable.

Much has changed since the original Satellite Home Viewer Act was adopted in 1988. The Satellite Home Viewer Act was originally intended to ensure that households that could not get television in any other way, traditionally provided through broadcast or cable, would be able to get television signals via satellite. The market and satellite industry has changed substantially since 1988. Many of the difficulties and controversies associated with the satellite license have been at least partly caused by the growth of the satellite business at time and the emergence of new services.
Now, many market advocates both in and out of Congress are looking to satellite carriers to compete directly with cable companies for viewership, because we believe that an increasingly competitive market is better for consumers and the diversity of programming available. The bill I introduce today will move us toward that kind of robust competition.

In short, this bill is focused on changes that we can make this year to move the satellite television delivery market to the next level, making it a full competitor in the multi-channel video delivery market. It has been time and again that a major, and perhaps the biggest, impediment to satellite’s ability to be a strong competitor to cable is its current inability to provide local broadcast signals. (See, e.g., Business week (22 Dec. 1997) p. 84.) This problem has been partly technological and partly legal.

Even as we speak, the technological hurdles to local retransmission of broadcast signals are being lowered substantially. Emerging technology is now enabling the satellite industry to begin to offer television viewers their own local programming of news, weather, sports, and entertainment, with digital quality picture and sound. This will mean that viewers in the remote areas of my large home state of Utah will be able to watch television programs originating inSalt Lake City, rather than New York or California. Utahns in remote areas will have access to local weather and other locally and regionally relevant information. In fact, one satellite carrier is already providing such a service in Utah.

Today, with this bill, we hope to begin removing the legal impediments to use of this emerging technology to make local retransmission of broadcast signals a reality for all subscribers. The most important result will be that the consumers of my home state of Utah and all others will finally have a choice for full service multi-channel video programming. They will be able to choose cable or one of a number of satellite carriers. This should foster an environment of proliferating choice and lowered prices, all to the benefit of consumers, our constituents.

To that end, the “Satellite Home Viewer Improvements Act” makes the following changes in the copyright governing satellite television transmissions:

It creates a new copyright license which allows satellite carriers to retransmit a local television station to households and businesses throughout that station’s local market, just like cable does, and sets a zero copyright rate for providing this service.

It extends the satellite compulsory licenses for both local and distant signals, which are now set to expire at the end of 2004.

It cuts the copyright rates paid for distant signals by 30 or 45 percent, depending on the type of signal.

It allows consumers to switch from cable to satellite service for network signals without waiting a 90-day period now required in the law.

It allows for a national Public Broadcasting Service satellite feed.

Many of those members of this chamber will recognize this legislation as substantively identical to a bill reported unanimously by the Judiciary Committee last year. I am pleased with the degree of cooperation and consensus we were able to forge with respect to this legislation last year, and I hope that we can pick up where we left off to bring this bill before the Senate for swift consideration and approval.

As I indicated late in the last Congress, the bill I am introducing is intended to be a piece of a larger joint work product to be crafted in conjunction with our colleagues on the Commerce Committee. Once again in the 106th Congress, it is our intention that the Judicial and Commerce Committees will move forward with consideration of the copyright legislation I am introducing today, which, as I indicated, is cosponsored by the Chairman of the Commerce Committee.

The Commerce Committee is proceeding simultaneously to consider separate legislation to be introduced by Chairman McCain to address related communications amendments regarding such important areas as the must-carry and retransmission consent requirements for satellite carriers. Concurrently, the copyright licenses will be conditioned, and the FCC’s distant signal eligibility process. It is our joint intention to combine our respective work product as two titles of the same bill in a way that will clearly delineate the work product of each committee, but combine them into the seamless whole necessary to make the licenses work for consumers and the affected industries.

We need to act quickly on this legislation, because the Satellite Home Viewer Act sunsets at the end of this year, placing at risk the service of many of the 11 million satellite subscribers nationwide. Many of our constituents are confused about the status of satellite service because of a court order requiring the cessation of distant-signal satellite service in February and April to as many as 2.5 million subscribers nationwide who have been adjudged ineligible for distant signal service under the Satellite Home Viewer Act. Without the licenses, the FCC’s distant signal eligibility process will be enjoined from retransmitting that signal. If the broadcast station involved is a network station, then the carrier could lose the right to retransmit any network stations affiliated with that network. If the willful or repeated violation of the restriction is on a local station, then the license, together with some resolution of the eligibility rules for distant signals and a more consumer-friendly process can help bring clarity to these consumers.

Let me again thank the Majority Leader for his interest in and leadership with respect to these issues, and the Chairman of the Commerce Committee for his collegiality and cooperation in this process. I also want to thank the colleagues on the Judiciary Committee who have worked on this legislation. This bill is a product of a bipartisan effort with Senators LEAHY, DeWINE, and KOHL. I look forward to continued collaboration with them and with our other colleagues to help hasten more vigorous competition in the television delivery market and the ever-widening consumer choice that will follow it.

I ask unanimous consent that an explanatory section-by-section analysis of the bill be printed in the Record.

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

SECTION 1. SHORT TITLE.

The title of the bill is the “Satellite Home Viewer Improvements Act”.

SEC. 2. LIMITATIONS ON EXCLUSIVE RIGHTS; SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS WITHIN LOCAL MARKETS.

Section 2 of the bill creates a new copyright compulsory license, found at section 122 of title 17 of the United States Code, for the retransmission of television broadcast stations by satellite carriers to subscribers located within the local markets of those stations. In order to be eligible for this compulsory license, a satellite carrier must be in full compliance with all rules and regulations of the Federal Communications Commission, including any must-carry obligations imposed upon the satellite carrier by the Commission or by law.

Because the copyrighted programming contained on local broadcast programming is already licensed with the expectation that all viewers in the local market will be able to view the programming, the new section 122 license is a royalty-free license. Satellite carriers must, however, provide local broadcast programming contained on local stations so that broadcasters may verify that satellite carriers are making proper use of the license. The subscriber information supplied to broadcasters is for verification purposes only, and may not be used by broadcasters for other reasons.

Satellite carriers are liable for copyright infringement, and subject to the full remedies of the Copyright Act, if they violate one or more of the following requirements of the section 122 license. First, satellite carriers may not use the section 122 license to retransmit a television station to a subscriber located outside the local market of the station. If a carrier willfully or repeatedly violates this limitation, then the carrier may be enjoined from retransmitting that signal. If the broadcast station involved is a network station, then the carrier could lose the right to retransmit any network stations affiliated with that network. If the willful or repeated violation of the restriction is on a local station, then the license, together with some resolution of the eligibility rules for distant signals and a more consumer-friendly process can help bring clarity to these consumers.

Let me again thank the Majority Leader for his interest in and leadership with respect to these issues, and the Chairman of the Commerce Committee for his collegiality and cooperation in this process. I also want to thank the colleagues on the Judiciary Committee who have worked on this legislation. This bill is a product of a bipartisan effort with Senators LEAHY, DeWINE, and KOHL. I look forward to
may make use of it to serve commercial establishments as well as homes. The local market of a television broadcast station for purposes of the section 122 license will be defined as the Federal Communications Commission as part of its broadcast carriage rules for satellite carriers.

SEC. 3. EXTENSION OF EFFECT OF AMENDMENTS TO TITLE 17, UNITED STATES CODE

Section 3 of the bill extends the expiration date of the current section 119 satellite compulsory license from December 31, 1999 to December 31, 2004.

SEC. 4. COMPUTATION OF ROYALTY FEES FOR SATELLITE CARRIERS

Section 4 of the bill reduces the 27 cent royalty fee adopted last year by the Librarian of Congress for the retransmission of network and superstation signals by satellite carriers under the section 119 license. The 27 cent rate for superstations is reduced by 30 percent per subscriber per month, and the 27 cent rate for network stations is reduced by 45 percent per subscriber per month.

In addition, section 119(c) of title 17 is amended to clarify that in royalty distribution pursuant to section 112 of the Copyright Act, the Public Broadcasting Service may act as agent for all public television copyright claimants and all Public Broadcasting Service member stations.

SEC. 5. DEFINITIONS

Section 5 of the bill adds two new definitions to the current section 119 satellite license. The “unserved household” definition is modified to eliminate the 90 day waiting period for satellite subscribers to wait after termination of their cable service until they are eligible for satellite service of network signals. The definition of a “local network station” is added to clarify that the section 119 license is limited to the retransmission of distant television stations, and not local stations.

SEC. 6. PUBLIC BROADCASTING SERVICES SATELLITE FEED

Section 6 of the bill extends the section 119 license to cover the copyrighted programming carried upon the Public Broadcasting’s national satellite feed. The national satellite feed is treated as a superstation for compulsory license purposes. Also, the bill amends title 17 to provide that PBS must certify to the Copyright Office on an annual basis that the PBS membership continues to support retransmission of the national satellite feed under the section 119 license.

SEC. 7. APPLICATION OF FEDERAL COMMUNICATIONS COMMISSION REGULATIONS

Section 7 of the bill amends the current section 119 license to make it contingent upon full compliance with all rules and regulations of the FCC. This provision mirrors the requirement imposed upon cable operators under the cable compulsory license.

SEC. 8. EFFECTIVE DATE

The amendments made by this bill become effective January 1, 1999, with the exception of section 4 which becomes effective on July 1, 1999.

Mr. LEAHY. Mr. President, on this first legislative day of the new session, I am joining Chairman HATCH of the Judiciary Committee to introduce a bill to help protect satellite TV viewers. I know it also has the support of subcommittee Chairman, Senator DeWINE, and its ranking member, Senator KOLI. I appreciate the fact that Republicans and Democrats are working together on this issue. I also want to thank the Majority Leader, Senator LOTT, for his assistance on this issue as well as the Chairman of the Commerce Committee, Senator McCain and their ranking member, Senator Hollings. I look forward to working with all Senators on this matter.

I have received hundreds of calls from Vermonters last year whose satellite TV service was about to be terminated. I am still hearing from Vermonters from all over the state. They are steaming mad and so am I.

This is an outrageous situation—the law must be changed and the Federal Communications Commission has to do its job.

I have worked to change the law over the last two years to try to avoid the situation we now face. I have also insisted that the FCC change its unrealistic rules that will result in needless terminations of service to Vermont families.

Unfortunately, we are on a collision course because of the Court orders affecting CBS and FOX signals offered to home dish owners, an inability to pass needed legislation last year, and the unwillingness of the FCC to step in and alleviate this situation.

Before I go into the details I want to point out that this bipartisan bill represents very good public policy. It will increase competition among TV providers, give consumers more choices, preserve the local affiliate TV system, and eventually offer local news, weather and programming over satellite TV instead of programming from distant stations. Over the next couple years, this initiative can solve the problem of losing satellite service by allowing satellites to offer a full array of local TV stations.

It will lead to lower rates for consumers because the bill creates head-to-head competition between cable and satellite TV providers. The bill will allow households who want to subscribe to this new satellite TV service, called “local-into-local”—to receive all local Vermont TV stations over the satellite.

The goal is to offer Vermonters more choices, more TV selections, but at lower rates. In areas of the country where there is this full competition with cable providers, rates to customers are considerably lower.

Thus, over time this initiative will permit satellite TV providers to offer a full selection of all local TV channels to viewers throughout most of Vermont. It will permit the implementation of superstations, weather and sports channels, PBS, movies and a variety of other channels. This means that local Vermont TV stations will be available over satellite dishes to many areas of Vermont currently not served by satellite TV.

Under current law, it is illegal for satellite TV providers to offer local TV channels over a satellite dish when you live in an area where you are normally likely to get a clear analog signal with a regular outdoor antenna. This means that thousands of Vermonters living in or near Burlington cannot receive local signals over their satellite dishes.

In addition, under current law many families must get their local TV signals over an antenna which often does not provide a clear picture. This bill will remove that legal limitation and allow satellite carriers to offer local TV signals to viewers no matter where they live in Vermont.

To take advantage of this, satellite carriers over time will have to follow the rules that cable providers have to follow. This will mean that they must carry all local Vermont TV stations and not carry distant network stations that compete with local stations.

Presently Vermonters receive network satellite signals with programming from stations in other states—in other words receive a CBS station from another state but not WCAX, the Burlington CBS affiliate.

By allowing satellite providers to offer a larger variety of programming, including local stations, the satellite industry would be able to compete with cable and the cable industry will be competing with satellite carriers.

All the members of the Judiciary Committee have worked on this matter and I appreciate their efforts. On November 12, 1997, Chairman HATCH and I introduced the Hatch-Leahy satellite bill (S. 1720) to address these concerns. This bill was amended in Committee with a Hatch-Leahy substitute and was reported out of the Judiciary Committee unanimously on October 1, 1998.

In the meantime, in July 1998, a federal district court judge in Florida found that PrimeTime 24 was offering distant CBS and FOX television signals to more than a million households in the U.S. in a manner inconsistent with its compulsory license. That permits such satellite service only to households who do not get at least “grade B intensity” service. Under a preliminary injunction, satellite service to thousands of households in Vermont and other states was to be terminated on October 8, 1998, for CBS and FOX distant network signals for households signed up after March 11, 1997, the date the action was filed.

To avoid immediate cutoffs of satellite service in Vermont and other states, the parties requested an extension of the October 8, 1998, termination date which was granted until February 28, 1999. This extension was also designed to give the FCC time to address these problems faced by satellite home dish owners.

The FCC solicited comments on whether the current definition of grade B intensity was adequate.

I was very concerned about the FCC proceeding in this matter and filed a comment asking the FCC to come up with a realistic and workable system to protect satellite dish owners. I criticized the FCC rule in that it would cut
off households from receiving distant signals based on “unwarranted assumptions” in a manner inconsistent with the law and the clear intent of the Congress. I complained about entire towns in Vermont which were to be inappropriately labeled as suffering from the inability to receive a strong signal using an antenna. Your final rule should reflect that purpose. I have heard from constituents in two Vermont towns where I am told that almost no one can receive local TV signals using satellite dishes when they are unable to receive a strong signal using an antenna. Your final rule should reflect that purpose. I have heard from constituents in two Vermont towns where I am told that almost no one can receive local TV signals using satellite dishes when they are unable to receive a strong signal using an antenna. My understanding is that each customer’s ‘distant’ satellite TV signals should be cut off if the customer is unable to receive local TV broadcasts over-the-air.

I also pointed out that: “The clear purpose of the law was, and is, to protect those living in more rural areas so that they can receive TV signals using satellite dishes when they are unable to receive a strong signal using an antenna. Your final rule should reflect that purpose. I have heard from constituents in two Vermont towns where I am told that almost no one can receive local TV signals using satellite dishes when they are unable to receive a strong signal using an antenna. Your final rule should reflect that purpose. I have heard from constituents in two Vermont towns where I am told that almost no one can receive local TV signals using satellite dishes when they are unable to receive a strong signal using an antenna. My understanding is that each customer’s ‘distant’ satellite TV signals should be cut off if the customer is unable to receive local TV broadcasts over-the-air.”

I also noted in my comment: “A second area that concerns me relates to the cost of any testing that is done. I have heard from Vermonters who are justifiably furious that they are being asked to pay for these costs. The burden of proof and the burden of any additional expenses should be assessed upon the families owning the satellite dishes.”

While the hills and mountains of Vermont are a natural wonder, they are barriers to receiving clear TV signals. Believe it or not, for example, at my home in Middlesex, Vermont, we can only get one channel clearly and the other channel with lots of ghosts.”

In yet another development, the Florida district court filed a final order which will also require that households signed up for satellite service before March 11, 1997, be subject to termination of their satellite TV channels.

I have always given credit where credit is due. So let me state that on the whole, our federal judges respect their constitutional roles and the Senate is aware of these judges’ dedication to administering their oaths of office. Yet, unfortunately, this dedication is not universal and a degree of over-reaching by some judges dictates that Congress move to more clearly delineate the proper role of federal judges. In our constitutional system, judges can not conveniently forget or blantly ignore that Congress has excluded the courts from the judicial system. Regardless of the temptation to embrace a certain judge’s decision, some judges may find socially or politically expedient, we must remember that no interest is more compelling than preserving our Constitution. Now, a president, who federal judges might feel obligated to infringe upon Congress’s legislative authority deeply concern me. I have taken the floor in this chamber on numerous occasions to recite some of the more troubling examples of judicial overreaching. I will not revisit them today. Suffice it to say that activism, and by that I mean a judge who ignores the written text of the law, whether from the right or the left, threatens our constitutional structure. An elected official, my votes for legislation is one important step in the confirmation process, a step reserved to the legislature. Hence, the Congress performs an important role in bringing activist decisions to light and, where appropriate, publicly criticizing those decisions. Some view this as an assault upon judicial independence. That is untrue. It is merely a means of engaging issues in a forum appropriate to the process by which the decision was reached. Such criticism is a healthy part of our democratic system. While life tenure insulates judges from the political process, it should not, and must not, isolate them from the people.

In addition, the Constitution grants Congress the authority, with a few notable limitations, to set federal courts’ jurisdiction. This is an important tool that, while seldom used, sets forth the parameters in which judicial power may be exercised. A good example of this is the 10th Congress’ effort to reform the statutory writ of habeas
The current system allows a single federal judge to thwart the demands of justice. Legislation of this nature is an important means of curbing activism.

In order to accomplish these goals, I have chosen to re-introduce, along with my colleagues, the Judicial Improvement Act. It is a small, albeit meaningful, step in the right direction. Notably, this legislation will change the way federal courts review constitutional challenges to state and federal laws. The existing process allows a single federal judge to hear and grant applications regarding the constitutionality of state and federal laws as well as state ballot initiatives. In other words, a single federal judge can impede the will of a majority of the voters merely by issuing an order halting the implementation of a state referendum.

This proposed reform will accomplish the twin goals of fighting judicial activism and preserving the democratic process. In essence, this bill modestly proposes to respond to the problem of judicial activism in part by: (1) Requiring a three judge district court panel to hear and grant interlocutory or permanent injunctions based on the constitutionality of a state law or referendum; (2) placing time limitations on remedial authority in any civil action in which prospective relief or a consent judgment binds State or local officials; (3) prohibiting a federal court from having the authority to order state or local governments to increase taxes as part of a judicial remedy; (4) preventing a federal court from prohibiting state or local officials from re-prosecuting a defendant; and (5) preventing a federal court from ordering the release of violent offenders under unwarranted circumstances.

As I said last session and still believe to be true, this bill is a long overdue effort to minimize the potential for judicial activism in the federal court system. Americans are understandably frustrated when they exercise their right to vote and the will of their elected representatives is frustrated by judges who enjoy life tenure. It is no wonder that millions of Americans do not think their vote matters when they enact a referendum only to have it enjoined by a single judge. In reviewing the work of federal courts analyzing constitutional challenges to laws and initiatives, Congress will protect the rights of parties to challenge unconstitutional laws while at the same time reduce the ability of activist judges to abuse their power and circumvent the will of the people.

I want to take a few moments to again describe how this legislation will curb the authority of federal judges. The first reform would require a three judge panel to hear and issue interlocutory and permanent injunctions regarding challenged laws at the district court level. The current system allows a single federal judge to restrain the enforcement, operation and execution of challenged federal or state laws, including initiatives. There have been many instances where an activist judge has used this power to overturn a ballot initiative or state law and then have the order overturned by a higher court years later.

One need only remember how Proposition 209, a ballot initiative passed by the voters which prohibited affirmative action in California, was held in abeyance after a district court judge issued an injunction barring its enforcement to understand how the three judge panel provision may in fact play a role in ensuring that the will of the people is not wrongfully thwarted. The injunction was subsequently overturned by the Ninth Circuit Court of Appeals which ruled that the law was constitutional. A three judge panel perhaps may have ruled correctly initially, allowing the democratic process to work properly while also saving taxpayer dollars.

Obviously, I have no problem with a court declaring a law unconstitutional when it violates the written text of the Constitution. It is, however, inappropriate for a court, after hearing and deciding the merits, to use injunctive relief to undermine the democratic process. The existing process allows a single federal judge to restrain the enforcement, operation and execution of federal or state laws, including initiatives and state ballot initiatives. There have been many instances where an activist judge has used this power to overturn a ballot initiative or state law and then have the order overturned by a higher court years later.

The bill also proposes limitations on the remedial authority of federal courts. In any civil action where proscripitive relief is sought, Congress proposes to limit the ability of a federal court to order any additional interlocutory relief but would still have the power to issue a permanent injunction. These limitations are designed to prevent the federal judiciary from indefinitely barring implementation of challenged laws by issuing endless injunctions, and facilitate the appeals process by curbing the unwarranted authority of federal courts to speedily handle constitutional challenges. What this reform essentially does is encourage the federal judiciary to rule on the merits of a case, and not use injunctions to keep a challenged law from going into effect or being heard by an appellate court through the use of delaying tactics.

The bill also proposes to require that a notice of appeal must be filed not more than fourteen days after the date of entry of the order or order granting an interlocutory injunction and the appeals court would lack jurisdiction over an untimely appeal of such an order. The court of appeals would apply a de novo standard of review before reconsidering the merits of granting relief, but not less than 100 days after the issuance of the original order granting interlocutory relief. If the interlocutory order is upheld on appeal, the order would remain in force no longer than 60 days after the date of the appellate decision, replaced by a permanent injunction.

The bill also proposes limitations on the release of violent offenders under unwarranted circumstances. A three judge panel perhaps may have ruled correctly initially, allowing the democratic process to work properly while also saving taxpayer dollars.

In an effort to accomplish these goals, Congress proposes to respond to the problem of judicial activism in the federal court system. Americans are under

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Another important provision of the bill would prevent a federal court from prohibiting State or local officials from re-prosecuting a defendant. This legislation is designed to clarify that federal habeas courts lack the authority to provide a remedy for violations of good time credit if prisoners are held in custody for unreasonable conditions. This provision effectively will preclude activist judges from circumventing mandatory minimum sentencing laws by striking federal judges of jurisdiction to enter such orders. This portion of the bill would result in the release of more than 4,500 child abductions reported to the police, 450,000 children who run away, and 438,000 children who are lost, injured, or missing. I am told that this is a growing problem even in my State of Utah.

Families who have written to me have shared the pain of a lost or missing child. While missing, lost, on the run, or abducted, each of these children is at a high risk of falling into the darkness of drug abuse, sexual abuse and exploitation, pain, hunger, and injury. Each of these children is precious, and deserves our efforts to save them. The bill I am introducing today is a step in that direction.

My bill reauthorizes and improves the Missing Children's Assistance Act and the Runaway and Homeless Youth Act. First, this bill revises the Missing Children's Assistance Act in part by requiring the Attorney General to review the record of achievements of this National Center for Missing and Exploited Children. It will enable NCMEC to provide greater protection of our Nation's children in the future. Second, this bill reauthorizes and revitalizes the Runaway and Homeless Youth Act.

At the heart of the bill's amendments to the Missing Children's Assistance Act is an enhanced authorization of appropriations for the National Center for Missing and Exploited Children. Under the authority of the Missing Children's Assistance Act, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) has selected and given grants to the Center for the last fourteen years to operate a national resource center located in Arlington, Virginia, and a national 24-hour toll-free telephone line. The Center provides invaluable assistance and training to law enforcement agencies in cases of missing and exploited children. The Center's record is quite impressive, and its efforts have led directly to a significant increase in the percentage of missing children who are recovered safely.

In fiscal year 1999, the Center received an earmark of $8.12 million in the Departments of Commerce, Justice, and State Appropriations conference reports. In addition, the Center's Jimmy Ramirez Training Center received $1.25 million.

The legislation I am introducing today continues and formalizes NCMEC's long partnership with the Departments of Commerce, Justice, and State Appropriations.
recognize it as the nation's official missing and exploited children's center, and to authorize a line-item appropriation. This bill will enable the Center to focus completely on its missions, without expending the annual effort to obtain all the required federal and grants from OJP. It also will allow the Center to expand its longer-term arrangements with domestic and foreign law enforcement entities. By providing and authorizing, the bill also will allow for better congressional oversight of the Center.

The record of the Center, described briefly below, demonstrates the appropriateness of this authorization. For fourteen years the Center has served as the national resource center and clear- inghouse mandated by the Missing Children's Assistance Act. The Center has worked in partnership with the Department of Justice, the Federal Bureau of Investigation, the Department of the Treasury, the State Department, and national and state and local authorities in the effort to find missing children and prevent child victimization.

The trust the federal government has placed in NCMEC, a private, non-profit corporation, is evidenced by its unique access to the National Crime Information Center, and the National Law Enforcement Telecommunications System (NLETS).

NCMEC has utilized the latest in technology, including operating the National Child Pornography Tip Line, establishing its new Internet website, www.missingkids.com, which is linked with hundreds of other websites to provide real-time images of breaking cases of missing children, and, beginning this year, establishing a new CyberTipline on child exploitation.

NCMEC has established a national and increasingly worldwide network, linking NCMEC online with each of the missing children clearinghouses operated in the 50 states, the District of Columbia and Puerto Rico. In addition, NCMEC works constantly with international law enforcement authorities such as Scotland Yard in the United Kingdom, the Royal Canadian Mounted Police, INTERPOL headquarters in Lyon, France and others. This network enables NCMEC to transmit images and information regarding missing children to law enforcement across America and around the world instantly. NCMEC also serves as the U.S. State Department's representative at child abduction cases under the Hague Convention.

The record of NCMEC is demonstrated by the 1,203,974 calls received at its 24-hour toll-free hotline, 1(800)THE LOST, the 146,284 law enforcement, criminal/ juvenile justice, and healthcare professionals trained, the 15,491,344 free publications distributed, and, most importantly, by its work as a clearinghouse of grants, children, which has resulted in the recovery of 40,180 children. Each of these figures represents the activity of NCMEC through spring 1998. NCMEC is a shining example of the type of public-private partnership the Congress should encourage and recognize.

The second part of the bill I am introducing today reforms and streamlines the Runaway and Homeless Youth Act to ensure that federal assistance to youth in high-risk situations is being used to best advantage.

The Runaway and Homeless Youth Act provides “critical assistance to youth in high-risk situations, including assistance to those youth who are potentially involved in high risk behaviors. In addition, the amendment authorizes the Runaway and Homeless Youth Act Rural Demonstration Projects which provide assistance to rural juvenile populations, such as in my home state of Utah. The amendment makes several technical corrections to fix prior drafting errors in the Runaway and Homeless Youth Act.

The provisions of this bill will strengthen our commitment to our youth. I urge my colleagues to support this legislation, which will strengthen the Missing Children's Assistance Act, the National Center for Missing and Exploited Children, and the Runaway and Homeless Youth Act, and thus improve the safety of our Nation's children.

By Mr. HATCH (for himself, Mr. DeWINE, and Mr. Nickles):
S. 250. A bill to establish ethical standards for Federal prosecutors, and for other purposes.

FEDERAL PROSECUTOR ETHICS ACT

Mr. HATCH. Mr. President, I am pleased today to introduce an important piece of corrective legislation—the Federal Prosecutor Ethics Act. This bill will address in a responsible manner the critical issue of ethical standards for federal prosecutors, while ensuring that the public servants are permitted to perform their important function of upholding federal law.

The bill I am introducing today is a careful solution to a troubling problem—the application of state ethics rules in federal court, and particularly in white collar cases. In short, my bill will subject federal prosecutors to the bar rules of each state in which they are licensed unless such rules are inconsistent with federal law or the effectuation of federal policy or investigation.

It also establishes standards for federal prosecutorial conduct, to be enforced by the Attorney General. Finally, it establishes a commission of federal judges, appointed by the Chief Justice, to review and report on the interrelationship between the duties of federal prosecutors and regulation of their conduct by state bars and disciplinary procedures utilized by the Attorney General.

No one condones prosecutorial excesses, and there have been instances where law enforcement officials, some federal prosecutors, have gone out of control. Unethical conduct by any attorney is a matter for concern. But when engaged in by a federal prosecutor, unethical conduct cannot be tolerated. It is my view, it was not the measured and well-tailored law, but the well-tailored to that purpose. As my colleagues may recall, last year’s omnibus appropriations act included a well-intentioned but ill-advised provision was adopted to set ethical standards for federal prosecutors and other attorneys for the government. In my view, it was not the measured and well-tailored law needed to address the legitimate concerns its sponsors sought to redress. Nor was I alone in this view. So great was the concern over its impact, in fact, that its effective date was delayed until six months after enactment, to see what was happening. In my view, if allowed to take effect in its present form, the Mc Dare provision would cripple the ability of the Department of Justice to enforce federal law and cede authority to regulate the conduct of federal criminal investigations and prosecutions to more than 50 state bar associations.

As enacted last fall, the McDade provision adds a new section 530B to title 28 of the U.S. Code. In its most recent form, it states that the Attorney general for the government shall be subject to State laws and rules, and that attorney for the government shall be subject to State laws and rules. To govern attorneys in each state where such attorneys engage in that attorney's duties,
to the same extent and in the same manner as other attorneys in that state."

There are important practical considerations which persuasively counsel against allowing 28 U.S.C. § 530B to take effect. These have been the subject of an amply con-

quent critic of the trend toward the over-federalization of crime. Yet the federal government has a most legitimate role in the investigation and prosecution of complex multistate ter-

orist organizations, or organized crime conspiracies, in rooting out and pun-

ishing fraud against federally funded programs such as Medicare, Medicaid, and Social Security, in vindicating the federal civil rights laws, in investigat-

ing and prosecuting complex corporate crime, and in punishing environmental crime.

It is in these very cases that Section 530B will have its most pernicious ef-

fect. Federal attorneys investigating and prosecuting these cases, which fre-

quently encompass three, four, or even more states, will be subject to the differing state and local rules of each of those states, plus the District of Columbia, if they are based there. Their decisions will be subject to review by the bar and ethics review boards in each of the federal districts in which these states at the whim of defense counsel, even if the federal attorney is not licensed in that state.

Practices concerning contact with undercover or unlicensed persons or the conduct of matters before a grand jury—perfectly legal and acceptable in federal court, will be subject to state bar rules. For instance, in many states, federal attorneys will not be permitted to speak with represented witnesses, espe-

cially witnesses to corporate mis-

conduct, and the use of undercover in-

vestigations will at a minimum be hin-

dered. In other states, section 530B might require—contrary to long-established federal grand jury practice—that prospective prosecution be submitted to an eviden-
tee to the grand jury. Moreover, these rules won’t have to be in effect in the district where the subject is being investigated, or where the grand jury is sitting to have these effects. No, these rules only have to be in effect somewhere the investigation leads, or if the federal attorney works, to handcuff federal law enforcement.

In short, Section 530B will affect every attorney in every department and agency of the federal government. It will effect enforcement of our anti-

trust laws, our environmental laws prohibiting the dumping of hazardous waste, our labor laws, our civil rights laws, and as I said before, the integrity of every federal funding program.

Section 530B is also an open invitation to clever defense attorneys to sty-

mie federal criminal or civil investiga-
tions by raising bogus defenses or bringing frivolous state bar claims. In-

deed, this has been the underlying concern behind the inclusion in Section 530B as the law of the land.

The most recent example is the use of a State rule against testimony by brand as "unethical" the long ac-

cepted, and essential, federal practice of moving for sentence reductions for co-conspirators who cooperate with prosecutors by testifying truthfully for the government. How much worse will it be when this provision declares it open season on federal law enforcement? What will the inevitable result be? At a minimum, the inevitable re-

sult will be that violations of federal laws will not be punished, and justice will not be done. But there will be fi-

nancial incentives for the federal govern-

ment as well, as a result of defending these frivolous challenges and from higher costs associated with investi-
gating and prosecuting violations of federal law.

All of this, however, is not to say that nothing needs to be done on the in-

terest of states to continue to do the same in their courts, who have a right to know what rules are in effect all litigants in each of our federal courts.

There are important practical consid-
erations which persuade against en-
larging federal courts to more than fifty state bar associations, at a devastating cost to the proper control by state Supreme Courts as the Congress may from time to time ordain and establish.

As enacted, Section 530B is in my view a serious dereliction of our Con-
stitutional duty to establish inferior federal courts. Should this provision take effect, Congress will have ceded the right to control conduct in the fed-

eral courts to more than fifty state bar associations, at a devastating cost to federal sovereignty and the independ-

ence of the federal judiciary. Simply put, each state, and each of our states, must retain for itself the authority to regulate the practice of law in its own courts and by its own lawyers. Indeed, the principle of federal sovereignty in its own sphere has been well established since Chief Justice Marshall’s opinion in McCulloch v. Maryland [17 U.S. (4 Wheat.) 316, 1819]. However, it may only be a first step. For the problem of rules for the con-

duct of attorneys in federal court af-

fects all litigants in each of our federal courts, who have a right to know what the rules are in the administration of justice. This is a problem that has been percolating in the federal bar for over a decade—the diversity of ethical rules governing attorney conduct in federal court.

Presently, there is no uniform rule that applies in all federal courts. Ruther-

ford once remarked, "The laws of ethics have been left up to the discretion of local rules in each federal judicial district. Various districts have taken different approaches, including adopting state standards based on the ABA Model Rules or the ABA Codes, adopting one of the ABA models directly, and in some cases, adopting both an ABA model and the state rules.

This variety of rules has led to confu-
sion, especially in multiform federal practice. As a 1997 report prepared for the Judicial Conference’s Committee on Rules of Practice and Procedure put it, “Multiform federal practice, chal-

lenging under ideal conditions, has been made increasingly complex, wasteful, and problematic by the dis-

organization of ethical rules among federal local rules and state ethical standards.”

Moreover, the problem may well be made worse if Section 530B takes effect in its present form. First, as enacted, Section 530B contains potential con-

flicts, which add to the confusion, by raising obvious quandaries—of which one take prece-

dence? Finally, Section 530B might fur-

ther add to the confusion, by raising the possibility of different standards in the same court for opposing litigants—private parties governed by the federal local rules and prosecutors governed by Section 530B.

The U.S. Judicial Conference’s Rules Committee has been studying this matter, and is considering whether to issue ethics rules pursuant to its authority under the Federal Rules Enabling Act. I believe that this is an appropriate de-

bate to have, and that it may be time for the federal bar to mature.

The days are past when federal practice was a small side line of an attorney’s prac-
tice. Practice in federal court is now ubiquitous to any attorney’s practice of law. It is important, then, that there be consistent rules. Indeed, for that very reason, we have federal rules of evidence, criminal procedure, and civil procedure. Perhaps, it is time to con-

sider the development of federal rules of ethics, as well.

This is not to suggest, of course, a challenge to the traditional state regu-

lation of the practice of law, or the proper control by state Supreme Courts of the conduct of attorneys in state court. The assertion of federal sovereignty over the conduct of attor-

neys in federal courts will neither im-
pugn nor diminish the sovereign right of states to continue to do the same in state courts. However, the administra-
tion of justice in the federal courts re-

requires the consideration of uniform rules to apply in federal courts and
By Mr. THURMOND:

S. J. Res. 2. A joint resolution proposing an amendment to the Constitution of the United States authorizing the States to pass legislation placing additional restraints on the Federal Government's ability to raise taxes, requiring a supermajority vote requirement in the Congress to raise taxes, restricting the ability of government to raise taxes, and requiring voter approval of all state taxes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House present) and by the consent of the States, three-fourths of the several States being represented in Congress, that the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress:

"ARTICLE —

"Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any State to participate in prayer. Neither the United States nor any State shall compose the words of any prayer to be said in public schools."

By Mr. KYL (for himself, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. BROWNBACK, Mr. COVERDell, Mr. CRADO, Mr. GRAMM, Mr. HELMS, Mr. HUTCHISON, Mr. INHOFE, Mr. MACK, Mr. McCOnNELL, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, and Mr. THOMPSON),

S. J. Res. 2. A joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for increasing taxes; to the Committee on the Judiciary.

Mr. KYL. Mr. President, I rise today on behalf of myself and Senators ABRAHAM, ALLARD, ASHCROFT, BROWNBACK, COVERDell, CRADO, GRAMM, HELMS, HUTCHISON, INHOFE, MACK, McCOnNELL, SESSIONS, SHELBY, SMITH of New Hampshire, and THOMPSON, to introduce the Tax Limitation Amendment, a joint resolution that proposes to amend the Constitution to require a two-thirds vote of the House and Senate to raise taxes.

Mr. President, this is an idea that comes to us from the states. Voters from around the country have approved similar restrictions in recent years—doing so in most cases by overwhelming margins. Most recently, a solid majority of Montana voters approved an amendment to their state’s constitution that requires voter approval of all new taxes and tax increases. That is a far stronger constraint than what is being proposed here.

By overwhelming majorities, voters in Arkansas, Maryland, and Virginia upheld their states tax-limitation initiatives, rejecting ballot propositions on November 3 last year that were designed to water down existing constraints on tax increases.

Two years ago, also by overwhelming majorities, voters from Florida to California approved initiatives aimed at limiting government’s ability to raise taxes. Florida’s Question One, which requires a two-thirds vote of the people to enact or raise any state taxes or fees, passed with 69.2 percent of the vote.

Seventy percent of Nevada voters approved the Gibbons amendment, requiring a two-thirds majority vote of the state legislature to pass new taxes or tax hikes. South Dakotans easily approved an amendment requiring either a vote of the people or a two-thirds vote of the legislature for any state tax increase.

And California voters tightened the restrictions in the most famous tax limitation of all, Proposition 13, so that all taxes at the local level now have to be approved by a vote of the people. Of course, voters in my home state of Arizona overwhelmingly approved a state tax limit of their own in 1992.

The Tax Limitation Amendment I am introducing today would impose similar constraints on federal tax-raising authority. It would require a two-thirds majority vote of each house of Congress to pass any bill levying a new tax or increasing the rate or base of any existing tax. In short, any measure that would take money out of the tax-payers’ pockets would require a supermajority vote to pass.

I would note that the proposed amendment includes provisions that would allow Congress to use the supermajority vote requirement in times of war, or when the United States is engaged in military conflict which causes an imminent and serious
CONGRESSIONAL RECORD — SENATE

January 19, 1999

THreat to national security. But to en-
sure that such waiver authority is
truly reserved for such emergencies and
is not abused, any new taxes im-
posed under a waiver could only remain
in effect for a maximum of two years.
Mr. President, why is a tax-limita-
tion amendment necessary?

The two largest tax increases in our
nation's history were enacted earlier
this decade by only the slimmest of
margins. In fact, President Clinton's
1993 tax increase did not even win the
support of a majority of Senators. Vice
President Gore broke a 50 to 50 vote to
secure its passage.

Despite very modest efforts to cut
taxes in the last few years, the effects
of the record-setting tax increases of
1990 and 1993 are still being felt today.
The tax burden imposed on the Amer-
ican people hit a peace time high of 19.8
percent of GDP in 1997 and, according
to the Congressional Budget Office, is
continuing to rise—to 20.5 percent in
1998 and 20.6 in 1999. That will be higher
than any year since 1945, and it would
be only the third and fourth years in
our nation's entire history that reve-
 nue s have exceeded 20 percent of na-
tional income. Notably, the first two
times revenues broke the 20 percent
mark, the economy tipped into reces-
sion.

Already, economists are beginning to
project slower economic growth in coming
years and any further shocks from abroad,
growth for 1999 to
2003 is estimated at about two percent.
In fact, growth during the high-tax
Clinton years has averaged only about
3.9 percent annual growth rate dur-
ing the period after the Reagan tax
cuts and before the 1990 tax increase.
The heavy tax burden may not be the
only reason for slow growth, but it is a
significant factor.

With that in mind, I believe the Presi-
dent and Congress should consider
reducing income-tax rates across the
board for all Americans. We will no
doubt have that debate about the need
for tax relief in coming months. But
whether we agree to cut taxes or not,
the President and Congress—
should be able to agree that taxes are
high enough and should not be raised
further, at least not without the kind
of significant, broad-based and biparti-
san support that would be required under
the Tax Limitation Amendment.

Raising sufficient revenue to pay for
government's essential operation is ob-
viously a necessary part of governing,
but raising tax rates is not necessarily
the best way to raise revenue. As re-
cent experience proves, it is a slower
and growing economy—not high tax
rates—that generates substantial
amounts of new revenue for the Treas-
ury. It was the growing economy that
decided to end last year's unified
budget deficit.

In a few weeks, voters around the
country seem to believe that raising taxes
should only be done when there is
broad support for the proposition. The
T.L.A. will ensure that no tax can be
raised in the future without such con-
sensus.

Mr. President, I invite my colleagues
to cosponsor the initiative, and I ask
unanimous consent that the text of the
joint resolution be reprinted in the
RECORD.

There being no objection, the joint
resolution was ordered to be printed in
the RECORD, as follows:
S.J. Res. 2

Resolved by the Senate and House of Rep-
resentatives of the United States of America
in Congress assembled (two-thirds of each
House concurring therein), That the following
article is proposed as an amendment to the
Constitution of the United States which shall be
valid to all intents and purposes as part of
the Constitution when ratified by the legis-
latures of three-fourths of the several States
within seven years after the date of its subm-
ission for ratification:

"ARTICLE —

"SECTION 1. Any bill to levy a new tax or
increase the rate or base of any tax may pass
only by a two-thirds majority of the whole
number of each House respectively.''

"SECTION 2. The Congress may waive sec-
tion 1 when a declaration of war is in effect.
The Congress may also waive section 1 when
the United States is engaged in military con-
ict when causes an imminent and serious
threat to national security. But to en-
sure that such waiver authority is
valid to all intents and purposes as part of
the Constitution when ratified by the legis-
latures of three-fourths of the several States
within seven years after the date of its subm-
ission for ratification:

"ARTICLE —

"SECTION 1. Any bill to levy a new tax or
increase the rate or base of any tax may pass
only by a two-thirds majority of the whole
number of each House respectively.''

"SECTION 2. The Congress may waive sec-
tion 1 when a declaration of war is in effect.
The Congress may also waive section 1 when
the United States is engaged in military con-
ict when causes an imminent and serious
threat to national security and is declared
by a joint resolution, adopted by a majority
of the whole number of each House, which
becomes law. Any provision of law which
would, standing alone, be subject to section
1 but for this section and which becomes law
pursuant to such a waiver shall be effective
for not longer than 2 years.

"SECTION 3. All votes taken by the House
of Representatives under this article shall be
determined by yeas and nays and the
names of persons voting for and
against shall be entered on the Journal
of each House respectively."

By Mr. KYL (for himself, Mrs.
FEINSTEIN, Mr. BIDEN, Mr.
GRASSLEY, Mr. INOUYE, Mr.
DEWINE, Ms. LANDRIEU, Mr.
SHOENHEIMER, Mr. MACK,
Mr. CLELAND, Mr. COVER-
Dell, Mr. SMITH of New Hamp-
shire, Mr. SHELBY, Mr. HUTCH-
inson, Mr. HELMS, Mr. FRIST,
Mr. GRAMM, Mr. LOTT, and Mrs.
HUTCHISON):

S.J. Res. 3. A joint resolution propos-
ing an amendment to the Constitution
of the United States to protect the
rights of crime victims; to the Com-
mittee on the Judiciary.

PROPOSING AN AMENDMENT TO THE CONSTITU-
TION OF THE UNITED STATES TO PROTECT THE
RIGHTS OF CRIME VICTIMS

Mr. KYL. Mr. President, to ensure
that crime victims are treated with
fairness, dignity, and respect, I rise to
introduce, along with Senator FEIN-
STEIN, a resolution proposing a con-
stitutional amendment to establish
and protect the rights of victims of vi-
olent crime. I would like to update the
members on the latest form of the
Crime Victims Rights Amendment and
outline our plans for the 106th Con-
gress.

This joint resolution is the product of
extended discussions with House Ju-
diciary Committee Chairman HENRY
HYDE, Senators HATCH and BIDEN, the
Department of Justice, the White
House, law enforcement officials,
major victims' rights groups, and such
diverse scholars as Professors Larry
 Tribe and Paul Volker. As a result of
these discussions, the core values in
the original amendment remain un-
changed, but the language has been re-
fin ed to better protect the interest of
all parties.

I discuss the amendment in
detail, I would like to thank Senator
FEINSTEIN for her efforts to advance
the cause of crime victims' rights and
for her very valuable work on the lan-
guage of the amendment. She has been
a tireless and invaluable advocate for
the amendment.

Mr. President, the scales of justice
are imbalanced. The U.S. Constitution,
mainly through amendments, grants
those accused of crime many constitu-
tional rights, such as a speedy trial, a
jury trial, counsel, the right against self-
incrimination, the right to be free from
unreasonable searches and sei-
uzes, the right to subpoena witnesses,
the right to confront witnesses, and
the right to due process under the law.

The Constitution, however, guaran-
tees no rights to crime victims. For
example, victims have no right to be
present, no right to be informed of
hearings, no right to be heard at sen-
tencing or at a parole hearing, no right
to insist on reasonable conditions of re-
lease to protect the victim, no right to
restitution, no right to challenge
unending delays in the disposition of
their case, and no right to be told if
they might be in danger from release
or escape of their attacker. This lack
of rights for crime victims has caused
many victims and their families to suf-
er twice, once at the hands of the
criminal, and again at the hands of a
judicial system that is supposed to
protect them. The Crime Victim Rights
Amendment is a constitutional amend-
ment that would bring balance to the
judicial system by giving crime vic-
tims the rights to be informed, present,
and heard at critical stages throughout
their ordeal—the least the system owed
to those it failed to protect.

Mr. President, the current version,
which is the 62d draft of the amend-
ment, contains the rights that we be-
lieve victims should have:

The amendment gives victims the
rights:
To be notified of the proceedings;
To attend all public proceedings;
To be heard at certain crucial stages
in the process;
To be notified of the offender's re-
lease or escape;
To consider for a trial free from
unreasonable delay;
To an order of restitution;
To have the safety of the victim con-
sidered in determining a release from
custody; and
To be notified of these rights and
standing to enforce them.

These rights are the core of the
amendment.
Mr. President, if reform is to be meaningful, it must be in the U.S. Constitution. Since 1982, when the need for a constitutional amendment was first recognized by a Presidential Task Force on Victims of Crime, 32 states have either measured or averaged popular votes of about 80 percent. These state measures have materially helped protect crime victims; but they are inadequate for two reasons: First, each amendment is different, and not all states have provided protection to victims; a Federal amendment would establish a basic floor of crime victims' rights for all Americans, as the Federal Constitution provides for the accused. Second, statutory and State constitutional provisions are always subordinated to the Federal Constitution; so, in cases of conflict, the defendants' rights—which are already in the U.S. Constitution—will always prevail. Our amendment will correct this imbalance.

It is important to note that the number one recommendation in a recent 400-page report by the Department of Justice on victims rights and services that "the U.S. Constitution should be amended to guarantee fundamental rights for victims of crime." The report continued: "A victims' rights constitutional amendment is the only legal measure strong enough to rectify the current inconsistencies in victims' rights laws that vary significantly from jurisdiction to jurisdiction on the State and Federal levels." Further, "Granting victims of crime the ability to participate in the justice system is exactly the type of participatory right the Constitution is designed to protect and has been amendment to permanently ensure. Such rights include the right to vote on an equal basis and the right to be heard when the government deprives one of life, liberty, or property.

Until crime victims are protected by the United States Constitution, the rights of victims will be subordinate to the rights of the defendant. Indeed, the National Governors Association—by a vote of 40—passed a resolution strongly supporting a constitutional amendment for crime victims. The resolution stated: “Despite … widespread State initiatives, the rights of victims do not receive the same considerations as the rights of the accused. These rights exist on different judicial levels. Victims are relegated to a position of secondary importance in the judicial process.” The resolution also stated that “The rights of victims have always received secondary consideration within the U.S. judicial process, even though States and the American people by a wide plurality consider victims' rights to be fundamental. Protection of these rights is essential and can only come from a fundamental change in our basic law: the U.S. Constitution.

Some may say, “I'm all for victims' rights but they don’t need to be in the U.S. Constitution. The Constitution is too hard to change. All we need to do is pass some good statutes to make sure that victims are treated fairly.” But statutes have been inadequate to restore balance and fairness for victims. The history of our country teaches us that constitutional protections are needed to protect the basic rights of the people. Our criminal justice system needs the kind of fundamental reform that can only be accomplished through changes in our fundamental law—the Constitution.

Attorney General Reno has confirmed the point, noting that, “unless the Constitution is amended to ensure basic rights to crime victims, as will never correct the existing imbalance in this country between defendants' constitutional rights and the haphazard patchwork of victims' rights.” Attempts to establish rights by federal or state statute, or even state constitutional amendment, have proven inadequate, after more than twenty years of trying.

On behalf of the Department of Justice, Ray Fisher, the Associate Attorney General, recently testified that “the state legislative route to change has not been adequate in according victims their rights. Rather than form a minimum baseline of protections, the state provisions have produced a hodgepodge of rights that vary from jurisdiction to jurisdiction. Other Rights that the Justice Department believes the Constitution will receive greater recognition and respect, and will provide a national baseline.”

A number of legal commentators have reached similar conclusions. In the 1997 Harvard Law Bulletin, Professor Laurence Tribe has explained that the existing statutes and state amendments “are likely, as experience to date sadly shows, to provide too little real protection whenever they come into conflict with statutory or judge-made rules exist to protect the participatory rights of victims, such rights often tend to be honored in the breach.”

Additionally, in the Baylor Law Review, Texas Court of Appeals Justice Richard Barajas has explained that “[i]t is apparent ... that state constitutional amendments alone cannot adequately address the needs of crime victims.” Federal statutes are also inadequate. Professor Cassell’s detailed 1998 testimony about the Oklahoma City Bombing Case shows that, as he concluded, “federal statutes are insufficient to protect the rights of crime victims.”

Mr. President, I was pleased that in July 1998 the Senate Judiciary Committee passed the amendment, S.J. Res. 44, by a bipartisan vote of 11 to 6. The amendment has strong bipartisan support. It was cosponsored by 30 Republicans and 12 Democrats, including leadership members such as Senators Lott, Thurmond, Mack, Coverdell, Craig, Breaux, Reid, Torricelli, and Farmer, and others.

In the 106th Congress, Senator Feinstein and I will work hard to ensure the amendment’s passage. We plan to hold a hearing early in the Congress, followed by a markup and consideration by the full Senate. We welcome comments and suggestions from Members and other interested parties.

Again, I would like to thank Senator Diane Feinstein for her hard work on this amendment and for her tireless efforts on behalf of crime victims. Mr. President, for far too long, the criminal justice system has ignored crime victims who deserve to be treated with fairness, dignity, and respect. Our criminal justice system will never be truly just as long as criminals have rights and victims have none.

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

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

S.J. Res. 3

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid for all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

ARTICLE

SECTION 1. A victim of a crime of violence, as these terms may be defined by law, shall have the rights:

—to reasonable notice of, and not be excluded from, any public proceedings relating to the crime;
—to be heard, in present, and to submit a statement at all such proceedings to determine an individual victim's needs and interests, to provide testimony relating to the crime;
—to have an attorney of the victim's choice designated by the court in consultation with the victim, to represent the victim in a proceeding or appeal, and to be notified of the final disposition of the case, including any decision as to conditional release;
—to receive, subject to the availability of funds, reasonable financial assistance, including representation of the victim in related civil proceedings when permitted by law, to represent the victim in a proceeding or appeal, and to be notified of the final disposition of the case, including any decision as to conditional release;

Nothing in this article shall provide grounds for a stay order of the victim or the convicted offender, to consider the victim for release from custody, to stay or continue any trial, reopen any proceeding or appeal, or invalidate any ruling, except with respect to conditional release or restitution or to provide rights guaranteed by this article in future proceedings, without the victim's or continuing the trial. Nothing in this article shall give rise to or authorize the creation of a claim for damages against the victim or the convicted offender.

 лечения продолжается до тех пор, пока пациент не будет полностью излечиваться.
January 19, 1999

CONGRESSIONAL RECORD – SENATE

S709

United States, a State, or political subdivi-

dion, or a public officer or employee.

SECTION 3. The Congress shall have the power to enforce this article by appropriate legislation. Exceptions to the rights established by this article may be created only when necessary to achieve a compelling in-
terest.

SECTION 4. This article shall take effect on the 100th day after the ratification of this ar-
ticle. The right to an order of restitut-
ion established by this article shall not apply to crimes committed before the effective date of this article.

SECTION 5. The rights and immunities es-
tablished by this article shall apply in Fed-
eral and State proceedings, including mili-
tary proceedings to the extent that the Con-
gress may provide by law, juvenile justice proceedings, and proceedings in the District of Columbia and any commonwealth, terri-

or, or possession of the United States.

Mrs. FEINSTEIN. Mr. President, I rise today with my colleague, Senator Kyl, to once again introduce a con-
stitutional amendment to provide rights for victims of violent crime.

We have achieved significant progress in our effort to pass the amendment. After working exten-
sively—indeed, exhaustively—with prosecutors, law professors, the Justice Depa-
rtment, the White House Coun-
sel’s Office, and leaders of victims groups from around the country to carefully craft and hone the amend-
ment’s language, we succeeded in bringing the amendment to markup in the Senate Judiciary Committee.

After numerous committee business meetings, and one of the most high-
minded debates in which I have been privileged to participate, the Judiciary Committee passed the amendment by a strong, bipartisan vote. Unfortunately, with the press of final business at the end of the Congress, there was not suf-
ficient time to consider the amend-
ment on the Senate floor and work it through the House.

So here we are now, carrying the fight forward into this new, 106th Con-
gress. We are fighting to ensure that the 8.6 million victims of violent crime in the country receive the fair treat-
ment by the judicial system which they deserve. Too often in America vic-
tims of violent crime are victimized a second time, by the government.

Let me give you an example of what I’m talking about. What really focused my attention on the need for greater protec-
tion of victims’ rights was a par-

c ticular case in 1974 in San Francisco, when a man named Angelo Pavageau broke into the house of the Carlson family in Porterio Hill.

Pavageau tied Mr. Carlson to a chair, bludgeoning him to death with a ham-
mer, a chopping block, and a ceramic vase. He then repeatedly raped Carlson’s 24-year-old wife, breaking several of her bones. He slit her wrist, tried to strangle her with a telephone cord, and then, before fleeing, set the Carlson’s home on fire—cowardly retrackin-
g into the night, leaving this family to burn up in flames.

But Mrs. Carlson survived the fire. She courageously lived to testify

against her attacker. But she has been forced to change her name and contin-
ues to live in fear that her attacker may, one day, be released. When I was Mayor of San Francisco, she called me several times to notify me that Pavageau was up for parole. Amazingly, it took a long time for Carlson to find out when his parole hearings were.

Mr. President, I believe this case rep-

resents a travesty of justice—it just shouldn’t have to be that way. I believe it should be the responsibility of the state to send through the mail or make a phone call to let the victim know that her attacker is up for parole, and she should have the opportu-

nity to testify at this hearing.

But today, in many states in this great nation, victims still are not made aware of the accused’s trial, many times are not allowed in the courtroom during the trial, and are not notified when a convicted offender is released from prison.

I have vowed to do everything in my power to add a bit of balance to our na-

tion’s justice system. This is why Sen-

ator Kyl and I have crafted the Crime Victim’s Rights Amendment before us today.

The people of California were the first in the nation to pass a crime vic-
tims’ amendment to the state constitu-

tion in 1982—the imitative Proposition 8—and I supported its passage. This measure gave victims the right to rest-

itution, the right to have their question at sen-
tencing, probation and parole hearings, established a right to safe and secure public school campuses, and made var-
ious changes in criminal law. Califor-

nia’s Proposition 8 represented a good start to ensure victims’ rights.

Since the passage of Proposition Eight, 31 more states have passed con-
stitutional amendments guaranteeing the rights of crime victims. I just this past November, Mississippi, Montana and Tennessee added victims’ rights amendments to their state constitu-

tions. These amendments were over-

whelmingly supported by the voters, winning 93%, 71% and 89% of the vote, respectively.

But citizens in other states lack these basic rights. The 32 different state constitutional amendments differ from each other, representing a patch-
work quilt of rights that vary from state to state. And even in those states which have state amendments, crim-
a

nals can assert rights ground-

ed in the federal constitution to try to trump those rights.

The United States Constitution guar-

antees numerous rights to the accused in our society, all of which were estab-
lished by amendment to the Constitu-

tion. I steadfastly believe that this na-
tion must attempt to guarantee, at the very least, some basic rights to the millions victimized by crime each year.

For those accused of crimes in this country, the Constitution specifically protects:

The right to a grand jury indictment for capital or infamous crimes;

The prohibition against double jeopardy;

The right to due process;

The right to a speedy trial and the right to an impartial jury of one’s peers;

The right to be informed of the na-
ture and cause of the criminal accusa-

tion;

The right to confront witnesses;

The right to counsel;

The right to subpoena witnesses—and so on.

However, nowhere in the text of the U.S. Constitution does there appear any guarantee of rights for crime vic-
tims.

To rectify this disparity, Senator Kyl and I are putting forth this Crime Victims’ Rights Amendment. This pro-
vides for certain rights for victims of crime:

The right to be notified of public pro-
ceedings in their case;

The right not be excluded from these proceed-
ings;

The right to be heard at proceedings to determine a release from custody, sentencing, or acceptance of a negoti-
tiated plea;

The right to notice of the offender’s release or escape;

The right to consideration for the in-
terest of the victim in a trial free from unreasonable delay;

The right to an order of restitution from the convicted offender;

The right to consideration for the safety of the victim in determining any release from custody; and

The right to notice of your rights as a victim.

Conditions in our nation today are significantly different from those in 1789, when the founding fathers wrote the Constitution without providing explicitly for the rights of crime victims. In 1789, there weren’t 9 million victims of violent crime every year. In fact, there were more victims of crime each year in this country now than there were people in the country when the Constitution was written.

Moreover, there is good reason why defendants’ rights were embedded in the Constitution in 1789 and victims’ rights were not—the way the criminal justice system worked then, victims did not need any guarantee of these rights.

In America in the late 18th century and well into the 19th century, public prosecutors did not exist. Victims could, and did, commence criminal cases themselves, by hiring a sheriff to arrest the defendant, and initiating a private prosecution. The core rights in our amendment—to notice, to attend, and to be heard—were inherently made available to the victim. As Juan Cardenas, writing in the Harvard Journal of Law and Public Policy, observed, “At trial, generally, there were no lawyers for either the prosecution or the defense. Victims of crime simply acted as their own counsel, although wealthier crime victims often hired a prosecu-

or.’’
Moreover, state amendments lack the force that a federal constitutional amendment would have, and too often are given short shrift. Maryland has a state amendment. But when Cheryl Rae Enochs Resch was killed in 1987 by a ceramic beer mug by her husband, her mother was not notified of this killer’s early release only two and a half years into his ten year sentence, and was not given the opportunity to be heard about this violation in violation of the state amendment.

Arizona has a state amendment. But an independent audit of victim-witness programs in four Arizona counties, including Maricopa County where Phoenix is located, found that Victims were not consistently notified of hearing during which conditions of a defendant's release were discussed.

Even in states with strong legal protections for victims’ rights, the Victims' Rights study revealed that many victims are denied their rights. Statutes themselves appear to be insufficient to guarantee the provision of victims' rights.

Nearly two-thirds of crime victims, even in states with strong victims' rights protection, were not notified that the accused offender was out on bond.

Nearly half of all victims, even in the strongest protection states, did not receive notice of the sentencing hearing—notice that is essential if they are to exercise their right to make a statement.

A substantial number of victims reported that they were not given an opportunity to make a victim impact statement at sentencing or parole.

State amendments simply are not enough—they provide different rights in different states, they do not exist at all in others, and they are too often ignored when they do exist.

We urge Senators Hatch, the distinguished Chairman of the committee, to schedule a hearing on the amendment in January or February, with a markup to follow shortly thereafter. It is our hope that the committee can complete its deliberations with a favorable recommendation, and we call upon our distinguished Leaders, Senators Lott and Daschle, to commit to a floor vote on the amendment during National Victims’ Rights Week in late April.

After two hundred years, doesn’t this Nation owe something to the millions of victims of violent crime? I believe that is our obligation and should be our biggest priority—not only for the crime victims, but, for all Americans—to ensure passage of a Crime Victims’ Rights Constitutional Amendment.

I want to personally thank Senator Kyl for his tireless efforts to accomplish this amendment, and to say that I look forward to continuing to work with him in the months to come.

By Mr. Kyl: S.J. Res. 4. A joint resolution proposing an amendment to the Constitution of the United States to provide that expenditures for a fiscal year shall neither revenues for such fiscal year nor 19 per centum of the Nation’s gross domestic product for the calendar year ending before the beginning of such fiscal year; to the Committee on the Judiciary.

Mr. Kyl. Mr. President, I rise today to introduce the Balanced Budget/Spending Limitation Amendment—a joint resolution proposing to amend the Constitution of the United States to establish both a federal spending limit and a requirement that the federal government maintain a balanced budget.

Mr. President, it seems to me that although we may have succeeded in balancing the unified budget, we still have two very different visions of where we should be headed. Is a balanced budget the paramount goal, even if it comes with substantially higher taxes and more spending? Or is the real goal of a balanced budget to be more responsible with people’s hard-earned tax dollars—to limit government’s size and give people more choices and more control over their lives? Before we try to answer those questions, let us try to give them some context.

When we balanced the unified budget last year, we did so by taxing and spending at a level of about $1.72 trillion. That is a level of spending that is 25 percent higher than when President Clinton took office just six years ago. Our government now spends the equivalent of $6,700 for every man, woman, and child in the country every year. That is the equivalent of nearly $27,000 for every average family of four. All of that spending comes at a tremendous cost to hard-working taxpayers.

The Tax Foundation estimates that the median income family in America...
saw its combined federal, state, and local tax bill climb to 37.6 percent of income in 1997—up from 37.3 percent the year before. That is more than the average family spends on food, clothing, shelter, and transportation combined. And it is in these working families, one parent working to put food on the table, while the other is working almost full time just to pay the bill for the government bureaucracy. Perhaps a different measure of how heavy a tax burden the federal government imposes would be helpful. Consider that federal revenues hit a peacetime high of 19.8 percent of Gross Domestic Product (GDP) in 1997 and, according to the Congressional Budget Office, will continue to climb to 20.5 percent in 1998 and 20.6 percent in 1999. That will be higher than any year since 1945, and it would be only the third and fourth years in our nation's entire history that revenues have exceeded 20 percent of GDP. It is, however, the first two times revenues broke the 20 percent mark, the economy tipped into recession. For me, it is not enough to balance the budget if it means that hard-working taxpayers' earnings and their desire to do right by themselves and their families. That is where our paramount concern should be—with the taxpayers.

Mr. President, last year was the first time in nearly 30 years that Washing- ton managed to balance its books. In fact, we posted a record unified budget surplus of $70 billion, and we did so even though we have no constitutional requirement for a balanced budget. Some will use that fact to argue there is no need for a balanced budget amendment. I would suggest to them that they look back at what happened last October.

Just three weeks—exactly 21 days—after confirming that the federal govern- ment had indeed achieved its first budget surplus in a generation, Congress passed, and the President signed, a bill that used fully a third of the surplus for increased spending on a vari- ety of government programs other than Social Security, tax relief, or repayment of the national debt.

My position is this: if President Clinton pledged in his State of the Union address a year ago to save ‘every penny of any surplus’ for Social Security, yet he was the first in line with a long list of programs to be fund- ed out of the budget surplus. And fear- ful that if the President did not get his way he would veto the budget and tax Congress with the blame for another government shutdown, many Members of Congress voted and voted and voted for this raid on the surplus.

That was just the first in what is ex- pected to be a series of efforts by Presi- dent Clinton to spend down the surplus coming months. Another $25 billion supplemental spending request is already in the works. Coupled with a peacetime tax burden that is at an all-time high and growing, this portends a dangerous return to the old ways of budget-busting, bigger govern- ment—that is, unless we agree to abide by the lasting discipline of a constitutio- nal requirement to balance the budget. The Balanced Budget/Spending Limita- tion Amendment would impose disci- pline on Congress and the President in two ways. First, it would require that we maintain a balanced federal budget. Second, consistent with the vision of balanced fiscal years, it would limit federal spending to 19 percent of the national income, as measured by the Gross Domestic Product. That is roughly the level of revenue collected by the federal government over the last 40 years. A December 1998 report by the Joint Economic Commit- tee concludes that the optimal level of spending may actually be lower—17.5 percent of GDP. In other words, beyond a certain point—the Joint Committee suggests it is 17.5 percent of GDP—government’s claim to private resources can actually hurt the economy. Consider, for exam- ple, that economic growth during the high-tax Clinton years has averaged only about 2.3 percent annually, whereas we averaged 3.9 percent annual growth during the period after the Reagan tax cuts and before the 1990 tax increase.

Raising sufficient revenue to pay for government’s essential operations is obviously a necessary part of govern- ing, but raising tax rates is not nec- essarily the best way to raise revenue. As recent experience proves, it is a strong and growing economy—not high tax rates—that generates substantial amounts of new revenue for the Treas- ury. It was the growing economy that helped eliminate last year’s unified budget deficit.

The advantage of the Balanced Budget/Spending Limitation Amendment is that it keeps our eye on the ball. It tells Congress to limit spending. And by linking spending to economic growth, it gives Congress a positive in- centive to enact and defend economic and tax policies. Only a healthy and growing economy—measured by GDP— would increase the dollar amount that Congress is allowed to spend, and thus increase the size of the economy. In other words, 19 percent of a larger GDP represents more revenue to the Treasury than 19 percent of a smaller GDP.

I urge my colleagues to consider the need for a balanced budget amendment, and the advantages of the Balanced Budget/Spending Limitation Amendment in particular. I ask unanimous consent that the text of the amend- ment be printed in the Record. The joint resolution was ordered to be printed in the Record, as follows: S. J. Res. 4

Resolved by the Senate and House of Rep- resentatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legis- latures of three-fourths of the several States within seven years after the date of its submission for ratification:

‘‘ARTICLE—

“SECTION 1. Except as provided in this arti- cle, outlays of the United States Government for any fiscal year may not exceed its receipts for that fiscal year.

“SECTION 2. Except as provided in this article, the outlays of the United States Govern- ment for any fiscal year may not exceed 19 per centum of the Nation’s gross domes- tic product for the last calendar year ending before the beginning of such fiscal year.

“SECTION 3. The Congress may, by law, pro- vide for suspension of the effect of sections 1 or 2 of this article for any fiscal year for which three-fifths of the whole number of each House shall agree, by a roll call vote, for a specific excess of outlays over receipts or over 19 per centum of the Nation’s gross domes- tic product for the last calendar year ending before the beginning of such fiscal year.

“SECTION 4. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except those for the repayment of debt principal.

“SECTION 5. This article shall apply to the second fiscal year beginning after its ratifi- cation and to subsequent fiscal years.’’. By Mr. GRAMM (for himself and Mr. GORTON):

S. J. Res. 5. A joint resolution to pro- vide for a Balanced Budget Consti- tutional Amendment that prohibits the use of Social Security surpluses to achieve compliance; to the Committee on the J udiciary.

BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. GRAMM. President, I rise today with Senator Gorton to introduce a Balanced Budget Constitutional Amendment which is designed to protect Social Security. Since we last con- sidered a balanced budget amendment in the Senate, we have achieved bal- ance in the unified federal budget for the first time in 30 years, and have made substantial progress toward achieving balance without relying on the surpluses currently accumulating in Social Security. For 1998, the De- partment of the Treasury reports that the federal government had a unified budget surplus of $70 billion, and an on-budget deficit of $29 billion when the $99 billion surplus in Social Security is not counted. This on-budget deficit is
projected to disappear by 2002 under current budget policies.

The Balanced Budget Constitutional Amendment I am introducing today is identical to S. J. Res. 1 of the 105th Congress, which received 66 votes in the Senate. It cost $3.7 billion, far below what that goal is within our reach. We should take this opportunity to approve this Constitutional amendment and send it to the States for ratification. This Constitutional amendment would provide the structure and enforcement mechanism to allow us to achieve this bipartisan goal.

By Mr. HOLLINGS (for himself, Mr. SPECTER, Mr. MCCAIN, and Mr. BRYAN):

S.J. Res. 6. A joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections; to the Committee on the Judiciary.

Mr. HOLLINGS. Mr. President, I rise today to address a problem with which we are all too familiar: the ever-increasing cost of political campaigns. Sadly, it can be counted not only in millions of dollars but also in lost credibility. Each election year, our political system and we as representatives lose the invaluable and irreplaceable trust of the American people.

The amount of money required to wage a political campaign today has given rise to the pervasive belief that our elections—indeed, even we ourselves—are up for sale to the highest bidder. Though this is not the reality, the fact is that it is the perception among the American people.

It is time to strike a blow against the anything-goes fundraising and spending encouraged by both political parties. The need to limit campaign expenditures is more urgent than ever: the total cost of Congressional campaigns skyrocketed from $446 million in 1990 to over $620 million in 1996. This represents a 71 percent increase in just six years. Although fundraising slowed in the election cycle just ended, candidates for general election in 1998 still spent over $10 million more than their counterparts in 1996.

Make no mistake: this lull is a temporary one. Experts attribute the slowed spending last year to the unusually large number of uncontested elections. I know this is true because in my state, which was the setting for highly competitive elections for my Senate seat as well as the governorship and other state offices, candidates spent $3.7 billion in March and April alone. That was the most expensive election in South Carolina history. In fact, although the total cost of all Congressional elections increased only slightly this year, candidates for Senate office spent over 15 percent more than their counterparts in 1996.

We can be sure that in 2000, election spending will skyrocket to new, astounding levels. And we can be equally sure that the public’s overwhelming cynicism about its representatives and to the problem of corruption, or at least its appearance in our political system.

At best, the obsession with money distracts attention from the people’s business. At worst, corruption permeates the very fabric of our Democracy. At worst, it corrupts and degrades the entire political process. Fundraisers used to be arranged so they don’t conflict with the Senate schedule; nowadays, the Senate schedule is regularly shifted to accommodate fundraisers. This is the result of the rising costs of political campaigns. Ironically, campaign expenditures have risen dramatically, far exceeding inflation, since Congress attempted campaign finance reform in 1974. Campaigns today have raised 10 times more money than the average winning candidates—the most useful measure of the real costs of running for office. The average cost for a winning House candidate rose from $87,000 in 1976 to $487,000 in 1996. For a victorious Senate candidate, the cost of victory rose from $609,000 to $4.4 million last year.

I remember Senator Richard Russell used to say, “They give you a six year term in this U.S. Senate; two years to be a statesman, the next two years to be a politician, and the last two years to be a demagogue.” Regrettably, we are no longer afforded even 2 years as statesmen. We proceed straight to demagoguery after an election because of the imperatives of raising money.

The public demands the system be cleaned up. But how? For years, Senators SPECTER and I have introduced a constitutional amendment allowing Congress to set reasonable campaign expenditure limits. Today Senator SPECTER and I will reintroduce our amendment to empower Congress and the States to limit campaign spending as they see fit. I believe a constitutional amendment is the only way to fix the system; yet since 1976, Congress has failed to adopt one. It has opted instead for a series of half-hearted, piecemeal solutions, with predictable results.

For nearly a quarter of a century, Congress has tired to tackle runaway campaign spending through statutory means. Again and again, Congress has failed. Let us resolve not to repeat the mistakes of past campaign finance reform efforts, which have bogged down in partisanship as Democrats and Republicans each have tried to gorge the other’s sacred cows.

The most recent statutory attempt to reform our tangled campaign finance system was the McCain-Feingold campaign finance reform bill. Although I supported this legislation and will do so again this year, I have grave doubts about its ability to effectively reform our tangled campaign finance system. I fear McCain-Feingold never will be enacted, and that even if it passes, it will not withstand the Supreme Court’s scrutiny.

Since 1976, the Supreme Court has made it clear that it will not uphold any law that limits the money political candidates can spend to win office. The most recent example of the Court’s position, as well as of the obstacles local and state officials attempting reform face, occurred during the November, when the Supreme Court refused to entertain an appeal from the City of Cincinnati involving an ordinance that limited the amount city council candidates could spend trying to get elected. That ordinance had been struck down by a lower federal court as unconstitutional. So you see, Mr. President, no statutory legislation—at the federal, state, or local level—is going to succeed at cleaning up our political system because no such legislation will pass constitutional scrutiny.

The framework for today’s campaign finance system was erected back in 1974, when Congress responded to public outrage over the Watergate scandals and the disturbing money trails flowing from the 1972 President election by passing, on a bipartisan basis, a comprehensive campaign finance law. I was here in 1974, and I was proud to support the Federal Election Campaign Act. The centerpiece of this reform was a limitation on campaign expenditures. Congress recognized that spending limits were the only rational alternative to a system that essentially awards office to the highest bidder.

Unfortunately, in 1976, the Supreme Court overturned these spending limits in its infamous Buckley versus Valeo decision. The Court mistakenly equated a candidate’s right to spend unlimited sums of money with his right to free speech. In the face of spirited discussion about constitutional disapprobation, the Court concluded that limiting an individual’s campaign contributions was a justifiable abridgment of the First Amendment, on the grounds that “the governmental interest in preventing corruption and the appearance of corruption outweighs considerations of free speech.”

Yet the Court also concluded, in a discordant and confusing decision, that the state’s interest in preventing corruption and its appearance did not justify limiting a candidate’s total expenditures. This, the Court ruled, constituted an unacceptable infringement on candidates’ speech.

I have never been able to fathom why that same test—the governmental interest in preventing corruption and the appearance of corruption—does not justify limits on campaign spending. The Court compounded the error by striking down spending limits as a threat to free speech. The fact is, imposing spending limits in federal campaigns would help restore the free
speech that has been eroded by the Buckley decision.

As Professor Gerald G. Ashdown wrote in the New England Law Review, amending the Constitution to allow Congress to regulate campaign expenditures is the most attractive of the approaches to reform since, from a broad free speech perspective, the decision in Buckley is misguided and has worsened the campaign finance atmosphere.” Adds Professor Ashdown: “If Congress could constitutionally regulate the campaign expenditures of candidates, and committees, along with contributions, most of the troubles ... would be eliminated.”

Let us be done with the hollow charge that spending limits are somehow an attack on freedom of speech. As Justice Byron White pointed out in his dissent from the majority’s Buckley opinion, both contribution limits and spending limits are neutral as to the content of speech and are not motivated by fear of the consequences of political speech in general.

The Buckley decision created a double bind. It upheld restrictions on campaign contributions but struck down restrictions on campaign spending, with deep pockets can spend. The Court ignored the practical reality that if my opponent has only $50,000 to spend in a race and I have $1 million, then I can effectively deprive him of speech. By failing to respond to my advertising, my cash-poor opponent will appear unwilling to speak up in his own defense.

Justice Thurgood Marshall zeroed in on this disparity in his dissent to Buckley. By striking down the limit on what a candidate can spend, Justice Marshall said, “It would appear to follow that the candidate with a substantial personal fortune at his disposal is off to a significant head start.”

Indeed, Justice Marshall went further. He argued that by upholding the limitations on contributions but striking down limits on overall spending, the Court put an additional premium on a candidate’s personal wealth. Justice Marshall was dead right. The Buckley decision has been a boon to wealthy candidates, who can flood the airwaves and drown out their opponents’ voices.

Make no mistake: political speech is not free. A political candidate’s ability to express political ideas and to influence the voters depends entirely on his finances. Thus, candidates who are personally wealthy or possess large campaign coffers have a tremendous advantage over poorer candidates—they always will enjoy more speech. The amendment Senator Specter and I propose today will help level the playing field between rich and poor candidates and ensure that all enjoy equal speech.

Believe me, Mr. President, I am not enthralled with the rhetoric of today. The Court itself equated money with speech in its Buckley decision. Of course, the Court—and critics of this amendment—adheres to the belief that limiting candidate expenditures is a violation of the First Amendment. Yet the Court rules in 1976 that there exist compelling interests—in this case, the need to prevent the appearance and reality of corruption—to justify the states’ circuit enacting protected speech. All this amendment does is apply the Court’s rationale to candidates’ speech.

Buckley’s nullification of spending limits has helped give rise to American’s belief that political offices are up for sale to the highest bidder and has served to promote the demise of our democracy. By rendering spending limits impossible it has fueled the escalating costs of campaigns and forced politicians to focus more and more on fundraising and less on important public issues. Our urgent task is to right the injustice of Buckley versus Valeo by empowering Congress to limit campaign spending.

My proposed constitutional amendment would accomplish this. It does not proscribe specific cures for what it claims to cure. Instead, it would provide Congress the authority to reform the system by limiting candidate spending.

To a distressing degree today, elections are determined not in the political marketplace but in the financial marketplace. Our elections are supposed to be contests of ideas, but too often they degenerate into megadollar derbies, paper chases through the board rooms of corporations and special interests.

Mr. President, campaign spending must be brought under control. The constitutional amendment I have proposed would permit Congress to impose fair, responsible, workable limits on Federal campaign expenditures.

Such a reform would have four important effects. It would end the mindless pursuits of enormous campaign war chests. Also, it would free candidates from their current obsession with raising money to keep their war chests full. It would focus more on issues and ideas; once elected to office, we wouldn’t have to spend 20 percent of our time raising money to keep our seats. Third, it would curb the influence of special interests and fund a more level playing field for all candidates.

Before concluding, Mr. President, I would like to elaborate on the advantages of a constitutional amendment approach. I propose over statutory attempts to reform the campaign system. Recent history amply demonstrates the practicality and viability of this constitutional route. It is not coincidences that the six most-recent amendments to the Constitution have dealt with Federal election issues. These are profound issues which go to the heart of our democracy; it is entirely appropriate that they be addressed through a constitutional amendment.

And let it not be said by the argument that spending the constitution will take too long. Take too long? We have been dithering on this campaign finance issue since the early 1970s, and we haven’t advanced the ball a single yard. It has been a quarter of a century, and no legislative solution has done the job.

Excluding the unusual case of the Twenty-seventh Amendment, which required 2/3 vote to be ratified, the last five constitutional amendments took an average of only 17 months to be adopted. There is no reason why we cannot pass this joint resolution, submit it to the States for a vote, and ratify the amendment in time for it to be in effect with the 2000 elections. Indeed, this approach could prove more expeditious than the alternative statutory approach. This joint resolution, once passed by the Congress, will go directly to the States for ratification. Once ratified, it will become the law of the land and will not be subject to veto or Supreme Court challenge.

Furthermore, I anticipate and reject the argument that if we were to pass and ratify this amendment, Democrats and Republicans would be unable to hammer out a mutually acceptable formula of campaign expenditure limits. A Democratic Congress and Republican President did exactly that in 1974, and we can certainly do it again.

Mr. President, this amendment will address the campaign finance mess directly, decisively, and conclusively. The Supreme Court has chosen to ignore the overwhelmingly detrimental effects of money in today’s campaigns. By striking down the Buckley decision, it elucidated a vague and inconsistent definition of free speech. In its place, I urge passage of this amendment. Let us ensure equal freedom of expression for all who seek Federal office.

By Mr. HATCH (for himself, Mr. Thurmond, Mr. Craig, and Mr. Ashcroft):

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

The Constitutional Balanced Budget Act of 1999

Mr. HATCH. Mr. President, I am today, once again, introducing a constitutional amendment to balance the budget. In so doing, I continue the effort that I and many of my colleagues have long pursued to provide a permanent and strong mandate for a fiscally responsible Congress.

It is a political reality, of course, that Congress’ success in decreasing our deficit levels and achieving a balanced budget in the 105th Congress to a certain extent mitigated the urgency of passing this Constitutional Amendment.

In my view, however, this is the ideal time to move forward on a constitutional amendment. The fact that we have reached a balanced budget has shown that it can be done. Significantly, it has refuted the arguments and scare tactics of opponents that a balanced budget would mean the end of Social Security and Medicare. Rather,
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Mr. MOYNIHAN. Mr. President, I rise to introduce a resolution that notes with approval the International Labor Organization’s new Declaration on Fundamental Principles and Rights at Work, which was agreed in June 1998 at the 86th International Labor Conference. This resolution simply urges the prompt and effective implementation of this important Declaration and its monitoring mechanism.

The impact of globalization on working conditions and, indeed, on workers’ rights in general, has arisen as an important, and somewhat difficult, issue in the debate over the direction of America’s trade policy. In 1997, I suggested to the Administration that they might look to the International Labor Organization for assistance in addressing this matter. After all, the ILO was established in 1919 for the express purpose of providing governments that sought to do so with the means to improve labor standards with a means of so doing—international conventions—that would not compromise their competitive advantages.

I worked with the Administration to incorporate into the Clinton Administration’s fast track trade negotiating language recognizing the important role of the ILO, and in September 1997, the distinguished Chairman of the Finance Committee agreed to include the ILO provisions in his own fast track bill. In July 1998, the Finance Committee updated the bill to reflect its approval of, and hopes for, the new Declaration on Fundamental Principles and Rights at Work and its monitoring mechanism.

In essence, the ILO has bundled together, in a single declaration, four sets of fundamental rights—the core labor standards embodying the broad principles that are essential to membership in the ILO. Having declared that these rights are fundamental, the document then provides for a monitoring system—a “follow-up” mechanism, to use the ILO term—to determine how countries are complying with these elemental worker rights.

The four sets of fundamental rights are: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labor; the effective abolition of child labor; and the elimination of discrimination in respect of employment and occupation.

These rights flow directly from three sources. First, from the ILO Constitution itself, which was drafted by a commission headed by Samuel Gompers of the American Federation of Labor and became, in 1919, part XIII of the Treaty of Versailles. Second, from the immensely important Declaration of Philadelphia, which reaffirmed, at the height of World War II, the Fundamental Principles of the ILO, including freedom of expression and association and the importance of equal opportunity and economic security. Adopted
in 1944, the Declaration of Philadelphia was formally annexed to the ILO Constitution two years later. And, not least, these four groups of core labor standards flow from the seven ILO conventions that are recognized as Core Human Rights Conventions.

These seven conventions are not the highly technical agreements that make up the vast majority of the ILO’s 181 conventions. Rather, they directly address the core concerns of workers. They are Convention No. 29, the Forced Labor Convention of 1930; Convention No. 87, the Freedom of Association and Protection of the Right to Organize Convention of 1948; Convention No. 98, the Right to Organize and Collective Bargaining Convention of 1949; Convention No. 100, the Equal Remuneration Convention of 1951; Convention No. 105, the Abolition of Forced Labor Convention of 1957; Convention No. 111 on Discrimination in Employment and Occupation, which was done in 1958; and Convention No. 138, the Minimum Age Convention of 1973.

They are extraordinary conventions. The Fourth Summit in Copenhagen in 1995 identified six of these ILO conventions as essential to ensuring human rights in the workplace: Nos. 29, 87, 98, 100, 105, and 111. The United Nations High Commissioner for Human Rights has classified them as “International Human Rights Conventions.” The Governing Body of the ILO subsequently added to the list of core conventions Convention No. 138, the minimum age convention, in recognition of the importance of collective bargaining in the workplace. These conventions embody the broad principles that are basic to membership in the ILO.

The Director-General of the World Trade Organization, Renato Ruggiero, was solidly behind the ILO’s and OS, as we discussed at length in Geneva during a visit in January 1998. In the end, the tenacity of Secretary of Labor Alexis Herman and her able Deputy Under Secretary for International Labor Affairs, Joseph Saimet, Abraham Katz, President of the United States Council for International Business, and John Sweeney, President of the AFL-CIO, paid off; the Declaration was approved in June 1998 by an overwhelming margin.

The Declaration can play a useful role in advancing core labor standards if it is carried out with energy and determination. The key will be its follow-up mechanism and the extent to which it is carried out with energy and determination. The key will be its follow-up mechanism and the extent to which it is carried out with energy and determination.

The ILO was founded in the conviction that social justice is essential to universal and lasting peace; whereas economic growth is essential but not sufficient to ensure equity, social progress and the eradication of poverty, conferring the need for the ILO to promote strong social policies, justice and democratic institutions; whereas the ILO should, now more than ever, draw upon its rich fund of technical cooperation and research resources in all its areas of competence, in particular employment, vocational training and working conditions, to ensure that, in the context of a global strategy for economic and social development, economic and social policies are mutually reinforcing components in order to create broad-based sustainable development; whereas the ILO should give special attention to the problems of persons with special social needs, such as unemployed persons and migrant workers, and mobilize and encourage international, regional and national efforts to address these problems, and promote effective policies aimed at job creation; whereas, in seeking to maintain the link between social progress and economic growth, the guarantee of fundamental principles and rights at work is of particular significance in that it enables the persons concerned to claim the basis of economic growth; whereas the ILO is the constitutionally mandated international organization and the competent body to set and deal with international labour standards, and enjoys universal support and acknowledgement in promoting fundamental rights at work as the expression of its constitutional principles; whereas it is evident in a situation of growing economic interdependence, to reaffirm the immutable nature of the fundamental principles and rights enshrined in the Constitution of the Organization and to promote their universal application; whereas the ILO, all Members have endorsed the principles and rights set out in its Constitution and in the Declaration of Philadelphia, and have undertaken to work towards attaining the overall objectives of the Organization to the best of their resources and in line with their specific circumstances; (b) that these principles and rights have been expressed and developed in the form of specific rights and obligations in Conventions recognized both inside and outside the Organization.

2. Declares that all Members, even if they have not ratified the Conventions in question, have an obligation, arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles and fundamental rights which are the subject of those Conventions, namely:

(a) freedom of association and the effective recognition of the right to collective bargaining;
(b) the elimination of all forms of forced or compulsory labor;
(c) the effective abolition of child labor; and
The follow-up will be based on the findings of the aforementioned annual follow-up. In the case of Members which have ratified one or more of the fundamental Conventions, it will be based in particular on official information, or information gathered and assessed in accordance with established procedures. In the case of States which have not ratified the fundamental Conventions, it will be based in particular on the information contained in their reports.

SECTION I. SHORT TITLE
This resolution may be cited as the ‘Biomedical Revitalization Resolution of 1998’.

SEC. 2. SENSE OF THE SENATE
It is the sense of the Senate that funding for the National Institutes of Health should be increased by $2,000,000,000 in fiscal year 2000 and that the budget resolution appropriately reflect sufficient funds to achieve this objective.

Mr. SPECTER. Mr. President, I have sought recognition today for the purpose of submitting a resolution calling for the Budget Committee to add $2 billion in the health account for the National Institutes of Health in fiscal year 2000. I am convinced that National Institutes of Health are the crown jewel of the Federal Government and they have made tremendous progress in conducting research into the causes and cures for disease. My vision for America in the 21st Century is to find the cure for cancer, for Alzheimer’s, for Parkinson’s, for the severe mental illnesses, for diabetes, for osteoporosis, and for heart cardiovascular disease. All of this is within our reach if we make the proper allocation of our resources.

As Chairman of the Appropriations subcommittee for Labor, Health and Human Services, Education and Related Agencies, I am firmly committed to prioritizing our resources to provide maximum funding for biomedical research. Funding for the National Institutes of Health has been increased steadily during my tenure in
the Senate, regardless of who was chairing the subcommittee. Although the budgets were always tight and frequently had cuts called for by the administration, when the chairman was Senator Weicker, when the chairman was Tom Harkin, or more recently under my chairmanship, we have increased the funding tremendously. And the National Institutes of Health has responded with extraordinary advances in research. Now the work has to be pushed forward to see exactly what can be accomplished in the next century.

On May 21, 1997, the Senate passed a Sense of the Senate resolution submitted by our distinguished colleague, Senator Mack, which stated that funding for the National Institutes of Health should be doubled over five years. Regrettably, even though that resolution was passed by an overwhelming vote of 98 to nothing, when the budget resolution was returned, the appropriated account had a reduction of $100 million. That led to the introduction of an amendment to the budget resolution by Senator Harkin and myself, Senator Harkin being my distinguished colleague and ranking member of the subcommittee with the chair. We sought to add in $1.1 billion to carry out the expressed sense of the Senate. Our amendment, however, was defeated 63-37. While the Senate had expressed its druthers on a resolution, when it came to the dollars they simply were not there.

During debate on the fiscal year 1999 Budget Resolution, Senator Harkin and I again introduced an amendment which called for a funding increase for the National Institutes of Health of $2 billion and provided sufficient resources in the budget to accomplish this. While we gained more support on this vote than in the previous year, unfortunately our amendment was again defeated by a vote of 51-49.

In order to provide the necessary resources for biomedical research, Senator Harkin and I have worked closely together to find these vital funds. In the past few years, Senator Harkin and I have consolidated and eliminated 135 programs to enable us to save $1.5 billion. It’s pretty hard to eliminate a program in Washington, DC but we have been able to do that. We used the $1.5 billion to provide to the National Institutes of Health account, the largest increase in history. We, however, still have a long way to go if we are to meet our goal of doubling the funding over five years.

Our investment has resulted in tremendous advances in medical research. A new generation of AIDS drugs are reducing the presence of the AIDS virus in HIV affected persons to nearly undetectable levels. Death rates from cancer have begun a steady decline. Human genome research has yielded dramatic developments in uncovering genes associated with a host of diseases, such as breast and prostate cancer, Alzheimer’s disease, cystic fibrosis, and schizophrenia.

I have personally been the beneficiary of the tremendous advances of the National Institutes of Health. Two decades ago, there was no such thing as an MRI. That device detected a problem for me. As scientific advances led to good results for me. I know millions of people have benefited from the research and the investment which we have made in the National Institutes of Health. But that takes money, and that is why this resolution is being offered—to call upon the Budget Committee to add in $2 billion so we can carry forward the important work of the National Institutes of Health.

SENATE RESOLUTION 20—TO RE-NAMESPACE THE COMMITTEE ON LABOR AND HUMAN RESOURCES

The Committee on Health, Education, Labor, and Pensions

Mr. Jeffords (for himself and Mr. Kennedy) submitted the following resolution; which was considered and agreed to:

Resolved, That the Committee on Labor and Human Resources is hereby redesignated as the Committee on Health, Education, Labor, and Pensions.

SENATE RESOLUTION 21—CONGRATULATING THE UNIVERSITY OF TENNESSEE VOLUNTEERS FOOTBALL TEAM ON WINNING THE 1998 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I-A FOOTBALL CHAMPIONSHIP

Mr. Frist (for himself and Mr. Thompson) submitted the following resolution; which was considered and agreed to:

Resolved, That the Senate—

(1) recognizes May 15, 1999, Peace Officers Memorial Day, in honor of Federal, State, and local officers killed or disabled in the line of duty; and

(2) commends the University of Tennessee Volunteers football team for its pursuit of excellence and outstanding accomplishment in collegiate football in winning the championship.

SENATE RESOLUTION 22—NATIONAL PEACE OFFICERS MEMORIAL DAY RESOLUTION

Mr. Campbell (for himself, Mr. Abraham, Mr. Akaka, Mr. Allard, Mr. Biden, Mr. Bingaman, Mr. Brownback, Mr. Bryan, Mr. Burns, Mr. Cleland, Mr. Coverdell, Mr. Craig, Mr. Daschle, Mr. DeWine, Mr. Dodd, Mr. Domenci, Mr. Dorgan, Mr. Durbin, Mr. Enzi, Mrs. Feinstein, Mr. Fitzgerald, Mr. Frist, Mr. Gorton, Mr. Gramm, Mr. Gramm, Mr. Harris, Mr. Harkin, Mr. Helms, Mr. Hollings, Mrs. Hutchison, Mr. Inhofe, Mr. Inouye, Mr. Jeffords, Mr. Kennedy, Mr. Kerrey, Mr. Leahy, Mr. Lieberman, Mr. Lott, Mr. Lugar, Mr. Mack, Mr. McCain, Ms. Mikulski, Mr. Moynihan, Mr.Murkowski, Mr. Murray, Mr. Reich, Mr. Robb, Mr. Rockefeller, Mr. Roth, Mr. Sarbanes, Mr. Schumer, Mr. Sessions, Mr. Shelby, Mr. Smith of New Hampshire, Mr. Specter, Mr. Stevens, Mr. Thurmond, Mr. Torricelli, Mr. Warner, Mr. Bentsen, and Mr. Craig) submitted the following resolution; which was referred to the Committee on the Judiciary:

Resolved, That the Senate—

(1) recognizes May 15, 1999, Peace Officers Memorial Day, in honor of Federal, State, and local officers killed or disabled in the line of duty; and

(2) commends the University of Tennessee Volunteers football team on winning the 1998 National Collegiate Athletic Association Division I-A football championship; and

(3) congratulates the University of Tennessee Volunteers football team on winning the 1998 National Collegiate Athletic Association Division I-A football championship; and

(4) commends the University of Tennessee Volunteers football team for its pursuit of excellence and outstanding accomplishment in collegiate football in winning the championship.
men and women who lost their lives while serving as law enforcement officers. Specifically, this resolution would designate May 15, 1999, as National Peace Officers Memorial Day.

Currently, more than 700,000 men and women serve this nation as our guardians of law and order do so at a great risk. Every year, about 1 in 9 officers is assaulted, 1 in 25 officers is injured, and 1 in 4,400 officers is killed in the line of duty. There are few communities in this country that have not been impacted by the senseless death of a police officer.

In 1998, over 158 federal, state and local law enforcement officers have given their lives in the line of duty and nearly 15,000 men and women have made that supreme sacrifice. And, our Capitol community as well as the nation were shocked and saddened last year by the tragic and senseless shooting of Capitol Police Officer Jacob Chestnut and Special Agent John Gibson.

According to National Law Enforcement Officers Memorial Fund Chairman Craig W. Floyd, since crime began its steady downward slide in 1992, more than 1,160 federal, state and local law enforcement officers have lost their lives in the performance of duty. That averages out to 158 police deaths each year, or one officer killed somewhere in America roughly every 54 hours.

As a former deputy sheriff, I know first-hand the risks which law enforcement officers face every day on the front lines protecting our communities. Last year for example, in Corzete, Colorado, police officer Dale Claxton was fatally shot through the windshield of his patrol car after stopping a stolen truck. Officer Claxton was tragically and prematurely taken away from his wife and four children.

Today, two of the three suspects are still at large, even after an extensive search. Last year for example, in Colorado I want to thank you for introducing a Joint Resolution to designate May 15, 1999, as National Peace Officers Memorial Day.

Each year, more than 10,000 police officers, survivors and supporters attend the activities revolving around Peace Officers Memorial Day Washington, DC. Officers develop close bonds with victims from across the country. Survivors gain strength from others who have experienced and understand their grief. The entire membership of the IBPO looks forward to working with you on this important matter.

Once again, thank you for your continued support of law enforcement community.

Sincerely,

KENNETH T. LYONS,
National President.

FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION,
East Norriton, PA, January 6, 1999.
Hon. Ben Nighthorse Campbell,
U.S. Senator,
Washington, DC.

DEAR SENATOR CAMPBELL: On behalf of the over 15,000 members of the Federal Law Enforcement Officers Association (FLEOA), I wish to express our strong support for the resolution you intend to introduce to the 106th Congress regarding National Peace Officers Memorial Day. FLEOA is proud to stand with you on this legislation.

FLEOA is a non-partisan professional association representing federal agents from the agencies listed on the left masthead. We have local chapters all across the United States and several overseas. Each year, on May 15, all across America, federal agents stand with their law enforcement officer brethren and remember those from our ranks who gave their lives in the line of duty. FLEOA has been on the Executive Board of the National Law Enforcement Officers Memorial, located in Washington, DC, since its inception. As inscribed on the Memorial Wall, next to the names of the heroes and heroines, are these words: “It is not how these officers died that made them heroes; it is how they lived.” Your resolution will make sure their sacrifice, once again, will be remembered all across our great nation.

FLEOA is calling for all of our elected officials to cosponsor your resolution. We look forward to working on this and other issues with you and your staff. Thank you for all your efforts for law enforcement.

RICHARD J. GALLO,
National President.

DEAR SENATOR CAMPBELL: The International Brotherhood of Police Officers (IBPO) is an affiliate of the Service Employees International Union. The IBPO is the largest police union in the AFL-CIO.

On behalf of the over 50,000 members of the IBPO, including IBPO Local 516, Fountain, Colorado, I want to introduce a Joint Resolution to designate May 15, 1999, as National Peace Officers Memorial Day.

Every year, for one week during the month of May, the law enforcement community pays tribute to the families of the police officers who have paid the ultimate sacrifice at the National Law Enforcement Officers Memorial. Serving on the Board of Directors at the National Law Enforcement Officers Memorial Fund and as a former Detroit police officer for twenty-five years, I truly appreciate the sacrifices law enforcement officers make at home and abroad for all Americans who die and plan to commemorate with surviving family members, those who have lost their lives in the line of duty.

Every day law enforcement officers put their lives on the line to serve and protect our communities. Over the past few years, we have experienced a steady decrease in violent crime rates throughout our neighborhoods and cities. However, this does not come at a small price. In 1998, 155 of our Nation’s finest lost their lives protecting the citizens of this county. We ask you to remember these outstanding men and women every year.

Thank you for your dedication in advancing the interests of the law enforcement community. I look forward to working with you in the 106th Congress. Please let me know if I can be of any assistance in the future.

Sincerely, ROBERT T. SCULLY, Executive Director.

DEAR SENATOR CAMPBELL: On behalf of the over 50,000 members of the IBPO, including IBPO Local 516, Fountain, Colorado I want to thank you for introducing a Joint Resolution to designate May 15, 1999, as National Peace Officers Memorial Day.

According to National Law Enforcement Officers Memorial Fund Chairman Craig W. Floyd, since crime began its steady downward slide in 1992, more than 1,160 federal, state and local law enforcement officers have lost their lives in the performance of duty. That averages out to 158 police deaths each year, or one officer killed somewhere in America roughly every 54 hours.

As a former deputy sheriff, I know first-hand the risks which law enforcement officers face every day on the front lines protecting our communities. Last year for example, in Corzete, Colorado, police officer Dale Claxton was fatally shot through the windshield of his patrol car after stopping a stolen truck. Officer Claxton was tragically and prematurely taken away from his wife and four children.

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Thank you for your dedication in advancing the interests of the law enforcement community. I look forward to working with you in the 106th Congress. Please let me know if I can be of any assistance in the future.

Sincerely, ROBERT T. SCULLY, Executive Director.
Mr. LUGAR submitted the following resolution, which was referred to the Committee on Finance:

SENATE RESOLUTION 24—EXPRESSING THE SENSE OF THE SENATE THAT THE INCOME TAX SHOULD BE ELIMINATED AND REPLACED WITH A NATIONAL SALES TAX

Whereas the savings level in the United States has steadily declined over the past 25 years, and lagged behind the industrialized trading partners of the United States; Whereas the economy of the United States cannot achieve strong, sustained growth without adequate levels of savings to fuel productive activity; Whereas the income tax, the accompanying capital gains tax, and the estate and gift tax discourage savings and investment; Whereas the methods necessary to enforce the income tax infringe on the privacy of the citizens of the United States and, according to the Tax Foundation, divert an estimated $225,000,000,000 of taxpayer resources to comply with tax rules and regulations; Whereas the Internal Revenue Service estimates that each year it fails to collect 17 percent, or $37,000,000,000, of the income tax owed to the Federal Government; Whereas the income tax system employs a withholding mechanism that limits the transparency of Federal spending; Whereas the most effective tax system is one that promotes savings, fairness, simplicity, privacy, border adjustability, and transparency; Whereas it is estimated that the replacement of the income tax system with a national sales tax would cause the savings rate of Americans to substantially increase; Whereas the national sales tax would achieve fairness by employing a single tax rate, taxing the underground economy, and closing the tax base to deductions; Whereas the national sales tax would achieve simplicity by eliminating record-keeping for most taxpayers and greatly reducing the cumbersome collection points; Whereas the national sales tax would be the least intrusive tax system because most taxpayers would not be required to file returns or face audits from the Internal Revenue Service; Whereas the national sales tax is border adjustable and would place exporting by American businesses on a playing field with the foreign competitors of the United States; Whereas a national sales tax is a transparent tax system that would raise Americans' awareness of the cost of the Federal Government; and Whereas a national sales tax would best achieve the goals of an effective tax system:

Resolved, That it is the sense of the Senate that—

(1) the income tax system, both personal and corporate, the estate and gift tax, and the accompanying capital gains tax be replaced with a broad-based, single-rate national sales tax on goods and services; (2) the tax rate be set at a level that raises an equivalent level of revenue as the income taxes replaced; (3) the Federal Government work with the States to develop a State-based system to administer the national sales tax and that States be adequately compensated for such administration; and (4) the Congress and States work together in an effort to repeal the sixteenth amendment of the United States Constitution.

Mr. LUGAR. Mr. President, I am pleased to introduce the resolution expressing the sense of the Senate that the income tax system be abolished and replaced with a broad-based consumption tax on goods and services.

I support legislation passed last Congress and will continue to work within the confines of our tax system to improve it. However, the fundamental flaws of the income tax system remain. I strongly believe that Congress should abolish the income tax system in its entirety and begin anew.

The problems of the income tax are well documented. By taxing savings and investment at least twice, the income tax has become the biggest impediment to growth in the country. Each year it costs Americans more than 5 billion hours of time to comply with it. The system is unfair and riddled with loopholes. It favors foreign imports and discourages American exports. As witnesses testified before Congress last year, the IRS regularly violates the privacy rights of individuals while enforcing the income tax. And, finally, the system doesn’t work. By its own admission, the Internal Revenue Service fails to collect from nearly 10 million taxpayers, with an estimated $127 billion in uncollected taxes annually. Anything this broken should be ended decisively.

One can evaluate a tax system using many criteria. It must be (1) simple, (2) the least intrusive, (3) fair, (4) transparent, (5) border adjustable, and (6) friendly to savings and investment. I have studied tax reform proposals with these six factors in mind. Many are better than the current income tax. But if we are going to overhaul our tax system, we should choose the one that meets these criteria. I have concluded that a national sales tax is the best alternative.

An effective tax system should be simple. Under a national sales tax, the burden of complying with the income tax code would be lifted. There would be no records to keep or audits to fear. According to the Tax Foundation, business alone would save more than $225 billion to comply with the Tax Code. Under a national sales tax, compliance costs would drop by 90 percent. More than 100 million individuals who currently file taxes would be dropped from the tax rolls. With a national sales tax, the money individuals earned would be their own. It’s your decision to save it, invest it, or give it to your children. It is only when you buy something that you are taxed.

The national sales tax is the least intrusive of the tax proposals. The IRS would be substantially dismantled. The IRS would no longer look over the shoulders of every taxpayer. Americans would not waste time and effort worrying about recordkeeping, deductions, or exemptions that are part of the current Tax Code.

The national sales tax is the fairest alternative. Everyone pays the tax including criminals, illegal aliens, and others who currently avoid taxation. Wealthy Americans with lavish spending habits would pay substantial amounts of taxes under the national sales tax. Individuals who work and invest their money will pay less. Gone are the loopholes and deductions that provide advantages to those with the resources to shelter their income.

The national sales tax would also tax the underground economy. Criminals, drug dealers, and others who currently avoid taxation. Americans consume the proceeds of their activities, they will pay a tax. Foreign tourists and illegal aliens will pay the tax. Tax systems that rely on income reporting will never collect any of this money for the government.

Of course, the fairness test must likewise consider those with limited means to pay taxes. Like the income tax system, a national sales tax can and should be constructed so the tax burden on those individuals with the least ability to pay. One strategy for addressing this problem would exempt a threshold level of goods and services consumed by each American from the federal sales tax. Another strategy is to exempt items such as housing, food, or medicine. I am committed to designing a tax system that does not fall disproportionately on the less fortunate.

The national sales tax is the most transparent. A federal tax that is evident to everyone would bolster efforts in Congress to achieve prudence in federal spending. There should be no hidden corporate taxes that are passed on to consumers or withholding mechanisms that mask the amount we pay in taxes. Harvard economist Dale Jorgenson estimates that the corporate income tax and its compliance costs increase the cost of goods by 20 to 25 percent. The national sales tax would bring these costs back to the sunshine. Every year the public and Congress should openly debate the tax rate necessary for the federal government to meet its obligations. If average Americans are paying that rate every day, they will make certain that Congress spends public funds wisely.

American exports would also benefit from the enactment of a national sales tax. We must adopt a tax system that encourages exports. Most of our trading partners have tax systems that are border adjustable. They are able to strip out their tax when exporting their goods. In comparison, the income tax is not border adjustable. Americans who are shipping out their sales tax would be their own. It’s your decision to save it, invest it, or give it to your children. It is only when you buy something that you are taxed.

The national sales tax would be levied on imports. It would place our exports on a level playing field with those of our trading partners.

But the last and most imperative reason for replacing the income tax
with a national sales tax is that it would energize our economy by encouraging savings. The bottom line is that as a nation, we do not save enough. Savings are vital because they are the source of all investment and productivity gains—savings supply the capital for buying a new machine, developing a new product or service, or employing an extra worker.

The Japanese save at a rate nine times greater than Americans, and the Germans save five times as much as we do. Today, many believe that Americans inherently consume beyond their means and cannot save enough for the future. Few realize that before World War II, before the income tax system developed into its present form, Americans saved a larger portion of their earnings than the Japanese.

A national sales tax would reverse this trend by directly taxing consumption and leaving savings and investment untaxed. Economists agree that a broad-based consumption tax would increase our savings rate substantially. Economist Laurence Kotlikoff of Boston University estimates that our savings rate would more than triple in the first year. Economist Dale Jorgenson of Harvard University has concluded that the United States would have experienced one trillion dollars in additional economic growth if it had adopted a consumption tax like the national sales tax in 1966 instead of the current system.

As I have outlined here today, I believe the national sales tax is the best tax system to replace the income tax. If we enact a tax system that encourages investment and savings, billions of dollars of investment will flow into our country. This makes sense—America has the most stable political system, the best infrastructure, a highly educated workforce and the largest consumer market in the world. Our economic growth and prosperity would be undermined. I am committed to bringing this message of hope to all Americans, and I look forward to working with my colleagues on advancing this important endeavor.

SENATE RESOLUTION 25—TO REFORM THE BUDGET PROCESS BY MAKING THE PROCESS FAIRER, MORE EFFICIENT, AND MORE CLEAN

Mr. MCCAIN (for himself and Mr. KYL) submitted the following resolution; which was referred to the Committee on Rules and Administration.

S. RES. 25

SECTION 1. REQUIREMENT OF AUTHORIZATION FOR PROGRAMS OVER $10,000,000.

(a) IN GENERAL.—Paragraph 1 of rule XVI of the Standing Rules of the Senate is amended by inserting “in excess of $10,000,000” after “new item of appropriation.”

(b) VOTE POINT OF ORDER.—Rule XVI of the Standing Rule of the Senate is amended by adding the following:

"9. Paragraph 1 may be waived or suspended only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under paragraph 1."

SEC. 2. PROCEEDING TO APPROPRIATIONS BILLS IN THE SENATE.

Rule XVI of the Standing Rules of the Senate is amended by adding at the end the following:

"10. On any day after January 30 of a calendar year, a motion to proceed to the consideration of an appropriations measure shall be decided without debate."

ADDITIONAL STATEMENTS

OPENNESS ON THE IMPEACHMENT TRIAL

Mr. FEINGOLD. Mr. President, I rise today in strong support of opening Senate deliberations to the public during the course of the impeachment trial against President Clinton. I will therefore support the motion to be offered by Senators HARKIN and WELSTONE to suspend the rules in order to open the proceedings to public scrutiny.

In this trial, the United States Senate is charged by the Constitution with deciding whether to remove from office a President twice elected by the American people. Although I am certain that every member of the Senate will undertake this national responsibility with the utmost gravity and perform “impartial justice” as our oath commands, I am concerned that the American people will be shut out of this process at some of its most crucial moments.

America's great experiment in democracy trusts the people to elect a President in a process that consists of months of public discussion, primaries, caucuses, debates, and finally an election option that allows citizens to participate. In stark contrast, the Senate's rules preclude the public from seeing its deliberations on whether an impeachment case will be dismissed, whether witnesses will be called or further evidence introduced, and even the ultimate debate regarding the guilt or innocence of the President. In short, Mr. President, the Constitution trusts the people to elect a President, but our current Senate impeachment rules do not trust them to have even the most passive involvement in our deliberative process, even when the debate might result in overturning the people's judgment in a national election.

Let me take a moment to describe again for my colleagues how our current impeachment rules work. The Senate is not only the trier of fact in this case, but it also acts as the ultimate arbiter of law. It can overturn the Chief Justice's rulings on evidentiary questions and make decisions, which cannot be appealed to any court, on many of our nation’s most important impeachment rules, which were first drafted in connection with the Andrew Johnson impeachment and most recently revised in 1969, do not permit the Senate to debate any of the decisions that it must make, except in closed session. In fact, the rules provide that decisions on evidentiary rulings are to be made with no debate whatsoever.

I believe that motions can be debated, but only in private. So, for example, we expect that after the presentations are made on both sides, a motion will be made to dismiss the case against the President. Under our rules, the House managers and the President’s lawyers will argue that motion, but the Senate cannot debate it in open session. In fact, if a majority of the Senate wants to preclude debate entirely, it can do that by simply voting against a motion to take the Senate into private session for deliberations. Thus, before we vote on what could be a dispositive motion in this case, our only options are to discuss it behind closed doors or not discuss it at all.

I think this is wrong. We need a chance to debate this motion as Senators. I want to hear from my colleagues before I vote, not just after they speak on television. I am careful and respectfully entertain my colleagues' arguments, and I refuse to rule out the possibility that a well-reasoned argument offering a different perspective will influence my decision. But the American people also deserve to hear what we say to each other as we debate this motion. I see little to be gained from closing these deliberations and much to be lost. We must do everything we can to ensure confidence in our fairness and impartiality. How can we expect the public to have faith in us if we close the doors at the very moment when we finally will speak on the dispositive questions of this historic trial?

Opponents of openness argue that in the only Presidential impeachment trial in our nation's history, that of Andrew Johnson, the Senate's deliberations were closed. While it may be tempting to rely on the precedent of the one previous Presidential impeachment trial, which occurred one-hundred and thirty years ago, I believe we should take a fresh look at this issue. In particular, we should consider how drastically the rules of the Senate and the composition of the Senate have changed.

The Senators who presided over President Johnson's impeachment were not selected by the American people directly, but were chosen by various state legislatures, and thus were not directly responsive to the popular will. Today, we as Senators represent the citizens of our state directly and we are accountable to them at the ballot box. Furthermore, until 1929, the Senate debated nominations and treaties in closed sessions; and until 1975, many committee sessions took place in private. Today, all of our proceedings are open to the public, except in rare cases in which the senator presiding allows for private debate. The rules governing membership in the Senate as well as the openness of Senate proceedings have consistently evolved
Throughout our history toward greater public involvement. The rules governing impeachment trial deliberations must move in that direction as well.

Opening these proceedings as Senators Harkin and Wellstone have proposed, the American public feel more involved in the process. With the percentage of voters who cast their ballot on election day declining in each succeeding election and polls showing that the public feels increasingly alienated from political processes, with people openly questioning the relevance of their elected representatives and the Congress as a whole to their daily lives, we must lay open to the American people our deliberations on the most crucial decision short of declaring war that the Constitution ultimately entrusts to us. Democracy can only flourish when the people feel that they have a stake in the process. Conducting our impeachment deliberations in private sends the message that when the really important decisions need to be made, the American public is not welcome to observe. This is precisely the wrong message to send.

Thus far in the impeachment process, there has been little to celebrate. Most Americans expect and indeed conclude that the House of Representative’s inquiry was plagued by partisanship. Many fear that the Senate will do the same. With the eyes of the country upon it, the Senate has an opportunity to restore America’s faith in the constitutional process. Open deliberations will enhance the public’s understanding and discussion of this case. It may even serve to chip away some of the pervasive cynicism in our country as Americans watch how their elected representatives conduct themselves during consideration of the articles. I trust that my colleagues will reach their decisions on the merits after careful, reasoned and informed consideration of the evidence and the arguments presented. But if my colleagues are justified, that our deliberations will be thoughtful, high-minded, vigorous, and non-partisan. And if we have that deliberation in the open, it will be remembered as one of the Senate’s finest hours.

Kayann Elizabeth Hayden

Mr. Coverdell. Mr. President, I rise today in honor of Kayann Elizabeth Hayden for her commitment to excellence in academics and as an outstanding young person. Kayann is a senior at Gilmer High School in her hometown of Ellijay, Georgia. Throughout Kayann’s schooling, she has maintained an A average and is President of the Beta Club. Her peers have voted her Most Likely To Succeed Senior Superlative for 1998 - 1999 school year.

In addition to maintaining an outstanding academic record, Kayann has been involved in several sports, organizations, and other extracurricular activities. Currently serving as senior class president, she has been a leader in student government. Kayann is also a member of the Gilmer High 4-H and the Future Homemakers of America where she is Co-President of the local chapter. In sports, she participated on the high school cross country and track teams. Finally, she was named Miss Apple for the 1994 - 1995 Gilmer County Apple Festival Pageant and Miss Apple Princess for the 1995 - 1996 Pageant.

Kayann’s commitment to excellence also extends to the community. She is a student member of the Gilmer Teen Pregnancy Awareness Board as well as an active member of First Baptist Church in Ellijay, Georgia. She has volunteered for the Gilmer County Chamber of Commerce, American Cancer Association’s Relay for Life, and the Gilmer Arts and Heritage Association.

Once again, Mr. President, I would like to thank Kayann Elizabeth Hayden for her commitment to both academic and civic excellence. As we discuss possible education reform, we can use Kayann as a model for the type of student our schools should be producing.

Mr. MOYNIHAN. Mr. President, at a time when we risk the ever coarsening of our public affairs, we would do well to remember a man whose service to this country was distinguished as no other for civility and elegance. I ask that this tribute to Clark M. Clifford by Sander Vanocur be printed in the RECORD.

The tribute follows.

TRIBUTE TO CLARK CLIFFORD
(By Sander Vanocur)

The following anonymous poem was sent to Clark Clifford’s daughters, Joyce and Randall, by their sister, Faith, who could not be here today:

Think of stepping on shore
And finding it Heaven.
Of taking hold of a hand
And finding it God’s.
Of breathing new air,
And finding it celestial air,
Of being invigorated
And finding it immortality,
Of passing from storm and tempest
To an unbroken calm,
Of waking up,
And finding it Home.

In the secular sense, Clark Clifford found that home in Washington more than fifty years ago. And having found that home, let us be said that while he was here, he graced this place.

It was a much different place when he and Marry came here, smaller in size but larger in imagination, made larger in imagination by World War II. It may have been, then and for a good time after, as John F. Kennedy once noted, a city of Southern efficiency and Northern charm. But it was also, at least then, a place where dreams could be fashioned into reality, an intensely political city, dreams, as always, had to be fashioned by reality. And it was in this art of political compromise where Clark Clifford flourished. He was, of course, the consummate Washington insider. Quite often the term was used in the pejorative sense. It should not have been. If you believe as he did in what George Orwell meant when he wrote that in the end everything is political, it should be a case for celebration rather than lamentation that he played the role, for if he had not played this role who else of his generation could have played it quite so well, especially when the time came to tell a President the hard truths.

Mr. COCHRAN. Mr. President, I am pleased to bring to the attention of our viewers the retirement of Dean Caldwell, Civilian Deputy to the President of the Mississippi River Commission.

Mr. Caldwell has accumulated over 37 years of Federal Service, 23 of which have been with the Mississippi Valley Division and the Missouri River Commission. Mr. Caldwell has been one of the Corps of Engineers. The Corps of Engineers has undergone several reorganizations and restructures over the past few years, during which time Mr. Caldwell’s guidance and counsel have ensured that the mission of the Corps has not been compromised.

Mr. Caldwell oversaw the integration of two new Corps of Engineers districts RETIREMENT OF DEAN CALDWELL
Mr. COVERDELL. Mr. President, I rise today to commend Suzanne Marie Hayden for her commitment to excellence in academics and as an outstanding young person. Suzanne is a junior at Gilmer High School in her hometown of Ellijay, Georgia. Throughout Suzanne’s schooling, she has maintained an A average and is Treasurer of the Beta Club. She received the 1996 United States Achievement Academy and was named the 1996-1997 Outstanding FFA Member. In sports, she participated on the high school cross country and track teams.

Suzanne’s commitment to excellence also extends to the community. She is an active member of First Baptist Church in Ellijay, Georgia. She has also volunteered at the Gilmer Nursing Home.

Once again, Mr. President, I would like to thank Suzanne Marie Hayden for her commitment to both academic and civic excellence. As we discuss possible education reform, we can use Suzanne as a model for the type of student our schools should be producing.

SUZANNE MARIE HAYDEN

ANNIVERSARY OF THE DEATH OF HUBERT H. HUMPHREY

Mr. WELLSTONE. Mr. President, I rise today to honor a great Minnesota Senator and a great American.

U.S. Senator Hubert H. Humphrey died on January 13, 1978. On that day, a piece of Minnesota died—a piece of the American.

In many ways, Senator Humphrey embodied the best of our state and our nation. He was a visionary who never lost sight of people in the here and now; he was a prophet who spoke with authority and compassion; he was a leader who never lost sight of the extraordinary possibilities in ordinary people.” Whether as the Mayor of Minneapolis or the Vice President of the United States, Senator Humphrey was a person of dignity, integrity and honor. Even in the darkest days of segregation and war, he never lost his humor or his commitment to improve the lives of people. And this Happy Warrior did improve the lives of countless people throughout my state and our country. Indeed, he fulfilled his own pledge that “we must dedicate ourselves to making each man, each woman, each child in America a full participant in American life.”

My state and our nation owe a debt to Senator Humphrey that can never be paid.

I owe a debt to Senator Humphrey: In the back of my mind, I continually aspire to the standard he set for Minnesota legislators. I attempt to fulfill his goal that our “public and private endeavors ought to be concentrated upon those who are in the dawn of life, our children; those who are in the twilight of life, our elderly; and those who are in the shadows of life, our handicapped.”

My thoughts on Senator Humphrey’s passing are even more poignant this year because his wife—Senator Muriel Humphrey—died this past fall. As friends and family gathered at her funeral, I was struck by how blessed we were to have these two incredible people pass through our lives.

I close very simply in honor of the memory of this very great public man: We all are better off because of his life.

TRIBUTE TO POLICE CHIEF STEPHEN R. MONIER ON HIS RETIREMENT

Mr. SMITH of New Hampshire. Mr. President, I rise today to commend Police Chief Stephen R. Monier on his outstanding career as a law enforcement agent in Goffstown, New Hampshire. I congratulate Chief Monier on twenty-eight years of tireless service and his retirement from the police force on December 31, 1998.

Chief Monier’s record of achievement is worthy of outstanding honor. As an officer, he served as a Patrol Officer, Director of the Juvenile Division, Administrative Services Officer, Sergeant, Lieutenant and, ultimately, Chief. Chief Monier was a Commissioner with the Commission on the Accreditation of Law Enforcement Agencies, Inc., a past president of the New Hampshire Association of Police (NHACP), a member for nine years on the Council at New Hampshire Police Standard and Training and a member of New England Association of Chiefs of Police and International Associations of Chiefs of Police. He also had the honor of being selected as a member of the 1996 Centennial Summer Olympic’s Security Team in Atlanta, Georgia, and was selected as a security team leader for the Athens’ Olympics.

Along with this prestigious law enforcement career, Chief Monier was President and a member of the Rotary International’s Goffstown Chapter, founding member and Board of Director’s member for Cristin’s Hobie, Inc., a nonprofit organization designed to assist at-risk youths and families, and assistant coach for the Goffstown Parks and Recreation Youth Basketball League. His philanthropic record is an outstanding testament.

Police Chief Stephen R. Monier is an asset to his community as well as the State of New Hampshire. His remarkable record of service has made him a
well-known and well-respected man. New Hampshire has always been fortunate to have great law enforcement agents, and Mr. Monier exemplifies this ideal. I am proud of his achievements and his long and honorable commitment to service. I would like to wish Chief Monier, along with his wife Sandra and their two teenage sons, the best of luck as he embarks on this new stage in his life. It is an honor to represent you in the United States Senate.

A TRIBUTE TO RUSSELL BAKER

Mr. MOYNIHAN. Mr. President, Thomas Carlyle remarked, "A well-written Life is almost as rare as a well-spent one. Carlyle could have written these words, if construed as a double entendre, about my rare, dear friend, Russell Baker. Baker's last "Observer" column appeared in the New York Times this past Christmas, ending a 36-year run. Over the course of some 3 million words, by his own reckoning, Russell Baker displayed grace, gentle wit, decency, and profound insight into the human condition.

Nearly fifteen years ago, I stated that Russell Baker has been just about the sanest observer of American life that we've had. He has been gentle with us, forgiving, understanding. He has told us truths in ways we have been willing to hear, which is to say he has been our peer, and in the same way, he turns to us with a terrible visage of near rage and deep disappointment, we do well to listen all the harder.

He leaves a huge hole I doubt any other journalist can fill. As Boston Globe columnist Martin F. Nolan observed last month, "the most baleful braggets and most lubricated louts among us never thought we were as good or as fast as Russell Baker."

A life well-spent? He's a patriot, having served as a Navy flyer during World War II. For nearly fifty years, he has been humorous . . . on the rare occasion he has been willing to hear, which is to say he has been gentle with us, forgiving, under- standing. He has told us truths in ways we have been willing to hear, which is to say he has been our peer, and in the same way he turns to us with a terrible visage of near rage and deep disappointment, we do well to listen all the harder.

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no imitators. Other journalists may envy what he did, but in a business where imitation is the sincerest form of self-promotion, Baker broke his own mold. He was, simply and unashamedly, unique.

This made him, in the cozy and self-congratulatory world of journalists, odd man out. His colleagues and competitors may have admired and respected him, but few understood him. While they chased around after ephemeral scoops and barked in the reflected glory of the famous and powerful, Baker wrote about the mundane events he once called the "casual column" without anything urgent to tell humankind: about aspects of life that journalists commonly regard as beneath what they fancy as their speciality. To the column's beginnings, Baker once wrote: "At the Times in those days the world was pretty much confined to Washington news, national news and foreign news. Being ruled off those turfs seemed to leave nothing very vital to write about, and I started calling myself the Times' nothing columnist. I didn't realize at first that it was a wonderful opportunity to do a star turn. Freed from the duty to dilate on the global predication of the day, I could write a grateful and honest among readers desperate for relief from the Times' famous gravity."

That is precisely what he did. As he noticed the history of a newspaper's years as a gumshoe reporter immunized him from 'columnists' tendency to spend their time with life's winners and to lead lives of isolation from the more dazzling American realities. Instead of writing self-important thumb-suckers—"The Coming Global Malaise," ' Nixon's Southern Strategy,' 'Whither Cyprus?—he turned to ordinary life as lived by ordinary middle-class Americans in the second half of the 20th century. He wrote about shopping at the supermarket, about Sundays and mechanics, and always failed to remedy them, about television and what it told us about ourselves, about children growing up and parents growing older.

Quite surely it is because Baker insisted on writing about all this stuff that failed to meet conventional definitions of news that not until 1979 did his fellow journalists get around to giving him the Pulitzer Prize for commentary. Probably, too, it is because he insisted on being amused by the passing scene and writing about it in an amusing way. He never did lose his ability to laugh in the manner of Dave Barry—who is now, with Baker's retirement, the one genuinely funny writer in American newspaper journalism. He never quite understood him. While they chased around after ephemeral scoops and barked in the reflected glory of the famous and powerful, Baker wrote what he once called "a casual column with nothing urgent to tell humankind"; he was one of the best writers who ever lived by ordinary middle-class Americans in the second half of the 20th century. He wrote about shopping at the supermarket, about Sundays and mechanics, and always failed to remedy them, about television and what it told us about ourselves, about children growing up and parents growing older.

Inevitably, I was admitted to practice the trade, and I marveled at the places newspapers could take me. They took me to suburbia on Sundays and to the mortal results of family quarrels in households that kept pistols. They took me to hospital emergency rooms to listen to people die and to ogle skeletons.

They took me to the places inhabited by the frequently unemployed and there taught me the smell of deadly kerosene stoves used for heating, though there tendency to set bedrooms on fire sent the morgue a predictable stream of season.

The memory of those smells has been a valuable piece of equipment in my career as a commentator. When there was also the smell of deadly kerosene stoves used for heating, though there tendency to set bedrooms on fire sent the morgue a predictable stream of season.

In college, Robert has continued his commitment to academic excellence. Attending Harvard University, Robert is in his junior year majoring in Economics. He has made Dean's List and been named a Harvard College Scholar. Robert's commitment to excellence has also been extended to the community. At home, he has served on the Gilmer County Plan Commission Committee which analyzed its own environmental and financial problems. He also volunteered for the Cox Creek Project which worked to solve local sewage and landfill problems in Gilmer County. Finally, as a student at Harvard, Robert participates in the Park Street Project where he serves as a tutor at a local middle school, helping students excel.

Once again, Mr. President, I would like to thank Robert David Smith for his commitment to academic and civic excellence. As we in Congress discuss possible reforms of our educational system, certainly we can use Robert as a model for the type of student we should be producing in our Nation's schools.

TRIBUTE TO LES CHITTENDEN

∑ Mr. MIKULSKI. Mr. President, I rise today to honor the contribution of an outstanding citizen of Ellijay, Georgia, Mr. Les Chittenden. I hope my colleagues will find inspiration in this story of devotion and persistence.

Les and his wife Mary lived in an apartment building in Columbus, Maryland, and had no parking. When they came ill and required the use of a wheelchair, the Chittendens discovered just how inadequate the handicapped facilities at their building were. Mr. President, Les Chittenden was not content to simply accept the situation. He fought to change it. His devotion to his wife of 36 years motivated him to fight for improvement.
him to take on the powers that be and propose solutions to make disabled residents safer each time they parked their car and entered the building. Even though agreeing on and implementing a solution proved to be difficult, Mr. Chittenden still refused to give up.

Five months after he began his fight to improve access for disabled residents, Les' beloved wife Mary passed away. Mr. President, I want to send my condolences to Mr. Chittenden and his family during this difficult time.

But, Mr. President, I also want to send my congratulations and my admiration. Shortly after his wife's passing, Mr. Chittenden returned home one weekend to find that his hard work paid off at last—a new handicapped ramp and several new handicapped parking spaces were added to the building as a result of his persistent efforts.

I want to share this story with my colleagues today because I think it's important that we honor the meaningful contributions of Americans like Les Chittenden. Mr. Chittenden is a wonderful example of how one person can make a valuable difference in our communities. Mr. Chittenden's story is an inspiration to us all.

Mr. COCHRAN. Mr. President, I am pleased to bring to the attention of Senators the retirement of Roy Smith, the Deputy District Engineer for Programs and Project Management for the Vicksburg District of the U.S. Army Corps of Engineers.

Mr. Smith has held several positions in the Vicksburg District, including serving as Chief of the Hydrology Section, Chief of the Hydrology Branch, and Chief of the Engineering Division. He has served as Deputy District Engineer since 1989.

During his tenure, Mr. Smith has been of tremendous assistance to me, my staff, and the people of Mississippi. He has also been recognized within the Corps; receiving the Meritorious Civilian Service award and the Commander's Award for Civilian Service.

In November, the Delta Council of Mississippi passed a resolution honoring Mr. Smith on the occasion of his retirement which summarizes the contributions that Roy has made to our State of Mississippi with these words, "There has been no individual who has offered a greater contribution to the future of flood protection in the Mississippi Delta during the past quarter of a century than Roy Smith."

I know the Senate joins me in thanking Roy for his years of distinguished service and in offering our best wishes for his retirement.
Résumé of Congressional Activity

OF THE ONE HUNDRED FIFTH CONGRESS

This table gives a comprehensive résumé of all legislative business transacted by the Senate and House from January 3, 1997 through October 21, 1998.

### FIRST SESSION
January 3 through November 13, 1997

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### SECOND SESSION
January 27 through October 21, 1998

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<td>1,095 hrs., 05' 997 hrs., 42'</td>
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* These figures include all measures reported, even if there was no accompanying report. A total of 158 reports have been filed in the Senate, a total of 407 reports have been filed in the House.
## DISPOSITION OF EXECUTIVE NOMINATIONS

### FIRST SESSION

Civilian nominations (other than lists), totaling 98, disposed of as follows:
- Confirmed: 361
- Unconfirmed: 124
- Withdrawn: 13

Civilian nominations (FS, PHS, CG, NOAA), totaling 3,105, disposed of as follows:
- Confirmed: 3,019
- Unconfirmed: 86

Air Force nominations, totaling 8,141, disposed of as follows:
- Confirmed: 8,120
- Unconfirmed: 21

Army nominations, totaling 6,244, disposed of as follows:
- Confirmed: 6,244
- Unconfirmed: 2

Navy nominations, totaling 6,157, disposed of as follows:
- Confirmed: 6,153
- Unconfirmed: 4

Marine Corps nominations, totaling 1,679, disposed of as follows:
- Confirmed: 1,679
- Unconfirmed: 0

**Summary**

<table>
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<td>Total unconfirmed</td>
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<td>Total withdrawn</td>
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<tr>
<td>Total returned to White House</td>
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### SECOND SESSION

Civilian nominations, totaling 460 (including 124 nominations carried over from the First Session), disposed of as follows:
- Confirmed: 319
- Withdrawn: 24
- Returned to White House: 114

Civilian nominations (FS, PHS, CG, NOAA), totaling 1,532 (including 86 nominations carried over from the First Session), disposed of as follows:
- Confirmed: 1,526
- Returned to White House: 6

Air Force nominations, totaling 6,091 (including 21 nominations carried over from the First Session), disposed of as follows:
- Confirmed: 6,087
- Returned to White House: 4

Army nominations, totaling 5,481 (including 2 nominations carried over from the First Session), disposed of as follows:
- Confirmed: 5,478
- Returned to White House: 3

Navy nominations, totaling 5,051 (including 4 nominations carried over from the First Session), disposed of as follows:
- Confirmed: 5,045
- Returned to White House: 6

Marine Corps nominations, totaling 1,847, disposed of as follows:
- Confirmed: 1,847

**Summary**

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<td>Total Withdrawn</td>
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<td>Total Returned to White House</td>
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H.R. 2709, to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles. Vetoed June 23, 1998.

H.R. 2646, to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes. Vetoed July 21, 1998.


### Bills Vetoed

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<td>S. 414</td>
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<td>H.R. 2646, to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes.</td>
<td>Vetoed July 21, 1998.</td>
<td>105-290</td>
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<td>H.R. 1757, to consolidate international affairs agencies, to authorize appropriations for the Department of State and related agencies for fiscal years 1998 and 1999, and for other purposes.</td>
<td>Vetoed Oct. 21, 1998.</td>
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HISTORY OF BILLS ENACTED INTO PUBLIC LAW

(105th Cong., 2d Sess.)
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<th>Report No.</th>
<th>Page of Passage in Congressional Record</th>
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<td>May 15, 1997</td>
<td>S. 750</td>
<td>To consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, and for other purposes.</td>
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<td>Mar. 11, 1997</td>
<td>S. 419</td>
<td>To provide surveillance, research, and services aimed at prevention of birth defects, and for other purposes.</td>
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<td>Mar. 18, 1997</td>
<td>H.R. 1116</td>
<td>To provide for the conveyance of the reversionary interest of the United States in certain lands to the Clint Independent School District and the Fabens Independent School District.</td>
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<td>Nov. 6, 1997</td>
<td>H.R. 2843</td>
<td>To direct the Administrator of the Federal Aviation Administration to reevaluate the equipment in medical kits carried on, and to make a decision regarding requiring automatic external defibrillators to be carried on, aircraft operated by air carriers, and for other purposes.</td>
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<td>Feb. 12, 1998</td>
<td>H.R. 3226</td>
<td>To authorize the Secretary of Agriculture to convey certain lands and improvements in the State of Virginia, and for other purposes.</td>
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<td>Mar. 20, 1997</td>
<td>S. 493</td>
<td>To amend title 18, United States Code, with respect to scanning receivers and similar devices.</td>
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<td>Sept. 15, 1997</td>
<td>S. 1178 (H.R. 2578)</td>
<td>To amend the Immigration and Nationality Act to modify and extend the visa waiver pilot program, and to provide for the collection of data with respect to the number of nonimmigrants who remain in the United States after the expiration of the period of stay authorized by the Attorney General.</td>
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<td>Nov. 7, 1997</td>
<td>H.J. Res. 102</td>
<td>Expressing the sense of the Congress on the occasion of the 50th anniversary of the founding of the modern State of Israel and reaffirming the bonds of friendship and cooperation between the United States and Israel.</td>
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<td>Mar. 2, 1998</td>
<td>H.R. 3301</td>
<td>To amend chapter 51 of title 31, United States Code, to allow the Secretary of the Treasury greater discretion with regard to the placement of the required inscriptions on quarter dollars issued under the 50 States Commemorative Coin Program.</td>
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<td>Sept. 4, 1997 (S. 1115)</td>
<td>H.R. 2400</td>
<td>To authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.</td>
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<td>Feb. 25, 1997</td>
<td>H.R. 824</td>
<td>To redesignate the Federal building located at 717 Madison Place, N.W., in the District of Columbia, as the “Howard T. Markey National Courts Building”.</td>
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<td>Bill No.</td>
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<td>To establish a matching grant program to help State and local</td>
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<td>Feb. 4, 1998</td>
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<td>Feb. 26</td>
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<td>S 1803</td>
<td>May 12, 1998</td>
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<td>jurisdictions purchase armor vests for use by law enforcement</td>
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<td>To amend the legislative authority for the Board of Regents of</td>
<td>S. 423</td>
<td>Mar. 11, 1997</td>
<td>Res</td>
<td>Oct. 31</td>
<td>105±</td>
<td>S 7318</td>
<td>June 9, 1998</td>
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<td>Gunston Hall to establish a memorial to honor George Mason.</td>
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<td>To improve the criminal law relating to fraud against consumers.</td>
<td>H.R. 1847</td>
<td>June 10, 1997</td>
<td>Jud</td>
<td>June 26</td>
<td>105±</td>
<td>S 12426</td>
<td>July 8, 1997</td>
</tr>
<tr>
<td>To ensure that federally funded agricultural research, extension,</td>
<td>S. 1150</td>
<td>Sept. 5, 1997</td>
<td>Agr</td>
<td>Sept. 5</td>
<td>105±</td>
<td>S 11376</td>
<td>Oct. 29, 1997</td>
</tr>
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<td>and education address high-priority concerns with national or</td>
<td>(H.R. 2534)</td>
<td></td>
<td></td>
<td>1997</td>
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<td>June 23, 1998</td>
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<td>multisate significance, to reform, extend, and eliminate certain</td>
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<td>agricultural research programs, and for other purposes.</td>
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<td>To establish a commission to examine issues pertaining to the</td>
<td>S. 1500</td>
<td>April 1, 1998</td>
<td>BFS</td>
<td>April 30</td>
<td>105±</td>
<td>S 4136</td>
<td>June 9, 1998</td>
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<td>disposition of Holocaust-era assets in the United States before,</td>
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<td>during, and after World War II, and to make recommendations to the</td>
<td>(H.R. 3662)</td>
<td></td>
<td>BHUA</td>
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<td>June 23, 1998</td>
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<td>President on further action, and for other purposes.</td>
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<td>1998</td>
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<td>To establish felony violations for the failure to pay legal child</td>
<td>H.R. 3811</td>
<td>May 7, 1998</td>
<td>Jud</td>
<td></td>
<td>105±</td>
<td>S 5734</td>
<td>May 12, 1998</td>
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<td>support obligations, and for other purposes.</td>
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<td>June 5, 1998</td>
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<td>To permit the mineral leasing of Indian land located within the</td>
<td>S. 2009</td>
<td>May 12, 1998</td>
<td>IA</td>
<td>June 5</td>
<td>105±</td>
<td>S 6127</td>
<td>June 24, 1998</td>
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<td>Fort Berthold Indian reservation in any case in which there is</td>
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<td>June 10, 1998</td>
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<td>consent from a majority interest in the parcel of land under</td>
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<td>July 7, 1998</td>
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<td>consideration for lease.</td>
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<td>To extend the deadline under the Federal Power Act for the</td>
<td>H.R. 651</td>
<td>Feb. 6, 1997</td>
<td>Com</td>
<td>Mar. 11</td>
<td>105±</td>
<td>S 829</td>
<td>Mar. 11, 1998</td>
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<td>construction of a hydroelectric project located in the State of</td>
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<td>June 25, 1998</td>
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<td>Washington, and for other purposes.</td>
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<td>July 14, 1998</td>
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<td>To extend the deadline under the Federal Power Act for the</td>
<td>H.R. 652</td>
<td>Feb. 6, 1997</td>
<td>Com</td>
<td>Mar. 11</td>
<td>105±</td>
<td>S 830</td>
<td>Mar. 11, 1998</td>
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<td>construction of a hydroelectric project located in the State of</td>
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<td>Washington, and for other purposes.</td>
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<td>To extend the deadline under the Federal Power Act applicable to</td>
<td>H.R. 848</td>
<td>Feb. 26, 1997</td>
<td>Com</td>
<td>June 7</td>
<td>105±</td>
<td>S 3585</td>
<td>June 10, 1998</td>
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<td>the construction of the AuSable Hydroelectric Project in New York,</td>
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<td>June 25, 1998</td>
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<td>and for other purposes.</td>
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<td>July 14, 1998</td>
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<td>To extend the deadline under the Federal Power Act for the</td>
<td>H.R. 1184</td>
<td>Mar. 20, 1997</td>
<td>Com</td>
<td>June 7</td>
<td>105±</td>
<td>S 3596</td>
<td>June 10, 1998</td>
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<td>construction of the Bear Creek hydroelectric project in the</td>
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<td>June 25, 1998</td>
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<td>State of Washington, and for other purposes.</td>
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<td>July 14, 1998</td>
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<td>To extend the deadline under the Federal Power Act for the</td>
<td>H.R. 1217</td>
<td>Mar. 21, 1997</td>
<td>Com</td>
<td>June 7</td>
<td>105±</td>
<td>S 3587</td>
<td>June 10, 1998</td>
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<td>construction of a hydroelectric project located in the State of</td>
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<td>June 25, 1998</td>
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<td>Washington, and for other purposes.</td>
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<td>July 14, 1998</td>
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<td>To amend the Arms Export Control Act, and for other purposes.</td>
<td>S. 2282</td>
<td>July 9, 1998</td>
<td></td>
<td></td>
<td>105±</td>
<td>S 4854</td>
<td>July 8, 1998</td>
</tr>
<tr>
<td>To validate certain conveyances in the City of Tulare, Tulare</td>
<td>H.R. 960</td>
<td>Mar. 5, 1997</td>
<td>Res</td>
<td>July 8</td>
<td>105±</td>
<td>S 4854</td>
<td>July 8, 1998</td>
</tr>
<tr>
<td>County, California, and for other purposes.</td>
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<td>1997</td>
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<td>June 25, 1998</td>
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<td>July 16, 1998</td>
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<td>Bill Number</td>
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</tbody>
</table>

To amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes.

To require the Secretary of Labor to establish a program under which employers may consult with State officials respecting compliance with occupational safety and health requirements.

To amend the Occupational Safety and Health Act of 1970.

To establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies.

To provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, and to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements.

To extend the legislative authority for construction of the National Peace Garden memorial, and for other purposes.

To establish within the United States National Park Service the National Underground Railroad Network to Freedom program, and for other purposes.

To require the Secretary of Energy to submit to Congress a plan to ensure that all amounts accrued on the books of the United States Enrichment Corporation for hexafluoride will be used to treat and recycle depleted uranium hexafluoride.

To amend chapter 87 of title 5, United States Code, with respect to the order of precedence to be applied in the payment of life insurance benefits.

To amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Services, and for other purposes.

To authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes.

To facilitate the sale of certain land in Tahoe National Forest, in the State of California to Placer County, California.

To allow for election of the Delegate from Guam by other than separate ballot, and for other purposes.

To make a minor adjustment in the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, Missouri, to exclude a small parcel of land containing improvements.

To extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 3862 in the State of Iowa, and for other purposes.
<table>
<thead>
<tr>
<th>Title</th>
<th>Bill No.</th>
<th>Date introduced</th>
<th>Committee</th>
<th>Date Reported</th>
<th>Report No.</th>
<th>Page of passage in Congressional Record</th>
<th>Date of passage</th>
<th>Public Law</th>
</tr>
</thead>
<tbody>
<tr>
<td>To extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 9248 in the State of Colorado, and for other purposes.</td>
<td>H.R. 2217</td>
<td>July 22, 1997</td>
<td>Com</td>
<td>ENR</td>
<td>May 6, 1998</td>
<td>House 3034</td>
<td>May 12, 1998</td>
<td>212</td>
</tr>
<tr>
<td>To extend the time required for the construction of a hydroelectric project.</td>
<td>H.R. 2841</td>
<td>Nov. 6, 1997</td>
<td>Com</td>
<td>ENR</td>
<td>May 6, 1998</td>
<td>House 3035</td>
<td>May 12, 1998</td>
<td>213</td>
</tr>
<tr>
<td>To provide automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required as a condition for entering into a residential mortgage transaction, to abolish the Thrift Depositor Protection Oversight Board, and for other purposes.</td>
<td>H.R. 318</td>
<td>Feb. 12, 1997</td>
<td>BHUA</td>
<td>JHA</td>
<td>Mar. 19, 1998</td>
<td>S 1320</td>
<td>July 14, 1998</td>
<td>216</td>
</tr>
<tr>
<td>To designate the United States courthouse to be constructed at the corner of Superior and Huron Roads, in Cleveland, Ohio, as the &quot;Carl B. Stokes United States Courthouse&quot;.</td>
<td>H.R. 643</td>
<td>Feb. 6, 1997</td>
<td>TI</td>
<td>EPW</td>
<td>July 31, 1997</td>
<td>House 7711</td>
<td>July 28, 1997</td>
<td>218</td>
</tr>
<tr>
<td>To amend the Federal Credit Union Act to clarify existing law and ratify the long-standing policy of the National Credit Union Administration Board with regard to field of membership of Federal credit unions.</td>
<td>H.R. 1385</td>
<td>Apr. 17, 1997</td>
<td>EEO</td>
<td>LHR</td>
<td>May 8, 1997</td>
<td>House 2860</td>
<td>May 16, 1997</td>
<td>219</td>
</tr>
<tr>
<td>To consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes.</td>
<td>H.R. 3152</td>
<td>Feb. 4, 1998</td>
<td>EEO</td>
<td>LHR</td>
<td>June 25, 1998</td>
<td>House 109</td>
<td>May 5, 1998</td>
<td>220</td>
</tr>
<tr>
<td>To provide that certain volunteers at private non-profit food banks are not employees for purposes of the Fair Labor Standards Act of 1938.</td>
<td>H.R. 3731</td>
<td>Apr. 23, 1998</td>
<td>NS</td>
<td></td>
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<td>221</td>
</tr>
<tr>
<td>To designate the auditorium located within the Sandia Technology Transfer Center in Albuquerque, New Mexico, as the &quot;Steve Schiff Auditorium&quot;.</td>
<td>H.R. 4354</td>
<td>July 30, 1998</td>
<td>HO</td>
<td>WM</td>
<td></td>
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<td>222</td>
</tr>
</tbody>
</table>
To revise, codify, and enact without substantive change certain general and permanent laws, related to patriotic and national observances, ceremonies, and organizations, as title 36, United States Code, "Patriotic and National Observances, Ceremonies, and Organizations.

To amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts and to further define the criteria for capital repair and operation and maintenance.

To amend the District of Columbia Convention Center and Sports Arena Authorization Act of 1995 to revise the revenues and activities covered under such Act, and for other purposes.

To amend the Agricultural Market Transition Act to provide for the advance payment, in wise required under production flexibility contracts.

To ensure maintenance of a herd of wild horses in Cape Lookout National Seashore.

To establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes.

To grant a Federal charter to the American GI Forum of the United States.

To designate the Federal building and United States courthouse located at 85 Marconi Boulevard in Columbus, Ohio, as the "Joseph P. Kinney United States Courthouse".

To amend chapter 45 of title 28, United States Code, to authorize the Administrative Assistant to the Chief Justice to accept voluntary services, and for other purposes.

Amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft.

Finding the Government of Iraq in unacceptable and material breach of its international obligations.

To grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact.

Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes.

To transfer administrative jurisdiction over part of the Lake Chelan National Recreation Area from the Secretary of the Interior to the Secretary of Agriculture for inclusion in the Wenatchee National Forest.

To direct the Secretary of the Interior to convey the Marion National Fish Hatchery and the Claude Harris National Aquacultural Research Center to the State of Alabama, and for other purposes.

Making continuing appropriations for the fiscal year 1999, and for other purposes.
<table>
<thead>
<tr>
<th>Title</th>
<th>Bill No.</th>
<th>Date introduced</th>
<th>Committee</th>
<th>Date Reported</th>
<th>Report No.</th>
<th>Page of passage in Congressional Record</th>
<th>Date of passage</th>
<th>Public Law</th>
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</thead>
<tbody>
<tr>
<td>To amend the Fish and Wildlife Act of 1956 to direct the Secretary of the Interior to conduct a volunteer pilot project at one national wildlife refuge in each United States Fish and Wildlife Service region, and for other purposes.</td>
<td>H.R. 1856</td>
<td>June 10 1997</td>
<td>EPW Oct. 21</td>
<td>July 28 1998</td>
<td>H 9985</td>
<td>Nov. 4 1997</td>
<td>Sept. 11 1998</td>
<td>242</td>
</tr>
<tr>
<td>To authorize the Secretary of the Interior to study the suitability and feasibility of designating the Sand Creek Massacre National Historic Site in the State of Colorado as a unit of the National Park System, and for other purposes.</td>
<td>S. 1695</td>
<td>Mar. 2 1998</td>
<td>ENR Sept. 9</td>
<td>July 10 1998</td>
<td>697 244</td>
<td>Sept. 18 1998</td>
<td>July 17 1998</td>
<td>243</td>
</tr>
<tr>
<td>To extend the authorization of programs under the Higher Education Act of 1965, and for other purposes.</td>
<td>H.R. 6</td>
<td>Jan. 7 1997</td>
<td>EEO April 17</td>
<td>May 4 1998</td>
<td>181 2920</td>
<td>May 6 1998</td>
<td>July 9 1998</td>
<td>244</td>
</tr>
<tr>
<td>To amend section 552 of title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act regarding certain persons, disclose Nazi war criminal records without impairing any investigation or prosecution conducted by the Department of Justice or certain intelligence matters, and for other purposes.</td>
<td>S. 1379</td>
<td>Nov. 5 1997</td>
<td>Jud Mar. 5</td>
<td>Jun 1998</td>
<td>S 5580</td>
<td>Aug. 6 1998</td>
<td>June 19 1998</td>
<td>246</td>
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<tr>
<td>To extend a quarterly financial report program administered by the Secretary of Commerce for the remainder of the One Hundred Fifth Congress with respect to any bill or joint resolution making general or continuing appropriations for fiscal year 1999.</td>
<td>S. 2071</td>
<td>May 13 1998</td>
<td>GRO GA July 8</td>
<td>1998</td>
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<td>Sep. 28 1998</td>
<td>Oct. 9 1998</td>
<td>252</td>
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To make certain technical corrections in laws relating to Native Americans, and for other purposes.

Making further continuing appropriations for the fiscal year 1999, and for other purposes.

To amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States exports, and for other purposes.

To extend the date by which an automated entry-exit control system must be developed.

To amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States exports, and for other purposes.

To provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada.

To require Federal employees to use Federal travel charge cards for all payments of expenses of official Government travel, to amend title 31, United States Code, to establish requirements for prepayment audits of Federal agency transportation expenses, to authorize reimbursement of Federal agency employees for taxes incurred on travel or transportation reimbursements, and to authorize test programs for the payment of Federal employee travel expenses and relocation expenses.

To amend the Great Lakes Fish and Wildlife Restoration Act of 1990 to provide for implementation of recommendations of the United States Fish and Wildlife Service contained in the Great Lakes Fishery Restoration Study Report.

To require Federal employees to use Federal travel charge cards for all payments of expenses of official Government travel, to amend title 31, United States Code, to establish requirements for prepayment audits of Federal agency transportation expenses, to authorize reimbursement of Federal agency employees for taxes incurred on travel or transportation reimbursements, and to authorize test programs for the payment of Federal employee travel expenses and relocation expenses.

To provide a process for identifying the functions of the Federal Government that are not inherently governmental functions, and for other purposes.
<table>
<thead>
<tr>
<th>Title</th>
<th>Bill No.</th>
<th>Date introduced</th>
<th>Committee</th>
<th>Date Reported</th>
<th>Report No.</th>
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<th>Date of passage</th>
<th>Public Law</th>
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<tr>
<td>House Senate House Senate House 105- Senate 105- House Senate House Senate Date approved No. 105-</td>
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<td>To provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens National Volcanic Monument mandated by the 1982 Act that established the Monument, and for other purposes.</td>
<td>H.R. 1659</td>
<td>May 16 1997</td>
<td>Res</td>
<td>Sept. 11 1998</td>
<td>704</td>
<td>Sept. 23 1998</td>
<td>Oct. 7 1998</td>
<td>279</td>
</tr>
<tr>
<td>To provide for a demonstration project in the Stanislaus National Forest, California, under which a private contractor will perform multiple resource management activities for that unit of the National Forest System.</td>
<td>H.R. 2886</td>
<td>Nov. 7 1997</td>
<td>Res ENR</td>
<td>May 12 1998</td>
<td>527 292</td>
<td>May 12 1998</td>
<td>Oct. 26 1998</td>
<td>281</td>
</tr>
<tr>
<td>To authorize the Secretary of Agriculture to convey the administrative site for the Rogue River National Forest and use the proceeds for the construction or improvement of offices and support buildings for the Rogue River National Forest and the Bureau of Land Management.</td>
<td>H.R. 3796</td>
<td>May 5 1998</td>
<td>Res ENR</td>
<td>June 3 1998</td>
<td>561 293</td>
<td>June 16 1998</td>
<td>Oct. 26 1998</td>
<td>282</td>
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<td>H.R. 4081</td>
<td>June 18, 1998</td>
<td>Com</td>
<td>To extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Arkansas</td>
<td>Sept. 25, 1998</td>
<td>748</td>
<td>Sept. 28, 1998</td>
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<tr>
<td>S. 2206</td>
<td>June 23, 1998</td>
<td>LHR</td>
<td>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 these Acts; to establish demonstration projects that provide an opportunity for persons with limited means to accumulate assets, and for other purposes</td>
<td>July 21, 1998</td>
<td>256</td>
<td>Oct. 7, 1998</td>
<td></td>
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<tr>
<td>H.R. 624</td>
<td>Feb. 6, 1997</td>
<td>Com</td>
<td>To amend the Amended Car Industry Retractability Act of 1993 to clarify certain requirements and to improve the flow of interstate commerce</td>
<td>Feb. 25, 1997</td>
<td>297</td>
<td>May 12, 1998</td>
<td></td>
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</tr>
<tr>
<td>H.R. 1197</td>
<td>Mar. 20, 1997</td>
<td>Jud</td>
<td>To amend title 35, United States Code, to protect patent owners against the unauthorized sale of plant parts taken from plants illegally reproduced, and for other purposes</td>
<td>April 1, 1998</td>
<td>118</td>
<td>May 14, 1998</td>
<td></td>
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<tr>
<td>H.R. 2431</td>
<td>Sept. 8, 1997</td>
<td>IR</td>
<td>To establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes</td>
<td>April 1, 1998</td>
<td>480</td>
<td>May 14, 1998</td>
<td></td>
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<tr>
<td>S. 53</td>
<td>Jan. 21, 1997</td>
<td>Jud</td>
<td>To require the general application of the anti-trust laws to major league baseball, and for other purposes</td>
<td>Oct. 29, 1997</td>
<td>37</td>
<td>Oct. 27, 1998</td>
<td></td>
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<tr>
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<td>To provide that a person closely related to a judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court) may not be appointed as a judge of the same court, and for other purposes.</td>
<td>S. 1892</td>
<td>Mar. 31, 1998</td>
<td>Jud</td>
<td>May 21, 1998</td>
<td>Oct. 7 1998 1998 Oct. 6 1998 1998 300</td>
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<td>To amend the High-Performance Computing Act of 1991 to authorize appropriations for fiscal years 1999 and 2000 for the Next Generation Internet program, to require the Advisory Committee on High-Performance Computing and Communications, Information Technology, and the Next Generation Internet to monitor and give advice concerning the development and implementation of the Next Generation Internet program and report to the President and the Congress on its activities, and for other purposes.</td>
<td>H.R. 3332</td>
<td>Mar. 4, 1998</td>
<td>Sci, CST</td>
<td>Sept. 14, 1998</td>
<td>Sept. 14, 1998 Oct. 8, 1998 305</td>
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<td>H.R. 1274</td>
<td>April 10, 1997</td>
<td>Sci</td>
<td>April 21, 1997</td>
<td>64</td>
<td>H 1808</td>
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<td>H.R. 2675</td>
<td>Oct. 21, 1997</td>
<td>GRO</td>
<td>Nov. 4, 1997</td>
<td>373, 337</td>
<td>H 9983</td>
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<td>H.R. 2807</td>
<td>Nov. 4, 1997</td>
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<td>April 28, 1998</td>
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<td>To amend the State Department Basic Authorities Act of 1956 to provide rewards for information leading to the arrest or conviction of any individual for the commission of an act, or conspiracy to act, of international terrorism, narcotics related offenses, or for serious violations of international humanitarian law relating to the Former Yugoslavia</td>
<td>H.R. 4660 Oct. 1 1998</td>
<td>IR</td>
<td>House</td>
<td>House 105-</td>
<td></td>
<td>Oct. 8 1998</td>
<td>Oct. 14 1998</td>
<td>Oct. 30, 1998</td>
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<tr>
<td>To amend the Federal Food, Drug, and Cosmetic Act to clarify the circumstances in which a substance is considered to be a pesticide chemical for purposes of such Act, and for other purposes.</td>
<td>H.R. 4679 Oct. 2 1998</td>
<td>Com</td>
<td>House</td>
<td>House 105-</td>
<td></td>
<td>Oct. 7 1998</td>
<td>Oct. 9 1998</td>
<td>Oct. 30, 1998</td>
</tr>
<tr>
<td>To dispose of certain Federal properties located in Dutch John, Utah, to assist the local government in the interim delivery of basic services to the Dutch John community, and for other purposes.</td>
<td>S. 890 June 12 1997</td>
<td>ENR</td>
<td>House</td>
<td>Senate 105-</td>
<td>264</td>
<td>Oct. 8 1998</td>
<td>Oct. 2 1998</td>
<td>Oct. 30, 1998</td>
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<td>To expand the boundaries of Arches National Park, Utah, to include portions of certain drainages that are under the jurisdiction of the Bureau of Land Management, and to include a portion of Fish Seep Draw owned by the State of Utah, and for other purposes.</td>
<td>S. 2106 May 21 1998</td>
<td>ENR</td>
<td>House</td>
<td>Senate 105-</td>
<td>330</td>
<td>Oct. 10 1998</td>
<td>Oct. 2 1998</td>
<td>Oct. 30, 1998</td>
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<tr>
<td>To require the Secretary of the Treasury to mint coins in commemoration of the sesquicentennial of the birth of Thomas Alva Edison, to redesign the half dollar circulating coin for 1997 to commemorate Thomas Edison, and for other purposes.</td>
<td>H.R. 678 Feb. 11 1998</td>
<td>BFS</td>
<td>House</td>
<td>House 105-</td>
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<td>Sept. 9 1998</td>
<td>Oct. 7 1998</td>
<td>Oct. 31, 1998</td>
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<td>Bill Number</td>
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<td>To amend the Child Nutrition Act of 1966 to make improvements to the special supplemental nutrition program for women, infants, and children and to extend the authority of that program through fiscal year 2003.</td>
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<td>To allow Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute each to conduct a demonstration project to test the feasibility and desirability of new personnel management policies and procedures and for other purposes.</td>
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<td>To establish a program to support a transition to democracy in Iraq.</td>
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<td>To amend the Public Health Service Act to revise and extend certain programs with respect to women's health research and prevention activities at the National Institutes of Health and the Centers for Disease Control and Prevention.</td>
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<td>To establish a commission, in honor of the 150th Anniversary of the Seneca Falls Convention, to further protect sites of importance in the historic efforts to secure equal rights for women.</td>
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<td>To establish the Adams National Historical Park in the Commonwealth of Massachusetts, and for other purposes.</td>
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<td>To amend the Act which established the Frederick Law Olmsted National Historic Sites in the Commonwealth of Massachusetts by modifying the boundary and for other purposes.</td>
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<td>To prohibit the conveyance of Woodland Lake Park tract in Apache-Sitgreaves National Forest in the State of Arizona unless the conveyance is made to the town of Pinetop-Lakeside or authorized by Act of Congress.</td>
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<td>To amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the legislative authority for the Black Patriots Foundation to establish a commemorative work.</td>
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<td>To direct the Secretary of the Interior to convey title to the Tunnison Lab Hagerman Field Station in Gooding County, Idaho to the University of Idaho.</td>
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<td>To amend the Fair Credit Reporting Act with respect to furnishing and using consumer reports for employment purposes.</td>
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<td>Granting the consent of Congress to the Potomac Highlands Airport Authority Compact entered into between the States of Maryland and West Virginia.</td>
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<td>Recognizing the accomplishments of Inspectors General since their creation in 1978 in preventing and detecting waste, fraud, abuse, and mismanagement, and in promoting economy, efficiency, and effectiveness in the Federal Government.</td>
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<td>To authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes.</td>
<td>S. 538</td>
<td>April 9 1997</td>
<td>ENR</td>
<td>Nov. 3 1997</td>
<td>131</td>
<td>351</td>
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<tr>
<td>To authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a non-profit corporation, in the planning and construction of the water supply system, and for other purposes.</td>
<td>S. 744</td>
<td>May 14 1997</td>
<td>Res ENR</td>
<td>Sept. 25 1996</td>
<td>369</td>
<td>352</td>
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<tr>
<td>To establish the Little Rock Central High School National Historic Site in the State of Arkansas, and for other purposes.</td>
<td>S. 2232</td>
<td>June 25 1998</td>
<td>Res ENR</td>
<td>Sept. 8 1998</td>
<td>307</td>
<td>356</td>
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<tr>
<td>To amend the Controlled Substances Import and Export Act to place limitations on controlled substances brought into the United States from Mexico.</td>
<td>H.R. 3633</td>
<td>April 1 1998</td>
<td>Jud Com</td>
<td>July 16 1998</td>
<td>629</td>
<td>Aug. 3 1998</td>
<td>357</td>
<td></td>
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<tr>
<td>To authorize funds for the payment of salaries and expenses of the Patent and Trademark Office, and for other purposes.</td>
<td>H.R. 3723</td>
<td>April 23 1998</td>
<td>Jud Jud</td>
<td>May 12 1998</td>
<td>528</td>
<td>358</td>
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<td>To require the Secretary of Agriculture and the Secretary of the Interior to conduct a study to improve the access for persons with disabilities to outdoor recreational opportunities made available to the public.</td>
<td>H.R. 4501</td>
<td>Aug. 6 1998</td>
<td>Res Agr</td>
<td>Oct. 14 1998</td>
<td>Oct. 20 1998</td>
<td>359</td>
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<tr>
<td>To amend the Native American Programs Act of 1974 to extend certain authorizations, and for other purposes.</td>
<td>S. 459</td>
<td>Mar. 18 1997</td>
<td>Res IA</td>
<td>May 21 1997</td>
<td>20 S 10183 Oct. 9 1998</td>
<td>361</td>
<td></td>
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<td>To amend the Weir Farm National Historic Site Establishment Act of 1990 to authorize the acquisition of additional acreage for the historic site to permit the development of visitor and administrative facilities, and to authorize the appropriation of additional amounts for the acquisition of real and personal property, and for other purposes.</td>
<td>S. 1718</td>
<td>Mar. 5 1998</td>
<td>Res ENR</td>
<td>Sept. 14 1998</td>
<td>328</td>
<td>363</td>
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</tbody>
</table>
To provide for the acquisition of lands formerly occupied by the Franklin D. Roosevelt family at Hyde Park, New York, and for other purposes.


To amend the boundaries of Grant-Kohrs Ranch National Historic Site in the State of Montana.


To amend the Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act of 1977, to strengthen prohibitions on international bribery and other corrupt practices, and for other purposes.


To amend the Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act of 1977, to strengthen prohibitions on international bribery and other corrupt practices, and for other purposes.


To protect the sanctity of contracts and leases entered into by surface patent holders with respect to coalbed methane gas.


To provide a cost-of-living adjustment in rates of compensation paid to veterans with service-connected disabilities, to make various improvements in education, housing, and cemetery programs of the Department of Veterans Affairs, and for other purposes.


To provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.


To amend title 18, United States Code, to provide for the mandatory testing for serious transmissible diseases of incarcerated persons whose bodily fluids come into contact with corrections personnel and notice to those personnel of the results of the test, and for other purposes.


To authorize and request the President to award the congressional Medal of Honor posthumously to Theodore Roosevelt for his gallant and heroic actions in the attack on San Juan Heights, Cuba, during the Spanish-American War.


To direct the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a feasibility study and construct a project to reclaim the Salton Sea.


To make available to the Ukrainian Museum and Archives the USA television program “Window on America”.


To amend the State Department Basic Authorities Act of 1956 to require the Secretary of State to submit an annual report to Congress concerning diplomatic immunity.


To modify the boundaries of the Bandelier National Monument to include the lands within the headwaters of the Upper Alamo Watershed which drain into the Monument and which are not currently within the jurisdiction of a Federal land management agency, to authorize purchase or donation of those lands, and for other purposes.


To provide for the acquisition of lands formerly occupied by the Franklin D. Roosevelt family at Hyde Park, New York, and for other purposes.


To provide for the acquisition of lands formerly occupied by the Franklin D. Roosevelt family at Hyde Park, New York, and for other purposes.


To amend the boundaries of Grant-Kohrs Ranch National Historic Site in the State of Montana.

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<tr>
<td>To establish the Lower East Side Tenement National Historic Site, and for other purposes.</td>
<td>S. 1408</td>
<td>Nov. 7 1997</td>
<td>Res ENR</td>
<td>Sept. 8 1998</td>
<td>303</td>
<td>105± 105±</td>
<td>Oct. 10 1998</td>
<td>378</td>
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<tr>
<td>To amend the Food Stamp Act of 1977 to require food stamp State agencies to take certain actions to ensure that food stamp coupons are not issued for deceased individuals to require the Secretary of Agriculture to conduct a study of options for the design, development, implementation, and operation of a national database to track participation in Federal means-tested public assistance programs, and for other purposes.</td>
<td>S. 2129</td>
<td>June 2 1998</td>
<td>Res ENR</td>
<td>Sept. 8 1998</td>
<td>313</td>
<td>105± 105±</td>
<td>Oct. 14 1998</td>
<td>380</td>
</tr>
<tr>
<td>To amend the Foreign Service Act of 1980 to provide that the annuities of certain special agents and security personnel of the Department of State be computed in the same way as applies generally with respect to Federal law enforcement officers, and for other purposes.</td>
<td>H.R. 633</td>
<td>Feb. 6 1997</td>
<td>IR GRO</td>
<td>Sept. 28 1998</td>
<td>755</td>
<td>105± 105±</td>
<td>Oct. 5 1998</td>
<td>382</td>
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<td>To authorize appropriations for fiscal years 1998 and 1999 for the Coast Guard, and for other purposes.</td>
<td>H.R. 2204 (S 880)</td>
<td>July 21 1997</td>
<td>TI CST</td>
<td>July 31 1997</td>
<td>236 67 H 8903</td>
<td>105± 105±</td>
<td>Oct. 21 1997</td>
<td>383</td>
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<td>To support sustainable and broad-based agricultural and rural development in sub-Saharan Africa, and for other purposes.</td>
<td>H.R. 4283</td>
<td>July 21 1997</td>
<td>IR Agr</td>
<td>Aug. 6 1998</td>
<td>681</td>
<td>105± 105±</td>
<td>Sept. 22 1998</td>
<td>384</td>
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<td>To provide financial assistance for higher education to the dependents of Federal, State, and local public safety officers who are killed or permanently and totally disabled as the result of a traumatic injury sustained in the line of duty.</td>
<td>S. 1525</td>
<td>Mar. 4 1997</td>
<td>IA</td>
<td>Oct. 7 1998</td>
<td>379</td>
<td>105± 105±</td>
<td>Oct. 10 1998</td>
<td>385</td>
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</tbody>
</table>
To provide for improved management and increased accountability for certain National Park Service programs, and for other purposes.


To amend the Public Health Service Act to consolidate and reauthorize health professions and minority and disadvantaged health professions and disadvantaged health education programs, and for other purposes.


To reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965.


To support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes.


### Table of Committee Abbreviations

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<th>Agr</th>
<th>Agriculture</th>
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<tr>
<td>ANF</td>
<td>Agriculture, Nutrition, and Forestry</td>
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<td>App</td>
<td>Appropriations</td>
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<td>AS</td>
<td>Armed Services</td>
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<td>BFS</td>
<td>Banking and Financial Services</td>
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<td>BHUA</td>
<td>Banking, Housing, and Urban Affairs</td>
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<td>Bud</td>
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<td>Com</td>
<td>Commerce</td>
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<td>CST</td>
<td>Commerce, Science, and Transportation</td>
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<td>EEO</td>
<td>Economic and Educational Opportunities</td>
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<td>ENR</td>
<td>Energy and Natural Resources</td>
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<td>EPW</td>
<td>Environment and Public Works</td>
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<td>GA</td>
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<td>House Oversight</td>
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<td>Government Reform and Oversight</td>
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<td>Indian Affairs</td>
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<td>Labor and Human Resources</td>
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<td>National Security</td>
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<td>Rules</td>
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<td>Small Business</td>
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<td>Transportation and Infrastructure</td>
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<td>Veterans' Affairs</td>
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<td>WM</td>
<td>Ways and Means</td>
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</table>

**Note.**—The bill in parentheses is a companion measure.
Tuesday, January 19, 1999

Daily Digest

HIGHLIGHTS

See Résumé of Congressional Activity for the One Hundred Fifth Congress.

Senate and House met in Joint Session and received the President's State of the Union Message.

Senate

Chamber Action

Routine Proceedings, pages S303-S725

Measures Introduced: Two hundred forty-nine bills and fifteen resolutions were introduced, as follows: S. 2-250, S.J. Res. 1-7, S. Con. Res. 1, and S. Res. 19-25.

Measures Passed:

Committee Renamed: Senate agreed to S. Res. 20, to rename the Committee on Labor and Human Resources the Committee on Health, Education, Labor, and Pensions.

Congratulating University of Tennessee Volunteers: Senate agreed to S. Res. 21, congratulating the University of Tennessee Volunteers football team on winning the 1998 National Collegiate Athletic Association Division I-A football championship.

Impeachment of President Clinton: Senate, sitting as a Court of Impeachment, resumed consideration of the articles of impeachment against William Jefferson Clinton, President of the United States, taking the following action:

White House Counsel Presents President's Case: Pursuant to S. Res. 16, agreed to on January 8, 1999, the President's counsel made their presentation against the articles of impeachment.

Senate will continue to sit as a Court of Impeachment on Wednesday, January 20, 1999.

Joint Session—Escort Committee: The President of the Senate was authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort the President of the United States to the House Chamber for a Joint Session.

Messages From the President: Senate received the following message from the President of the United States:

- Transmitting the State of the Union Address; ordered to lie on the table. (PM-1)

Nominations Received: Senate received the following nominations:

- Cheryl Shavers, of California, to be Under Secretary of Commerce for Technology.
- Captain Evelyn J. Fields, NOAA, for appointment to the grade of Rear Admiral (O-8), while serving in a position of importance and responsibility as Director, Office of NOAA Corp Operations, National Oceanic and Atmospheric Administration, under the provisions of Title 33, United States Code, Section 853u.

Routine lists in the Foreign Service, Public Health Service.

Communications:

Statements on Introduced Bills:

Additional Statements:

Adjournment: Senate convened at 9:30 a.m., and adjourned at 10:31 a.m., until 11 a.m., on Wednesday, January 20, 1999. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S483.)

Committee Meetings

(Social Security Reform

Committee on the Budget: Committee held hearings on Social Security reform issues, including treatment of
the postwar generation, privatization, and Old Age, Survivors, and Disability Insurance program, receiving testimony from Jagadeesh Gokhale, Federal Reserve Bank of Cleveland, Cleveland, Ohio; Andrew A. Samwick, Dartmouth College, Hanover, New Hampshire; Don K. Keboeadeux, First Financial Capital Corporation, Houston, Texas; and Henry J. Aaron and Gary Burtless, both of the Brookings Institution, Washington, D.C.

Hearings continue on Friday, January 22.

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House of Representatives

Bills Introduced: 103 public bills, H.R. 323-425; 4 private bills, H.R. 426-429; and 18 resolutions, H.J. Res. 20-21, H. Con. Res. 11-18, and H. Res. 21-28, were introduced.

Reports Filed: The following reports were filed:

- Filed on January 2: Activities Report of the Committee on Small Business, 105th Congress (H. Rept. 105-849);
- Filed on January 2: Activities Report of the Committee on House Oversight, 105th Congress (H. Rept. 105-850);
- Filed on January 3: Report of the Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China (H. Rept. 105-851); and
- H.R. 68, to amend section 20 of the Small Business Act and make technical corrections in Title III of the Small Business Investment Act (H. Rept. 106-1).

Members Sworn: Representatives Gallegly, Hoyer, Mollohan, and Stark presented themselves in the well and were administered the oath of office by the Speaker.

House Officers: Pursuant to H. Res. 1, Mr. Wilson S. Livingood, Sergeant at Arms, presented himself in the well and was administered the oath of office by the Speaker.

Oath of Office: Pursuant to H. Res. 12, Representative George Miller was administered the oath of office on Jan. 7, 1999 by Judge Ellen Sickles James, Retired.

Oath of Office: Pursuant to H. Res. 13, Representative Sam Farr was administered the oath of office on Jan 8, 1999 by Marc B. Poche, Associate Justice, Court of Appeal.

Morning Hour: Agreed by unanimous consent that on legislative days of Monday and Tuesday during the first session of the 106th Congress that the House shall convene 90 minutes earlier than the time otherwise established by order of the House solely for the purpose of conducting "morning-hour debate" except that on Tuesdays after May 4, 1999 the House shall convene for that purpose one hour earlier than the time otherwise established.

Adjournment Resolution: The House agreed to H. Con. Res. 11, providing that when the House adjourns today, it stand adjourned until 12:30 p.m. on Tuesday, February 2, 1999.

Suspension of the Rules: Agreed by unanimous consent that it be in order at any time on Wednesday, February 3, 1999, for the Speaker to entertain motions that the House suspend the rules, provided that the Speaker or his designee consult with the Minority Leader or his designee on the designation of any matter for consideration pursuant to this request.


Committee Election: Agreed by unanimous consent that any references to the Committee on Government Reform and Oversight and the Committee on National Security in H. Res. 7 adopted on January 6, 1999, be changed to the Committee on Government Reform and the Committee on Armed Services, respectively. And, that the election of Mr. Dixon to the Permanent Select Committee on Intelligence by the adoption of H. Res. 7 be vacated.

Board of Regents of the Smithsonian: The Chair appointed the following to the Board of Regents of the Smithsonian Institution: Representatives Regula and Sam Johnson of Texas.

Official Advisors Re Trade Agreements: The Chair appointed the following to be accredited by the President as official advisors to the United States delegations to international conferences, meetings, and negotiation sessions relating to trade agreements.
during the first session of the 106th Congress: Representatives Archer, Crane, Thomas, Rangel, and Levin.

Permanent Select Committee on Intelligence: The Chair appointed the following members to the Permanent Select Committee on Intelligence: Representatives Lewis of California, McCollum, Castle, Boehlert, Bass, Gibbons, LaHood, and Wilson.

Clerk Designation: Read a letter from the Clerk wherein he designated Mr. Daniel F. C. Crowley, Deputy Clerk, to sign papers and do all other acts under the name of the Clerk in case of his temporary absence or disability.

Communication from the Committee on Ways and Means: Read a letter from the Chairman of the Committee on Ways and Means wherein he forwarded the Committee's recommendations for certain designations required by law for the 106th Congress: The Committee designated the following members to serve on the Joint Committee on Taxation: Representatives Archer, Crane, Thomas, Rangel, and Stark. The Committee recommended that the following members serve as official advisors for international conference meetings and negotiation sessions on trade agreements: Representatives Archer, Crane, Thomas, Rangel, and Levin.

Committee Resignation: Read a letter from Representative Cox of California wherein he requested a leave of absence from the Committee on Government Reform. Without objection, the resignation was accepted.

Recess: The House recessed at 2:50 and reconvened at 8:41 p.m.

Committee Resignation: Read a letter from Representative Miller of Florida wherein he resigned from the Committee on the Budget. Without objection, the resignation was accepted.

Committee Election: Agreed to H. Res. 21, electing Representatives Collins and Wamp to the Committee on the Budget.

Committee Election: Agreed to H. Res. 22, electing Representatives Hefley, Knollenberg, Portman, and Camp to the Committee on Standards of Official Conduct.

Meeting Hour: Agreed by unanimous consent that when the House adjourns today, it stand adjourned until 2 p.m. tomorrow, unless the House receives a message from the Senate transmitting its concurrence in H. Con. Res. 11, in which case the House shall stand adjourned pursuant to that concurrent resolution.

Committee Election: Agreed to H. Res. 23, electing Representative Hill to the Committee on Agriculture; Representative Larson to the Committee on Armed Services; Representatives Pomeroys, Delahunt, Meeks of New York, Lee, Crowley, and Hoeffel to the Committee on International Relations; Representatives Weiner and Capuano to the Committee on Science, and Representatives Baird and Schakowsky to the Committee on Small Business.

Resignations and Appointments: Agreed that notwithstanding any adjournment of the House until Tuesday, February 2, 1999, the Speaker, Majority Leader, and Minority Leader be authorized to accept resignations and to make appointments authorized by law or by the House.

State of the Union Address: President Clinton delivered his State of the Union address before a joint session of Congress. He was escorted into the House Chamber by a committee comprised of Representatives Armey, Watts of Oklahoma, Fowler, Dickey, Hutchinson, Gephardt, Bonior, Frost, Menendez, Berry, Snyder, and Senators Lott, Nickles, Thurmond, Stevens, Domenici, Warner, Daschle, Reid, Mikulski, Breaux, Kerry, Dorgan, Torricelli, Murray, Rockefeller, and Durbin. The President's message was referred to the Committee of the Whole House on the State of the Union and ordered printed as a House Document (H. Doc. 106-1).


Quorum Calls—Votes: No recorded votes or quorum calls developed during the proceedings of the House today.

Adjournment: The House met at 2:00 p.m. and pursuant to H. Con. Res. 11, the House adjourned at 10:34 p.m. until 12:30 p.m. on Tuesday, February 2 for morning hour debate or, under the previous order of the House, until 2 p.m. tomorrow, unless the House sooner receives a message from the Senate transmitting its concurrence in H. Con. Res. 11.

Committee Meetings

COMMITTEE ORGANIZATION
Committee on International Relations: Met for organizational purposes.

COMMITTEE ORGANIZATION
Committee on Resources: Met for organizational purposes.
COMMITTEE MEETINGS FOR
WEDNESDAY, JANUARY 20, 1999

Senate
(Committee meetings are open unless otherwise indicated)

Committee on Appropriations: to resume oversight hearings to examine the status of government and industry efforts to prepare for Year 2000 computer compliance, 9:30 a.m., SD-192.

Committee on Banking, Housing, and Urban Affairs: Subcommittee on International Finance, to hold hearings on proposed legislation authorizing funds for programs of the Export Administration Act, 10 a.m., SD-538.

Committee on the Budget: to hold hearings on Federal tax policy in the Year 2000, 10 a.m., SD-608.

Committee on Commerce, Science, and Transportation: business meeting to consider pending committee business, to be followed by a hearing on proposed legislation authorizing funds for the Federal Aviation Administration, Department of Transportation, 9:45 a.m., SR-253.

Committee on Environment and Public Works: business meeting to consider pending committee business and its rules of procedures for 106th Congress, 9:30 a.m., SD-406.

Committee on Finance: to hold hearings on the nomination of Susan G. Esserman, of Maryland, to be Deputy United States Trade Representative, with the rank of Ambassador, and other pending nominations, 10 a.m., SD-215.

Committee on Governmental Affairs: business meeting to consider pending committee business, 10 a.m., SD-342.

Committee on Health, Education, Labor, and Pensions: business meeting to consider its rules of procedure for the 106th Congress and its subcommittee membership, 9:30 a.m., SD-430.

Full Committee, to hold hearings on group health plan comparative information and coverage determination standards, 10 a.m., SD-430.

House

Committee on Agriculture, to meet for organizational purposes, 1:30 p.m., 1300 Longworth.

Committee on Armed Services, to meet for organizational purposes, 10 a.m., and to hold a hearing on the state of U.S. military forces, 1 p.m., 2118 Rayburn.

Committee on Banking and Financial Services, to meet for organizational purposes, 2 p.m., 2128 Rayburn.

Committee on the Budget, to meet for organizational purposes, 4 p.m., 210 Cannon.

Committee on Government Reform, hearing on Oversight of the Year 2000 Problem: Status of Federal, State, Local and Foreign Governments, 11:15 a.m., 2154 Rayburn.

Committee on International Relations, to hold a hearing on Human Rights in China, 10 a.m., 2172 Rayburn.

Committee on Ways and Means, to hold a hearing on the Outlook for the State of the U.S. Economy in 1999, 10 a.m., 1100 Longworth.

Subcommittee on Social Security, to meet for organizational purposes, 1:30 p.m., B-318 Rayburn.
Next Meeting of the SENATE
11 a.m., Wednesday, January 20

Senate Chamber

Program for Wednesday: After the transaction of any morning business (not to extend beyond 1 p.m.), Senate will continue to sit as a Court of Impeachment to consider the articles of impeachment against President Clinton.

Next Meeting of the HOUSE OF REPRESENTATIVES
12:30 p.m., Tuesday, February 2

House Chamber

Program for Tuesday, February 2: To be announced.