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. Finally, 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 one change 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 marketing orders. 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 prices have generated so 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 $669 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 regions.

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 fluid milk to meet their own 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 efficiently, and in some cases, 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 Southwest, 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 produce a product that can 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 orders by prohibiting a 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 8c(5) 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) in clause (3) of the second sentence, by inserting after ''the locations'' the following: ''within a marketing area subject to the order''; and

(B) by striking the last 2 sentences and inserting the following: ''Notwithstanding subsection (18) or 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 report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the criteria that are used as the basis for the minimum 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 locations'' the 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 reduce the number of presidential political appointees. Specifically, the bill caps the number of political appointees at 2,000. The Congressional Budget Office (CBO) estimates this measure

would save $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 Presidential Appointment Process. The task force findings, released last fall, are only the latest in a long line of recommendations that we reduce the number of political appointees in the Executive Branch. For many years, the proposal has been included in CBO's annual publication Reducing the Deficit: Spending and Revenue Options, and it was 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 per year in salary, benefits, and administrative costs.''

Those sentiments were also expressed in the 1989 report of the Volcker Commission, when it argued the growing number of presidential appointees may ''actually undermine effective presidential control of the executive branch.'' The Volcker Commission recommended limiting the number of political appointees to 2,000, as this legislation does.

Mr. President, it is essential that any Administration be able to implement the policies that brought it into office in the first place. Government must be responsive to the priorities of the electorate. But as the Volcker Commission noted, the great increase in the number of political appointees in recent years has not made government more effective or more responsive to political leadership.

Between 1980 and 1992, the ranks of political appointees grew 17 percent, over three times as fast as the total number of Executive Branch employees and looking back to 1960 their growth is even more dramatic. In his recently published book ''Thickening Government: Federal Government and the Diffusion of Accountability,'' author Paul Light reports a startling 430% increase in the number of political appointees and senior executives in Federal government between 1960 and 1992.

In recommending a cap on political appointees, the Volcker Commission report noted that the large number of presidential appointees simply cannot be managed effectively by any President or White House. The Commission argued that this lack of control and political focus ''may actually dilute the President's ability to develop and enforce a coherent, coordinated program and to hold cabinet secretaries accountable.''

Adding organizational layers of political appointees can also restrict access to important resources, while doing nothing to reduce bureaucratic impediments.

In commenting on this problem, author Paul Light noted, ''As this sediment has thickened over the decades, presidents have grown increasingly distant from the lines of government, and the front lines from them.'' Light 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, former Attorney General Elliot Richardson put it well when he noted:

> But a White House personnel assistant sees the position of deputy assistant secretary as a fourth-echelon slot. In his eyes that makes it an ideal reward for a fourth-echelon political type—a campaign advance man, or a regional political organizer. For a senior civil servant, it's irksome to see a position one has spent 20 or 30 years preparing for preempted by an outsider who doesn't know the difference between an audit exception and an authorizing bill.

Mr. President, the report of the Twentieth Century Fund Task Force on the Presidential Appointment Process identified another problem aggravated by the mushrooming number of political appointees, 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. This measure requires us to bite the bullet and impose limitations upon political appointments that both parties may well wish to retain. The test of commitment to deficit reduction, however, is not simply to propose measure that impact someone else.

As reduce the number of government employees, streamline agencies, and make government more responsive, we should also right size the number of political appointees, ensuring a sufficient number to implement the policies of any Administration without burdening the Federal budget with unnecessary, possibly counterproductive political jobs.

Mr. President, when I ran for the U.S. Senate in 1992, I developed an 82 point plan to reduce the Federal deficit and achieve a balanced budget. Since that time, I have continued to work toward enactment of many of the provisions of that plan and have added new provisions on a regular basis.

The legislation I am introducing today reflects one of the points included on the original 82 point plan calling for streamlining various federal agencies and reducing agency overhead costs. I am pleased to have this opportunity to continue to work toward implementation of the elements of the deficit reduction plan.

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. 125

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

SECTION 1. REDUCTION IN NUMBER OF POLITICAL APPOINTEES.

(a) DEFINITION.—In this section, the term ''political appointee'' means any individual who—

(1) is employed in a position on the executive schedule under sections 5312 through 5316 of title 5, United States Code;

(2) is a limited term appointee, limited emergency appointee, or noncareer appointee in the senior executive service as defined under section 3132(a) (5), (6), and (7) of title 5, United States Code, respectively; or

(3) is employed in a position in the executive branch of the Government of a confidential or policy-determining character under Schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

(b) LIMITATION.—The President, acting through the Office of Management and Budget and the Office of Personnel Management, shall take such actions as necessary (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. 126. 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 school would save $273 million over 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 noted in their 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.

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 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 obtained from other sources as a justification for continuation of this program, but while a greater percentage of USUHS trained physicians may remain in the military longer than those from other sources, the Pentagon indicates that the alternative sources already provide an appropriate mix of retention rates. Testimony by the Department of Defense before the Subcommittee on Force Requirements and Personnel noted that the military's scholarship program meets the retention needs of the services.

And while USUHS only provides a small fraction of the military's new physicians, it is important to note that relying primarily on these other sources has not compromised the ability of military physicians to meet the needs of the Pentagon. According to the Office of Management and Budget, of the approximately 2,000 physicians serving in Desert Storm, only 103, 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 backlogs, and other indicators of a lower level of readiness.

Mr. President, the debate over our level of readiness is certainly important, and it may well be 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 can no longer be sustained with limited federal dollars, or where a more cost-effective means of fulfilling those functions can be substituted. The future of USUHS continues to be debated precisely because in these times of budget restraint it does not appear to pass the higher threshold tests which must be applied to all federal spending programs.

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

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

S. 126

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Uniformed Services University of the Health Sciences Termination and Deficit Reduction Act of 1999''.

SEC. 2. TERMINATION OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) TERMINATION.—

(1) IN GENERAL.—The Uniformed Services University of the Health Sciences is terminated.

(2) CONFORMING AMENDMENTS.—

(A) Chapter 104 of title 10, United States Code, is repealed.

(B) The table of chapters at the beginning of subtitle A of such title, and at the beginning of part III of such subtitle, are each amended by striking out the item relating to chapter 104.

(b) EFFECTIVE DATES.—

(1) TERMINATION.—The termination of the Uniformed Services University of the Health Sciences under subsection (a)(1) shall take effect on the day after the date of the graduation from the university of the last class of students that enrolled in such university on or before the date of the enactment of this Act.

(2) AMENDMENTS.—The amendments made by subsection (a)(2) shall take effect on the date of the enactment of this Act, except that the provisions of chapter 104 of title 10, United States Code, as in effect on the day before such date, shall continue to apply with respect to the Uniformed Services University of the Health Sciences until the termination of the university under this section.

By Mr. FEINGOLD;

S. 127. A bill to amend the Agricultural Market Transition Act to prohibit the Secretary of Agriculture from including any storage charges in the calculation of loan deficiency payments or loans made to producers for loan commodities; to the Committee on Agriculture, Nutrition, and Forestry.

COTTON STORAGE SUBSIDY

Mr. FEINGOLD. Mr. President, today 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-recourse 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 agriculture industry must be more market oriented—must not rely so much on government price interference.

Mr. President, although the Farm Bill was successful in ridding agriculture policy of much of the weight of government intrusion that burdened it for years, there are still hidden subsidies costing taxpayers billions. This legislation would prevent USDA from factoring cotton industry storage costs into Marketing Loan Program calculations. This costly and unnecessary benefit is bestowed on the producers of no other commodity.

Farmers, except those who produce cotton, are required to pay storage cost through the maturity date of their support loans. Producers must prepay or arrange to pay storage costs through the loan maturity date or USDA reduces the amount of the loan by deducting the amount necessary for prepaid storage. Cotton producers are not required to prepay storage costs. When they redeem a loan under marketing loan provisions or forfeit collateral, USDA pays the cost of the accrued storage.

It is interesting to note, Mr. President, that in a 1994 audit of the cotton program, USDA's Office of Inspector General found no reason for USDA to pay the accrued storage costs of cotton producers. The Inspector General recommended that USDA ''revise procedures to eliminate the automatic payment of cotton storage charges by CCC and make provisions consistent with the treatment of storage charges on other program crops''.

Although those in the cotton industry will argue that the automatic payments were eliminated in the Farm Bill, in reality, those payments are now simply hidden. It's true that certain provisions have been removed from the statute which mandates that USDA pay these charges. Now, USDA freely chooses to waste the taxpayers money by paying these costs, allowing cotton producers to subtract their storage costs from the market value of their cotton, providing a larger difference with the loan rate, and therefore receiving a higher return.

Marketing Loan Programs are designed to encourage producers to redeem their loans and market their crops, but USDA payment of cotton storage costs discourage loan redemption. As long as the adjusted world price is at or below the loan rate, producers can delay loan redemption in the secure expectation that domestic prices will rise or the adjusted world price will decline regardless of accruing storage costs.

Mr. President, its time to stop kidding ourselves. Let's eliminate this subsidy before it costs hardworking Americans any more. Let's bring equity to the commodities program. Lets finish what the Farm Bill started—a more market oriented agriculture program. One that benefits us all.

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. 127

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

SECTION 1. STORAGE CHARGES FOR LOAN COMMODITIES.

Subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.) is amended by adding at the end the following:

''SEC. 138. STORAGE CHARGES FOR LOAN COMMODITIES.

''In calculating the amount of a loan deficiency payment or loan made to a producer for a loan commodity under this subtitle, the Secretary may not include any storage charges incurred by the producer in connection with the loan commodity.''.

By Mr. FEINGOLD (for himself, Mr. KOHL, Mr. WYDEN, and Mr. JOHNSON):

S. 128. A bill to terminate operation of the Extremely Low Frequency Communication System of the Navy; to the Committee on Armed Services.

TO TERMINATE OPERATION OF THE EXTREMELY LOW FREQUENCY COMMUNICATION SYSTEM OF THE NAVY

Mr. FEINGOLD. Mr. President, I once again come to the floor to offer a bill to terminate the Navy's Extremely Low Frequency Communication System. I am again pleased to be joined in introducing this bill with the senior Senator from Wisconsin (Mr. KOHL) and the Senator from Oregon (Mr. WYDEN).

Mr. President, this bill would terminate the operation of the Navy's Extremely Low Frequency Communication System, or Project ELF, as it's more familiarly known, while maintaining the infrastructure in Wisconsin and Michigan for resuming should a resumption in operation become necessary. As my colleagues are well aware, I have long opposed this needless project.

Project ELF is an ineffective, unnecessary, outdated Cold War relic that is not wanted by most residents in my state. The members of the Wisconsin delegation have fought hard for years to close down Project ELF; I have introduced legislation during each Congress since taking office to terminate it; and I have even recommended it for closure to the Defense Base Closure and Realignment Commission.

This project has been opposed by residents of Wisconsin since its inception, but for years we were told that the national security considerations of the Cold War outweighed our concerns about this installation in our state. As we continue our efforts to truly balance the federal budget and as the Department of Defense continues to struggle to address readiness concerns, it is clear that Project ELF should be closed down. If enacted, my legislation would save approximately $12 million a year.

Project ELF is a one-way, primitive messenger system designed to signal to—not communicate with—deeply submerged Trident nuclear submarines. It is a ''bell ringer'', a pricey beeper system, used to tell the submarine when to rise to the surface to get a detailed message through a less primitive communications systems.

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 fight the heart of 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 E. 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 weapons.

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 surface 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 lengthier 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 operate after the Cold War as part of the complete complement of command and control links configured for the Cold War.

Did Project ELF play a role in helping to minimize the Soviet threat? Perhaps. Did it do so at risk to the community? Perhaps. Does it continue to play a vital security role to the Nation? No.

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 all necessary orders and instructions 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 its 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 1984, 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 from the presence of high voltages.

Mr. President, last year, an international committee, convened by the National Institute of Environmental Health Sciences urged the study of electric and magnetic fields as a possible cause of cancer. Project ELF produces the same kind of electric and magnetic fields cited by this distinguished committee. The committee's announcement seems to confirm the fears of many of my constituents.

And recently, I have heard from a number of dairy farmers who are convinced that the stray voltage associated with ELF transmitters has demonstrably reduced milk production.

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 terminates a wasteful 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:

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

SECTION 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.

By Mr. FEINGOLD (for himself, Mr. LAUTENBERG, Mr. WYDEN, and Mr. JOHNSON):

S. 129. A bill to terminate the F/A–18E/F aircraft program; to the Committee on Armed Services.

TERMINATION OF THE F/A–18E/F AIRCRAFT PROGRAM

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 aviation.'' In fact, this history more closely resembles the previously-canceled A–12 attack plane. And I know that neither the Pentagon nor the Congress wants another debacle like the A–12.

Mr. President, I began this debate over the Super Hornet in 1997 on the basis of the 1996 General Accounting Office report ''Navy Aviation: F/A–18E/F Will Provide Marginal Operational Improvement at High Cost.'' In this report, GAO studied the rationale and need for the F/A–18E/F in order to determine whether continued development of the aircraft is the most cost-effective approach to modernizing the Navy's tactical aircraft fleet. GAO concluded that the marginal improvements of the F/A–18E/F are far outweighed by the high cost of the program.

Since that time, I have offered numerous pieces of legislation that run the gamut from outright termination of the program to continued oversight of it. I asked GAO for a follow-up review. I have even asked DoD's Inspector General to investigate various aspects of the program, including testing evaluation. The one constant, however, has been the program's continuing disappointments.

Mr. President, as we have all heard by now, wing drop causes the aircraft to rock back and forth when it is flying at altitudes and speeds at which air-to-air combat maneuvers are expected to occur.

What really disturbs me about wing drop is that almost a year and a half went by after the discovery of the problem before the Office of the Secretary of Defense acknowledged the problem. The Pentagon's ignorance is caused either by shamefully poor communication or the withholding of program information by the Navy. For that reason, I have asked the DoD Inspector General to take a look at the wing drop fiasco.

Mr. President, the Navy's Super Hornet test team discovered the wing drop problem in March, 1996. In October of that year, the Navy rated it a priority problem. On February 5, 1997, wing drop was placed on an official deficiency report. In that report, the Navy classified wing drop as a **1 deficiency. In other words, one that will cause aircraft control loss, equipment destruction, or injury. This is the most serious category that the Navy assigns to program deficiencies. In the same report, the Super Hornet's test director stated that wing drop, ''will prevent or severely restrict the performance of air-to-air tracking tasks during air-to-air combat maneuvering. Therefore, the operational effectiveness will be compromised.'' On March 12, 1997, the test team characterized the problem as being ''an unacceptable deficiency''.

Two weeks later, the Navy's Defense Acquisition Board met with the test team, which failed to mention the wing drop problem at all. Following that meeting, Secretary Cohen approved the group's recommendation to spend 1.9

billion dollars for the first dozen Super Hornets.

In November, 1997, the assistant secretary of Defense reportedly first informed the Navy Secretary of the wing drop problem. In December, the problem was moved 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 4, 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 porous 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.

Following the release of the 1998 GAO report and reports of the wing drop fiasco, I asked the Secretary to document the wing drop problem. Specifically, I asked Secretary Cohen questions on who knew 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 into 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 John Douglass' November 20, 1997, memo on the issue to Navy Secretary John Dalton appeared in the press. In fact, during a February, 1998, 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 the chairman of the subcommittee responsible for the development of the Super Hornet has to 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.

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 notes limitations 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 and my 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 degrade engine 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 ''operational testing may determine that the aircraft 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 concerns 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 Hornet. DoD readily agrees, but maintains that this is an acceptable trade-off for other capabilities. I wonder if a pilot under fire would agree.

It gets better, Mr. President. The publication, Inside the Pentagon, reported last February that the Navy will not hold the Super Hornet to strict performance specifications in three areas. It published a copy of a memo written by Rear Admiral Dennis McGinn, the Navy's officer in charge of air warfare programs, that ordered the E/F would not be strictly held to performance specifications in turning, climbing and maneuvering.

Everyone can agree that these are important performance criteria for a state-of-the-art fighter and attack plane. It turns out that this memo was sent to the E/F test team after the team concluded that the Super Hornet was, in some cases, not as proficient in turning or accelerating as the Hornet. The test team concluded that the single-seat E, when outfitted with a relatively light load of air-to-air missiles, is ''slightly less'' capable than the single-seat C in terms of instantaneous turn performance, sustained turn performance, and in some cases, of unloaded acceleration. Interestingly enough, the C models used in the comparisons were not even the most advanced C's available. These deficiencies haven't improved since then.

GAO also said that the Navy board's program officials came to ''the realization that the F/A–18E/F may not be as capable in a number of operational performance areas as the most recently procured 'C' 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 1996 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 is intended to fulfill. 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 corrected with nonstructural 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.

GAO also disputes 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 sought for the F/A–18E/F.

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 questionable. For example, 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 heavier, precision-guided, air-to-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, it's time we ended this fiasco once and for all. The program already costs tens of billions of dollars more than initial Navy estimates and costs continues to rise. Additionally, we must compare the estimated $73 million cost per plane for the Super Hornet to the $28 million per plane for the Hornet. And, as I have mentioned, some projections put the total program cost of the F/A–18E/F at close to $100 billion.

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 $73 million. And I am fairly 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 continue to procure the 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 more operational capability at far less cost than the Super Hornet.

Mr. President, by all accounts the F/A–18C/D is a top-quality aircraft that has served the Navy well over the last decade, and could be modified to meet every capacity the E/F is intended to fulfill over the course of the next decade at a substantially lower cost.

Therefore, considering the Department of Defense has clearly overextended itself in terms of supporting three major multirole fighter programs, it is clear that we must discontinue the Super Hornet program before the American taxpayer is asked to fund yet another unnecessary, flawed multi-billion dollar program.

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

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,

SECTION 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. 130. A bill to amend the Internal Revenue Code of 1986 to make the dependent care credit refundable, and for other purposes; to the Committee on Finance.

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 expenses of individual taxpayers with respect to a dependent of the taxpayer who suffers from Alzheimer's disease or related organic brain disorders; to the Committee on Finance.

LONG TERM CARE ASSISTANCE

Ms. SNOWE. Mr. President, long term care is an issue that continues to tug at Congress and this country. In 1995 the federal and state governments spent $23 billion on long term care and another $21 billion for home care. And it is estimated that those in need of long-term care will grow from 7.3 million today to 10–14 million by 2020—potentially a doubling of those in need.

The appropriate care for an individual should be an issue that is made by that individual and their loved ones. But we all know the truth is that in many cases it comes down to the financial realities of the family. For many people, remaining at home is their choice. It allows them to remain with their loved ones in familiar surroundings. We need to do more to assist these people and their families if this is their choice.

Toward that end I am reintroducing a bill that provides a tax credit for families caring for a relative who suffers from Alzheimer's disease. When I first came to Congress 20 years ago, not a single piece of legislation devoted to Alzheimer's disease had even been introduced. We have come along way since then, as today 'Alzheimer's' is a household word. It is also the most expensive uninsured illness in America. Alzheimer's will consume more of our national wealth-approximately $1.75 trillion—than all other illnesses except cancer and heart disease. And the number of those affected by this disease is rising and will continue to rise dramatically, from 4 million today to over 14 million by the middle of the 21st century.

As staggering as these numbers are, they pale in comparison to the emotional costs this disease places on the family. We can help lessen that cost by providing some relief to Alzheimer's patients and their families. My bill would allow families to deduct the cost of 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 increased 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, but is exceptionally burdensome for those in lower income brackets.

In 1976, the 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 the credit to inflation and making it refundable so that those who do not reach the tax thresholds will still received assistance. It also raises the DCTC sliding scale from 30 to 50 percent of work-related dependent care expenditures for families earning $15,000 or less. The scale would then be reduced by 1 percentage point for each additional $1,000 more of income, down to a credit of 20 percent for persons earning $45,000 or more.

In order to assist those who 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 rise 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 payed 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 spent more time inside the 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 and divided fairly 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 the Committee on Energy and Natural Resources.

GAYLORD 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 I 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 he crafted which have produced real and lasting change in preserving America's lands, such as the Apostle Islands.

The Apostle Islands National Lakshore includes 21 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 on the mainland. 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 place.

Mr. President, the legislation has three major sections. First, it authorizes the Park Service to conduct a wilderness suitability study of the Lakeshore 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 require 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 federally-owned lands currently within 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 pending completion of the study. 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. The bill 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

Island, Raspberry Island, Outer Island, Long Island and Michigan Island. Engineering studies completed for the National Park Service have determined that several of these lighthouses are in danger of structural damage due to the continued erosion of the red clay banks upon which they were built. The situations at Outer Island and Raspberry Island, the two which this legislation addresses, were determined to be in the most jeopardy.

Last year, as part of the 1999 Interior Appropriations Bill, $215,000 was provided to the Apostle Island National Seashore for the rehabilitation of the historic lighthouses. While the funding was a commendable first step, it will allow only for preliminary engineering assessments of how to best protect these landmarks. We must go further to ensure that these precious and fragile beacons do not simply crumble into Lake Superior.

The Raspberry Island situation is most critical. The Raspberry Island lighthouse was completed in 1863 to make the west channel through the Apostle Islands. The original light was a rectangular frame structure topped by a square tower that held a lens 40 feet above the ground.

A fog signal building was added to Raspberry Island in 1902. The red brick structure housed a ten-inch steam whistle and a hoisting engine for a tramway. The need for additional personnel at the station led to a redesign of the lighthouse building in 1906–07. The structure was converted to a duplex, housing the keeper and his family in the east half, with the two assistant keepers sharing the west half. A 23–kilowatt, diesel-driven electric generator was installed at the station in 1928. The light was automated in 1947 and then moved to a metal tower in front of the fog signal building in 1952.

Raspberry Island light is now the most frequently visited of Apostle Islands National Lakeshore's lighthouses. Recent erosion is threatening the access tram and the fog signal building.

The Outer Island light station was built in 1874 on a red clay bluff 40 feet above Lake Superior. The lighthouse tower stands 90 feet high and the watchroom is encircled by an outside walkway and topped by the lantern. As its name implies, the light is stationed on the outermost island of the Apostle archipelago, fully exposed to Lake Superior's gale-force storms.

Historic architects have indicated to the Park Service that Outer Island lighthouse may already be suffering some structural damage due to its location on the bluff and the situation would be much worse if Lake Superior were exceedingly high.

Engineers believe that preservation of these structures requires protection of the bluff beneath the lighthouses, stabilization of the banks, and dewatering of the area immediately shoreward of the bluffs. Although the projects have in the past been included within 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 rescinding $10 million in unspent funds from $40 million in funds carried over for the Department of Energy's Clean Coal Technology Program in 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 set aside 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, such as the 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, entitled America's Last Chance, Senator Nelson issued a political challenge:

> I have come to the conclusion that the number one domestic problem facing this country is the threatened destruction of our natural resources and the disaster which would confront mankind should such destruction occur. There is a real question as to whether the nation, which has spent some two hundred years developing an intricate system of local, State and Federal Government to deal with the public's problems, will be bold, imaginative and flexible enough to meet this supreme test.

Though the Apostle Islands are not, because of former Senator Nelson's efforts, ''threatened with destruction,'' they are a fitting place for us to rise to this challenge. I believe that Senator Nelson meant two things by his challenge. Not only did he mean that government must act immediately and decisively to protect resources in crisis, but he also meant that government must be responsible and flexible enough to remain committed to the protection of the areas we wisely seek to preserve under our laws.

Thus, Mr. President, I am proud to introduce this legislation as a renewal of the federal government's commitment to the Apostle Islands National Lakeshore. I look forward to working with my colleagues on this legislation, and I ask unanimous consent that a copy 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. 134

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 ''Gaylord Nelson Apostle Islands Stewardship Act of 1999''.

SEC. 2. GAYLORD NELSON APOSTLE ISLANDS.

(a) DECLARATIONS.—Congress declares that—

(1) the Apostle Islands National Lakeshore is 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 designation as 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.

(b) DEFINITIONS.—In this section:

(1) LAKESHORE.—The term ''Lakeshore'' means the Apostle Islands National Lakeshore.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting

through the Director of the National Park Service.

(c) WILDERNESS STUDY.—In fulfillment of the responsibilities of 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 (including protection of the bluff toe beneath the lighthouses, stabilization of the bank face, and dewatering of the area immediately shoreward of the bluffs) to protect the lighthouse structures at Raspberry Lighthouse and Outer Island Lighthouse on the Lakeshore.

(e) COOPERATIVE AGREEMENTS.—Section 6 of Public Law 91–424 (16 U.S.C. 460w–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 if the Secretary determines that a cooperative agreement would be beneficial in carrying out section 7.''.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $200,000 to carry out subsection (c); and

(2) $3,900,000 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'' for obligation in prior years, in addition to the funds deferred under the heading ''CLEAN COAL TECHNOLOGY'' under the heading ''DEPARTMENT OF ENERGY'' under section 101(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 any ongoing project regardless of the separate request for proposal under which the project was selected.

(3) TRANSFER OF FUNDS.—In addition to any amounts made available under subsection (f), amounts made available under paragraph (1) shall be transferred to the Secretary for use in carrying out subsections (c) and (d).

(4) UNEXPENDED BALANCE.—Any balance 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. MIKULSKI, and Mr. BAUCUS):

S. 136, A bill to provide for teacher excellence and classroom help; to the Committee on Health, Education, Labor, and Pensions.

TEACHER EXCELLENCE 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—and 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.

Last year, with broad bipartisan support, Congress made substantial investments in the nation's public schools to reduce class size, expand after-school programs, and improve the initial training of teachers. However, more needs to be done.

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.

Also, too many teachers leave within the first three years of teaching—including 30–50% of teachers in urban areas—because they don't get the support and mentoring they need to succeed. Veteran teachers and principals need more and better opportunities for professional development to enhance their knowledge and skills, to integrate technology into the curriculum, and to help children meet high standards.

We must fulfill last year's commitment to help communities hire 100,000 new teachers, in order to reduce class size. But it is equally important that we help communities recruit promising 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.

Many communities are working hard to attract, keep, and support good teachers—and often they're succeeding.

The North Carolina Teaching Fellows Program has recruited 3,600 high-ability high school graduates to go into teaching. The students agree to teach for four years in the state's public schools in exchange for a four-year college scholarship. North Carolina principals report that the performance of the Fellows far exceeds other new teachers.

In Chicago, a program called the Golden Apple Scholars of Illinois recruits promising young men and women into the profession by selecting them during their junior year of high school, then mentoring them through the rest of high school, college, and five years of actual teaching. 60 Golden Apple scholars enter the teaching field each year, and 90 percent of them stay in the classroom.

Colorado State University's Project Promise recruits prospective teachers from fields such as law, geology, chemistry, stock trading and medicine. Current teachers mentor graduates in their first two years of teaching. More than 90 percent of the recruits enter the field, and 80 percent stay for at least five years.

New York City's Mentor Teacher Internship Program has increased the retention of new teachers. In Montana, only 4 percent of new teachers in mentoring programs left after their first 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 improving schools. 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 12-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, to retain and

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 internship programs, and 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 the 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 veteran 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 50 percent of math teachers. 56 percent of high school students taking a physical science course are taught by out-of-field teachers, as are 27 percent of those taking mathematics, and 21 percent of those taking English. The proportions are much higher in high-poverty schools. In schools with the highest minority enrollments, students have less than a 50 percent chance of having science or math teachers who hold a license and a degree in the field they teach.

Because of teacher shortages caused by rising enrollments and teacher retirements, communities must often lower their standards and hire unqualified teachers. Currently, communities across the country have hired 50,000 unqualified teachers in order to address such shortages. More than 12 percent of newly hired teachers have no training and 15 percent of new teachers enter teaching without meeting state standards.

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 initial preparation of 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. What 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 state 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. 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 PETE DOMENICI, Chairman of the Senate Budget Committee, recently predicted 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 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 finds that, at the end of 1998, America's seniors have paid an extra $25 billion because of this tax hike, including $380 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 supported 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 families and businesses of 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 falling education standards by 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 shows 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 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 Participating 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 charter 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 this 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 refocus our efforts on doing 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 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.

SEPARATE 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 has the singular ability to reconcile 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. HOLLINGS. Mr. President, I rise today along with Senator ROBB to introduce the Separate Enrollment and 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'' line item 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 supermajority to override these 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 raising constitutional objections 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 saw first hand how effective the line item veto 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 1985. In that year, I cosponsored 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 for the first time in history by 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 monstrosity 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, this type of omnibus appropriations has become common in recent years, and it prevents 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 irresponsibility 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

Mr. MOYNIHAN. Mr. President, 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 Frederick Church, Alfred Bierstadt, Thomas Moran, and John Frederick Kennesett.

No description of Cole's works 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 that some people had 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 boarded; then he bought the house. 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 only the second 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, so we have the opportunity to provide visitors with two nearby destinations that show the inspiration for two of America's foremost nineteenth century painters. Visitors could walk, hike, or drive to the actual spots where masterpieces were painted and see the landscape much as it was then.

I regret that none of Thomas Cole's work hang in the Capitol, although two works by Bierstadt can be found in the stairwell outside the Speaker's Lobby. 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 is entirely qualified for the job. The Society could enter 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 United States, particularly in 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 River Valley Greenway to promote the preservation, public use, and enjoyment of the natural and cultural resources of the Hudson River Valley region; and

(6) establishment of the Thomas Cole National Historic Site will provide—

(A) opportunities for the illustration and interpretation of cultural themes of the heritage of the United States; and

(B) unique opportunities for education, public use, and enjoyment.

(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 interpretive, preservation, and recreational efforts of Federal, State, and other entities in the Hudson Valley region in order 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 in the village of Catskill, New York, as generally depicted on the boundary map numbered TCH/80002, and dated March 1992.

SEC. 5. RETENTION OF OWNERSHIP AND MANAGEMENT OF HISTORIC SITE BY GREENE COUNTY HISTORICAL SOCIETY.

Under a cooperative agreement entered into under section 6(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 Service, and for 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 6(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–7(b)).

(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.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

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

By Mr. MOYNIHAN:

S. 141. A bill to amend section 845 of title 18, United States Code, relating to explosive materials; to the Committee on the Judiciary.

LEGISLATION RELATING TO EXPLOSIVE MATERIAL

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill which restricts those who can have access to black powder, the primary ingredient in pipe bombs. At present, there are no restrictions on those who wish to buy commercially manufactured black powder in quantities not to exceed 50 pounds solely for sporting or recreational purposes. Anyone, including a convicted felon, a fugitive from justice, and a person adjudicated to be mentally defective, can buy commercially manufactured black powder in the above amounts with no questions asked. This is both wrong and dangerous. The same restrictions that apply to who can buy explosives should also apply to those who can lawfully buy commercially manufactured black powder.

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. 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 845(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. 142. A bill to amend section 842 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 would require vendors of explosives to notify the Federal Bureau of Alcohol, Tobacco, and Firearms (B.A.T.F.) when they sell such items. Now, there is no requirement that a seller notify the B.A.T.F. when a customer buys explosives. All that is required is that the buyer complete a federally generated form—5400.4—and that the seller keep it. There is nothing that requires the seller to send a copy of this form to the B.A.T.F.

In all likelihood, any terrorist attach 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 842(f) 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, 1999, Jerry 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 two 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. 143

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Professional Boxing Safety Act Amendments of 1999''.

SEC. 2. AMENDMENTS TO THE PROFESSIONAL BOXING SAFETY ACT OF 1996.

(a) STANDARDIZED PHYSICAL EXAMINATIONS.—Section 5(1) of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6304(1)) is amended by inserting after ''examination'' the following: '', based on guidelines endorsed by the American Medical Association, including a circulo-respiratory check and a neurological examination,''.

(b) CAT SCANS.—Section 6(b)(2) of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6305(b)(2)) is amended by inserting before the period the following: ''and, with respect to such renewal, present proof from a physician that such boxer has taken a computerized axial tomography (CAT) scan within the 30-day period preceding that date on which the renewal application is submitted and that no brain damage from boxing has been detected''.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 144. A bill to require the Secretary of the Interior to review the suitability for inclusion in the National Wilderness Preservation System of the Everglades expansion area; to the Committee on Energy and Natural Resources.

REVIEW OF EVERGLADES EXPANSION AREA FOR POTENTIAL AS WILDERNESS

Mr. GRAHAM. Mr. President, since my days as Governor of the State of Florida, I have been a strong advocate of the protection and restoration of the Florida Everglades, the largest wetland and subtropical wilderness in the United States. This legislation will require the Secretary of the Interior to review 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 action 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 uninterupted 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 provide flood control in 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:

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 101(c) of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r–5(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 any part of the addition.

(c) EFFECTIVE DATE.—Subsection (b) shall take effect—

(1) on the date of submission to Congress of the proposed comprehensive plan to restore, preserve, and protect the South Florida ecosystem required by section 528(b) of the Water Resources Development Act of 1996 (110 Stat. 3767); but

(2) only if the plan does not specify that construction and water storage are required in the addition (as determined by the Secretary of the Interior).

By Mr. ABRAHAM:

S. 145. A bill to control crime by requiring mandatory victim restitution; to the Committee on the Judiciary.

VICTIM RESTITUTION ENFORCEMENT ACT

Mr. ABRAHAM. Mr. President, I rise today to introduce the Victim Restitution Enforcement Act of 1999. I have long supported restitution for crime victims, and have long been convinced that justice requires us to devise effective mechanisms through which victims can enforce restitution orders and make criminals pay for their crimes.

I was very pleased when we enacted mandatory victim restitution legislation in the 104th Congress as part of the Antiterrorism and Effective Death Penalty Act of 1996. I supported that legislation and very much appreciated the efforts of my colleagues, particularly Senators HATCH, BIDEN, NICKLES, GRASSLEY, and MCCAIN, to ensure that victim restitution provisions were included in the antiterrorism legislation.

Those victim restitution provisions—brought together as the Mandatory Victims Restitution Act of 1996—will significantly advance the cause of justice for victims in federal criminal cases. The Act requires federal courts, when sentencing criminal defendants, to order these defendants to pay restitution to the victims of their crimes. It also establishes a single set of procedures for the issuance of restitution orders in federal criminal cases to provide uniformity in the federal system. Inclusion of mandatory victim restitution provisions in the federal criminal code was long overdue, and I am pleased that the 104th Congress was able to accomplish that.

However, much more remains to be done to ensure that victims can actually collect those restitution payments and to provide victims with effective means to pursue whatever restitution payments are owed to them. Even if a defendant may not have the resources to pay off a restitution order fully, victims should still be entitled to go after whatever resources a defendant does have and to collect whatever they can. We should not effectively tell victims that it is not worth going after whatever payments they might get. That is what could happen under the current system, in which victims have to rely on government attorneys—who may be busy with many other matters—to pursue restitution payments. Instead, we should give victims themselves the tools they need so that they can get what is rightfully theirs.

The victim restitution provisions enacted in the 104th Congress consolidated the procedures for the collection of unpaid restitution with existing procedures for the collection of unpaid

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 and 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 degree of control in going after criminals to obtain restitution payments.

Under my legislation, restitution orders would be enforceable as a civil debt, payable immediately. Most restitution is now collected entirely through the criminal justice system. It is frequently paid as directed by the probation officer, which means restitution payments cannot begin until the prisoner is released. This bill makes restitution orders payable immediately, as a civil debt, speeding recovery and impeding attempts by criminals to avoid repayment. This provision will not impose criminal penalties on those unable to pay, but will simply allow civil collection against those who have assets.

This will provide victims with new means of collecting restitution payments. If the debt is payable immediately, all normal civil collection procedures, including the Federal Debt Collection Act, can be used to collect the debt. The bill explicitly gives victims access to other civil procedures already in place for the collection of debts. This lightens the burden of collecting debt on our Federal courts and prosecutors.

My bill further provides that Federal courts will continue to have jurisdiction over criminal restitution judgments for five years, not including time that the defendant is incarcerated. The court is presently permitted to resentence or take several other actions against a criminal who willfully refuses to make restitution payments; the court may do so until the termination of the term of parole. Courts should have the ability to do more over a longer period of time, and to select those means that are more likely to prove successful. Under my bill, during the extended period, Federal courts will be permitted, where the defendant knowingly fails to make restitution payments, to modify the terms or conditions of a defendant's parole, extend the defendant's probation or supervised release, hold the defendant in contempt, increase the defendant's original sentence, or revoke probation or supervised release.

My legislation will also give the courts power to impose pre-sentence restraints on defendants' uses of their assets in appropriate cases. This will prevent well-heeled defendants from dissipating assets prior to sentencing. Without such provisions, mandatory victim restitution provisions may well be useless in many cases. Even in those rare cases in which a defendant has the means to pay full restitution at once, if the court has no capacity to prevent the defendant from spending ill-gotten gains or other assets prior to the sentencing phase, there may be nothing left for the victim by the time the restitution order is entered.

The provisions permitting pre-sentence restraints are similar to other provisions that already exist in the law for private civil actions and asset forfeiture cases, and they provide adequate protections for defendants. They require a court hearing, for example, and place the burden on the government to show by a preponderance of the evidence that pre-sentence restraints are warranted.

In short, I want to make criminals pay and to give victims the tools with which to make them pay. In enacting mandatory victim restitution legislation in the 104th Congress, we demonstrated our willingness to make some crimes subject to this process. I believe we must take additional steps to make those mandatorily issued orders easily enforceable.

This legislation is supported by the National Victim Center and by the Michigan Coalition Against Domestic and Sexual Violence. I ask unanimous consent to have placed in the RECORD letters of support from those victims' rights organizations.

I urge my colleagues to support my legislation, which will empower victims to collect on the debts that they are owed by criminals and which will improve the enforceability of restitution orders.

I also ask unanimous consent that a summary of the bill be placed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS

Section 1. Short title.

This section provides that the act may be cited as the ''Victim Restitution Enforcement Act of 1999.''

Section 2. Procedures for Issuance and Enforcement of Restitution Order.

This section amends the Federal criminal code to revise procedures for the issuance and enforcement of restitution orders. The legislation directs the court to: (1) order the probation service of the court to obtain and include in its presentence report, or in a separate report, information sufficient for the court to exercise its discretion in fashioning a restitution order (which shall include a complete accounting of the losses to each victim, any restitution owed pursuant to a plea agreement, and information relating to the economic circumstances of each defendant); and (2) disclose to the defendant and the attorney for the Government all portions of the report pertaining to such matters.

This section also makes specified provisions of the Federal criminal code and Rule 32(c) of the Federal Rules of Criminal Procedure the only rules applicable to proceedings for the issuance and enforcement of restitution orders. It authorizes the court, upon application of the United States, to enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property or assets necessary to satisfy a criminal restitution order, if specified circumstances apply.

This legislation also sets forth provisions regarding: (1) notice requirements; (2) evidence and information that the court may consider at a hearing; (3) the use of temporary restraining orders; (4) disclosure of financial information regarding the defendant; (5) the use of consumer credit reports; (6) timetables for the attorney for the United States to provide the probation service of the court with information available to the attorney, including matters occurring before the grand jury relating to the identity of the victims, the amount of loss, and financial matters relating to the defendant.

Further, this section directs the attorney for the Government to provide notice to all victims. It authorizes: (1) the court to limit the information to be provided or sought by 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 require additional documentation 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 or testimony to be heard in camera.

This legislation also establishes procedures regarding the court's ascertaining of the victims' losses. It permits the court to refer any issue 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 de novo determination of the issue by the court. Sets forth provisions regarding: (1) consideration of compensation for losses from insurance or other sources; and (2) the burden of proof.

The bill directs the court to order restitution to each victim in the full amount of each victim's losses as determined by the court without consideration of the defendant's economic circumstances. It sets forth provisions regarding situations where the amount of the loss is not reasonably ascertainable, and where there is more than one defendant. The bill also specifies that no victim shall be required to participate in any phase of a restitution order.

This legislation requires the defendant to notify the court and the Attorney General of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution. Authorizes the court to adjust the payment schedule.

It also sets forth provisions regarding: (1) court retention of jurisdiction over criminal restitution judgments; and (2) enforcement of restitution orders. Further, this section specifies that: (1) a conviction of a defendant for an offense giving rise to restitution shall estop the defendant from denying the essential allegations of that offense in any subsequent Federal civil proceeding or State civil proceeding, regardless of any State law precluding estoppel for a lack of mutuality; and (2) the victim, in such subsequent proceeding, shall not be precluded from establishing

a loss that is grater 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 all 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. Fines

Species that a defendant shall not incur any criminal penalty for failure to make a payment on a fine, special assessment, restitution, or cost because of the defendant's indigency.

Section 5. Resentencing

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. ALLARD, Mrs. FEINSTEIN, Mr. HATCH, Mr. THURMOND, Mr. HELMS, Mr. KYL, Mr. HUTCHINSON, Mr. GRAMS, Mr. ENZI, Mr. HAGEL, and Mr. COVERDELL):

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 kids 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. Also 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 New York Times recently reported on a conference of criminologists held in New Orleans. Experts at the 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 signal 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 say we need 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 amount of powder and crack cocaine 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 dealer sentences 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 gang membership is no way to live and that 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 ask 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,

SECTION 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 1010(b)(1)(B) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(B)) is amended by striking ''5 kilograms'' and inserting ''500 grams''.

(2) SMALL QUANTITIES.—Section 1010(b)(2)(B) of the Controlled Substances Import and Export Act (21 U.S.C. 960(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. Continuing 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 prison sentence, and distribute 5 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 members of Congress and the administration. 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, Congress overwhelmingly 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, drugs are dangerous, drugs may cost you your life—and the penalties for dealing drugs are severe. I am not going to let anyone who peddles drugs get the idea that the cost of doing business is going down.

Regrettably, the Clinton administration continues to promote a federal sentencing policy for crack cocaine offenses that fails to recognize the dangerous and addictive nature of this illegal substance and its impact upon violent crime throughout our communities. In an April 1997 report to Congress, the Sentencing Commission unanimously recommended an increase in the mandatory minimum trigger for the distribution of crack cocaine.

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 crack cocaine dealers 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 amount of powder 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 which will contain goals 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 greater protection to Americans from drugs by keeping offenders off the streets for longer periods of time.

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 cosponsor this legislation and ask 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 are back 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 birds, and 60 million 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, and its increased popularity 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 farming and timber interests. 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 Bahamas. 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, we must 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 between 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 organizations in countries where bird habitat is endangered we can see to it that local people receive the training they need to preserve this habitat and maintain this critical natural resource.

This act establishes a three year demonstration project providing $8 million each year to help establish programs in the United States, Latin America and the Caribbean. The greater portion of these funds will be focused outside the U.S. Approved programs will manage and conserve neotropical migratory bird populations. Those eligible to participate will include national and international nongovernmental organizations and business interest, as well as U.S. government entities.

The key to this act is cooperation among nongovernmental organizations. The federal share of each project's cost is never to exceed 33 percent. For grants awarded outside the U.S., the nonfederal match can be made with in-kind contributions. This will encourage volunteerism and local interest in communities that lack the financial resource to contribute currency. Since domestic organizations and communities are more financially secure, the matching portion of grants awarded within the U.S. will be required in cash.

The approach taken by this legislation differs from that of current programs in that it is proactive and, by avoiding a crisis management approach, will prove significantly more cost effective. In addition, this legislation does not call for complicated and expensive bureaucratic structures such as councils, commissions or multi-tiered oversight structures. Further, this legislation will bring needed attention and expertise to areas now receiving relatively little attention in the area of environmental degradation.

This legislation has the support of the National Audubon Society, the American Bird Conservancy and the Ornithological Council. These organizations agree with Senator DASCHLE, SENATOR CHAFEE and I that, by establishing partnerships between business, government and nongovernmental organizations both here and abroad 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)(A) many neotropical migratory bird populations, once considered common, are in decline, and some have declined to the point that their long-term survival in the wild is in jeopardy; and

(B) the primary reason for the decline in the populations of those species is habitat loss and degradation (including pollution and contamination) across the species' range; and

(4)(A) because neotropical migratory birds range across numerous international borders each year, their conservation requires the commitment and effort of all countries along their migration routes; and

(B) although numerous initiatives exist to conserve migratory birds and their habitat, those initiatives can be significantly strengthened and enhanced by increased coordination.

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.

In this Act:

(1) ACCOUNT.—The term ''Account'' means the Neotropical Migratory Bird Conservation Account established by section 9(a).

(2) 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 there are sufficient populations in the wild to ensure the long-term viability of the species, including—

(A) protection and management of neotropical migratory bird populations;

(B) maintenance, management, protection, and restoration of neotropical migratory bird habitat;

(C) research and monitoring;

(D) law enforcement; and

(E) community outreach and education.

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

SEC. 5. FINANCIAL ASSISTANCE.

(a) IN GENERAL.—The Secretary shall establish a program to provide financial assistance for projects to promote the conservation of neotropical migratory birds.

(b) PROJECT APPLICANTS.—A project proposal may be submitted by—

(1) an individual, corporation, partnership, trust, association, or other private entity;

(2) 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;

(3) a State, municipality, or political subdivision of a State;

(4) any other entity subject to the jurisdiction of the United States or of any foreign country; and

(5) 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—

(1) includes—

(A) the name of the individual responsible for the project;

(B) a succinct statement of the purposes of the project;

(C) a description of the qualifications of individuals conducting the project; and

(D) an estimate of the funds and time 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 implemented 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 required by the Secretary for evaluating the progress and outcome of the project.

(e) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of each project shall be not greater than 33 percent.

(2) NON-FEDERAL SHARE.—

(A) SOURCE.—The non-Federal share required to be paid for a project shall not be derived from any Federal grant program.

(B) FORM OF PAYMENT.—

(i) PROJECTS IN THE UNITED STATES.—The non-Federal share required to be paid for a project carried out in the United States 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 or in kind.

SEC. 6. 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 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 governmental agencies, 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.—

(1) 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.

(2) PUBLIC PARTICIPATION.—

(A) MEETINGS.—The advisory group shall—

(i) ensure that each meeting of the advisory group is open to the public; and

(ii) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(B) NOTICE.—The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(C) MINUTES.—Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

(3) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) 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.

SEC. 9. NEOTROPICAL MIGRATORY BIRD CONSERVATION ACCOUNT.

(a) ESTABLISHMENT.—There is established in the Multinational Species Conservation Fund of the Treasury a separate account 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) all amounts received by the Secretary in the form of donations under subsection (d); and

(2) 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 AND USE 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 authorized to be 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 50 percent of the amounts made 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 to introduce 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 thrive for generations to come. It is not widely recognized that many North American bird species once considered common are in decline. In fact, a total of 90 species of migratory birds are listed as endangered or threatened in the United States, and another 124 species are considered to be of high conservation concern.

The main cause of this decline is the loss of critical habitat throughout our hemisphere. Because these birds range across international borders, it is essential that we work with nations in Latin America and the Caribbean to establish protected stopover areas during their emigrations. This bill achieves that goal by fostering partnerships between businesses, nongovernmental organizations and other nations to bring together the capital and expertise needed to preserve habitat throughout our hemisphere.

As we begin the 106th Congress, I urge my colleagues to support this legislation. It has been endorsed by the National Audubon Society, the American Bird Conservancy and the Ornithological Council. I believe that it will substantially improve upon our ability to maintain critical habitat in our hemisphere and help to halt the decline of these important species.

Mr. CHAFEE. Mr. President, I am pleased to cosponsor the Neotropical Migratory Bird Conservation Act of 1999, introduced by Senator ABRAHAM. The bill would establish a program to provide financial assistance for projects to promote the conservation of neotropical migratory birds in the United States, Latin America, and the Caribbean. An identical bill, which I also cosponsored, was approved by the Senate during the last Congress, but failed in the House for reasons unrelated to the bill.

Each autumn, some 5 billion birds from 500 species migrate between their breeding grounds in North America and tropical habitats in the Caribbean, Central and South America. These neotropical migrants—or New World tropical migrants—are birds that migrate between the biogeographic region stretching across Mexico, Central America, much of the Caribbean, and the northern part of South America.

The natural challenges facing these migratory birds are profound. These challenges have been exacerbated by human-induced impacts, particularly the continuing loss of habitat in the Caribbean and Latin America. As a result, populations of migratory birds have declined generally in recent years.

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 entirely 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 public and private organizations involved in the conservation of migratory birds. The bill authorizes up to $8 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 provision of a child safety lock in connection with the transfer of a 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 within the reach 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 because guns too often 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 return from 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—or trigger lock—be sold with every handgun. These devices vary in form, but the most common resemble a padlock that wraps around the gun trigger and immobilizes it. Trigger locks are already used by tens of thousands of responsible gun owners to protect their firearms from unauthorized use, and they can be purchased in virtually any gun store for less than 10 dollars.

This measure gained momentum last Congress, falling short by just one vote in the Judiciary Committee. Moreover, in part as a result of our proposal, a majority of the largest handgun manufacturers in the United States agreed to voluntarily include safety locks with each handgun they manufacture. Despite this unprecedented voluntary step, though, our legislation is still needed. Here's why: because some manufacturers appear to be dragging their feet—an October 1998 study indicated that eighty percent of the handgun makers who signed onto the voluntary agreement were not yet providing safety locks. And even if they do comply, many handguns would likely still not be covered because too many other manufacturers have refused to sign onto our agreement.

Mr. President, this legislation is necessary to ensure that safety locks are provided with all handguns, and to keep the pressure on handgun manufacturers to put safety first. We already protect children by requiring that seat 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,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Child Safety Lock Act of 1999''.

SEC. 2. CHILD SAFETY LOCKS.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(35) 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 removing the device by means of a key or mechanically, electronically, or electromechanically operated combination lock;

''(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 only by means of a key, a combination, or other similar means; and

''(B) that is approved by a licensed firearms manufacturer for use on the handgun with which the device or locking mechanism is sold, delivered, or transferred.''.

(b) UNLAWFUL ACTS.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

''(z) LOCKING DEVICES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than a licensed manufacturer, licensed importer, or licensed dealer, unless the transferee is provided with a locking device for that handgun.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to—

''(A) the—

''(i) 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 of a firearm 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 amendments made by this section shall not be 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 subsection shall be construed to bar a governmental 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 (f)'' and inserting ''(f), or (p)''; and

(2) by adding at the end the following:

''(p) PENALTIES RELATING TO LOCKING DEVICES.—

''(1) IN GENERAL.—

''(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(y)(1) by a licensee, the Secretary may, after notice and opportunity for hearing—

''(i) suspend or revoke any license issued to the licensee under this chapter; or

''(ii) subject the licensee to a civil penalty in an amount equal to not more than $10,000.

''(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided in section 923(f).

''(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Secretary.''.

By Mr. WYDEN:

S. 150. A bill to the relief of Marina Khalina and her son, Albert Miftakhov; to the Committee on the Judiciary.

PRIVATE RELIEF BILL

Mr. WYDEN. Mr. President, today I introduce a measure to bring critically needed relief to Marina Khalina and her son, 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 unless Congress steps in and helps them become citizens of 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 requires.

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 proper medical attention. 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 either 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 continuing provision of certain global satellite 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.

INTERNATIONAL MARITIME SATELLITE TELECOMMUNICATIONS ACT AMENDMENTS

Mr. SARBANES. Mr. President, today I am introducing legislation to authorize continued U.S. participation in the International Mobile Satellite Organization, currently known as ''Inmarsat'', during and after its restructuring, scheduled to take place April 1. The United States is currently a member of this organization, but its structure and functions are slated for significant reform. Rather than actually owning and operating mobile satellite telecommunications facilities, the intergovernmental institution will retain the much more limited role of overseeing the provision of global maritime distress and safety services, ensuring that this important function is carried out properly and effectively under contract. U.S. participation in the organization—which will keep the same name but change its acronym to ''IMSO''—will not require a U.S. financial contribution and will not impose any new legal obligations upon the U.S. government. Privatization of Inmarsat's commercial satellite business is an objective broadly shared by the legislative and executive branches, American businesses, COMSAT, which is the U.S. signatory entity, and the international community.

To give some brief background, Inmarsat was established in 1979 to serve the global maritime industry by developing satellite communications for ship management and distress and safety applications. Over the past 20 years, Inmarsat has expanded both in terms of membership and mission. The intergovernmental organization now counts 85 member countries and has expanded into land-mobile and aeronautical communications.

Inmarsat's governing bodies, the Assembly of Parties and the Inmarsat Council, have reached an agreement to restructure the organization, a move that has been strongly supported and encouraged by the United States. This restructuring will shift Inmarsat's commercial activities out of the intergovernmental organization and into a broadly-owned public corporation by next spring. The new corporation will acquire all of Inmarsat's operational assets, including its satellites, and will assume all of Inmarsat's operational functions. All that will remain of the intergovernmental institution is a scaled-down secretariat with a small staff to ensure that the new corporation continues to meet certain public service obligations, such as the Global Maritime Distress and Safety System (GMDSS). It is important to U.S. interests that we participate in the oversight of this function, as well as be fully represented in the organization throughout the process of privatization.

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, including all those relating to COMSAT's role as the United States' signatory. 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:

''GLOBAL SATELLITE SAFETY SERVICES AFTER PRIVATIZATION OF BUSINESS OPERATIONS OF INMARSAT

''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, 752, 753, and 757).

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

REAL COST OF DESTRUCTION AMMUNITION ACT

By Mr. MOYNIHAN:

S. 153. A bill to prohibit the use of certain ammunition, and for other purposes; to the Committee on the Judiciary.

DESTRUCTIVE AMMUNITION PROHIBITION ACT OF 1999

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

By Mr. MOYNIHAN:

S. 155. A bill to provide for the collection and dissemination of information on injuries, death, and family dissolution due to bullet-related violence, to require the keeping of records with respect to dispositions of ammunition, and to increase taxes on certain bullets; to the Committee on Finance.

VIOLENT CRIME CONTROL ACT OF 1999

By Mr. MOYNIHAN:

S. 156. A bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber and 9 millimeter ammunition; to the Committee on the Judiciary.

VIOLENT CRIME REDUCTION ACT OF 1999

By Mr. MOYNIHAN:

S. 157. A bill to amend the Internal Revenue Code of 1986 to tax 9 millimeter, .25 caliber, and .32 caliber bullets; to the Committee on Finance.

REAL COST OF HANDGUN AMMUNITION ACT OF 1999

By Mr. MOYNIHAN:

S. 158. A bill to amend title 18, United States Code, to regulate the manufacture, importation, and sale of ammunition capable of piercing police body armor; to the Committee on the Judiciary.

LAW ENFORCEMENT OFFICERS PROTECTION AMENDMENT 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 this 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-tipped 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 very same bullet that a crazed gunman fired at unsuspecting passengers on a Long Island Railroad train in December 1993, killing the husband of now Congresswoman CAROLYN MCCARTHY and injuring her son. That same month, it was also used in the shooting of Officer Jason E. White of the District of Columbia Metropolitan Police Department, just 15 blocks from the Capitol.

I first learned of the Black Talon in a letter I received from Dr. E.J. Gallagher, director of Emergency Medicine at Albert Einstein College of Medicine at the Municipal Hospital Trauma Center in the Bronx. Dr. Gallagher wrote that he has never seen a more lethal projectile. On November 3, 1993, I introduced a bill to tax the Black Talon at 10,000 percent. Nineteen days later, Olin Corp., the manufacturer of the Black Talon, announced that it would withdraw sale of the bullet to the general public. Unfortunately, the 103rd Congress came to a close without the bill's having won passage.

As a result, there is nothing in law to prevent the reintroduction of this pernicious bullet, nor is there any existing impediment to the sale of similar rounds that might be produced by another manufacturer. So today I reintroduce the bill to tax the Black Talon as well as a bill to prohibit the sale of the Black Talon to the public. Both bills would apply to any bullet with the same physical characteristics as the Black Talon.

It has been estimated that the cost of hospital services for treating bullet-related injuries is $1 billion per year, with the total cost to the economy of such injuries approximately $14 billion. We can ill afford further increases in this number, but this would surely be the result if bullets with the destructive capacity of the Black Talon are allowed onto the streets.

Mr. President, despite the fact that the 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 an end to the massacres that occur daily as a result of gun violence. How better a beginning than to go after the most insidious culprits of this violence? I urge my colleagues to support these measures and to prevent these bullets from appearing on the market.

My third measure, the Handgun Ammunition Control Act of 1999, introduces a measure to improve our information about the regulation and criminal use of ammunition and to prevent the irresponsible production of ammunition. This bill has three components. First, it would require importers and manufacturers of ammunition to keep records and submit an annual report to the Bureau of Alcohol, Tobacco and Firearms [BATF] on the disposition of ammunition, including the amount, caliber and type of ammunition imported or manufactured. Second, it would require the Secretary of the Treasury, in consultation with the National Academy of Sciences, to conduct a study of ammunition use and make recommendations on the efficacy of reducing crime by restricting access to ammunition. Finally, it would amend title 18 of the United States Code to raise the application fee for a license to manufacture certain calibers of ammunition.

While there are enough handguns in circulation to last well into the 22nd century, there is perhaps only a 4-year supply of ammunition. But how much of what kind of ammunition? Where does it come from? Where does it go? There are currently no reporting requirements for manufacturers or importers of ammunition; earlier reporting requirements were repealed in 1986. The Federal Bureau of Investigation's annual Uniform Crime Reports, based on information provided by local law enforcement agencies, does not record the caliber, type, or quantity of ammunition used in crime. In short, our data base is woefully inadequate.

I supported the Brady law, which requires a waiting period before the purchase of a handgun, and the recent ban on semi-automatic weapons. But while the debate over gun control continues, I offer another alternative: Ammunition control. After all, as I have said before, guns do not kill people; bullets do.

Ammunition control is not a new idea. In 1982 Phil Caruso of the New York City Patrolmen's Benevolent Association asked me to do something about armor-piercing bullets. Jacketed in tungsten or other materials, these rounds could penetrate four police flak jackets and five Los Angeles County telephone books. They have no sporting value. I introduced legislation, the Law Enforcement Officers Protection Act, to ban the cop-killer bullets in the 97th, 98th and 99th Congresses. It enjoyed the overwhelming support of law enforcement groups and, ultimately, tacit support from the National Rifle Association. It was finally signed into law by President Reagan on August 28, 1986.

The crime bill enacted in 1994 contained my amendment to broaden the 1986 ban to cover new thick steel-jacketed armor-piercing rounds.

Our cities are becoming more aware of the benefits to be gained from ammunition control. The District of Columbia and some other cities prohibit a person from possessing ammunition without a valid license for a firearm of the same caliber or gauge as the ammunition. Beginning in 1990, the city of Los Angeles banned the sale of all ammunition 1 week prior to Independence Day and New Year's Day in an effort to reduce injuries and deaths caused by the firing of guns into the air. And in September 1994, the city of Chicago became the first in America to ban the sale of all handgun ammunition.

Such efforts are laudable. But they are isolated attempts to cure what is in truth a national disease. We need to do more, but to do so, we need information to guide policy making. This bill would fulfill that need by requiring annual reports to BATF by manufactures

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 manufacturer .25 caliber, .32 caliber, and 9-mm 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 on more than just one front. If we are truly serious about confronting our Nation's crime problem, we must learn more about the nature of the epidemic of bullet-related violence and ways to control it. To do this, we must require records to be kept 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's supply of them.

Not only am I proposing 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's National 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 of bullets are used disproportionately in crime. They are not sporting or hunting rounds, but instead are the bullets of choice for drug dealers and violent felons. Every year they contribute overwhelmingly to the pervasive loss of life caused by bullet wounds.

Today marks the 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. 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 gun-related death rates; 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 states that:

> * * * 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, for gun control as we 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. It wasn't until 1795 that the British Navy accepted his analysis and required limes in shipboard diets. Most solutions are not perfect. Disease is rarely eliminated. But might epidemiology be applied in the case of bullets to reduce suffering? I believe so.

In 1854 John Snow and William Farr collected data that clearly showed cholera was caused by contaminated drinking water. Snow removed the handle of the Broad Street pump in London to prevent people from drawing water from this contaminated water source and the disease stopped in that population. His observations led to a legislative mandate that all London water companies filter their water by 1857. Cholera epidemics subsided. Now treatment of sewage prevents cholera from entering our rivers and lakes, and the disinfection of drinking water makes water distribution systems uninhabitable for cholera vibrio, identified by Robert Koch as the causative agent 26 years after Snow's study.

In 1900, Walter Reed identified mosquitos as the carriers of yellow fever. Subsequent mosquito control efforts by another U.S. Army doctor, William Gorgas, enabled the United States to complete the Panama Canal. The French failed because their workers were too sick from yellow fever to work. Now that it is known that yellow fever is caused by a virus, vaccines are used to eliminate the spread of the disease.

These pioneering epidemiology success stories showed the world that epidemics require an interaction between three things: the host—(the person who becomes sick or, in the case of bullets, the shooting victim); the agent—(the cause of sickness, or the bullet); and the environment—(the setting in which the sickness occurs or, in the case of bullets, violent behavior). Interrupt this epidemiological triad and you reduce or eliminate disease and injury.

How might this approach apply to the control of bullet-related injury and death? Again, we are contemplating something different from gun control. There is a precedent here. In the middle of this century it was recognized that epidemiology could be applied to automobile death and injury. From a governmental perspective, this hypothesis was first adopted in 1959, late in the administration of Gov. Averell Harriman of New York State. In the 1960 Presidential campaign, I drafted a statement on the subject which was released by Senator John F. Kennedy as part of a general response to inquiries from the American Automobile Association. Then Senator Kennedy stated:

> Traffic accidents constitute one of the greatest, perhaps the greatest of the nation's public health problems. They waste as much as 2 percent of our gross national product every year and bring endless suffering. The 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 highway program. It 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 toll mounted. I was 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, the first 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, padded dashboards, and airbags 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 used to date to make cars crashworthy, including airbags, was developed prior to 1970.

Experience shows the approach worked. Of course, it could have worked better, but 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 is up dramatically, 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 we faced 25 years ago regarding automobile safety. We found we could not easily alter the behavior of millions of drivers, but we could—easily—change the behavior of three or four automobile manufacturers. Likewise, we simply cannot do much to change the environment—violent behavior—in which gun-related injury occurs, nor do we know how. We can, however, do something about the agent causing the injury: bullets. Ban them. At least the rounds used disproportionately to cause death and injury; that is, the .25 caliber, .32 caliber, and 9 millimeter bullets. These three rounds account for the 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 continue to 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 1986, 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 measure passed the Congress and was signed by the President as Public Law 99–408 on August 28, 1986. In the 1994 crime bill, we enacted my amendment to broaden the ban to include new thick steel-jacketed armor-piercing rounds.

There are some 220 million firearms in circulation in the United States today. They are, in essence, simple machines, and with minimal care, remain working for centuries. However, estimates suggest that we have only a 4-year supply of bullets. Some 2 billion cartridges are used each year. At any given time there are some 7.5 billion rounds in factory, commercial, or household inventory.

In all cases, with the exception of pistol whipping, gun-related injuries are caused not by the gun, but by the agents involved in the second collision: the bullets. Eliminating the most dangerous rounds would not end the problem of handgun killings. But it would reduce it. A 30-percent reduction in bullet-related deaths, for instance, would save over 10,000 lives each year and prevent up to 50,000 wounds.

The bills I introduce today would begin the process. They would begin to control the problem by banning or taxing those rounds used disproportionately in crime—the .25-caliber, .32-caliber, and 9-millimeter rounds. The bills recognize the epidemic nature of the problem, building on findings contained in the June 10, 1992 issue of the Journal of the American Medical Association which was devoted entirely to the subject of violence, principally violence associated with firearms.

My seventh bill introduces 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.

Mr. President, it has been seventeen 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 who strongly supported banning these insidious bullets. Only then did the NRA lend its grudging support. The bill passed the Senate on March 6, 1986 by a vote of 97–1, and was signed by President Reagan on August 8, 1986 (Public Law 99–408).

That 1986 Act served us in good stead for 7 years. To the best of my knowledge, not a single law enforcement officer was shot with an armor-piercing bullet. Unfortunately, the ammunition manufacturers eventually found a way around 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. Like most 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 M39B. 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 November 19, 1993 as an amendment to the 1994 Crime Bill.

Despite these legislative successes, it was becoming evident that continuing ''innovations'' in bullet design would result in new armor-piercing rounds capable of evading the ban. It was at this time that 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's leaders, and their constituent ammunition manufactures, 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 slipper slope. The NRA had agreed to the 1986 and 1993 laws only because they were narrowly drawn to cover individual types of bullets.

And so in 1993 I asked the ATF for the technical assistance necessary tow write into law an armor-piercing bullet ''performance standard.'' At the time, however, the experts at 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 test for 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 armor-piercing 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 no rounds capable of penetrating police body armor, regardless of their composition, will ever be available to those who would use them against our law enforcement officers.

I wish to assure the Senate that this measure would in no way infringe upon the rights of legitimate hunters and sportsmen. It would not affect legitimate sporting ammunition used in rifles. It would 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 1986 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:

S. 152

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 ''Real Cost of Destructive Ammunition Act''.

SEC. 2. INCREASE IN TAX ON HANDGUN AMMUNITION.

(a) INCREASE IN MANUFACTURERS TAX.—

(1) IN GENERAL.—Section 4181 of the Internal Revenue Code of 1986 (relating to imposition of tax on firearms) is amended—

(A) by striking ''Shells, and cartridges.'' and 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 barb-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 (16 U.S.C. 669b(a)), commonly referred to as the ''Pittman-Robertson Wildlife Restoration Act'', is amended by adding at the end the following new sentence: ''There shall not be covered into the fund the portion of the tax imposed by such section 4181 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 Act, as estimated by the Secretary of the Treasury.''

SEC. 3. SPECIAL TAX FOR IMPORTERS, MANUFACTURERS, AND DEALERS OF HANDGUN AMMUNITION.

(a) IN GENERAL.—

(1) IMPOSITION OF TAX.—Section 5801 of the Internal Revenue Code of 1986 (relating to special occupational tax on importers, manufacturers, and dealers of machine guns, destructive devices, and certain other firearms) is amended by adding at the end the following:

''(c) SPECIAL RULE FOR HANDGUN AMMUNITION.—

''(1) 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.''

(2) REGISTRATION OF IMPORTERS AND MANUFACTURERS 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''.

(b) CONFORMING AMENDMENTS.—

(1) CHAPTER HEADING.—Chapter 53 of the Internal Revenue Code of 1986 (relating to machine guns, destructive devices, and certain other firearms) is amended in the chapter heading by inserting ''**HANDGUN AMMUNITION,**'' after ''**CHAPTER 53—**''.

(2) TABLE OF CHAPTERS.—The heading for chapter 53 in the table of chapters for subtitle E of such Code is amended to read as follows:

''Chapter 53—Handgun ammunition, machine guns, destructive devices, and certain other firearms.''

(c) 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 Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Destructive Ammunition Prohibition Act of 1999''.

SEC. 2. DEFINITION.

Section 921(a)(17) of title 18, United States Code, is amended by adding at the end the following:

''(D) The term 'destructive ammunition' means any jacketed, hollow point projectile that may be used in a handgun and the jacket of which is designed to produce, upon impact, sharp-tipped, barb-like projections that extend beyond the diameter of the unfired projectile.''.

SEC. 3. PROHIBITION.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7), by inserting ''or destructive'' after ''armor piercing''; and

(2) in paragraph (8), by inserting ''or destructive'' after ''armor piercing''.

S. 154

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 ''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, shipment, 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 may by regulations prescribe. Such records shall include the amount, caliber, and type of ammunition.''; and

(2) by adding at the end the following:

''(8) Each licensed importer or manufacturer of ammunition shall annually prepare a summary report of imports, production, shipments, sales, and other dispositions during the preceding year. The report shall be prepared on a form specified by the Secretary, shall include the amounts, calibers, and types of ammunition that were disposed of, and shall be forwarded to the office specified thereon 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, not later than July 31, 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. 155

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 ''Violent Crime Control 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;

(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, and 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;

(10) a tax on the sale of bullets will help control bullet-related death and injury;

(11) 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; and

(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 purposes 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 develop options for controlling bullet-related death and injury;

(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 nonbullet-related violence.

TITLE 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 for—

(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

(4) educating the public about the nature and extent of bullet-related violence.

(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) data on the status of the factors, including legal, socioeconomic, and other factors, that bear on the control of bullets and the eradication of the bullet-related epidemic;

(3) to publish information about bullet-related death and injury and guides for the practical use of epidemiological information, including publications that synthesize information relevant to national goals of understanding the bullet-related epidemic and methods for its control;

(4) to identify socioeconomic groups, communities, and geographic areas in need of study, develop a strategic plan for research necessary to comprehend the extent and nature of bullet-related death and injury, and determine what options exist to reduce or eradicate such death and injury;

(5) to provide for the conduct of epidemiologic research on bullet-related death and injury through grants, contracts, cooperative agreements, and other means, by Federal, State, and private agencies, institutions, organizations, and individuals;

(6) to make recommendations to Congress, the Bureau of Alcohol, Tobacco, and Firearms, and other Federal, State, and local agencies on the technical management of data collection, storage, and retrieval necessary to collect, evaluate, analyze, and disseminate information about the extent and nature of the bullet-related epidemic of death and injury as well as options for its control;

(7) to make recommendations to Congress, the Bureau of Alcohol, Tobacco, and Firearms, and other Federal, State, and local agencies, organizations, and individuals about options for actions to eradicate or reduce the epidemic of bullet-related death and injury;

(8) to provide training and technical assistance to the Bureau of Alcohol, Tobacco, and Firearms and other Federal, State, and local agencies regarding the collection and interpretation of bullet-related data; and

(9) to research and explore bullet-related death and injury and options for its control.

(d) ADVISORY BOARD.—

(1) IN GENERAL.—The Center shall have an independent advisory board to assist in setting the policies for and directing the Program.

(2) MEMBERSHIP.—The advisory board shall consist of 13 members, including—

(A) 1 representative from the Centers for Disease Control;

(B) 1 representative from the Bureau of Alcohol, Tobacco, and Firearms;

(C) 1 representative from the Department of Justice;

(D) 1 member from the Drug Enforcement Agency;

(E) 3 epidemiologists from universities or nonprofit organizations;

(F) 1 criminologist from a university or nonprofit organization;

(G) 1 behavioral scientist from a university or nonprofit organization;

(H) 1 physician from a university or nonprofit organization;

(I) 1 statistician from a university or nonprofit organization;

(J) 1 engineer from a university or nonprofit organization; and

(K) 1 public communications expert from a university or nonprofit organization.

(3) TERMS.—Members of the advisory board shall serve for terms of 5 years, and may serve more than 1 term.

(4) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government

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 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(5) TRAVEL EXPENSES.—A member of the advisory board that is not otherwise in the Federal Government service shall, to the extent provided for in advance in appropriations 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, when the member is away from the member's usual place of residence.

(6) 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 to Congress 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—INCREASE IN EXCISE 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:

''In the case of 9 millimeter, .25 caliber, or .32 caliber ammunition, the rate of tax under this section shall be 1,000 percent.''.

(b) EXEMPTION FOR LAW ENFORCEMENT PURPOSES.—Section 4182 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following:

''(d) LAW ENFORCEMENT.—The last sentence of section 4181 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 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, shipment, sale, or other disposition of ammunition at the licensee's place of business for such period and in such form as the Secretary, in consultation with the Director of the National Center for Injury Prevention and Control of the Centers for Disease Control (for the purpose of ensuring that the information that is collected is useful for the Bullet Death and Injury Control Program), may by regulation prescribe. Such records shall include the amount, caliber, and type of ammunition.''; and

(2) by adding at the end the following:

''(8) Each licensed importer or manufacturer of ammunition shall annually prepare a summary report of imports, production, shipments, sales, and other dispositions during the preceding year. The report shall be prepared on a form specified by the Secretary, in consultation with the Director of the National Center for Injury Prevention and Control of the Centers for Disease Control (for the purpose of ensuring that the information that is collected is useful for the Bullet Death and Injury Control Program), shall include the amounts, calibers, and types of ammunition that were disposed of, and shall be forwarded to the office specified thereon 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 Centers for Disease Control to—

(1) prepare, in consultation with the Secretary, a study of the criminal use and regulation of ammunition; and

(2) submit to Congress, not later than July 31, 1998, a report with recommendations on the potential for preventing crime by regulating or restricting the availability of ammunition.

S. 156

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 ''Violent Crime Reduction Act of 1999''.

SEC. 2. UNLAWFUL ACTS.

Section 922(a) of title 18, United States Code, is amended—

(1) by in paragraph (7), by striking ''and'' at the end;

(2) by in paragraph (8), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(9) for any person to manufacture, transfer, or import .25 or .32 caliber or 9 millimeter ammunition, except that this paragraph shall not apply to—

''(A) the manufacture or importation of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof; and

''(B) any manufacture or importation for testing or for experimenting authorized by the Secretary; and

''(10) for any manufacturer or importer to sell or deliver .25 or .32 caliber or 9 millimeter ammunition, except that this paragraph shall not apply to—

''(A) the sale or delivery by a manufacturer or importer of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof; and

''(B) the sale or delivery by a manufacturer or importer of such ammunition for testing or for experimenting authorized by the Secretary.''.

SEC. 3. LICENSING OF DESTRUCTIVE DEVICES.

Section 923(a)(1)(A) of title 18, United States Code, is amended to read as follows:

''(A) of destructive devices, ammunition for destructive devices, armor piercing ammunition, or .25 or .32 caliber or 9 millimeter ammunition, a fee of $1,000 per year;''.

SEC. 4. LICENSING OF NONDESTRUCTIVE DEVICES.

Section 923(a)(1)(C) of title 18, United States Code, is amended to read as follows:

''(C) of ammunition for firearms other than destructive devices, or armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $10 per year.''.

SEC. 5. IMPORTERS.

Section 923(a)(2) of title 18, United States Code, is amended to read as follows:

''(2) If the applicant is an importer—

''(A) of destructive devices, ammunition for destructive devices, or armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $1,000 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 929(a)(1) of title 18, United States Code, is amended by—

(1) inserting '', or with .25 or .32 caliber or 9 millimeter ammunition,'' after ''possession of armor piercing ammunition''; and

(2) inserting '', or .25 or .32 caliber or 9 millimeter ammunition,'' after ''armor-piercing handgun ammunition''.

SEC. 8. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the first day of the first calendar month that begins more than 90 days after the date of enactment of this Act.

S. 157

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 ''Real Cost of Handgun Ammunition Act of 1999''.

SEC. 2. 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 new flush sentence:

''In the case of 9 millimeter, .25 caliber, or .32 caliber ammunition, the rate of tax under this section shall be 1,000 percent.''

(b) EXEMPTION FOR LAW ENFORCEMENT PURPOSES.—Section 4182 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new subsection:

''(d) LAW ENFORCEMENT.—The last sentence of section 4181 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.

S. 158

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 ''Law Enforcement Officers Protection Amendment Act of 1999''.

SEC. 2. EXPANSION OF THE DEFINITION OF ARMOR PIERCING AMMUNITION.

Section 921(a)(17)(B) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting ''; or''; and

(3) by adding at the end the following:

''(iii) a projectile that may be used in a handgun and that the Secretary of the Treasury, in consultation with the Attorney General determines, pursuant to section 926(d), to be capable of penetrating body armor.''.

SEC. 3. DETERMINATION OF ARMOR PIERCING CAPABILITY OF PROJECTILES.

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.''.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

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 28, United States Code, to increase 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. They also receive $3.00 a day for transportation costs. The $40.00 per day a juror receives for his or her all 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 most 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:

S. 159

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

SECTION 1. JUROR FEES.

Section 1871(b)(1) of title 28, United States Code, is amended by striking ''of $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 improve the Capitol grounds through the elimination and modification of space alloted for parking; to the Committee on Rules and Administration.

ARC OF PARK CAPITOL 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 for the development and improvement of the entire park system of the District of Columbia * * * (F)or 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 wide swath of the Mall for 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 would have been the result. Fortunately, when in London, Daniel Burnham was able to convince Pennsylvania Railroad president Cassatt that a site on Massachusetts Avenue would provide a much grander entrance to the city. President Cassatt assented and Daniel Burnham gave us Union Station.

But the focus of the Commission's work was the District's park system. The Commission noted in its report:

Aside from the pleasure and the positive benefits to health that the people derive from public parks, in a capital city like Washington there is a distinct use of public spaces as the indispensable means of giving dignity to Government buildings and of making suitable connections between the great departments . . . (V)istas and axes; sites for monuments and museums; parks and pleasure gardens; fountains and canals; in a word all that goes to make a city a magnificent and consistent work of art were regarded as essential in the plans made by L'Enfant under the direction of the first President and his Secretary of State.

Washington and Jefferson might be disappointed at the affliction now imposed on much of the Capitol Grounds by the automobile.

Despite the ready and convenient availability of the city's Metrorail system, an extraordinary number of Capitol Hill employees drive to work. No doubt many must. But must we provide free parking? If there is one lesson learned from the Intermodal Surface Transportation Efficiency Act of 1991, it is that free goods are always wasted. Free parking is a most powerful incentive to drive to work when the alternative is to pay for public transportation. Furthermore, much as expenses rise to meet income, newly provided parking spaces are instantly filled. At the foot of Pennsylvania Avenue is a scar of angle-parked cars, in parking spaces made available temporarily during construction of the Thurgood Marshall Federal Judiciary Building. Once completed, spaces in the building's garage would be made available to Senate employees and Pennsylvania Avenue would be restored. Not so. The demand for spaces has simply risen 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 closed to traffic and rebuilt 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:

S. 160

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. CAPITOL GROUNDS IMPROVEMENT PLAN.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Architect of the Capitol shall develop and 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 Related Areas'' prepared in accordance with Public Law 94–59 (July 25, 1975); and

(2) result in an ''arc of park'' sweeping from Second Street, Northeast 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, at a minimum—

(1) elimination of all current surface parking areas, excepting those areas which provide on-street parallel parking spaces;

(2) replacement of off-street surface 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 general public, with priority given to employees of the Congress.

SEC. 3. APPLICABLE LOCAL LAW.

(a) IN GENERAL.—Subject to subsection (b), the construction and 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 transaction (including Federal law); or

(2) any law of the District of Columbia relating to use, occupancy, or construction, including building costs, permits, or inspection requirements (including Federal law).

(b) LIMITATION.—The Architect of the Capitol shall comply with appropriate recognized national life safety and building codes in undertaking such construction and operation.

SEC. 4. RESPONSIBILITIES OF THE ARCHITECT OF THE CAPITOL.

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 may 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 ACT OF 1999

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 provide 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 Inspector General of 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 $2.5 billion in fiscal year 1996. In March 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 5.5 percent 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 rates for power sold by the PMAs and the TVA. Under the bill, PMA and TVA rates 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 PMA and TVA transmission facilities are 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 of PMA and TVA power at market prices. Revenue accrued from the revisal of these rates will go first to the U.S. Treasury to 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 use of fixed allocations of joint multipurpose project costs and the failure to provide for the recovery of actual interest costs and depreciation have resulted in—

(A) substantial failures to recover costs properly recoverable through power rates by the Federal Power Marketing Administrations and the Tennessee Valley Authority; and

(B) the imposition of unreasonable burdens on the taxpaying public;

(2) existing underallocations and underrecovery of costs have led to inefficiencies in the marketing of Federally generated electric power and to environmental damage; and

(3) with the emergence of open access to power transmission and competitive bulk power markets, market prices will provide the lowest reasonable rates consistent with—

(A) sound business principles;

(B) maximum recovery of costs properly allocated to power production; and

(C) encouraging the most widespread use of power marketed by the Federal Power Marketing Administrations and the Tennessee Valley Authority.

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

(1) full cost recovery rates for power sold by the Federal Power Marketing Administrations and the Tennessee Valley Authority; and

(2) a transition to market-based rates for the power.

SEC. 3. SALE OR DISPOSITION OF FEDERAL POWER BY FEDERAL POWER MARKETING ADMINISTRATIONS AND THE TENNESSEE VALLEY AUTHORITY.

(a) ACCOUNTING.—Notwithstanding any other provision of law, as soon as practicable after the date of enactment of this Act, the Secretary of Energy, in consultation with the Federal Energy Regulatory Commission, shall develop and implement procedures to ensure that the Federal Power Marketing Administrations and the Tennessee Valley Authority use the same accounting principles and requirements (including the accounting principles and requirements with respect to the accrual of actual interest costs during construction and pending repayment for any project and recognition of depreciation expenses) as are applied by the Commission to the electric operations of public utilities.

(b) DEVELOPMENT AND SUBMISSION OF RATES TO THE COMMISSION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, not later than 1 year after the date of enactment of this Act and periodically thereafter but not less frequently than once every 5 years, each Federal Power Marketing Administration and the Tennessee Valley Authority shall submit to the Federal Energy Regulatory Commission a description of proposed rates for the sale or disposition of Federal power that will ensure the recovery of all costs incurred by the Federal Power Marketing Administration or the Tennessee Valley Authority, respectively, for the generation and marketing of the Federal power.

(2) COSTS TO BE RECOVERED.—The costs to be recovered under paragraph (1)—

(A) shall include all fish and wildlife expenditures required under treaty and legal obligations associated with the construction and operation of the facilities from which the Federal power is generated and sold; and

(B) shall not include any cost of transmitting the Federal power.

(c) COMMISSION REVIEW, APPROVAL, OR MODIFICATION.—

(1) IN GENERAL.—The Federal Energy Regulatory Commission shall review and either approve or modify rates for the sale or disposition of Federal power submitted to the Commission by each Federal Power Marketing Administration and the Tennessee Valley Authority under this section, in a manner that ensures that the rates will recover all costs described in subsection (b)(2).

(2) BASIS FOR REVIEW.—The review by the Commission under paragraph (1) shall be based on the record of proceedings before the Federal Power Marketing Administration or the Tennessee Valley Authority, except that the Commission shall afford all affected persons an opportunity for an additional hearing in accordance with the procedures established for ratemaking by the Commission under the Federal Power Act (16 U.S.C. 791a et seq.).

(d) APPLICATION OF RATES.—

(1) IN GENERAL.—Beginning on the date of approval or modification by the Commission of rates under this section, each Federal Power Marketing Administration and the Tennessee Valley Authority shall apply the rates, as approved or modified by the Commission, to each existing contract for the sale or disposition of Federal power by the Federal Power Marketing Administration or the Tennessee Valley Authority to the maximum extent permitted by the contract.

(2) APPLICABILITY.—This section shall cease to apply to a Federal Power Marketing Administration or the Tennessee Valley Authority as of the date of termination of all commitments under any contract for the sale or disposition of Federal power that were in existence as of the date of enactment of this Act.

(e) ACCOUNTING PRINCIPLES AND REQUIREMENTS.—In developing or reviewing the rates required by this section, the Federal Power Marketing Administrations, the Tennessee Valley Authority, and the Commission shall rely on the accounting principles and requirements developed under subsection (a).

(f) INTERIM RATES.—Until market pricing for the sale or disposition of Federal power by a Federal Power Marketing Administration or the Tennessee Valley Authority is fully implemented, the full cost recovery rates required by this section shall apply to—

(1) a new contract entered into after the date of enactment of this Act for the sale of power by a Federal Power Marketing Administrator or the Tennessee Valley Authority; and

(2) a renewal after the date of enactment of this Act of an existing contract for the sale of power by a Federal Power Marketing Administration or the Tennessee Valley Authority.

(g) TRANSITION TO MARKET-BASED RATES.—

(1) IN GENERAL.—If the transition to full cost recovery rates would result in rates that exceed market rates, the Secretary of Energy may approve rates for power sold by Federal Power Marketing Administrations at market rates, and the Tennessee Valley Authority may approve rates for power sold by the Tennessee Valley Authority at market rates, if—

(A) operation and maintenance costs are recovered, including all fish and wildlife costs required under existing treaty and legal obligations;

(B) the contribution toward recovery of investment pertaining to power production is maximized; and

(C) purchasers of power under existing contracts consent to the remarketing by the Federal Power Marketing Administration or the Tennessee Valley Authority of the power through competitive bidding not later than 3 years after the approval of the rates.

(2) COMPETITIVE BIDDING.—Competitive bidding shall be used to remarket power that is subject to, but not sold in accordance with, paragraph (1).

(h) MARKET-BASED PRICING.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Energy shall develop and implement procedures to ensure that all power sold by Federal Power Marketing Administrations and the Tennessee Valley Authority is sold at prices that reflect demand and supply conditions within the relevant bulk power supply market.

(2) BID AND AUCTION PROCEDURES.—The Secretary of Energy shall establish by regulation bid and auction procedures to implement market-based pricing for power sold under any power sales contract entered into by a Federal Power Marketing Administration or the Tennessee Valley Authority after the date that is 2 years after the date of enactment of this Act, including power that is under contract but that is declined by the party entitled to purchase the power and remarketed after that date.

(i) USE OF REVENUE COLLECTED THROUGH MARKET-BASED PRICING.—

(1) IN GENERAL.—Revenue collected through market-based pricing shall be disposed of as follows:

(A) REVENUE FOR OPERATIONS, FISH AND WILDLIFE, AND PROJECT COSTS.—Revenue shall be remitted to the Secretary of the Treasury to cover—

(i) all power-related operations and maintenance expenses;

(ii) all fish and wildlife costs required under existing treaty and legal obligations; and

(iii) the project investment cost pertaining to power production.

(B) REMAINING REVENUE.—Revenue that remains after remission to the Secretary of the Treasury under subparagraph (A) shall be disposed of as follows:

(i) FEDERAL BUDGET DEFICIT.—50 percent of the revenue shall be remitted to the Secretary of the Treasury for the purpose of reducing the Federal budget deficit.

(ii) FUND FOR ENVIRONMENTAL MITIGATION AND RESTORATION.—35 percent of the revenue shall be deposited in the fund established under paragraph (2)(A).

(iii) FUND FOR RENEWABLE RESOURCES.—15 percent of the revenue shall be deposited in the fund established under paragraph (3)(A).

(2) FUND FOR ENVIRONMENTAL MITIGATION AND RESTORATION.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the ''Fund for Environmental Mitigation and Restoration'' (referred to in this paragraph as the ''Fund''), consisting of funds allocated under paragraph (1)(B)(ii).

(ii) ADMINISTRATION.—The Fund shall be administered by a Board of Directors consisting of the Secretary of the Interior, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, or their designees.

(B) USE.—Amounts in the Fund shall be available for making expenditures—

(i) to carry out project-specific plans to mitigate damage to, and restore the health of, fish, wildlife, and other environmental resources that is attributable to the construction and operation of the facilities from which power is generated and sold; and

(ii) to cover all costs incurred in establishing and administering the Fund.

(C) PROJECT-SPECIFIC PLANS.—

(i) IN GENERAL.—The Board of Directors of the Fund shall develop a project-specific plan described in subparagraph (B)(i) for each project that is used to generate power marketed by the Federal Power Marketing Administration or the Tennessee Valley Authority.

(ii) USE OF EXISTING DATA, INFORMATION, AND PLANS.—In developing plans under clause (i), the Board, to the maximum extent practicable, shall rely on existing data, information, and mitigation and restoration plans developed by—

(I) the Commissioner of the Bureau of Reclamation;

(II) the Director of the United States Fish and Wildlife Service;

(III) the Administrator of the Environmental Protection Agency; and

(IV) the heads of other Federal, State, and tribal agencies.

(D) MAXIMUM AMOUNT.—

(i) IN GENERAL.—The Fund shall maintain a balance of not more than $200,000,000 in excess of the amount that the Board of Directors of the Fund determines is necessary to cover the costs of project-specific plans required under this paragraph.

(ii) SURPLUS REVENUE FOR DEFICIT REDUCTION.—Revenue that would be deposited in the Fund but for the absence of such project-specific plans shall be used by the Secretary

of the Treasury for purposes of reducing the Federal budget deficit.

(3) FUND FOR RENEWABLE RESOURCES.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the ''Fund for Renewable Resources'' (referred to in this paragraph as the ''Fund''), consisting of funds allocated under paragraph (1)(B)(iii).

(ii) ADMINISTRATION.—The Fund shall be administered by the Secretary of Energy.

(B) USE.—Amounts in the Fund shall be available for making expenditures—

(i) to pay the incremental cost (above the expected market cost of power) of nonhydroelectric renewable resources in the region in which power is marketed by a Federal Power Marketing Administration; and

(ii) to cover all costs incurred in establishing and administering the Fund.

(C) ADMINISTRATION.—Amounts in the Fund shall be expended only—

(i) in accordance with a plan developed by the Secretary of Energy that is designed to foster the development of nonhydroelectric renewable resources that show substantial long-term promise but that are currently too expensive to attract private capital sufficient to develop or ascertain their potential; and

(ii) on recipients chosen through competitive bidding.

(D) MAXIMUM AMOUNT.—

(i) IN GENERAL.—The Fund shall maintain a balance of not more than $50,000,000 in excess of the amount that the Secretary of Energy determines is necessary to carry out the plan developed under subparagraph (C)(i).

(ii) SURPLUS REVENUE FOR DEFICIT REDUCTION.—Revenue that would be deposited in the Fund but for the absence of the plan shall be used by the Secretary of the Treasury for purposes of reducing the Federal budget deficit.

(j) PREFERENCE.—

(1) IN GENERAL.—In making allocations or reallocations of power under this section, a Federal Power Marketing Administration and the Tennessee Valley Authority shall provide a preference for public bodies and cooperatives by providing a right of first refusal to purchase the power at market prices.

(2) USE.—

(A) IN GENERAL.—Power purchased under paragraph (1)—

(i) shall be consumed by the preference customer or resold for consumption by the constituent end-users of the preference customer; and

(ii) may not be resold to other persons or entities.

(B) TRANSMISSION ACCESS.—In accordance with regulations of the Federal Energy Regulatory Commission, a preference customer shall have transmission access to power purchased under paragraph (1).

(3) COMPETITIVE BIDDING.—If a public body or cooperative does not purchase power under paragraph (1), the power shall be allocated to the next highest bidder.

(k) REFORMS.—The Secretary of Energy shall require each Federal Power Marketing Administration to implement—

(1) program management reforms that require the Federal Power Marketing Administration to assign personnel and incur expenses only for authorized power marketing, reclamation, and flood control activities and not for ancillary activities (including consulting or operating services for other entities); and

(2) annual reporting requirements that clearly disclose to the public, the activities of the Federal Power Marketing Administration (including the full cost of the power projects and power marketing programs).

(l) CONTRACT RENEWAL.—Effective beginning on the date of enactment of this Act, a Federal Power Marketing Administration shall not enter into or renew any power marketing contract for a term that exceeds 5 years.

(m) RESTRICTIONS.—Except for the Bonneville Power Administration, each Federal Power Marketing Administration shall be subject to the restrictions on the construction of transmission and additional facilities that are established under section 5 of the Act entitled ''An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes'', approved December 22, 1944 (commonly known as the ''Flood Control Act of 1944'') (58 Stat. 890)).

SEC. 4. TRANSMISSION SERVICE PROVIDED BY FEDERAL POWER MARKETING ADMINISTRATIONS AND TENNESSEE VALLEY AUTHORITY.

(a) IN GENERAL.—Subject to subsection (b), a Federal Power Marketing Administration and the Tennessee Valley Authority shall provide transmission service on an open access basis, and at just and reasonable rates approved or established by the Federal Energy Regulatory Commission under part II of the Federal Power Act (16 U.S.C. 824 et seq.), in the same manner as the service is provided under Commission rules by any public utility subject to the jurisdiction of the Commission under that part.

(b) EXPANSION OF CAPABILITIES OR TRANSMISSIONS.—Subsection (a) does not require a Federal Power Marketing Administration or the Tennessee Valley Authority to expand a transmission or interconnection capability or transmission.

SEC. 5. INTERIM REGULATION OF POWER RATE SCHEDULES OF FEDERAL POWER MARKETING ADMINISTRATIONS.

(a) IN GENERAL.—During the date beginning on the date of enactment of this Act and ending on the date on which market-based pricing is implemented under section 3 (as determined by the Federal Energy Regulatory Commission), the Commission may review and approve, reject, or revise power rate schedules recommended for approval by the Secretary of Energy, and existing rate schedules, for power sales by a Federal Power Marketing Administration.

(b) BASIS FOR APPROVAL.—In evaluating rates under subsection (a), the Federal Energy Regulatory Commission, in accordance with section 3, shall—

(1) base any approval of the rates on the protection of the public interest; and

(2) undertake to protect the interest of the taxpaying public and consumers.

(c) COMMISSION ACTIONS.—As the Federal Energy Regulatory Commission determines is necessary to protect the public interest in accordance with section 3 until a full transition is made to market-based rates for power sold by Federal Power Marketing Administrations, the Federal Energy Regulatory Commission may—

(1) review the factual basis for determinations made by the Secretary of Energy;

(2) revise or modify those findings as appropriate;

(3) revise proposed or effective rate schedules; or

(4) remand the rate schedules to the Secretary of Energy.

(d) REVIEW.—An affected party (including a taxpayer, bidder, preference customer, or affected competitor) may seek a rehearing and judicial review of a final decision of the Federal Energy Regulatory Commission under this section in accordance with section 313 of the Federal Power Act (16 U.S.C. 825*l*).

(e) PROCEDURES.—The Federal Energy Regulatory Commission shall by regulation establish procedures to carry out this section.

SEC. 6. CONFORMING AMENDMENTS.

(a) TRANSFERS FROM THE DEPARTMENT OF THE INTERIOR.—Section 302(a)(3) of the Department of Energy Organization Act (42 U.S.C. 7152(a)(3)) is amended by striking the last sentence.

(b) USE OF FUNDS TO STUDY NONCOST-BASED METHODS OF PRICING HYDROELECTRIC POWER.—Section 505 of the Energy and Water Development Appropriations Act, 1993 (42 U.S.C. 7152 note; 106 Stat. 1343) is repealed.

SEC. 7. APPLICABILITY.

Except as provided in section 3(l), this Act shall apply to a power sales contract entered into by a Federal Power Marketing Administration or the Tennessee Valley Authority after July 23, 1997.

By Mr. 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).

Congress excluded ''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 concerns that individuals would get a tax break when they bought collectibles for their 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 portfolio diversity 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 form the definition of collectibles only those U.S. legal tender coins which meet the following three standards; certification by a nationally-recognized grading service, traded 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, independent certification or grading services. Full-time professional graders (numismatists) examine each coin for authenticity and grade them according to established standards. Upon certification, the coin is sonically-sealed (preserved) to ensure that it remains in the same condition as when it was graded.

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 and precious metals 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, make 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. CERTAIN COINS NOT TREATED AS COLLECTIBLES.

(a) IN GENERAL.—Subparagraph (A) of section 408(m)(3) of the Internal Revenue Code of 1986 (relating to exception for certain coins and 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''.

(b) EFFECTIVE DATE.—The amendment 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 do not fare 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 the study. 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, were 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 decade. 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 lofty, harmless, and 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 James S. Coleman, then professor of sociology at Johns Hopkins University. The ''Coleman Report'' introduced the language of educational 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 ''on no account could the President's goals—the quantified, specific goals—reasonably be deemed capable 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 potential will nonetheless exist for serous 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 thing the higher education community 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 bill would make 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: Eight 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 process to determine where states rank in comparision 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 those states that need help the most. I ask 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 a grant 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) USES.—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 correct poverty data 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. MOYNIHAM. Mr. President, I rise 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 index dates 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 1988, 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 F. Citro and Robert T. Michael, is entitled ''Measuring Poverty: A New Approach.'' A Congressional Research Service review of the report states: The NAS panel makes several recommendations which, if fully adopted, could dramatically alter the way poverty in the U.S. is measured, how federal funds are allotted to the States, and how eligibility for many Federal programs is determined. The recommended poverty measure would be based on more items in the family budget, would take major noncash benefits and taxes into account, and would be adjusted for regional differences in living costs.

Mr. President, our current poverty data are inaccurate. And these substandard data are used in allocation formulas used to distribute millions of Federal dollars 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 reauthorization 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 ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 165

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

SECTION 1. POVERTY DATA.

Title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801 et seq.) is amended by adding at the end the following:

''PART I—POVERTY DATA ADJUSTMENTS

''SEC. 14901. POVERTY DATA ADJUSTMENTS.

''Whenever the Secretary uses any data that relates to the incidence of poverty and is produced or published by or for the Secretary of Commerce for subnational, State or substate areas, the Secretary shall adjust the data to account for differences in the cost of living in the areas.''.

SEC. 2. SHORT TITLE.

This Act may be cited as ''The Education Grant Formula Adjustment Act of 1999''.

By Mr. MOYNIHAN:

S. 166. A bill to require the Secretary of Commerce to determine any surpluses or shortfalls in certain grant amounts made available to States by reason of an undercount in the most recent decennial census conducted by the Bureau of the Census; to the Committee on Governmental Affairs.

LEGISLATION TO PROVIDE THE FISCAL CONSEQUENCES OF THE UNDERCOUNT

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill that is intended to shed a little more light on the consequences of a census that is not adjusted for the undercount. The bill requires the Secretary of Commerce to notify each governor how much more or less Federal funding in his or her state would receive each fiscal year following a decennial census if the census were adjusted for the undercount and the adjusted figures were used in grant allocation formulas.

This bill is not directly related to the controversy over sampling. The sampling proposal made by the Bureau of the Census is one way to eliminate the undercount, but there are other less controversial methods. Not uncontroversial, but less so.

Mr. President, the taking of a census goes back centuries. I quote from the King James version of the Bible, chapter two of Luke: ''And it came to pass in those days that there went out a decree from Caesar Augustus that all the world should be taxed (or enrolled, according to the footnote) . . . And all went to be taxed, everyone into his own city.'' The early censuses were taken to enable the ruler or ruling government to tax or raise an army.

The first census for more sociological reasons was taken in Nuremberg in 1449. So it was not a new idea to the Founding Fathers when they wrote it into the Constitution to facilitate fair taxation and accurate apportionment of the House of Representatives, the latter of which was the foundation of the Great Compromise.

The Constitution says in Article I, Section 2:

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made

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 the Constitution calls for an ''actual enumeration'', and this requires an actual headcount rather than any statistical inference about those 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 Constitution provides for a postal system, but did not direct that the census be taken by mail. Yet we do it that way.

Statistical work in the 1940s demonstrated that we can estimate the undercount, the number of people the census misses. The estimate for 1940 was 5.4 percent of the population. After decreasing steadily to 1.2 percent in 1980, the 1990 undercount increased to 1.8 percent, or more than four million people.

More significantly, the undercount is not distributed evenly. The differential undercount, as it is known, of minorities was 4.4 percent for Blacks, 5.0 percent for Hispanics, 2.3 percent for Asian-Pacific islanders, and 4.5 percent for Native Americans, compared with 1.2 percent for non-Hispanic whites. The difference between the black and non-black undercount was the largest 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 publicize the non-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 helps 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 a 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 of Commerce.

(3) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, 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 an amount 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 that 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 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.

SOCIAL STATISTICS AND THE CITY

(By David M. Heer)

FOREWORD

At one point in the course of the 1950's John Kenneth Galbraith observed that it is the statisticians, as much as any 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 unassuming truth, perhaps, but a mighty one, and one that did more than he may know to sustain morale in a number of Washington bureaucracies (hateful word!) during a period when the relevant cabinet officers had on their own reached very much the same conclusion—and distrusted their charges all the more in consequence. For it is one 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 this atmosphere of suspicion on the one hand and impatience on the other, it is something of a wonder that the statistical officers of the federal government have with such fortitude and fairness remained faithful 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 society has become more and more dependent on it. It would be difficult to find an aspect of public or private life not touched 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 partisans? When Census appropriations are cut, who bleeds on 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 neglect, even 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 public concern about the difficultires 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 one fifth of nonwhite males 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 population had been ''missed.'' The ramifications of this fact were considerable, and its implications will suggest themselves immediately. It was hoped that a public airing of the issue might 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 candor. 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 by the Constitution, the Bureau 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 is to deny residents their rights under Article I, Section 3 of the Constitution, as well, no doubt, as under Section 1 of the Fourteenth Amendment. Given the further, more recent 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 populations, 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 Deerpark in the vicinity of Mongaup. This bill allows the Secretary to enter into such a lease and 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 text of the bill be printed in the RECORD.

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

S. 167

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

SECTION 1. EXTENSION OF AUTHORIZATION FOR UPPER DELAWARE CITIZENS ADVISORY COUNCIL.

Section 704(f)(1) 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''.

SEC. 2. VISITOR CENTER FOR UPPER DELAWARE SCENIC AND RECREATIONAL RIVER.

(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);

(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 boundary 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 Department 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 Deerpark, 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 ''(d) Notwithstanding'' and inserting the following:

''(d) ACQUISITION OF LAND.—

''(1) IN GENERAL.—Notwithstanding''; and

(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 availability of appropriations, 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 State of New York; and

''(B) 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 1994 and continues 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 worthiest 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 to be DPT-injured, and, they were summarily compensated. 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

paid from a trust fund established from surcharges that are paid on each shot a child receives. The fund serves as an insurance policy against vaccine injuries. But, following the regulatory changes made in 1995, the government is not recognizing even the most legitimate of claims. We are failing the very children we are trying to protect.

Over the years after his DPT shot (the combined shot for diphtheria, pertussis and tetanus), Tommy suffers severe seizures and from brain damage that has hampered his mental development. When he wakes in the morning or from a nap, either his mother or father is at his side waiting for the inevitable. Tommy's eyes tear and his face cringes in agony as his entire body is wracked with a muscle-clenching seizure. 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 caused. But this does nothing for 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. Their claim for compensation 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—given the choice?

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 moaned at a shrill pitch from the moment of the shot until his first seizure, but that doesn't matter either. For the first six months of his life, Tommy was in all ways normal, but for 4 and a half years since the DPT vaccine he and his family have suffered. As a parent and grandparent, I would do anything to protect my family from such pain and suffering. Tom Sansone, Sr. has done everything he knows how to help his son. Now he has turned to me because he knows I am in a position to help and I will not relent in my pursuit of relief for the Sansone family. The Vaccine Injury Compensation Program should take care of Tommy, but it doesn't. This bill will enable us to ensure that it does.

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. 168

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

SECTION 1. COMPENSATION FOR VACCINE-RELATED INJURY.

(a) CAUSE OF INJURY.—In consideration of the petition filed under subtitle 2 of title XXI of the Public Health Service Act (42 U.S.C. 300aa–10 et seq.) (relating to the National Vaccine Injury Compensation Program) by the legal representatives of Thomas J. Sansone, Jr., including the claims contained in that petition that the injury described in that petition was cause by a vaccine covered in the Vaccine Injury Table specified in section 2114 of such Act (42 U.S.C. 300aa–14) and given on June 1, 1994, such injury is deemed to have been caused by such vaccine for the purposes of subtitle 2 of title XXI of such Act.

(b) PAYMENT.—The Secretary of Health and Human Services shall pay compensation to Thomas J. Sansone, Jr. for the injury referred to in subsection (a) in accordance with section 2115 of the Public Health Service Act (42 U.S.C. 300aa–15).

By Mr. CLELAND (for himself, Mr. ROBB, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. BYRD, Mr. LIEBERMAN, Ms. LANDRIEU, Mr. REED, and Mr. DASCHLE):

S. 169. A bill to improve pay, retirement, and educational assistance benefits for members of the Armed Forces; and for other purposes; to the Committee on Armed Services.

THE MILITARY RECRUITING AND RETENTION IMPROVEMENT ACT OF 1999

Mr. CLELAND. Mr. President, I am extremely pleased to introduce with my colleagues, Senators ROBB, LEVIN, KENNEDY, BYRD, BINGAMAN, LIEBERMAN, LANDRIEU, REED, and DASCHLE—The Military Recruiting and Retention Improvement Act of 1999. I strongly believe that this bill represents an excellent step toward providing the men and women of the military a clear signal that we the people of the United States and we the members of the Congress of the United States value their contributions, understand their needs and concerns, and understand our obligations to provide for those who have answered the calling to defend our Nation.

The signal that we send to the people in the military and to the people of the United States should be one of hope and opportunity, and one that understands 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, well-qualified personnel are leaving in alarming numbers. Specifically, the Navy is not making its recruiting goals. The Army cites pay and retirement, 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, which is the goal of the legislation I am introducing today. Equally important, this bill, for the first time in a long time, addresses the immediate family members of our brave Soldiers, Sailors, Airmen, and Marines. The Military Recruiting and Retention Improvement Act of 1999 addresses the concerns of Secretary of Defense Cohen, the Joint Chiefs of Staff and Congress regarding recruiting a strong, viable military force for the 21st Century. It also significantly assists in retaining the right military personnel for the 21st Century. If we fail today to address these key issues, now when we have the combination of a strong economy, a relatively positive budget outlook, and a world which is largely at peace, we may well have missed a key window of opportunity. The bill we are introducing today goes a long way toward eliminating the deficiencies that we all have recently heard so much about from the Chiefs and a myriad of experts who are greatly concerned about the readiness of our military force, especially as we look a few years ahead.

Military experts, defense journalists, former Secretaries of Defense, former Service Chiefs, former theater Commanders in Chief, research and development specialists and even civilian industry leaders agree: the number one factor undergirding our superpower military status is the people of our Armed Forces. This critical ingredient means something different today than it did on the beaches of Normandy, in the jungles of Vietnam, or in fact even on the deserts of Kuwait. Today, the

people of our military are as dedicated, as committed, as patriotic as any force we have ever fielded. They are, in fact, smarter, better trained, and more technically adept than any who we have ever counted upon to defend our Nation. Operation Desert Fox proved this fact. This flawless, but dangerous and stressful, operation involved 40,000 troops from bases virtually around the world. Over 40 shops performed around the clock strikes and support. Six hundred aircraft sorties were flown in four days, and over 300 of these were night strike operations. And this massive effort was carried out without a single loss of American or British life!

In contrast to this and other post-Vietnam successes, consider the problems which face the people in uniform. New global security threats and our strong economy each exert enormous pressures on the people in the military and their families. By some measures the pay for our military personnel lags 13 percent behind the civilian pay raises over the last 20 years. Yet, we ask our military to train on highly technical equipment, to commit themselves in harm's way, to leave their families, and to execute flawless operations. Sometimes these operations are new and different from any past military operations, but they can be just as dangerous. Meanwhile, some of our servicemen and women qualify for food stamps, do not have the same educational opportunities as their civilian counterparts, must deal with confusing and changing health benefits and/or can not find affordable housing. Something is badly wrong with this picture, and the Congress and the Administration must work together to set things right.

Specifically, we need to recruit good people, continue to train them, and retain them in the military. This is difficult at best with the changes in our society, the rapidly changing threats to our security, and a prosperous economy. As I heard a service member say during a hearing I held at Ft. Gordon, Georgia last year, we recruit an individual, but we retain a family.

Some of the recruiting and retention problems of today's United States military are well documented. Others need to be more thoroughly explored. They all need to be addressed. The Military Recruiting and Retention Improvement Act of 1999 is but the first step. It is the beginning. I caution my colleagues that today's servicemen and women, and their families, are intelligent and are quick to recognize duplicity in the words and actions of our civilian and military leadership. Our military's most important assets—its people—are leaving the military, and many of America's best are not even considering joining the military. We must proceed expeditiously, with firm purpose and unified non-partisanship if we are to reverse these dangerous trends.

This bill responds to current data which provide some insight into how we can more effectively respond to today's youth and their service in the military. This 106th Congress has a tremendous opportunity to respond to today's military personnel problems. We must keep our focus on current and future personnel issues, including recognizing and responding to the need to retain a family. Our legislation does so.

Mr. President, the bill my colleagues and I are introducing today includes all three parts of the Department of Defense's proposed pay and retirement package. It incorporates some of the recommendations made by the Congressionally mandated Principi Commission, and it provides some additional innovative ideas for addressing these key personnel issues, now and into the future.

First, our bill provides a 4.8% pay raise across-the-board for all military members, effective January 1, 2000, and carries out the stated objective of Secretary Cohen and the Joint Chiefs of Staff of bringing military pay more in line with private sector wages. This increase raises military pay in FY2000 by one-half a percentage point above the annual increase in the Employment Cost Index (ECI), and represents the largest increase in military pay since 1982. Furthermore, and also in keeping with DoD's current plans, we would provide an annual increase in military pay of one-half percent above the annual increase in the ECI in each year from FY2001 to FY2006.

Another of the Joint Chiefs' recommendations included in our legislation is the targeted pay raise for mid-grade officers and enlisted personnel, and also for key promotion points. These raises, amounting to between 4.8 percent and 10.3 percent, which includes the January 1, 2000, pay raise and would be effective July 1, 2000.

The third part of our legislation taken from the DOD plan is a revision in the Military Retirement Reform Act of 1986, which would restore the 50 percent basic pay benefit for military members who retire at 20 years of service.

I am proud to say that in addition to the pay and retirement benefits package proposed by Secretary Cohen and the Joint Chiefs, our legislation includes several key recommendations from the recent report of the Congressional Commission on Servicemembers and Veterans Transition Assistance, also known as the Principi Commission. These provisions are specifically designed to assist the military services in their recruiting and retention efforts.

Information and data that we are seeing indicate that education benefits are an essential component in attracting young people to enter the armed services. This may be the single most important step this Congress can take in assisting recruitment. Improvements in the Montgomery GI Bill are needed, and our bill represents a vital move in that direction.

In keeping with the Principi Commission, our legislation would increase 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 attractiveness of the GI Bill to potential recruits,and give 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 available to Federal civil servants. Under this proposal, which adopts another 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.

Another section of our legislation extends for three years—through December 31, 2002—the authority for the military services to pay a number of bonuses and special incentive pays that are fundamental to recruiting and retaining highly skilled military members. The authority to pay these bonuses and special pay expires at the end of this year. By renewing this authority now through the end of 2002, we will provide military managers with these crucial retention tools. By acting now and for three years, the military members themselves will have greater confidence that these pay incentives will be available.

Mr. President, based on our initial estimates, it is my understanding that the provisions contained in this legislation will not require us to increase the funding for national defense above the levels in the President's FY2000–2006 Future Years Defense Plan. However, more precise costing will have to be done by the Congressional Budget Office over the next several weeks.

I know that all Members of the United States Senate are committed to the well-being of our servicemen and women and their families. They are doing their duty with honor and dignity. They are serving our country around the globe. They, along with their families, deserve our commitment. The bill we are introducing today is fair and will ensure that we continue to attract and retain high quality people to serve in our armed forces. It represents the beginning of a process to provide hope and opportunity to those who wear the uniform

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 servicemen 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''.

TITLE I—PAY AND ALLOWANCES

SEC. 101. FISCAL YEAR 2000 INCREASE AND RESTRUCTURING 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:

COMMISSIONED OFFICERS [1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
0–10 [2]	$0.00	$0.00	$0.00	$0.00	$0.00
0–9	0.00	0.00	0.00	0.00	0.00
0–8	6,594.30	6,810.30	6,953.10	6,993.30	7,171.80
0–7	5,479.50	5,851.80	5,851.50	5,894.40	6,114.60
0–6	4,061.10	4,461.60	4,754.40	4,754.40	4,772.40
0–5	3,248.40	3,813.90	4,077.90	4,127.70	4,291.80
0–4	2,737.80	3,333.90	3,556.20	3,606.04	3,812.40
0–3 [3]	2,544.00	2,884.20	3,112.80	3,364.80	3,525.90
0–2 [3]	2,218.80	2,527.20	2,910.90	3,000.00	3,071.10
0–1 [3]	1,926.30	2,004.90	2,423.10	2,423.10	2,423.10
	Over 8	Over 10	Over 12	Over 14	Over 16
0–10 [2]	$0.00	$0.00	$0.00	$0.00	$0.00
0–9	0.00	0.00	0.00	0.00	0.00
0–8	7,471.50	7,540.80	7,824.60	7,906.20	8,150.10
0–7	6,282.00	6,475.80	6,669.00	6,863.10	7,471.50
0–6	4,976.70	5,004.00	5,004.00	5,169.30	5,791.20
0–5	4,291.80	4,420.80	4,659.30	4,971.90	5,286.00
0–4	3,980.40	4,251.50	4,464.00	4,611.00	4,758.90
0–3 [3]	3,702.60	3,850.20	4,040.40	4,139.10	4,139.10
0–2 [3]	3,071.10	3,071.10	3,071.10	3,071.10	3,071.10
0–1 [3]	2,423.10	2,423.10	2,423.10	2,423.10	2,423.10
	Over 18	Over 20	Over 22	Over 24	Over 26
0–10 [2]	$0.00	$10,655.10	$10,707.60	$10,930.20	$11,318.40
0–9	0.00	9,319.50	9,453.60	9,647.70	9,986.40
0–8	8,503.80	8,830.20	9,048.00	9,048.00	9,048.00
0–7	7,985.40	7,985.40	7,985.40	7,985.40	8,025.60
0–6	6,086.10	6,381.30	6,549.00	6,719.10	7,049.10
0–5	5,436.00	5,583.60	5,751.90	5,751.90	5,751.90
0–4	4,808.70	4,808.70	4,808.70	4,808.70	4,808.70
0–3 [3]	4,139.10	4,139.10	4,139.10	4,139.10	4,139.10
0–2 [3]	3,071.10	3,071.10	3,071.10	3,071.10	3,071.10
0–1 [3]	2,423.10	2,423.10	2,423.10	2,423.10	2,423.10

[1] Basic pay for these officers is limited to the rate of basic pay for level V of the Executive Schedule.

[2] 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.

[3] 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.

COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
0–3E	$0.00	$0.00	$0.00	$3,364.80	$3,525.90
0–2E	0.00	0.00	0.00	3,009.00	3,071.10
0–1E	0.00	0.00	0.00	2,423.10	2,588.40
	Over 8	Over 10	Over 12	Over 14	Over 16
0–3E	$3,702.60	$3,850.20	$4,040.40	$4,200.30	$4,291.80
0–2E	3,168.60	3,333.90	3,461.40	3,556.20	3,556.20
0–1E	2,683.80	2,781.30	2,877.60	3,009.00	3,009.00
	Over 18	Over 20	Over 22	Over 24	Over 26
0–3E	$4,416.90	$4,416.90	$4,416.90	$4,416.90	$4,416.90
0–2E	3,556.20	3,556.20	3,556.20	3,556.20	3,556.20
0–1E	3,009.00	3,009.00	3,009.00	3,009.00	3,009.00

WARRANT OFFICERS

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W–5	$0.00	$0.00	$0.00	$0.00	$0.00
W–4	2,592.00	2,788.50	2,868.60	2,947.50	3,083.40
W–3	2,355.90	2,555.40	2,555.40	2,588.40	2,694.30
W–2	2,063.40	2,232.60	2,232.60	2,305.80	2,423.10
W–1	1,719.00	1,971.00	1,971.00	2,135.70	2,232.60
	Over 8	Over 10	Over 12	Over 14	Over 16
W–5	$0.00	$0.00	$0.00	$0.00	$0.00
W–4	3,217.20	3,352.80	3,485.10	3,622.20	3,753.60
W–3	2,814.90	2,974.20	3,071.10	3,177.00	3,298.20
W–2	2,555.40	2,852.60	2,749.80	2,844.30	2,949.00

WARRANT OFFICERS

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W–1	2,332.80	2,433.30	2,533.20	2,634.00	2,734.80
	Over 18	Over 20	Over 22	Over 24	Over 26
W–5	$0.00	$4,475.10	$4,628.70	$4,782.90	$4,937.40
W–4	3,888.00	4,019.00	4,155.60	4,289.70	4,427.10
W–3	3,418.50	3,539.10	3,659.40	3,780.00	3,900.90
W–2	3,058.40	3,163.80	3,270.90	3,378.30	3,378.30
W–1	2,835.00	2,910.90	2,910.90	2,910.90	2,910.90

ENLISTED MEMBERS

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E–9 [4]	$0.00	$0.00	$0.00	$0.00	$0.00
E–8	0.00	0.00	0.00	0.00	0.00
E–7	1,765.80	1,927.80	2,001.00	2,073.00	2,147.70
E–6	1,518.90	1,678.20	1,752.60	1,824.30	1,899.30
E–5	1,332.60	1,494.00	1,566.00	1,640.40	1,714.50
E–4	1,242.90	1,373.10	1,447.20	1,520.10	1,593.90
E–3	1,171.50	1,260.60	1,334.10	1,335.90	1,335.90
E–2	1,127.40	1,127.40	1,127.40	1,127.40	1,127.40
E–1	[5] 1,005.60	1,005.60	1,005.60	1,005.60	1,005.60
	Over 8	Over 10	Over 12	Over 14	Over 16

ENLISTED MEMBERS

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E–9 [4]	$0.00	$3,015.30	$3,083.40	$3,169.80	$3,271.50
E–8	2,528.40	2,601.60	2,669.70	2,751.60	2,840.10
E–7	2,220.90	2,294.10	2,367.30	2,439.30	2,514.00
E–6	1,973.10	2,047.20	2,118.60	2,191.50	2,244.60
E–5	1,789.50	1,861.50	1,936.20	1,936.20	1,936.20
E–4	1,593.90	1,593.90	1,593.90	1,593.90	1,593.90
E–3	1,335.90	1,335.90	1,335.90	1,335.90	1,335.90
E–2	1,127.40	1,127.40	1,127.40	1,127.40	1,127.40
E–1	1,005.60	1,005.60	1,005.60	1,005.60	1,005.60
	Over 18	Over 20	Over 22	Over 24	Over 26
E–9 [4]	$3,373.20	$3,473.40	$3,609.30	$3,744.00	$3,915.80
E–8	2,932.50	3,026.10	3,161.10	3,295.50	3,483.60
E–7	2,588.10	2,660.40	2,787.60	2,926.20	3,134.40
E–6	2,283.30	2,283.30	2,285.70	2,285.70	2,285.70
E–5	1,936.20	1,936.20	1,936.20	1,936.20	1,936.20
E–4	1,593.90	1,593.90	1,593.90	1,593.90	1,593.90
E–3	1,335.90	1,335.90	1,335.90	1,335.90	1,335.90
E–2	1,127.40	1,127.40	1,127.40	1,123.20	1,127.40
E–1	1,005.60	1,005.60	1,005.60	1,005.60	1,005.60

[4] While serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, basic pay for this grade is $4,701.00, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

[5] In the case of members in the grade E–1 who have served less than 4 months on active duty, basic pay is $930.30.

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 monthly basic pay that takes effect 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 (a) of section 5303 of title 5, United States Code, for such fiscal year (without regard to whether rates of pay under the statutory pay systems are actually increased by the percentage calculated under such section 5303(a) during such fiscal year).

SEC. 103. THREE-YEAR EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF CERTAIN BONUSES AND SPECIAL PAYS.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) 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 308(g) 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 312b(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 312c(d) of title 37, United States Code, is amended by striking ''any fiscal year beginning before October 1, 1998, and the 15-month period beginning on that date and ending on December 31, 1999'' and inserting ''the 15-month period beginning on October 1, 1998, and ending on December 31, 1999, and any year beginning after December 31, 1999, and ending before January 1, 2003''.

SEC. 104. THREE-YEAR EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) SPECIAL PAY FOR HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(f) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(b) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(c) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(d) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(e) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(f) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(g) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(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 IN THE SELECTED RESERVE.—Section 16302(d) of title 10, United States Code, is amended by striking ''January 1, 2000'' and inserting in lieu thereof ''January 1, 2003''.

SEC. 105. THREE-YEAR EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(b) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(c) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting in lieu thereof ''December 31, 2002''.

TITLE II—RETIRED PAY

SEC. 201. REPEAL OF REDUCTION IN RETIRED PAY MULTIPLIER FOR POST–JULY 31, 1986 MEMBERS RETIRING WITH LESS THAN 30 YEARS OF SERVICE.

Section 1409(b) of title 10, United States Code, is amended by striking paragraph (2).

SEC. 202. MODIFIED ''CPI–1'' COST-OF-LIVING ADJUSTMENT.

Paragraph (3) of section 1401a(b) of title 10, United States Code, is amended to read as follows:

''(3) POST-AUGUST 1, 1986 MEMBERS.—The Secretary shall increase the retired pay of each member and former member who first became a member of a uniformed service on or after August 1, 1986, by the percent equal to the difference between the percent determined under paragraph (2) and 1 percent, except that, if the percent determined under paragraph (2) is less than 3 percent, the Secretary shall increase the retired pay by the lesser of the percent so determined or 2 percent.''.

SEC. 203. CONFORMING AMENDMENTS.

(a) COMPUTATION OF RETIRED PAY.—(1) Chapter 71 of title 10, United States Code, is further amended—

(A) in section 1409(b)—

(i) in paragraph (1), by striking ''paragraphs (2) and (3)'' and inserting thereof ''paragraph (2)''; and

(iii) by redesignating paragraph (3) as paragraph (2); and

(B) in section 1410, by striking ''if—'' and all that follows and inserting the following: ''if increases in the retired pay of the member or former member under section 1401a(b) of this title had been computed as provided in paragraph (2) of that section (rather than under paragraph (3) of that section).''

(2)(A) The heading for section 1410 of such title is amended to read as follows:

''§ 1410. Members entering on or after August 1, 1986: restoration of COLA increases to full-COLA amounts at age 62''.

(B) The item relating to such section in the table of sections at the beginning of chapter 71 of such title is amended to read as follows:

''1410. Members entering on or after August 1, 1986: restoration of COLA increases to full-COLA amounts at age 62.''.

(b) SURVIVOR BENEFIT PLAN.—Chapter 73 of such title is amended—

(1) in section 1447(6)(A), by striking ''(determined without regard to any reduction under section 1409(b)(2) of this title)'';

(2) in section 1451(h), by striking paragraph (3); and

(3) in section 1452(c), by striking paragraph (4).

SEC. 204. EFFECTIVE DATE.

The amendments 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 adding at the end the following:

''§ 8440e. Members of the uniformed services in active service

''(a) PARTICIPATION AUTHORIZED.—(1) A member of the armed forces in active service may participate in the Thrift Savings Plan in accordance with this section.

''(2) An election to contribute to the Thrift Savings Fund under paragraph (1) may be made only during a period provided under section 8432(b) for individuals subject to this chapter.

''(b) APPLICABILITY OF THRIFT SAVINGS PLAN PROVISIONS.—Except as otherwise provided in this section, the provisions of this subchapter and subchapter VII of this chapter shall apply with respect to members of the uniformed services making contributions to the Thrift Savings Fund as if such members were employees within the meaning of section 8401(11).

''(c) MAXIMUM CONTRIBUTION FROM BASIC PAY.—The amount contributed by a member of the uniformed services for any pay period out of basic pay may not exceed—

''(1) for any pay period 5 percent of such member's basic pay for such pay period, plus

''(2) an amount equal to the amount of any enlistment or reenlistment bonus paid to the member under section 308, 308a, or 308f of title 37 in connection with an enlistment for active service.

''(d) AGENCY CONTRIBUTIONS PROHIBITED.—No contribution under section 8432(c) of this title may be made for the benefit of a member of the uniformed services making contributions to the Thrift Savings Fund under subsection (a).

''(e) CERTAIN TRANSFERS NOT CONSIDERED SEPARATIONS.—A transfer of a member from one armed force to another armed force without a break in active service of more than 30 days shall not be considered to be a separation from service for the purposes of establishing an entitlement of the member to a withdrawal from the member's account under the Thrift Savings Plan.

''(f) REGULATIONS.—The Executive Director, after consultation with the Secretary of Defense, may prescribe regulations to carry out this section.

''(g) DEFINITIONS.—For purposes of this section—

''(1) the term 'armed forces' has the meaning given the term in subsection (a)(4) of section 101 of title 10;

''(2) the term 'active service' has the meaning given the term in subsection (d)(3) of such section; and

''(3) the term 'basic pay' means basic pay that is payable under section 204 of title 37.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 84 of title 5, United States Code, is amended by adding after the item relating to section 8440d the following:

''8440e. Members of the uniformed services in active service.''.

SEC. 302. NONDUPLICATION OF CONTRIBUTIONS.

Section 8432b(b) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking ''Each employee'' and inserting ''Except as provided in paragraph (4), each employee'';

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph (4)

''(4) No contribution may be made under this section for a period for which an employee made a contribution under section 8440e.''.

TITLE IV—MONTGOMERY GI BILL BENEFITS

SEC. 401. 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)(1), by striking ''$528'' and inserting ''$600''; and

(2) in subsection (b)(1), by striking ''$429'' 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 shall be made under subsection (g) of section 3015 of title 38, United States Code, for fiscal year 2000.

SEC. 402. 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 section 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) 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 under such section 3011(b) or 3012(c), as the case may be, as of the day before such date shall be deemed to be fully satisfied as of such date.

(c) CONFORMING 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. 403. ACCELERATED PAYMENTS OF EDUCATIONAL ASSISTANCE.

Section 3014 of title 38, United States Code, is amended—

(1) by inserting ''(a)'' before ''The Secretary shall pay''; and

(2) by adding at the end the following new subsection (b):

''(b)(1) When the Secretary determines that it is appropriate to accelerate payments under the regulations prescribed pursuant to paragraph (6), the Secretary may make payments of basic educational assistance allowance under this subchapter on an accelerated basis.

''(2) The Secretary may pay a basic educational assistance allowance on an accelerated basis only to an individual entitled to payment of the allowance under this subchapter who has made a request for payment of the allowance on an accelerated basis.

''(3) In the event an adjustment under section 3015(g) of this title in the monthly rate of basic educational assistance will occur during a period for which a payment of an allowance is made on an accelerated basis under this subsection, the Secretary shall—

''(A) pay on an accelerated basis the 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.

''(4) The entitlement to a basic educational assistance allowance under this subchapter of an individual who is paid an allowance on an accelerated basis under this subsection shall be charged at a rate equal to one month for each month of the period covered by the accelerated payment of the allowance.

''(5) A basic educational assistance allowance shall be paid on an accelerated basis under this subsection as follows:

''(A) In the case of an allowance for a course leading to a standard college degree, at the beginning of the quarter, semester, or term of the course in a lump-sum amount equivalent to the aggregate amount of monthly allowance otherwise payable under this subchapter for the quarter, semester, or term, as the case may be, of the course.

''(B) In the case of an allowance for a course other than a course referred to in subparagraph (A)—

''(i) at the later of (I) the beginning of the course, or (II) a reasonable time after the request for payment by the individual concerned; and

''(ii) in any amount requested by the individual concerned up to the aggregate amount of monthly allowance otherwise payable under this subchapter for the period of the course.

''(6) The Secretary shall prescribe regulations for purposes of making payments of basic educational allowance on an accelerated basis under this subsection. Such regulations shall specify the circumstances under which accelerated payments should be made and include requirements relating to the request for, making and delivery of, and receipt and use of such payments.''.

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 to elect to transfer such individual's entitlement to such assistance, in whole or in part, to the individuals specified in subsection (b).

''(b) An individual's entitlement to educational assistance may be transferred when authorized under subsection (a) as follows:

''(1) To the individual's spouse.

''(2) To one or more of the individual's children.

''(3) To a combination of the individuals referred to in paragraphs (1) and (2).

''(c)(1) An individual electing to transfer an entitlement to educational assistance under this section shall—

''(A) designate the individual or individuals to whom such entitlement is being transferred and the percentage of such entitlement to be transferred to each such individual; and

''(B) specify the period for which the transfer shall be effective for each individual designated under subparagraph (A).

''(2) The aggregate amount of the entitlement transferable by an individual under this section may not exceed the aggregate amount of the entitlement of such individual to educational assistance under this subchapter.

''(3) An individual electing to transfer an entitlement under this section may elect to modify or revoke the transfer at any time before the use of the transferred entitlement. An individual shall make the election by submitting written notice of such election to the Secretary.

''(d)(1) The use of any entitlement transferred under this section shall be charged against the entitlement of the individual making the transfer at the rate of one month for each month of transferred entitlement that is used.

''(2) Except as provided in paragraph (3), an individual using entitlement transferred under this section shall be subject to the provisions of this chapter in such use as if such individual were entitled to the educational assistance covered by the transferred entitlement in the individual's own right.

''(3) Notwithstanding section 3031 of this title, a child shall complete the use of any entitlement transferred to the child under this section before the child attains the age of 26 years.

''(e) In the event of an overpayment of educational assistance with respect to an individual to whom entitlement is transferred under this section, such individual and the individual making the transfer under this section shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685 of this title.

''(f) The Secretary shall prescribe regulations for purposes of this section. Such regulations shall specify the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (c)(3).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3019 the following new item:

''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's assessment of the effects that the provisions of this Act and the amendments made by the Act are having on

recruitment and retention of personnel for the Armed Forces.

(b) FIRST REPORT.—The first report under this section shall be submitted not later than December 1, 2000.

THE MILITARY RECRUITING AND RETENTION IMPROVEMENT ACT OF 1999—SUMMARY

MILITARY PAY RAISE

4.8% effective January 1, 2000.

Pay raises for FY 2001–2006 ECI + 0.5%.

PAY TABLE REFORM

Targeted raise—weighted to mid-career NCO/Officers.

Minimum 4.8%.

Maximum 10.3%.

Effective July 1, 2000.

MILITARY RETIREMENT

Restore 50% basic pay retirement benefit at 20 years of service as proposed by Secretary Cohen and the Joint Chiefs.

MONTGOMERY GI BILL ENHANCEMENTS

Eliminate $1200 contribution required of members who elect to participate in the GI Bill.

Provide Services with discretionary authority to permit members to transfer benefits to immediate family members.

Increase monthly GI Bill benefit from $528 to $600 for members who serve at least 3 years, and from $429 to $488 for members who serve less than 3 years.

Permit accelerated lump sum benefits for entire term, semester or quarter, or for entire courses not leading to college degree.

THRIFT SAVINGS PLAN

Allow members to contribute up to 5% of basic pay, and all or any part of any enlistment or reenlistment bonus, to the Federal civilian employees Thrift Savings Plan.

EXTENSION OF CRITICAL BONUS AND SPECIAL PAY AUTHORITIES

Extend for three years (through December 31, 2002) authority to pay bonuses and special pays critical to recruiting and retention of military members. Authority to pay these bonuses and special pays expires December 31, 1999 under current law.

ANNUAL REPORTING REQUIREMENT

Require DOD to report annually on the impact of these programs on recruiting and retention.

Critical Bonus and Special Pay Authorities Extended Through December 31, 1999:

Enlistment Bonuses for Members With Critical Skills.

Selected Reserve Enlistment Bonus.

Prior Service Enlistment Bonus.

Ready Reserve Enlistment and Reenlistment Bonus.

Reenlistment Bonus for Active Members.

Selected Reserve Reenlistment Bonus.

Selected Reserve Affiliation Bonus.

Aviation Officer Retention Bonus.

Special Pay for Nuclear-Qualified Officers Extending Period of Active Service.

Nuclear Career Accession Bonus.

Nuclear Career Annual Incentive Bonus.

Special Pay for Health Professionals in Critically Short Wartime Specialties.

Special Pay for Enlisted Members Assigned to Certain High Priority Units.

Repayment of Education Loans for Certain Health Professionals Who Serve in the Selected Reserve.

Nurse Officer Candidate Accession Program.

Accession Bonus for Registered Nurses.

Incentive Special Pay for Nurse Anesthetists.

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 absorbency 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 begin 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 taking care of 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 billions 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 ROBB, 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—and the key to the strength and capability of our Armed Forces—is 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 best of America to serve in our Armed Forces.

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 a package of 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 thee 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 Defense 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 FY2000 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 percent above the annual 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 4.8-percent across-the-board pay increase, this targeted pay raise increases 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 from $528 to $600 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 of 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 to 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 a number of 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. Renewing 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 FY2000–2006 Future Years Defense Plan. 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 aspects of this legislation that require 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 last year 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 concered 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 recuiting standards, and now the Navy has followed suit. Secretary of the Navy Danzig has announced that the Navy is lowering its educational 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:

> 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. LIEBERMAN. 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 initiative 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 have what is unequivocally the 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 able to routinely 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 of critical skills, 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 deserve credit for persevering in keeping these challenges to our readiness before us. President Clinton also deserves credit for his decision to increase the defense budget to address these important problems.

But if this increase only fixes the worst of the short term readiness problems and diverts us from seriously addressing the hard long-term questions of readiness and modernization that face us, it could do us as much harm as good. And if it generates a partisan debate over who can increase the defense budget the most, we will be rightly criticized for trying to solve our increasingly complex security problems by throwing money at them, which makes no more sense as a response to our military problems than it did for our social problems.

I think what we are spending money on is just as important as how much we are spending. First, we must demand 100 percent cost effectiveness, the elimination of waste and redundancy, and that includes closing down military facilities (bases and depots) that don't make military-economic sense anymore. Second, as we evaluate our readiness we must persistently ask, ready for what? What are the threats we face today and what are the emerging threats we will face tomorrow. If we do not develop and field the right organizations, weapons, and concepts to meet future challenges, and as a result fail to successfully meet one of those future challenges to our security, it will not matter much to remind ourselves how ready we were in 1999 when the threats are probably less than they will be then.

As Under Secretary of Defense Gansler has pointed out, the money projected to be added to the defense budget, or any increase we can reasonably foresee, won't be enough to completely pay for both increasing current readiness and meeting the modernization requirements of all the Services. So it is extremely important that we take extraordinary measures to be sure that we are spending our money wisely.

There is no doubt that spending our money to adequately and fairly compensate our military men and women is the wisest use of our defense dollars. Therefore I am very proud that we have recognized this fact by offering this bill outside the normal defense authorization process. Doing so signals the importance we place on our military personnel. I think it is a good bill. I support spending what is necessary. And I think we have gotten it mostly right.

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 the right people. I hope the Senate Armed Services Committee 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 result possible. 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 cosponsor 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 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 educational benefits. Military personnel would no longer have to contribute $1,200 to take advantage of the Montgomery GI bill and they would received increased monthly benefits. In addition, the Service Secretaries would be given the discretion to allow 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 educating their children.

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.

Finding the best ways 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 Democrats 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 to make a few remarks concerning the Military Recruiting and Retention Improvement Act introduced today by my

esteemed colleague, Senator CLELAND. During the last session, the Joint Chiefs testified to the need for improving pay and retirement for military personnel as a means to improvement recruitment and retention of service members. This bill proposes some important steps to implement those needs, including the extension of critical bonus and special pay authorities, and deserves careful consideration by the members of the Senate. It is generally acknowledged, however, 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 resource 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 not 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 serve at least three years, and from $429 to $498 per month for those who serve less than three years. Lump sum tuition assistance could also be provided under certain circumstances.

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 to that offered by Senator CLELAND, myself, and others. I am hopeful that we will review these bills in detail in the Armed Services Committee to determine the best way to proceed to improve recruitment and retention that lies at the heart of both bills. As I indicated, recruitment and retention are affected by a wide variety of causes, only some of which may be financial. Senator CLELAND's bill calls for an annual report on the impact of the provisions of the bill on recruitment and retention. I believe such an assessment is required. I believe as well, that before the Senate approves legislation, however, it needs to have a more informed view of factors affecting recruitment and retention and of the potential impact of increasing assistance to military personnel on pay and benefits provided to defense and government civilian employees. A report is due soon from the Department of Defense addressing some of those issues. I urge my colleague to pay close attention to its findings and seek answers to the additional questions I have posed in determining how to proceed with legislation that meets national security and budgetary requirements.

By Mr. SMITH of New Hampshire (for himself, Mr. MOYNIHAN, and Mr. MACK):

S. 170. A bill to permit revocation by members of the clergy of their 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 an ''individual who is a duly ordained, commissioned, or licensed minister of a church, or a member of a religious order who has not taken a vow of poverty,'' would be able to revoke his or her exemption from Social Security, under my bill. Of course, this measure would not permit ministers who already have reached retirement age to gain access to the Social Security program.

This bill primarily would benefit modestly paid clergy, who are among the most likely to need Social Security benefits upon retirement. Many chose not to participate in the Social Security program early in their careers, before they fully understood the ramifications of filing for an exemption.

If enacted, this measure would raise about $45 million over the next five years, according to the Congressional Budget Office. CBO has scored the bill as a revenue raiser and, as a result, it will require no budget offset. Over the long-term, the legislation would cost money, but I do not expect its costs to be that significant because CBO has estimated that only about 3,500 members of the clergy would exercise the option that this bill provides.

The need for this legislation was brought to my attention by the distinguished bishop in Manchester, New Hampshire, Reverend Bishop O'Neil. He made me aware of the hardships facing individual ministers who may or may not have any retirement income. The bill also has the endorsement of the U.S. Catholic Conference.

I want to thank my principal cosponsors, Senators MOYNIHAN and MACK, for their support of this much-needed legislation. Let me also point out that this measure is identical to Title 8 of H.R. 3433, the Ticket-to-Work Act, which passed the House of Representatives by a vote of 410 to 1 last June.

In closing, this bill gives members of the clergy a limited opportunity to enroll in the Social Security system, similar to those provided by Congress in 1977 and 1986. Mr. President, I hope that all of my colleagues will support this legislation, which is so important to a number of clergy in the United States.

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. 170

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

SECTION 1. REVOCATION BY MEMBERS OF THE CLERGY OF EXEMPTION FROM SOCIAL SECURITY COVERAGE.

(a) IN GENERAL.—Notwithstanding section 1402(e)(4) of the Internal Revenue Code of 1986, any exemption which has been received under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church, 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, and with such official, as may be prescribed in regulations made under chapter 2 of such Code), if such application is filed no later than the due date of the Federal income tax return (including any extension thereof) for the applicant's second 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; and the applicant for any such 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 or be accompanied by payment in full 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 (4) or (5) of section 1402(c) of such Code) but for the exemption under section 1402(e)(1) of such Code.

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to service performed (to the extent specified in such subsection) in taxable years beginning after December 31, 1999, and 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 in or after 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, may elect to be exempt from 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 in life, when they are blocked from coverage, that they realize their need for Social Security and Medicare. This decision to ''opt in'' would be irrevocable and 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 (Section 316) 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. It is a simple but 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 along way to go yet. Since 1990 we have learned, for instance, that the sulfur dioxide (SO_2) emissions reductions required under the Clean Air Act Amendments of 1990 are insufficient to prevent continued damage to human health and sensitive ecosystems. We have also learned that nitrogen oxides (NO_X), which we largely ignored nine years ago, are significant contributors to our nation's many air quality deficiencies. And finally, we have demonstrated that legislation containing regulatory flexibility and market incentives is preferable to the traditional ''command and control'' approach. My bills seek to build upon this new body of knowledge by combining the best and most current scientific evaluation of our environmental needs with the most effective and efficient regulatory framework.

The scientific data indicate that the 1990 Amendments did not go far enough to prevent continued human health and ecosystem damage from SO_2 and NO_X. We now know that ozone pollution, caused in large part by NO_X emissions, can have a terrible effect on human respiratory functions. The Harvard University School of Public Health's 1996 study of ozone pollution established a strong link between ground level ozone pollution and 30,000–50,000 emergency room visits during the 1993 and 1994 ozone seasons. Ecosystems continue to suffer, too. The 1998 report of the National Acid Precipitation 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 clogs the air in our national parks.

Scientists have produced volumes of scientific literature on ozone, acid deposition, regional haze, 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 NO_X 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 NO_X 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 of coastal 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

nitrogen 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 NO_X emissions and further reduce SO_2 emissions. My bills address the major sources of NO_X and SO_2. The Acide Deposition and Ozone Control Act of 1998 would affect ''stationary sources'' of NO_X and SO_2, mainly electric utilities, and the Clean Gasoline 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 SO_2 Allowance Program in 1990, our task was simplified by the fact that over 85 percent of SO_2 emissions originated in fossil fuel-fired electric utilities. Utility emissions account for just under 30 percent of total NO_X emissions, a smaller share, but large enough to merit attention. My bill establishes a year-round cap-and-trade program for NO_X emissions from the utility sector and mandates a further 50 percent cut in emissions of SO_2 through the existing cap and trade program. 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 NO_X emitted between May and September. During the remainder of the year, only one allowance is required to produce one ton of NO_X 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 SO_2, the Acid Deposition and Ozone Control Act is designed to build onto it as seamlessly as possible by establishing a ''Phase III'' under the existing program. Under the proposed Phase III, total utility emissions of SO_2 would be reduced to just under 4.5 million tons per year, significantly reducing acid deposition and improving visibility in our Nation's scenic vistas.

THE CLEAN GASOLINE ACT OF 1999: ADDRESSING MOBILE SOURCES

This bill establishes a national, year-round cap on the sulfur content of gasoline sold in the United States. The bill would extend the so-called California gasoline sulfur standard nationwide. The benefits of reducing gasoline sulfur would be dramatic and virtually immediate.

The presence of sulfur in gasoline increases vehicle emissions because sulfur poisons the catalytic converter used in the vehicle's emissions control system. Sulfur is a pollutant only: its presence (or absence) does not effect engine performance. In the 1970's, we fought to remove lead from gasoline to make possible the introduction of catalytic converters. Until recently, we did not appreciate that sulfur is a catalyst poison, too. All vehicles in the national fleet with catalytic converters—virtually all vehicles—produce higher levels of NO_X because of the high levels of sulfur in the gasoline they burn.

The cost of gasoline would rise under this bill—by a nickel a gallon at the retail level, at most. For a car driven 15,000 miles per year that achieves 15 miles per gallon, the cost of the Clean Gasoline Act would be $50 annually. Keep in mind, however, that gasoline prices, adjusted for inflation, are cheaper now than they have been at any time since 1950, the beginning point of our analysis. And the benefits to human health and the environment of reducing gasoline sulfur far outweigh this modest cost.

A recent study by the State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officials (STAPPA-ALAPCO) found that reducing gasoline sulfur levels to 40 parts per million, the California standard, would bring an air quality benefit equivalent to removing nearly 54 million vehicles from our national fleet. New York City alone would have a benefit equal to removing 3 million vehicles from its streets. We must not pass up the opportunity to make such large gains in emissions reductions for such a minor cost.

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 begin 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 Gasoline Act of 1999.

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:

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 1996, motor vehicles account for a major portion of the emissions that degrade the air quality of the United States: 49 percent of nitrogen oxides emissions, 26 percent of emissions of particulate matter with an aerodynamic diameter smaller than or equal to 10 micrometers (PM–10), 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 50 ppm—

(i) hydrocarbon emissions are reduced by 18 percent;

(ii) carbon monoxide emissions are reduced by 19 percent; and

(iii) nitrogen oxide emissions are reduced by 8 percent;

(3)(A) recent studies conducted by the the Association of International Automobile Manufacturers, and the Coordinating Research Council confirm that sulfur in vehicle fuel impairs to 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_x 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 range 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: a 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; and

(B) the California Air Resources Board credits low sulfur gasoline with reducing ozone levels by 10 percent on the South Coast, 12 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 measure 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. 7545) 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) IN GENERAL.—

''(A) 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.

''(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, during any 1-year period, motor vehicle gasoline that contains a concentration of sulfur that is greater than 40 but less than or equal to 80 parts per million per gallon of gasoline, if the average concentration of sulfur in the motor vehicle gasoline manufactured, sold, supplied, offered for sale or supply, dispensed, transported, or introduced into commerce by the person during the period is 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) LOWER SULFUR CONCENTRATION.—

''(A) REPORT.—

''(i) INITIAL REPORT.—Not later than 6 years after the date of enactment of this subsection, the Administrator shall submit to Congress a report that documents the effects of use of low sulfur motor vehicle gasoline on urban and regional air quality.

''(ii) FOLLOWUP REPORT.—Not later than 2 years after the date of the initial report under clause (i), the Administrator shall submit a report updating the information contained in the initial report.

''(B) REGULATION.—After the date of the initial report under subparagraph (A)(i), the Administrator may promulgate a regulation to establish maximum and average allowable sulfur concentrations in motor vehicle gasoline that are lower than the concentrations specified in paragraph (1) if the Administrator determines that—

''(i) research conducted after the date of enactment of this subsection indicates that significant air quality benefits would result from a reduction in allowable sulfur concentration in motor vehicle gasoline; or

''(ii) advanced vehicle technologies have been developed that can significantly reduce emissions of air pollutants from motor vehicles but that require motor vehicle gasoline with a lower concentration of sulfur than that specified in paragraph (1).''.

(b) PENALTIES AND INJUNCTIONS.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1), by striking ''or (n)'' each place it appears and inserting ''(n), or (o)''; and

(2) in paragraph (2), by striking ''and (n)'' each place it appears and inserting ''(n), and (o)''.

S. 172

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 ''Acid Deposition and Ozone Control Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) reductions of atmospheric nitrogen oxide and sulfur dioxide from utility plants, in addition to the reductions required under the Clean Air Act (42 U.S.C. 7401 et seq.), are needed to reduce acid deposition and its serious adverse effects on public health, natural resources, building structures, sensitive ecosystems, and visibility;

(2) nitrogen oxide and sulfur dioxide contribute to the development of fine particulates, suspected of causing human mortality and morbidity to a significant extent;

(3) regional nitrogen oxide reductions of 50 percent in the Eastern United States, in addition to the reductions required under the Clean Air Act, may be necessary to protect sensitive watersheds from the effects of nitrogen deposition;

(4) without reductions in nitrogen oxide and sulfur dioxide, the number of acidic lakes in the Adirondacks in the State of New York is expected to increase by up to 40 percent by 2040; and

(5) nitrogen oxide is highly mobile and can lead to ozone formation hundreds of miles from the emitting source.

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

(1) to recognize the current scientific understanding that emissions of nitrogen oxide and sulfur dioxide, and the acid deposition resulting from emissions of nitrogen oxide and sulfur dioxide, present a substantial human health and environmental risk;

(2) to require reductions in nitrogen oxide and sulfur dioxide emissions;

(3) to support the efforts of the Ozone Transport Assessment Group to reduce ozone pollution;

(4) to reduce utility emissions of nitrogen oxide by 70 percent from 1990 levels; and

(5) to reduce utility emissions of sulfur dioxide by 50 percent after the implementation of phase II sulfur dioxide requirements under section 405 of the Clean Air Act (42 U.S.C. 7651d).

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) AFFECTED FACILITY.—The term ''affected facility'' means a facility with 1 or more combustion units that serve at least 1 electricity generator with a capacity equal to or greater than 25 megawatts.

(3) NO_x ALLOWANCE.—The term ''NO_x allowance'' means a limited authorization under section 4(3) to emit, in accordance with this Act, quantities of nitrogen oxide.

(4) MMBTU.—The term ''mmBtu'' means 1,000,000 British thermal units.

(5) PROGRAM.—The term ''Program'' means the Nitrogen Oxide Allowance Program established under section 4.

(6) STATE.—The term ''State'' means the 48 contiguous States and the District of Columbia.

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) NO_x ALLOWANCES.—

(A) ALLOCATION.—The Administrator shall allocate under paragraph (4)—

(i) for each of calendar years 2002 through 2004, 5,400,000 NO_x allowances; and

(ii) for calendar year 2005 and each calendar year thereafter, 3,000,000 NO_x allowances.

(B) USE.—Each NO_x 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) ½ ton 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 NO_x allowances to 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 NO_x 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 2002, for the calendar year that begins 61 months thereafter.

(5) INTRASTATE DISTRIBUTION.—

(A) IN GENERAL.—A State may submit to the Administrator a report detailing the distribution of NO_x allowances of the State 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 2013, for the calendar year that begins 61 months thereafter.

(B) ACTION BY THE ADMINISTRATOR.—If a State submits a report under subparagraph (A) not later than September 30 of the calendar year specified in subparagraph (A), the Administrator shall distribute the NO_x 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, not later than November 30 of that calendar year, distribute the NO_x allowances for the calendar years specified in subparagraph (A) to each affected facility 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—

(I) 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 NO_x allowances by the Administrator under subparagraph (D) shall not be subject to judicial review.

(b) NO_x ALLOWANCE TRANSFER SYSTEM.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Administrator shall promulgate a NO_x allowance system regulation under which a NO_x allowance allocated under this Act may be transferred among affected facilities and any other person.

(2) ESTABLISHMENT.—The regulation shall establish the NO_x allowance system under this section, including requirements for the allocation, transfer, and use of NO_x allowances under this Act.

(3) USE OF NO_x ALLOWANCES.—The regulation shall—

(A) prohibit the use (but not the transfer in accordance with paragraph (5)) of any NO_x allowance before the calendar year for which the NO_x allowance is allocated; and

(B) provide that the unused NO_x allowances shall be carried forward and added to NO_x allowances allocated for subsequent years.

(4) CERTIFICATION OF TRANSFER.—A transfer of a NO_x 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) NO_x 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 NO_x allowances that shall specify all necessary procedures and requirements for an orderly and competitive functioning of the NO_x allowance system.

(d) PERMIT REQUIREMENTS.—A NO_x allowance allocation or transfer shall, on recordation by the Administrator, be considered to be a part of each affected facility's operating permit requirements, without a requirement for any further permit review or revision.

(e) NEW SOURCE RESERVE.—

(1) IN GENERAL.—For a State for which the Administrator distributes NO_x allowances under subsection (a)(5)(D), the Administrator shall place 10 percent of the total annual NO_x allowances of the State in a new source reserve to be distributed by the Administrator—

(A) for calendar years 2002 through 2005, to sources that commence operation after 1998;

(B) for calendar years 2006 through 2011, to sources that commence operation after 2000; and

(C) for calendar year 2012 and each calendar year thereafter, to sources that commence operation after the calendar year that is 5 years previous to the year for which the distribution is made.

(2) SHARE.—For a State for which the Administrator distributes NO_x allowances under subsection (a)(5)(D), the Administrator shall distribute to each new source a number of NO_x allowances sufficient to allow emissions by the source at a rate equal to the lesser of the new source performance standard or the permitted level for the full nameplate capacity of the source, adjusted pro rata for the number of months of the year during which the source operates.

(3) UNUSED NO_x ALLOWANCES.—

(A) IN GENERAL.—During the period of calendar years 2000 through 2005, the Administrator shall conduct auctions at which a NO_x allowance remaining in the new source reserve that has not been distributed under paragraph (2) shall be offered for sale.

(B) OPEN AUCTIONS.—An auction under subparagraph (A) shall be open to any person.

(C) CONDUCT OF AUCTION.—

(i) METHOD OF BIDDING.—A person wishing to bid for a NO_x allowance at an auction under subparagraph (A) shall submit (by a date set by the Administrator) to the Administrator (on a sealed bid schedule provided by the Administrator) an offer to purchase a specified number of NO_x allowances at a specified price.

(ii) SALE BASED ON BID PRICE.—A NO_x allowance auctioned under subparagraph (A) shall be sold on the basis of bid price, starting with the highest priced bid and continuing until all NO_x allowances for sale at the auction have been sold.

(iii) NO MINIMUM PRICE.—A minimum price shall not be set for the purchase of a NO_x allowance auctioned under subparagraph (A).

(iv) REGULATIONS.—The Administrator, in consultation with the Secretary of the Treasury, shall promulgate a regulation to carry out this paragraph.

(D) USE OF NO_x ALLOWANCES.—A NO_x allowance purchased at an auction under subparagraph (A) may be used for any purpose and at any time after the auction that is permitted for use of a NO_x allowance under this Act.

(E) PROCEEDS OF AUCTION.—The proceeds from an auction under this paragraph shall be distributed to the owner of an affected source in proportion to the number of allowances that the owner would have received but for this subsection.

(f) NATURE OF NO_x ALLOWANCES.—

(1) NOT A PROPERTY RIGHT.—A NO_x allowance shall not be considered to be a property right.

(2) LIMITATION OF NO_x ALLOWANCES.—Notwithstanding any other provision of law, the Administrator may terminate or limit a NO_x allowance.

(g) PROHIBITIONS.—

(1) 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 nitrogen oxides in excess of the amount permitted by the quantity of NO_x allowances held by the designated representative of the affected facility; or

(B) for any person to hold, use, or transfer a NO_x allowance allocated under this Act, except as provided under this Act.

(2) OTHER EMISSION LIMITATIONS.—Section 407 of the Clean Air Act (42 U.S.C. 7651f) is repealed.

(3) TIME OF USE.—A NO_x allowance may not be used before the calendar year for which the NO_x allowance is allocated.

(4) PERMITTING, MONITORING, AND ENFORCEMENT.—Nothing in this section affects—

(A) the permitting, monitoring, and enforcement obligations 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) SAVINGS PROVISIONS.—Nothing in this section—

(1) 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 ambient air quality standards and State implementation plans;

(2) requires a change in, affects, or limits any State law regulating electric utility rates or charges, including prudency review under State law;

(3) affects the application of the Federal Power Act (16 U.S.C. 791a et seq.) or the authority of the Federal Energy Regulatory Commission under that Act; or

(4) 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. 7651k(a)) is amended in the first sentence by inserting ", or of any industrial facility with a capacity of 100 or more mmBtu's per hour," after "The owner and operator of any source subject to this title".

SEC. 6. EXCESS EMISSIONS PENALTY.

(a) IN GENERAL.—

(1) LIABILITY.—The owner or operator of an affected facility that emits nitrogen oxides in any calendar year in excess of the NO_x allowances the owner or operator holds for use for the facility for that year shall be liable for the payment of an excess emissions penalty.

(2) CALCULATION.—The excess emissions penalty shall be calculated by multiplying $6,000 by the quantity that is equal to—

(A) the quantity of NO_x allowances that would authorize the nitrogen oxides emitted by the facility for the calendar year; minus

(B) the quantity of NO_x allowances that the owner or operator holds for use for the facility for that year.

(3) OVERLAPPING PENALTIES.—A penalty under this section shall not diminish the liability of the owner or operator of an affected facility for any fine, penalty, or assessment against the owner or operator for the same violation under any other provision of law.

(b) EXCESS EMISSIONS OFFSET.—

(1) IN GENERAL.—The owner or operator of an affected facility that emits nitrogen oxide during a calendar year in excess of the NO_x allowances held for the facility for the calendar year shall offset in the following calendar year a quantity of NO_x allowances equal to the number of NO_x allowances that would authorize the excess nitrogen oxides emitted.

(2) 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).

(3) CONDITION OF PERMIT.—On approval of the proposed plan by the Administrator, as submitted, or as modified or conditioned by the Administrator, the plan shall be considered a condition of the operating permit 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 for all urban consumers published by the Bureau of Labor Statistics.

SEC. 7. SULFUR DIOXIDE ALLOWANCE PROGRAM REVISIONS.

Section 402 of the Clean Air Act (42 U.S.C. 7651a) 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, ½ 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 scientifically credible environmental indicators, as determined by 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; and

(B) identify as an objective under paragraph (1) the objective of increasing the proportion of water bodies in sensitive receptor areas with an 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).

(4) REPORTS UNDER THE NATIONAL ACID PRECIPITATION ASSESSMENT PROGRAM.—The reports under this subsection shall be subject to the requirements applicable to a report under section 103(j)(3)(E) of the Clean Air Act (42 U.S.C. 7403(j)(3)(E)).

(b) REGULATIONS.—

(1) DETERMINATION.—Not later than December 31, 2008, the Administrator shall determine whether emissions reductions under section 4 are sufficient to ensure achievement of the objectives stated in subsection (a)(1).

(2) PROMULGATION.—If the Administrator determines under paragraph (1) that emissions reductions under section 4 are not sufficient to ensure achievement of the objectives identified in subsection (a)(1), the Administrator shall promulgate, not later than 2 years after making the finding, such regulations, including modification of nitrogen oxide and sulfur dioxide allowance allocations or any such measure, as the Administrator determines are necessary to protect the sensitive ecosystems described in subsection (a)(1).

SEC. 9. GENERAL COMPLIANCE WITH OTHER PROVISIONS.

Except as expressly provided in this Act, compliance with this Act shall not exempt or exclude the owner or operator of an affected facility from compliance with any other law.

SEC. 10. MERCURY EMISSION STUDY AND CONTROL.

(a) STUDY AND REPORT.—The Administrator shall—

(1) study the practicality of monitoring mercury emissions from all combustion units that have a capacity equal to or greater than 250 mmBtu's per hour; and

(2) not later than 2 years after the date of enactment of this Act, submit to Congress a report on the results of the study.

(b) REGULATIONS CONCERNING MONITORING.—Not later than 1 year after the date of submission of the report under subsection (a), the Administrator shall promulgate a regulation requiring the reporting of mercury emissions from units that have a capacity equal to or greater than 250 mmBtu's per hour.

(c) EMISSION CONTROLS.—

(1) IN GENERAL.—Not later than 1 year after the commencement of monitoring activities under subsection (b), the Administrator shall promulgate a regulation controlling electric utility and industrial source emissions of mercury.

(2) FACTORS.—The regulation shall take into account technological feasibility, cost, and the projected reduction in levels of mercury emissions that will result from implementation of this Act.

SEC. 11. DEPOSITION RESEARCH BY THE ENVIRONMENTAL PROTECTION AGENCY.

(a) IN GENERAL.—The Administrator shall establish a competitive grant program to fund research related to the effects of nitrogen deposition on sensitive watersheds and coastal estuaries in the Eastern United States.

(b) CHEMISTRY OF LAKES AND STREAMS.—

(1) INITIAL REPORT.—Not later than September 30, 2001, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report on the health and chemistry of lakes and streams of the Adirondacks that were subjects of the report transmitted under section 404 of Public Law 101–549 (commonly known as the ''Clean Air Act Amendments of 1990'') (104 Stat. 2632).

(2) FOLLOWING REPORT.—Not later than 2 years after the date of the report under paragraph (1), 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.

By Mr. MOYNIHAN:

S. 173. A bill to amend the Immigration and Nationality Act to revise amendments made by the Illegal Immigration Reform and Immigrant Responsibility Act; to the Committee on the Judiciary.

AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT

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 criminal aliens were made overly restrictive. 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 virtually any form of leniency. This means that many people, who have led exemplary lives for many years, now find themselves deportable for offenses committed decades ago. They are also subject to mandatory detention and have no chance for an immigration judge to evaluate their individual circumstances. This is unfair.

My second change amends Section 240A.(1)(a) of the same act. At present, the Attorney General has the authority to stop the deportation of a lawful resident who has been in this country for seven years. The 1996 changes to the Immigration and Nationality Act now bar this relief for anyone convicted of an aggravated felony. This provision 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 is or was committed. This has barred relief for people with ancient convictions but many good years of citizenship since then. This should be changed so that the countable residence period stops only when formal immigration charges are filed because of the crime 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 should be continued because it is fair and because it will empty our jails of those who will return for their hearings and who pose no threat to our communities.

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 cases. 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.

Similiarly, 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 for lengthy periods while aliens try to find pro bono counsel or counsel they can afford. My bill creates a pilot program in selected Immigration 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 who 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-based preference (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. 1229b(a)(3)) is amended to read as follows:

''(3) has not been convicted of any aggravated felony punishable by imprisonment for a period of not less than five years.''.

(2) TERMINATION OF CONTINUOUS PERIOD.—Section 240A(d)(1) of that Act (8 U.S.C. 1229b(d)(1)) is amended by striking ''or when'' and all that follows through ''earliest''.

(b) CUSTODY RULES.—

(1) IN GENERAL.—Section 236(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1226(c)(2)) is amended to read as follows:

''(2) RELEASE.—The Attorney General may release an alien described in paragraph (1) only if the alien is an alien described in subparagraph (A)(ii) or (iii) and—

''(A) 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

''(B) the alien was not lawfully admitted to the United States, 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 at the end the following:

''(2) In any removal proceedings before an immigration judge and in any appeal proceedings before the Attorney General from any 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 203(b)(5) (8 U.S.C. 1153(b)(5)).

(2) Section 203(c) (8 U.S.C. 1153(c)).

(3) Section 201(a)(3) and 201(e) (8 U.S.C. 1151(a)(3), 1151(e)).

(4) Section 204(a)(1)(F) and (G) (8 U.S.C. 1154(a)(1)(F) and (G)).

(5) Section 216A (8 U.S.C. 1186b).

By 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 J. 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 computers 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, a week, or a month without these programs working properly. I am hopeful that the bill Senators BENNETT, DODD, and I are introducing today will help states fix their computers, particularly those computers used to administer Federal welfare programs.

It has been almost three years since I asked the Congressional Research Service (CRS) to study and produce a report on the implications of the Y2K problem. 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 order to avert major disruptions 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 economic 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. The President created the Year 2000 Conversion Council and appointed John Koskinen to head it. The Senate, under the leadership of Chairman BENNETT and Vice Chairman DODD, established the Special Committee on the Y2K problem. And Representative STEPHEN HORN (R–CA) continues to due an excellent job in keeping the government focused on the issue. Thanks in part to the work of these individuals, we have made tremendous progress on the millennium bug. 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 with the electronic circuitry in a host of other ''day-to-day'' devices, from subway cars to elevators.

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 for some communities. I agree with Mr. Koskinen and other Y2K experts. I do not expect the four horsemen, armed with flood and catastrophe, to be riding in on January 1, 2000. But experts agree that state governments are not making sufficient progress in fixing the problem. 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 funding for states to address the Y2K problem. The bill stipulates that certain Federal poverty programs—Medicaid, Temporary Assistance for Needy Families (TANF), Women, Infants, and Children (WIC),

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 provided by the Federal government. 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 poverty 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 billion dollars in benefits payments might not be delivered because of the millennial malady.

Historically the fin de siècle 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 we must continue 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:

S. 174

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 ''Y2K State and Local GAP (Government Assistance Programs) Act of 1999''.

SEC. 2. DEFINITIONS.

In this Act:

(1) WELFARE PROGRAMS.—The welfare programs are as follows:

(A) TANF.—The State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(B) MEDICAID.—The program of medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(C) FOOD STAMPS.—The food stamp program, as defined in section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)).

(D) WIC.—The program of assistance under the special supplemental nutrition program for women, infants and children (WIC) under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(E) CHILD SUPPORT ENFORCEMENT.—The child support and paternity establishment program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

(F) CHILD WELFARE.—A child welfare program or a program designed to promote safe and stable families established under subpart 1 or 2 of part B of title IV of the Social Security Act (42 U.S.C. 620 et seq.).

(G) CHILD CARE.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) (including funding provided under section 418 of the Social Security Act (42 U.S.C. 618)).

(2) Y2K.—The term ''Y2K compliant'' means, with respect to information technology, that the information technology accurately processes (including calculating, comparing, and sequencing) date and time data from, into, and between the 20th and 21st centuries and the years 1999 and 2000, and leap year calculations, to the extent that other information technology properly exchanges date and time data with it.

SEC. 3. GRANTS TO STATES TO MAKE STATE AND LOCAL GOVERNMENT 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.

(2) 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.

(b) APPLICATION.—

(1) IN GENERAL.—A State, through the State Governor's Office, may submit an application for a grant authorized 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.

(2) INFORMATION REQUIRED.—An application for a grant authorized under this section shall contain the following:

(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 proposed budget for the plan and a request for a specific funding amount.

(B) A description or identification of a proposed funding source for completion of the plan (if applicable) and maintenance of the system after the conclusion of the period for which the grant is to be awarded.

(c) CONDITIONS FOR APPROVAL OF APPLICATIONS.—

(1) MATCHING REQUIREMENT.—

(A) IN GENERAL.—A State awarded a grant under this section shall 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 under the proposed plan.

(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.

(C) NON-FEDERAL EXPENDITURES.—

(i) CASH OR IN KIND.—State expenditures required under subparagraph (A) may be in cash or in kind, fairly evaluated, including equipment, or services.

(ii) NO CREDIT FOR PRE-AWARD EXPENDITURES.—Only State expenditures made after a grant has been awarded under this section may be counted for purposes of determining whether the State has satisfied the matching expenditure requirement under subparagraph (A).

(2) CONSIDERATIONS.—In evaluating an application for a grant under this section the Secretary of Commerce shall consider the extent to which the proposed system is feasible and likely to achieve the purposes described in subsection (a)(1).

(d) LENGTH OF AWARDS.—No grant may be awarded under this section for a period of more than 2 years.

(e) AVAILABILITY OF FUNDS.—Funds provided to a State under a grant awarded under this section shall remain available until expended without fiscal year limitation.

(f) REPORTS.—

(1) ANNUAL REPORT FROM GRANTEES.—Each State that is awarded a grant under this section shall submit an annual report to the Secretary of Commerce that contains a description of the ongoing results of the independent evaluation of the plan for, and implementation of, the compliance program funded under the grant.

(2) FINAL REPORT.—Not later than 90 days after the termination of all grants awarded under this section, the Secretary of Commerce shall submit to Congress a final report evaluating the programs funded under such grants.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $40,000,000 for fiscal years 1999 to 2001 funded from the Y2K Emergency Supplemental Funds appropriated in the FY99 Omnibus Act, Public Law 105–277.

By Mr. MOYNIHAN:

S. 175. A bill to repeal the habeas corpus requirement that a Federal court defer to State court judgments and uphold a conviction regardless of whether the Federal court believes that the State court erroneously interpreted constitutional law, except in cases where the Federal court believes that the State court acted in an unreasonable manner; to the Committee on the Judiciary.

HABEAS CORPUS LEGISLATION

Mr. MOYNIHAN. Mr. President, I introduce this bill to repeal an unprecedented provision—unprecedented until the 104th Congress—to tamper with the constitutional protection of habeas corpus.

The provision reads:

(d) An application for writ of habeas corpus on behalf of a person in custody pursuant to the judgment of State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

(1) resulted 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

(2) resulted in a decision that was based on an unreasonable determination of the facts

in light of the evidence presented in the State court proceeding.

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 confounded 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, one of those essential civil liberties which precede and are the basis of political liberties.

The writ of habeas corpus is often referred to as the ''Great Writ of Liberty.'' William Blackstone (1723–80) 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 on 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. To say again, this is one of the fundamental civil liberties 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 habeas filings. Total 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 in a bill 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 courts.

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 agreeing next? I restate Mr. Lewis' observation, a person of great experience, long a student of the courts, ''It is a new and remarkable concept in law: that mere wrongness in a constitutional decision is not to be noticed.'' Backward reels the mind.

On December 8, 1995, four former U.S. Attorneys General, two Republicans and two Democrats, all persons with whom I have the honor to be acquainted, Benjamin R. Civiletti, Jr., Edward H. Levi, Nicholas Katzenbach, and Elliot Richardson—I served in administrations with Mr. Levi, Mr. Katzenbach, Mr. Richardson; I have the deepest regard for them—wrote President Clinton. I ask 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.

Hon. WILLIAM J. CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The habeas corpus provisions in the Senate terrorism bill, which the House will soon take up, are unconstitutional. Though intended in large part to expedite the death penalty review process, the litigation and constitutional rulings will in fact delay and frustrate the imposition of the death penalty. 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 of 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 could operate to completely bar any federal habeas corpus review at all, and one prevent the federal courts from hearing the evidence necessary to decide federal courts from hearing the evidence necessary to decide a federal constitutional question. They violate the Habeas Corpus Suspension Clause, the judicial powers of Article III, and due process. None of these provisions appeared in the bill that you and Senator Biden worked out in the last Congress together with representatives of prosecutors' organizations.

The deference requirement would bar any federal court from granting habeas corpus relief where a state court has misapplied the United States Constitution, unless the constitutional error rose to a level of ''unreasonableness.'' The time-limits provisions set a single period of the filing of both state and federal post-conviction petitions (six months in a capital case and one year in other cases), commencing with the date a state conviction become final on direct review. Under these provisions, the entire period could be consumed in the state process, through no fault of the prisoner or counsel, thus creating an absolute bar to the filing of federal habeas corpus petition. Indeed, the period could be consumed before counsel had even been appointed in the state process, so that the inmate would have no notice of the time limit or the fatal consequences of consuming all of it before filing a state petition.

Both of these provisions, by flatly barring federal habeas corpus review under certain circumstances, violate the Constitution's Suspension Clause, which provides: ''The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in the case of rebellion or invasion the public safety may require it'' (Art. I, Sec. 9, cl. 1). Any doubt as to whether this guarantee applies to persons held in state as well as federal custody was removed by the passage of the Fourteenth Amendment and by the amendment's framers' frequent mention of habeas corpus as one of the privileges and immunities so protected.

The preclusion of access to habeas corpus also violates Due Process. A measure is subject to proscription under the due process clause if it ''offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental,'' as viewed by ''historical practice.'' Medina v. California, 112 S. Ct. 2572, 2577 (1992). Independent federal court review of the constitutionality of state criminal judgments has existed since the founding of the Nation, first by writ of error, and since 1867 by writ of habeas corpus. Nothing else is more deeply 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, 112 S. Ct. 2482, 2497; ''We have always held that federal courts, even on habeas, 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 want the law is.'' Marbury v. Madison, 5 U.S. (1 Cranch) 137, 177 (1803). Although Congress is free to alter the federal courts' jurisdiction, it cannot order them how to interpret the Constitution, or dictate any outcome in the merits. United States v. Klein, 80 U.S. (13 Wall.) 128 (1871). In 1996, the Supreme Court reiterated that Congress has no power to assign ''rubber stamp work'' to an 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.'' Gutierrez de Martinez v. Lamagno, 115 S. Ct 2227, 2234.

Finally, in prohibiting evidentiary hearings where the constitutional issue raised does not go to guilt or innocence, the legislation again violates Due Process. A violation of constitutional rights cannot be judged in a vacuum. The determination of the facts assumes ''and importance fully as great as the validity of the substantive rule of law to be applied.'' Wingo v. Wedding, 418 U.S. 461, 474 (1974).

Prior to 1996, the last time habeas corpus legislation was debated at length in constitutional terms was in 1968. A bill substantially eliminating federal habeas corpus review for state prisoners was defeated because, as Republican Senator Hugh Scott put it at the end of debate, ''if Congress tampers with the great writ, its action would have about as much chance of being held constitutional as 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, Senator Moynihan sought to reconnect with the large framework of constitutional liberties: ''If I had to live in a country which had habeas corpus but not free elections,'' he said, ''I would take habeas corpus every time,'' Senator Chafee noted that his uncle, a Harvard law 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 nearly passed, with 46 votes.

We respectfully ask that you insist, first and foremost, on the preservation of independent federal review, i.e., on the rejection of any requirement that federal courts defer to state court judgments on federal constitutional questions. We also urge that separate time limits be set for filing federal and state habeas corpus petitions—a modest change which need not interfere with the setting of strict time limits—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. Congress 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, it is 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 request 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, Jr.,
Baltimore, MD.
EDWARD H. LEVI,
Chicago, IL.
NICHOLAS DEB.
KATZENBACK,
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 unconstitutional. Though intended in large part to expedite the death penalty review process, the litigation and constitutional rulings will in fact delay and frustrate the imposition of the death penalty * * *

The constitutional infirmities * * * violate the Habeas Corpus Suspension Clause, the judicial powers of Article III, and due process * * *.

* * * A measure is subject to proscription under the due process clause if it ''offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental,'' as viewed by ''historical practice.''

That language is Medina versus California, a 1992 decision. To continue,

Independent federal court review of the constitutionality of state criminal judgments has existed since the founding of the Nation, first by writ of error, and since 1867 by writ of habeas corpus.

Nothing else is more deeply rooted in America's legal traditions and conscience. There is no clause in which ''a state court's incorrect legal determination has ever been allowed to stand because it was reasonable.''

That is Justice O'Connor, in Wright versus West. She goes on, as the attorneys general quote. ''We have always held that federal courts, even on habeas, have an independent obligation to say what the law is.''

If I may interpolate, she is repeating the famous injunction of Justice Marshall in Marbury versus Madison. The attorneys general go on to say,

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 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. We are glad that, in the end, we do have one. But their case was surely strong, and it was so felt by the framers.

To cite Justice O'Connor again: ''A state court's incorrect legal determination has never been allowed to stand 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 can ''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, and even to the end of 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 do we tamper with provisions as profound to our traditions and liberty as habeas corpus? The Federal courts do not complain. It may be that because we have enacted this, there will be some prisoners who are executed sooner than they otherwise would have been. You may take satisfaction in that or not, as you choose, but we have begun to weaken a tenet of justice at the very base of our liberties. The virus will spread.

This is new. It is profoundly disturbing. It is terribly dangerous. If I may have the presumption to join in the judgment of four Attorneys General, Mr. Civiletti, Mr. Levi, Mr. Katzenbach, and Mr. Richardson—and I repeat that I have served in administrations with three of them—this matter is unconstitutional and should be repealed from law.

Seventeen years ago, June 6, 1982, to be precise, I gave the commencement address at St. John University Law School in Brooklyn. I spoke of the proliferation of court-curbing bills at that time. I remarked:

* * * some people—indeed, a great many people—have decided that they do not agree with the Supreme Court and that they are not satisfied to Debate, Legislate, Litigate.

They have embarked upon an altogether new and I believe quite dangerous course of action. A new triumvirate hierarchy has emerged. Convene (meaning the calling of a constitutional convention), Overrule (the passage of legislation designed to overrule a particular Court ruling, when the Court's ruling was based on an interpretation of the Constitution), and Restrict (to restrict the jurisdiction of certain courts to decide particular kinds of cases).

Perhaps the most pernicious of these is the attempt to restrict courts' jurisdictions, for it is * * * profoundly at odds with our Nation's customs and political philosophy.

It is a commonplace that our democracy is characterized by majority rule and minority rights. Our Constitution vests majority rule in the Congress and the President while the courts protect the rights of the minority.

While the legislature makes the laws, and the executive enforces them, it is the courts that tell us what the laws say and whether they conform to the Constitution.

This notion of judicial review has been part of our heritage for nearly two hundred years. There is not a more famous case in American jurisprudence than Marbury v. Madison and few more famous dicta than Chief Justice Marshall's that ''It is emphatically the province and the duty of the judicial department to say what the law is.''

But in order for the court to interpret the law, it must decide cases. If it cannot hear certain cases, then it cannot protect certain rights.

We need to deal resolutely with terrorism. And we have. But under the guise of combating terrorism, we have diminished the fundamental civil liberties that Americans have enjoyed for two centuries; therefore the terrorists will have won.

My bill will repeal this dreadful, unconstitutional provision now in public law. I ask unanimous consent that the article entitled ''First in Damage to Constitutional Liberties,'' by Nat Hentoff from the Washington Post of November 16, 1996; and the article entitled ''Clinton's Sorriest Record'' from the New York Times of October 14, 1996; be printed in the RECORD.

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

[From the Washington Post, November 16, 1996]

FIRST IN DAMAGE TO CONSTITUTIONAL LIBERTIES

(By Nat Hentoff)

There have been American presidents to whom the Constitution has been a nuisance to be overruled by any means necessary. In 1798, only seven years after the Bill of Rights was ratified, John Adams triumphantly led Congress in the passage of the Alien and Sedition Acts, which imprisoned a number of journalists and others for bringing the president or Congress into ''contempt or disrepute.'' So much for 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 World 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 enemy.

No American president, however, has done so much damage to constitutional liberties as Bill Clinton—often with the consent of Republicans in 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 insisted be included in the Constitution. A state prisoner on death row now has only a year to petition a federal court to review the constitutionality of his trial or sentence. In many 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 wiretap-friendly administration in history.''

And Clinton ordered the Justice Department to appeal a unanimous 3rd Circuit 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. As Anthony Lewis points out in the New York Times, Clinton has denied many people their day in court.

For one example, says Lewis. ''The new immigration law * * * takes away the rights of thousands of aliens who may be entitled to legalize their situation under a 1986 statute giving amnesty to illegal aliens.'' Cases involving as many as 300,000 people who may still qualify for amnesty have been waiting to be decided. All have now been thrown out of court 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 libertarian.'''

During the campaign there was no mention at all of this breathtaking exercise of federal power over constitutional liberties. None by former senator Bob Dole who has largely been in agreement with this big government approach to constitutional ''guarantees.'' Nor did the press ask the candidates about the Constitution.

Laura Murphy concludes that ''both Clinton and Dole are indicative of how far the American people have slipped away 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 protects the press.

Particularly revealing were the endorsements of Clinton by the New York Times, The Washington Post and the New Republic, among others. In none of them was the president's civil liberties record probed. (The Post did mention the FBI files at the White House.) Other ethical problems were cited, but nothing was mentioned about habeas corpus, court-stripping, lowering the content of the Internet to material suitable for children and the Clinton administration's decided lack of concern for privacy protections of the individual against increasingly advanced government technology.

A revealing footnote to the electorate's ignorance of this subverting of the Constitution is a statement by N. Don Wycliff, editorial page editor of the Chicago Tribune. He tells Newsweek that ''people are not engaged in the [political] process because there are no compelling issues driving them to participate. It would be different if we didn't have peace and prosperity.''

What more could we possibly want?

[From the New York Times, Oct. 14, 1996]

ABROAD AT HOME; CLINTON'S SORRIEST RECORD

(By Anthony Lewis)

Bill Clinton has not been called to account in this campaign for the worst aspect of his Presidency. That is his appalling record on constitutional rights.

The Clinton years have seen, among other things, a series of measures stripping the courts of their power to protect individuals from official abuse—the power that has been the key to American freedom. There has been nothing like it since the Radical Republicans, after the Civil War, acted to keep the courts from holding the occupation of the South to constitutional standards.

The Republican Congress of the last two years initiated some of the attacks on the courts. But President Clinton did not resist them as other Presidents have. And he proposed some of the measures trampling on constitutional protections.

Much of the worst has happened this year. President Clinton sponsored a counterterrorism bill that became law with a number of repressive features in it. One had nothing to do with terrorism: a provision gutting the power of Federal courts to examine state criminal convictions, on writs of habeas corpus, to make sure there was no violation of constitutional rights.

The Senate might well have moderated the habeas corpus provision if the President had put up a fight. But he broke a promise and gave way.

The counterterrorism law also allows the Government to deport a legally admitted alien, on the ground that he is suspected of a connection to terrorism, without letting him see or challenge the evidence. And it goes back to the McCarthy period by letting the Government designate organizations as ''terrorist''—a designation that could have included Nelson Mandela's African National Congress before apartheid gave way to democracy in South Africa.

The immigration bill just passed by Congress has many sections prohibiting review by the courts of decisions by the Immigration and Naturalization Service or the Attorney General. Some of those provisions have drastic retroactive consequences.

For example, Congress in 1986 passed an amnesty bill that allowed many undocumented aliens to legalize their presence in this country. They had to file by a certain date, but a large number said they failed to do so because improper I.N.S. regulations discouraged them.

The Supreme Court held that those who could show they were entitled to amnesty but were put off by the I.N.S. rules could file late. Lawsuits involving thousands of people are pending. But the new immigration law throws all those cases—and individuals—out of court.

Another case, in the courts for years, stems from an attempt to deport a group of Palestinians. Their lawyer sued to block the deportation action; a Federal district judge, Stephen V. Wilson, a Reagan appointee, found that it was an unlawful selective proceeding against people for exercising their constitutional right of free speech. The new immigration law says the courts may not hear such cases.

The immigration law protects the I.N.S. from judicial scrutiny in a broader way. Over the years the courts have barred the service from deliberately discriminatory policies, for example the practice of disallowing virtually all asylum claims by people fleeing persecution in certain countries. The law bars all lawsuits of that kind.

Those are just a few examples of recent incursions on due process of law and other constitutional guarantees. A compelling piece by John Heilemann in this month's issue of Wired, the magazine on the social consequences of the computer revolution, concludes that Mr. Clinton's record on individual rights is ''breathtaking in its awfulness.'' He may be, Mr. Heilemann says, ''the worst civil liberties President since Richard Nixon.'' And even President Nixon did not leave a legacy of court-stripping statutes.

It is by no means clear that Bob Dole would do better. He supported some of the worst legislation in the Senate, as the Gingrich Republicans did in the House

Why? The Soviet threat, which used to be the excuse for shoving the Constitution aside, is gone. Even in the worst days of the Red Scare we did not strip the courts of their protective power. Why are we legislating in panic now? Why, especially, is a lawyer President indifferent to constitutional rights and their protection by the courts?

Mr. MOYNIHAN. 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. 175

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

SECTION 1. REPEAL OF THE REQUIREMENT THAT A FEDERAL COURT DEFER TO A STATE COURT UNLESS THE STATE COURT ACTED IN AN UNREASONABLE MANNER IN HABEAS CORPUS CASES.

(a) REPEAL.—Subsection (d) of section 2254 of title 28, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—Section 2264(b) of title 28, United States Code, is amended by striking '', (d),''.

By Mr. MOYNIHAN:

S. 176. A bill to direct the Secretary of the Interior to conduct a study of alternatives for commemorating and interpreting the history of the Harlem Reniassance, and for other purposes; to the Committee on Energy and Natural Resources.

HARLEM RENAISSANCE CULTURAL ZONE ACT

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. Pioneered by 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 state and local authorities, 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, James Weldon Johnson, and Alain Locke planted the seeds of the New Negro Movement, while Langston Hughes, Zora Neal Hurston, Claude McKay, Countee Cullen, Jean Toomer, and Wallace Thurman were among the Movement's most gifted writers; and

(3) the Harlem Renaissance also included the music of Duke Ellington, the theatrical productions of Eubie Blake, and the nightlife of the Cotton Club and the Alhamba theaters.

SEC. 3. STUDY OF ALTERNATIVES FOR CULTURAL ZONE TO COMMEMORATE AND INTERPRET HISTORY OF THE HARLEM RENAISSANCE.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the National Park Service, shall conduct a study of alternatives for commemorating and interpreting the history of the Harlem Renaissance.

(b) MATTERS TO BE CONSIDERED.—The study under subsection (a) shall include—

(1) consideration of the establishment of a new unit of the National Park System;

(2) consideration of the establishment of various appropriate designations for sites relating to the history of the Harlem Renaissance; 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. 177

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 ACT

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 Ewalt, 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 worked 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 central 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 on 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. 281(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 support of, and dissemination of information with respect to basic, clinical, and services social work research, training, and other programs in patient care, including child and family care.

''SEC. 485H. SPECIFIC AUTHORITIES.

''(a) IN GENERAL.—To carry out the purpose described in section 485G, the Director of the Center may provide research training and instruction and establish, in the Center and in other nonprofit institutions, research traineeships and fellowships in the study and investigation of the prevention of disease, 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) 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. 485I. ADVISORY COUNCIL.

''(a) DUTIES.—

''(1) IN GENERAL.—The Secretary shall establish an advisory council for the Center that shall advise, assist, consult with, and make recommendations to the Secretary and the Director of the Center on matters related to the activities carried out by and through the Center and the policies with respect to such activities.

''(2) GIFTS.—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 or construction, equipment, or maintenance of facilities for the Center.

''(3) OTHER DUTIES AND FUNCTIONS.—The advisory council for the Center—

''(A)(i) may make recommendations to the Director of the Center with respect to research to be conducted by the Center;

''(ii) may review applications for grants and cooperative agreements for research or training and recommend for approval applications for projects that demonstrate the probability of making valuable contributions to human knowledge; and

''(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the Center;

''(B) may collect, by correspondence or by personal investigation, information relating to studies that are being carried out in the United States or any other country as to the diseases, disorders, or other aspects of human health with respect to which the Center is concerned and, with the approval of the Director of the Center, make such information available through appropriate publications for the benefit of public and private health entities and health professions personnel and scientists and for the information of the general public; and

''(C) may appoint subcommittees and convene workshops and conferences.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The advisory council shall be composed of the ex officio members described in paragraph (2) and not more than 18 individuals to be appointed by the Secretary under paragraph (3).

''(2) EX OFFICIO MEMBERS.—The ex officio members of the advisory council shall include—

''(A) the Secretary, the Director of NIH, the Director of the Center, the Chief Social Work Officer of the Veterans' Administration, the Assistant Secretary of Defense for Health Affairs, the Associate Director of Prevention Research at the National Institute of Mental Health, and the Director of the Division of Epidemiology and Services Research (or the designees of such officers); and

''(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

''(3) APPOINTED MEMBERS.—The Secretary shall appoint not to exceed 18 individuals to the advisory council, of which—

''(A) not more than two-thirds of such individual shall be appointed from among the leading representatives of the health and scientific disciplines (including public health and the behavioral or social sciences) relevant to the activities of the Center, and at least 7 such individuals shall be 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, health policy, economics, and management.

The Secretary shall make appointments to the advisory council in such a manner as to ensure that the terms of 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 not receive any compensation for 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.

''(c) TERMS.—

''(1) IN GENERAL.—The term of office of an individual appointed to the advisory council under subsection (b)(3) shall be 4 years, except that any individual appointed to fill a vacancy on the advisory council shall serve for the remainder of the unexpired term. A member may serve after the expiration of the member's term until a successor has been appointed.

''(2) REAPPOINTMENTS.—A member of the advisory council who has been appointed under subsection (b)(3) for a term of 4 years may not be reappointed to the advisory council prior to the expiration of the 2-year period beginning on the date on which the prior term expired.

''(3) VACANCY.—If a vacancy occurs on the advisory council among the members under subsection (b)(3), the Secretary shall make an appointment to fill that vacancy not later than 90 days after the date on which the vacancy occurs.

''(d) CHAIRPERSON.—The chairperson of the advisory council shall be selected by the Secretary from among the members appointed under subsection (b)(3), except that the Secretary may select the Director of the Center to be the chairperson of the advisory council. The term of office of the chairperson shall be 2 years.

''(e) MEETINGS.—The advisory council shall meet at the call of the chairperson or upon the request of the Director of the Center, but not less than 3 times each fiscal year. The location of the meetings of the advisory council shall be subject to the approval of the Director of the Center.

''(f) ADMINISTRATIVE PROVISIONS.—The Director of the Center shall designate a member of the staff of the Center to serve as the executive secretary of the advisory council. The Director of the Center shall make available to the advisory council such staff, information, and other assistance as the council may require to carry out its functions. The Director of the Center shall provide orientation and training for new members of the advisory council to provide such members with such information and training as may be appropriate for their effective participation in the functions of the advisory council.

''(g) COMMENTS AND RECOMMENDATIONS.—The advisory council may prepare, for inclusion in the biennial report under section 485J—

''(1) comments with respect to the activities of the advisory council in 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 for inclusion in the biennial report under section 403, a biennial report that shall consist of a description of the activities of the Center and program policies of the Director of the Center in 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 485I(g).''.

By Mr. INOUYE:

S. 179. A bill to amend the Public Health Service Act to provide health care practitioners in rural areas with training in preventive health care, including both physical and mental care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

HEALTH CARE TRAINING ACT OF 1999

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 a primary care provider. In areas 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 divesity 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 emotional 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 sharing single service sites and routine consultation between groups. Emphasizing the mental health disciplines and their servcies 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 onormous.

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. 179

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, eligible applicants to enable such applicants to provide preventive health care training, in accordance with subsection (c), to health care practitioners practicing in rural areas. Such training shall, to the extent practicable, include training in health care to prevent both physical and mental disorders before the initial occurrence of such disorders. In carrying out this subsection, the Secretary shall encourage, but may not require, the use of interdisciplinary training project applications.

''(b) LIMITATION.—To be eligible to receive training using assistance provided under subsection (a), 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 service predominantly 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 service 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; and

''(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 access to quality 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 are university 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 the 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 on 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 more 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 bringing 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. 180

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

SECTION 1. MEDICAID COVERAGE OF SERVICES PROVIDED BY NURSING SCHOOL CLINICS.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) in paragraph (26), by striking ''and'' at the end;

(2) by redesignating paragraph (27) as paragraph (28); and

(3) by inserting after paragraph (26), the following:

''(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)(5)), whether or not the nurse practitioner or clinical nurse specialist is under the supervision of, or associated with, a physician or other health care provider; and''.

(b) NURSING SCHOOL CLINIC SERVICES DEFINED.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end 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 Act shall be effective with respect to payments made under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for calendar quarters commencing with 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 within the 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 appropriate that those who need the services of outpatient rehabilitation facilities have access to a wide range of social and behavioral science expertise. Clinical psychologists and clinical social workers are recognized as independent providers of mental health care services through the Federal Employee Health Benefits Program, the Civilian Health and Medical Program of the Uniformed Services, the Medicare (Part B) Program, and numerous private insurance plans.

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

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

S. 181

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

SECTION 1. REMOVAL OF RESTRICTION THAT A PROFESSIONAL PSYCHOLOGIST OR CLINICAL SOCIAL WORKER PROVIDE SERVICES IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY TO A PATIENT ONLY UNDER THE CARE OF A PHYSICIAN.

(a) IN GENERAL.—Section 1861(cc)(2)(E) of the Social Security Act (42 U.S.C. 1395x(cc)(2)(E)) is amended by inserting before the semicolon ''(except with respect to services provided by a professional psychologist or a clinical social worker)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services provided on or after January 1, 2000.

By Mr. INOUYE:

S. 182. A bill to amend title 5, United States Code, to require the issuance of a prisoner-of-war medal to civilian employees of the Federal Government who are forcibly detained or interned by an enemy government or a hostile force under wartime conditions; to the Committee on Governmental Affairs.

ESTABLISHMENT OF A PRISONER OF WAR MEDAL FOR CIVILIAN FEDERAL EMPLOYEES

Mr. INOUYE. Mr. President, all too often we find that our Nation's civilians who have been captured by a hostile government do not receive the recognition they deserve. The bill I introduce today would correct this inequity and establish a prisoner of war medal for civilian employees of the Federal Government.

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

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

S. 182

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

SECTION 1. PRISONER-OF-WAR MEDAL FOR CIVILIAN EMPLOYEES OF THE FEDERAL GOVERNMENT.

(a) AUTHORITY TO ISSUE PRISONER-OF-WAR MEDAL.—(1) Subpart A of part III of title 5, United States Code, is amended by inserting after chapter 23 the following new chapter:

''CHAPTER 25—MISCELLANEOUS AWARDS

''Sec.
''2501. Prisoner-of-war medal: issue.

§ 2501. Prisoner-of-war medal: issue

''(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 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.

''(d) 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.

''(e) If a person 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.

''(f) 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.

''(g) In this section, the term 'period of war' has the meaning given such term in section 101(11) of title 38.''.

(2) The table of chapters at the beginning of part III of such title is amended by inserting after the item relating to chapter 23 the following new item:

''25. Miscellaneous Awards ..... 2501''.

(b) APPLICABILITY.—Section 2501 of title 5, United States Code, as added by subsection (a), applies with respect to any person who, after April 5, 1917, is forcibly detained or interned as described in subsection (a) of such section.

By Mr. INOUYE:

S. 183. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary and exchange stores; to the Committee on Armed Services.

USE OF DEPARTMENT OF DEFENSE COMMISSARY AND EXCHANGE STORES

Mr. INOUYE. Mr. President, I rise today to introduce legislation to enable former prisoners of war who have been separated honorably from their respective services and who have been rated to have at least a 30 percent service-connected disability to have the use of both military commissary and post exchange privileges. While I realize it is impossible to adequately compensate one who has endured long periods of incarceration at the hands of our nation's enemies, I do feel that this gesture is both meaningful and important to those concerned. It also serves as a reminder that our nation has not forgotten their sacrifices.

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. 183

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

SECTION 1. USE OF COMMISSARY AND EXCHANGE STORES BY CERTAIN DISABLED FORMER PRISONERS OF WAR.

(a) IN GENERAL.—Chapter 54 of title 10, United States Code, is amended by inserting after section 1064 the following new section:

"§ 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 subsection (b) may use commissary and exchange stores.

''(b) COVERED INDIVIDUALS.—Subsection (a) applies to any former prisoner of war who—

''(1) is separated from active duty in the armed forces under honorable conditions; and

''(2) has a service-connected disability rated by the Secretary of Veterans Affairs at 30 percent or more.

''(c) DEFINITIONS.—In this section:

''(1) The term 'former prisoner of war' has the meaning given the term in section 101(32) of title 38.

''(2) The term 'service-connected' has the meaning given the term in section 101(16) of title 38.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1064 the following new item:

''1064a. Use of commissary stores by certain disabled former prisoners of war.''.

By Mr. ASHCROFT (for himself, Mr. DASCHLE, Mr. BAUCUS, Mr. BURNS, Mr. BROWNBACK, Mr. GRASSLEY, and Mr. INHOFE):

S. 185. A bill to establish a Chief Agricultural Negotiator in the Office of the United States Trade Representative; to the Committee on Finance.

CHIEF AGRICULTURAL NEGOTIATOR

Mr. ASHCROFT. Mr. President, I rise today to introduce a bill with the Democratic Minority Leader, Senator DASCHLE, that would ensure that our nation's farmers and ranchers have a permanent trade ambassador. Our farmers need a representative in the Office of the U.S. Trade Representative that will focus solely on opening foreign markets and ensuring a level playing field for U.S. agricultural products and services.

In September 1998, American farmers and ranchers faced the first-ever monthly trade deficit for U.S. farm and food products since the United States began tracking trade data in 1941. This sounds the alarm for a state like Missouri that receives over one-fourth of its farm income from agricultural exports.

When I'm thinking about what is good for the nation's agricultural policy, I ask, ''What is good for Missouri?'' That's because Missouri is a leader in farming. Missouri is the No. 2 State in the number of farms we have—second only to Texas. We have just about every crop imaginable, and Missourians are the nation's top producers in many of these crops. Missouri is the second leading state for beef cows. Missouri is second in hay production. Missouri is one of the top five pork producing states. And Missouri is among the top ten states for production of rice, cotton, corn, winter wheat, milk, and watermelon.

With 26 percent of their income coming from exports, Missouri farmers need to know that their ability to export will expand over time, rather than become subject to foreign protectionist policies that choke them out of their market share. During the 1966 farm bill debate, in exchange for decreased government payments, our farmers were promised more export opportunities. It is time for us to deliver on this promise.

America's farmers and ranchers need a permanent Ambassador who will represent their interests worldwide, especially as we face more negotiations in the World Trade Organization and regional negotiations with Central and South America. There are a lot of opportunities that could be opened up to our farmers and ranchers in the coming years.

Currently, Mr. Peter Scher serves as a Special Negotiator for Agriculture, and he has already been very helpful in taking strong stands for our farmers and ranchers. I want to thank him for his work most recently on getting pork added to the United States' retaliation list against the European Union. Senator KERREY and I, and 40 other senators, initiated a broad, bipartisan effort to make the needs of our pork farmers a priority, and we appreciated the fact that we could work closely with someone whose mission is to serve the interests of our nation's farmers. However, while Ambassador Scher may serve our Nation's farmers and ranchers until the end of the current administration, his position has not been made a permanent position through legislation. Therefore, we are introducing this legislation today because we want to ensure that the Agriculture Ambassador position will transcend administrations.

The Agricultural Ambassador (the Chief Agricultural Negotiator) will be responsible for conducting trade negotiations and enforcing trade agreements relating to U.S. agricultural products and services. Also, under the bill the Chief's Agricultural Negotiator would be a vigorous advocate on behalf of U.S. agricultural interests. It is imperative that U.S. interests always have a strong, clear voice at international negotiations.

Foreign countries will always have agriculture trade barriers—so farmers must always have an ambassador representing their interests. We need to send the message to foreign governments that we are serious about breaking down barriers in their markets—now and in the future.

Our farmers and ranchers need to know that their interests will always have a sure seat at the table for trade negotiations. Canada and Mexico have already concluded free trade arrangements with Chile. Farmers in Canada can send their agricultural products to Chile and, in most instances, face a zero percent tariff level, while U.S. farmers are confronted with an average tariff rate of 11 percent in the same market.

The EU is negotiating a trade deal with Mexico, Chile, Argentina, Brazil, Paraguay, and Uruguay. Thus, these countries will give European farmers lower tariffs and more access to their markets at U.S. farmers' and ranchers' expense. America must lead, not follow—in our back yard and around the world.

The Agriculture Ambassador bill we are introducing today is supported by more than 80 agricultural trade associations. Additionally, State branches of these national associations, such as the Missouri Farm Bureau Federation and the Missouri Pork Producers Council, are weighing in their strong support.

We need to utilize every opportunity we have to help our farmers and ranchers. Making permanent the position of a U.S. Trade Representative for Agriculture will guarantee that the interests of American farmers and ranchers will always have a prominent seat at the negotiating table and will ensure that our agreements are more aggressively enforced.

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. 185

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

SECTION 1. CHIEF AGRICULTURAL NEGOTIATOR.

(a) ESTABLISHMENT OF A POSITION.—There is established the position of Chief Agricultural Negotiator in the Office of the United States Trade Representative. The Chief Agricultural Negotiator shall be appointed by the President, with the rank of Ambassador, by and with the advice and consent of the Senate.

(b) FUNCTIONS.—The primary function of the Chief Agricultural Negotiator shall be to conduct trade negotiations and to enforce trade agreements relating to U.S. agricultural products and services. The Chief Agricultural Negotiator shall be a vigorous advocate on behalf of U.S. agricultural interests. The Chief Agricultural Negotiator shall perform such other functions as the United States Trade Representative may direct.

(c) COMPENSATION.—The Chief Agricultural Negotiator shall be paid at the highest rate of basic pay payable to a member of the Senior Executive Service.

Mr. BURNS. Mr. President, I rise today in support of a bill that will establish a Chief Agricultural Negotiator in the Office of the United States Trade Representative.

As valuable as this position is to our Nation's farmers, I am concerned that it is not statutorily part of the Federal Government that plays a large role in agriculture trade policy. In December, Peter Scher, the current agriculture negotiator was an instrumental player in a United States-Canada trade agreement that addressed many of the inequities as a result of past trade agreements.

Montana's farmers, and many other farmers nationwide, are dependent on this office to provide oversight and redress for NAFTA and other b- and multi-lateral agreements that may have not had U.S. agriculture in mind. I say that with a critical tone as past

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 taste of the beginning of our agriculture 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, any where 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 Nation's 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 colleague from Washington. Senator 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 R. 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 Correction would replace the current limited and ineffective en 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 he Ninth Circuit—Circuit population, record caseloads, and inconsistency in judicial decisions. However, the Commission rejected an administrative division because it believed it would ''deprive the courts now in the 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 conclusion 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 decisional 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 this 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 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 unnecessary litigation.

Ninth Circuit Judge, Diramuid O'Scannlain described 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 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 of 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 period 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 forego 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, as reflected in our legislation, is a good 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):

S. 187. A bill to give customers notice and choice about how their financial institutions share or sell their personally identifiable sensitive financial information, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

FINANCIAL INFORMATION PRIVACY ACT OF 1999

Mr. SARBANES. Mr. President, I rise today to address a very important issue: the protection of every American's personal, sensitive, financial information that is held by their bank, securities broker-dealer, or insurance company. I am introducing a bill to provide basic financial privacy protections for our citizens. I am pleased that Senators DODD, BRYAN, LEAHY, EDWARDS, and HOLLINGS are joining me in the introduction of the Financial Information Privacy Act of 1999.

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.

Few Americans understand that, under current Federal law, a bank, broker, or insurance company may take any information it obtains about a customer through his or her transactions, and sell or transfer that information to a third party. For example, they may sell that information to a direct marketer or another financial institution, or post it on an Internet website without obtaining the customer's consent or even notifying the customer.

The amount of information that can be disclosed is enormous. It includes:

Savings and checking account balances;

certificate of deposit maturity dates and balances;

any check an individual writes;

any check that is deposited into a customer's account;

stock and mutual fund purchases and sales;

life insurance payouts; and

health insurance claims.

Today's technology makes it easier, faster, and less costly than ever for institutions to have immediate access to large amounts of customer information; to analyze that data; and to send that data to others. Banks, securities firms, and insurance companies are increasingly affiliating and ''cross-marketing,'' or selling the products of affiliates to existing customers. This can entail the warehousing of large amounts of highly sensitive customer information and selling it to or sharing it with other companies, for purposes unknown to the customer. While cross-marketing can bring new and beneficial products to receptive consumers, it can also result in unwanted invasions of personal privacy without customers' knowledge.

A June 8, 1998 Business Week commentary entitled ''Big Banker May Be Watching You'' underscored the potential abuses:

> Suppose that when you retired, your bank started deluging you with mailings for senior services—each tailored to your exact income, health needs, and spending habits. Or your lender slashed your credit-card limit from $20,000 to $500 after you were diagnosed with a serious disease.
>
> Those two Orwellian scenarios may sound far-fetched, but they might not be for long. In the wake of the . . . mad rush by large insurers to acquire thrift charters, consumer advocates are raising valid questions about whether the insurance arms of these new conglomerates will share sensitive medical records with their lending and marketing divisions.

The New York Times in an October 11, 1998 article entitled ''Privacy Matters: When Bigger Banks Aren't Better'' observed that:

> 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, brokerage firms 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 88 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 all control over how personal information is 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 widepsread 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 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.

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 in the Cable Communications Policy Act 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 stock broker. 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 that:

> 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 this information. This not only blurs the line between banking and non-banking functions, but furthers confuses consumers about which products are insures by the bank, and which are merely sold by the bank's securities affiliate without guarantees. 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:

> [E]lderly Americans are among those most vulnerable to the complex and fundamental changes already occurring in this period 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 diversity and ''cross market'' 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,

and U.S. Public Interest Research Group, wrote on August 26 1998 to all Senate Banking Committee Members to ''sound an urgent alarm about the lack of protections for consumers' financial privacy.''

On September 9, 1998, The Washington Post published an editorial, ''. . . And a Matter of Privacy,'' arguing,

> 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 financial data has been increasingly compromised by mergers, electronic data-swapping and the move to an economy 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 legislation which I introduced with Senators DODD and BRYAN was ''a protection well worth considering, especially in the banking context. As the pace of the much-touted 'information economy' quickens, safeguards against these previous unimagined forms of commerce become ever more important.''

The United States now faces pressure from the European Union nations as a result of our lack of privacy protections, in comparison with the ones implemented by the European Union. The European Union Data Protection Directive, which went into effect on October 25, 1998, goes much further than any privacy protections in place in the U.S. The Directive requires that member states protect privacy rights in the collection of data by both the public and private sectors. It prohibits the transfer of data without first obtaining the individual's unambiguous consent regarding the transfer of data without first obtaining the individual's unambiguous consent regarding the transfer and use of his or her personal financial data.

The EU Directives provides ''that the transfer to a third country of personal data . . . may take place only if . . . the third country in question ensures an adequate level of protection.'' Since the European Union views current U.S. privacy policy as inadequate, U.S. companies that do not provide adequate privacy safeguards may have difficulty conducting business in the EU. The Department of Commerce proposed a safe harbor so that companies which meet certain guidelines would be allowed to conduct business in the EU and send data from the EU to the United States. The EU has not accepted the proposed safe harbor as adequate, and negotiations continue. Meanwhile, U.S. businesses must negotiate private privacy agreements with EU countries or face uncertainties in doing business. Congress by enacting privacy protection legislation could meet the EU standard and thereby solve this problem for American companies.

Unfortunately, industry self-regulation to protect the privacy of information has been tried and, generally, has not worked. Many, if not most, consumers are not informed of plans to sell or share their financial transaction and experience data, are not notified of a right to object, have no access to verify the accuracy of data, and have no independent body to enforce privacy protection. Recent studies by the FTC and the FDIC of on-line Internet privacy protection found self-regulation to be ineffective. Privacy protections for ''off-line'' transactions are far weaker.

I believe that the protection of the privacy of customers' personal financial information is much too important to ignore any longer. Therefore, I am, along with Senators DODD, BRYAN, LEAHY, EDWARDS, and HOLLINGS, introducing the Financial Information Privacy Act of 1999. This bill would require the Federal banking regulators—the Federal Deposit Insurance Company, 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 financial information relating to the customers of the institutions they regulate.

The regulators would define ''confidential customer information'' in a way that includes balances, maturity dates, transactions, and payouts in savings accounts, certificates of deposit, securities holding and insurance policies. The regulators would require an institution to:

(1) tell its customers what information 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 information to affiliates—unless the customer objects, institutions could sell or share customer financial data; and

(3) obtain a customer's informed consent before selling or sharing confidential customer information with an unaffiliated third party.

Under the Act, regulated financial institutions would be required to allow the customer to review the information to be disclosed for accuracy and to correct errors. Also, these institutions could not use confidential customer information obtained from another entity, such as an insurance underwriter, unless that entity had given its customers the same type of privacy protections as the regulated entities had given their customers.

Disclosure of data under several circumstances would be exempted from coverage, including disclosure of information that is not personally identifiable, disclosure necessary to execute the customer's transaction, and other limited purposes. The Federal bank and securities regulators would enforce the regulations.

The bill recognizes the complexity of the subject matter involved. Rather than have Congress micromanage a solution, we would leave it to the regulators 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 of those affected could present their arguments. The banking and securities regulators would develop the rules to implement these broad principles 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 technological 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 protection by giving consumers enforceable rights of notice, consent, and access through passage of the Financial Information Privacy Act.

Mr. President, I ask unanimous consent that the full text of the Financial Information Privacy Act of 1999, together with a brief summary of the bill and some newspaper articles be printed in the RECORD.

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

S. 187

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 ''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 jurisdiction of any of the Federal financial regulatory authorities; and

(2) the term ''Federal financial regulatory authorities'' means—

(A) each of the Federal banking agencies, as that term is defined in section 3(z) of the Federal Deposit Insurance Act; and

(B) the Securities and Exchange Commission.

SEC. 3. PRIVACY OF CONFIDENTIAL CUSTOMER INFORMATION.

(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 270 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 any affiliate or 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 became a customer on or after 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 confidential 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, as required by this section, in separate and easily identifiable and distinguishable form;

(5) require that the covered person provide notice as required by this section to 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 with access to the confidential customer information that could be disclosed or shared so that the information may 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 financial in nature, as determined 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) have been 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 resolving consumer complaints.

(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 examination, compliance, or other authorized purposes;

(3) to a court of competent jurisdiction;

(4) to a consumer reporting agency, as defined in section 603 of the Fair Credit Reporting Act for inclusion in a consumer 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.

[From the Washington Post, September 9, 1998]

. . . AND A MATTER OF PRIVACY

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 financial data has been increasingly compromised by mergers, electronic data-swapping and the move to an economy in which the selling of other people's personal information is highly profitable—and legal.

Just how much of it is legal in the financial arena, though, is a complicated question. The Senate, struggling with a banking bill, is weighing a proposed amendment that would draw clearer lines. A judge at the Federal Trade Commission, after years of trying to police the sale of credit information to telemarketers, two weeks ago ordered one of the country's largest credit reporting bureaus to stop selling customers' sensitive data to such marketers in violation, the agency said, of the Fair Credit Reporting Act.

The Senate's attention to financial privacy comes in the form of a proposed amendment to a banking deregulation bill, already passed by the House, that would allow banks to merge more freely with the providers of other financial services, such as insurers. Once such institutions can merge, though, under current law they are under no restrictions from sharing even otherwise protected customer information from division to division. (The Fair Credit Reporting Act, which offers some tough not comprehensive protection for credit information, doesn't impose the same restrictions on affiliated institutions.)

For instance, watchdog groups say, if Citibank merges with Travelers Inc. insurance as expected, information about your bank balance or a bounced check could be used to deny you insurance coverage. Conversely, data from a medical exam for insurance coverage could be shared with your bank and used to deny you a loan. Milder possibilities include the use of knowledge about your financial assets being shared with or sold to marketers who wish to target customers of a given income bracket.

An amendment proposed by Sens. Paul Sarbanes and Christopher Dodd is likely to be weighed by the committee marking up the Senate bill this week or next. It would block such possibilities by prohibiting sharing or pooling of data not covered by the Fair Credit Reporting Act—known generally as ''experience and transaction data,'' and including account balances and activity—for any purpose beyond the reason it was collected, unless the customer gives specific permission.

This goes well beyond existing privacy protections, which mostly require that the customer actively ''opt out'' of such uses—a difficult proposition when the customer probably has not the slightest idea that such swapping and spreading of information is legal to begin with. For that very reason, it's a protection well worth considering, especially in the banking context. As the pace of the much-touted ''information economy'' quickens, safeguards against these previously unimagined forms of commerce become ever more important.

[From the New York Times, October 11, 1998]

PRIVACY MATTERS: WHEN BIGGER BANKS AREN'T BETTER

(By Leslie Wayne)

Imagine you are being treated for breast cancer, a fact known to your Travelers' insurance agent from your medical tests and insurance forms. Imagine also that you are applying for a mortgage from, say, Citibank, where you've banked for years and which has just merged with Travelers Group. Despite your excellent credit rating, your mortgage is denied by Citibank for reasons that are unclear.

Or suppose you've just inherited lots of money from a relative's life insurance policy and you put the money into your Fleet Bank account. Pretty soon you get a call from a representative of Quick & Reilly, a brokerage firm you have never heard of but which is owned by Fleet. The broker is equipped with surprisingly detailed knowledge of your financial situation—along with a few ideas about how to invest your windfall.

Both situations may be hypothetical but they aren't so far-fetched, according to a growing number of bankers, lawmakers, banking regulators and consumer advocates worried about the potential dark side of the mergers sweeping the financial industry. As banks, brokerage firms 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.

FEAR OF DISCLOSURE

So far, this privacy debate has centered mainly on the use of patients' medical records, especially by health maintenance organizations. But a new twist has been added as banks have expanded into businesses like securities and insurance sales, both of which involve the collection of a wide range of personal information.

Just last week, Citicorp and Travelers Group completed their $50 billion merger, creating the world's largest financial services conglomerate, with 70 million customers. The new company, Citigroup, has access to a wealth of customer information, including mutual fund accounts, health claims on insurance policies, and credit card, mortgage and car loan balances. Many consumer advocates are worried that such sensitive data can easily be transferred from one part of the company to another and possibly be disclosed to outside parties.

''It is very important for banks to realize the challenge they face in the privacy area is something new, different and more difficult than what they've dealt with before,'' said Julie Williams, Acting Comptroller of the Currency. ''It's in their self-interest to recognize privacy as a customer concern and deal with it successfully or they may be subject to more restrictive controls on the ability to use this information.''

Nationsbank, which is acquiring the BankAmerica Corporation, has already run into trouble with customer privacy. The company recently paid nearly $40 million to settle a class-action suit and end a Government investigation after more than 18,000 customers many of them elderly, were sold complex derivative securities that were far too risky for them. Nationbank's brokerage arm had used the bank's customer list to target people to approach, many of whom mistakenly believed that the derivatives were safe and insured. As a result, Nationsbank has imposed new limits on the use of private data.

''Talking to a banker used to be like going to confession or seeing a psychiatrist—we thought the information was protected,'' said Edmund Mierzwinski, executive director of the U.S. Public Interest Group.

Financial services companies argue that the ability to swap data between one arm and another is a driving force behind many mergers. Banks want to broaden their ability to ''cross-market'' credit cards to checking

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. ''The key question is, what is 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 another. The Comptroller's office has found, however, that few banks highlight this option. ''Most bank customers can't ever recall seeing anything like this,'' Ms. Williams said.

As part of its merger application to the Federal Reserve Board, Citigroup made a ''Global Privacy Promise,'' which would ''provide customers the right to prevent Citigroup from sharing customer information with others, including affiliates, for cross-marketing purposes.'' Customers will also be given opt-out provisions and Travelers has pledged that it will not share the medical or health information of its insurance customers ''for marketing purposes.'' Consumer advocates like Mr. Mierzwinski say such protections should be a matter of law, and not established 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.''

[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 sometimes unexpected contexts—everything from employer testing of people's genetic predispositions to resale 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 American businesses as a European law called the European Union Data Privacy Directive goes into effect. The European directive has drawn attention not only because the European approach to and history on data privacy are sharply different from our own but also because the new directive comes with prohibitions on export that would crimp the options of any company 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 ''adequate'' in this regard—no surprise there—though individual industries may pass muster or fall under special exemptions.

That means, for instance, that multinational companies cannot allow U.S. offices access to personnel data on European employees, and airlines can't swap reservations data without restrictions. More to the point, 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. Would such restraints be a boon to customers on these shores too? Or will Americans, as the data companies frequently argue, find instead that they want the convenience and ''one-on-one marketing'' that this constant dossier-compiling makes possible?

In one early case, a U.S. airline is being sued in Sweden to prevent its compiling and selling a database of, for instance, passengers who requested kosher meals or wheelchair assistance on arrival from transatlantic flights. Do customers want the ''convenience'' of this kind of tracking, and if not, how might they—we—avoid having it offered? The contrast between systems is a chance to consider which of the many business-as-usual uses of data in this country rise to the level of a privacy violation from which citizens should be shielded by law.

[From Business Week, June 8, 1998]

BIG BANKER MAY BE WATCHING YOU

(By Dean Foust)

Suppose that when you retired, your bank started deluging you with mailings for senior services—each tailored to your exact income, health needs, and spending habits. Or your lender slashed your credit-card limit from $20,000 to $500 after you were diagnosed with a serious disease.

Those two Orwellian scenarios may sound far-fetched, but they might not be for long. In the wake of the proposed megamerger between Citicorp and Travelers Group Inc. and the mad rush by large insurers to acquire thrift charters, consumer advocates are raising valid questions about whether the insurance arms of these new conglomerates will share sensitive medical records with their lending and marketing divisions.

Critics fear that as the new Citigroup and other planned banking behemoths strain to justify their hefty sticker prices, they'll face increasing pressure to exploit customer data for profit. But if they overstep their bounds, the financial industry ''risks a customer backlash that could . . . lead to restrictions on your ability to use previous information resources,'' warns Acting Comptroller of the Currency Julie L. Williams.

Banking representatives downplay the risks, arguing that lenders would be loath to use health records in the credit process for fear of violating the Americans with Disabilities Act. And at Citicorp, spokesman Jack Morris says that ''I don't think we have even thought about'' using Travelers' insurance records.

But the biggest justification for creating conglomerates like Citigroup—and the combined Bank of America-NationsBank Corp.—is exactly the synergy from cross-marketing new products. In 1996, bankers lobbied Congress vigorously for changes in the Fair Credit Reporting Act of 1970 that let them share more credit information with affiliates dealing in life insurance, mortgages, and credit cards—much to the chagrin of activists. ''We think it's inappropriate for banks to use information in ways that consumers didn't expect,'' says Susan Grant of the National Consumers League.

BOILERPLATE

Unfortunately, banks sharing data with affiliates are exempt from some of the regulations governing independent credit bureaus. These bureaus are where lenders up till now have turned to determine a borrower's creditworthiness. But while Congress prohibited the credit bureaus from dealing in medical records without a customer's consent, the new financial hybrids are under no such restrictions. And while banks are required to allow customers to opt out of having 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 don't want Congress to intervene, 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 ''federal 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 Thrift Supervision, 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 account, certificates of deposit, securities holdings 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 separate and easily identifiable and distinguishable form.''

(5) The notices would describe the types 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) Customers must be provided with access 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 have been followed.

(8) The regulators shall establish a means of examination for compliance and enforcement and resolving consumer complaints.

(B) *Limitation.*—The Act contains several 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 for inclusion in a consumer report to be released to a third party for a permissible purpose; 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.''

Mr. DODD. Mr. President, I rise today with Senator SARBANES to introduce the Financial Information Privacy Act. This important legislation would give customers notice and choice about whether and how their financial institutions share or sell their confidential financial information.

The right to privacy is among the most cherished of our constitutional rights. But this right has been under assault in a number of areas, including with regard to citizens' financial records, medical records, and prescription drug and retail purchases. This bill is an important first step in protecting consumers' most personal, sensitive financial information: their bank account balances, transactions involving their stocks and mutual funds, and payouts on their insurance policies.

This information has become a commodity and is being distributed and sold among businesses all over the world but without the knowledge or consent of the consumers whose very own information is being conveyed. The sharing of their most sensitive, private financial information has become increasingly prevalent given two key factors: (1) technological advances which facilitate the collection and retrieval of information; and (2) the formation of new, diversified business affiliations, under which companies can more easily access personal data on each other's customers.

In this environment, there are dangers of misuse and abuse of confidential financial information. For instance, we know of instances where, without customer permission, some banks have provided in-house, affiliate brokers with lists of older customers who have maturing CDs. The brokers then solicited these consumers for risky investments, which they mislead the customer to believe were FDIC-insured.

The Financial Information Privacy Act of 1999 would require banks and securities firms to protect the privacy of their customers' financial records. 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 to third parties, they would be required to give notice to the customer and obtain the express written permission of the consumer before making any such disclosure.

Last September, Senator SARBANES 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 in the Senate Banking Committee by a 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 both 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 SARBANES in introducing the Financial Information Privacy Act of 1999. Senator SARBANES, 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 created with the best of intentions 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 with the push 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 ability to control 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 or she was providing it for. In fact, under current Federal law, 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 they regulate to: (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 use confidential customer 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 new Congress' efforts to address 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 laws to ensure the protection 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 on October 25, 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 their 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 purpose 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 techniques. It 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 spewing out of factory pipes. 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 our streams don't fully meet water quality standards. And the largest problems are contamination form 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 fully appropriated or over-appropriated. There is currently no extra water to spare for increased stream flows.

We can't create new water to fill the gap. But we can make more water available for this use through increased water conservation and more efficient use of existing water supplies.

The key to achieving this would be to create incentives to reduce wasteful water use.

In the Western United States, irrigated agriculture is the single largest user of water. Studies indicate that substantial quantities of water diverted for irrigation do not make it to the fields, with a significant portion lost to evaporation or leakage fro irrigation canals.

In Oregon and other States that recognize rights to conserved water for those 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 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:

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 ''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 for water) are placing increased demands on existing water supply sources;

(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, irrigation suppliers, farmers, ranchers, and other users could gain rights to use conserved water while also increasing the quantity of water available for other beneficial uses by implementing measures to reduce water loss during transport to, or application on, the fields;

(5) reducing the quantity of water lost during transport to the fields and improving water quality can help areas better meet changing population and economic needs; and

(6) the role of the Federal Government in helping meet those changing water needs should be to provide financial assistance to help irrigators, farmers, and ranchers implement practical, cost-effective water quality and conservation measures.

SEC. 3. USE OF STATE REVOLVING LOAN FUNDS FOR WATER CONSERVATION IMPROVEMENTS.

Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended—

(1) in the first sentence of subsection (c)—

(A) by striking ''and (3)'' and inserting ''(3)''; and

(B) by inserting before the period at the end the following: '', (4) for construction of water conservation improvements by eligible recipients under subsection (i)''; and

(2) by adding at the end the following:

''(i) WATER CONSERVATION IMPROVEMENTS.—

''(1) DEFINITION OF ELIGIBLE RECIPIENT.—In this subsection, the term 'eligible recipient' means a municipality, quasi-municipality, municipal corporation, special district, conservancy district, irrigation district, water users' association, tribal authority, intermunicipal, interstate, or State agency, nonprofit private organization, a member of such an association, authority, agency, or organization, or a lending institution, located in a State that has enacted laws that—

''(A) provide a water user who invests in a water conservation improvement with a right to use water conserved by the improvement, as allowed by State law;

''(B) provide authority to reserve minimum flows of streams in the State; and

''(C) prohibit transactions that adversely affect existing water rights.

''(2) FINANCIAL ASSISTANCE.—A State may provide financial assistance from its water pollution control revolving fund to an eligible recipient to construct a water conservation improvement, including—

''(A) piping or lining of an irrigation canal;

''(B) wastewater and tailwater recovery or recycling;

''(C) irrigation scheduling;

''(D) water use measurement or metering;

''(E) on-field irrigation efficiency improvements; and

''(F) any other improvement that the State determines will provide water conservation benefits.

''(3) VOLUNTARY PARTICIPATION.—The participation of an eligible recipient in the water conservation improvement shall be voluntary.

''(4) USE OF CONSERVED WATER.—The quantity of water conserved through the water conservation improvement shall be allocated in accordance with applicable State law, including any applicable State law requiring a portion of the conserved water to be used for instream flow enhancement or other conservation purposes.

''(5) LIMITATION ON USE FOR IRRIGATED AGRICULTURE.—Conserved water made available under paragraph (4) shall not be used to irrigate land that has not previously been irrigated unless the use is authorized by State law and will not diminish water quality.''.

SEC. 4. USE OF STATE REVOLVING LOAN FUNDS FOR WATER QUALITY IMPROVEMENTS.

Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) (as amended by section 3) is amended—

(1) in the first sentence of subsection (c), by inserting before the period at the end the following: '', and (5) for construction of water quality improvements or practices by eligible recipients under subsection (j)''; and

(2) by adding at the end the following:

''(j) WATER QUALITY IMPROVEMENTS.—

''(1) DEFINITION OF ELIGIBLE RECIPIENT.—In this subsection, the term 'eligible recipient' means a municipality, quasi-municipality, municipal corporation, special district, conservancy district, irrigation district, water users' association or member of such an association, tribal authority, intermunicipal, interstate, or State agency, nonprofit private organization, or lending institution.

''(2) FINANCIAL ASSISTANCE.—A State may provide financial assistance from its water pollution control revolving fund to an eligible recipient to construct or establish water quality improvements or practices that the State determines will provide water quality benefits.

''(3) VOLUNTARY PARTICIPATION.—The participation of an eligible recipient in the water quality improvements or practices shall be voluntary.''.

SEC. 5. CONFORMING AMENDMENTS.

Section 601(a) of the Federal Water Pollution Control Act (33 U.S.C. 1381(a)) is amended—

(1) by striking ''and (3)'' and inserting ''(3)''; and

(2) by inserting before the period at the end the following: '', and (4) for construction of water conservation and quality improvements by eligible recipients under subsections (i) and (j) of section 603''.

By Mr. INOUYE:

S. 189. A bill to restore the traditional day of observance of Memorial Day; to the Committee on the Judiciary.

MEMORIAL DAY

Mr. INOUYE. Mr. President, in our effort to accommodate many Americans by making the last Monday in May, Memorial Day, we have lost sight of the significance of this day to our nation. Instead of using Memorial Day as a time to honor and reflect on the sacrifices made by Americans in combat, many Americans use the day as a celebration of the beginning of summer. My bill would restore Memorial Day to May 30 and authorize our flag to fly at half mast on that day. In addition, this legislation would authorize the President to issue a proclamation designating Memorial Day and Veterans 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 6103(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 emphasize existing rules 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.

Currently, 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 sacrifice 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 that my colleagues show their concern and 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 53 of title 10, United States Code, is amended by adding after section 1060a 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 continental 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 1060a 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 the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II; to the Committee on Armed Services.

FILIPINO VETERANS

Mr. INOUYE. Mr. President, I rise today to introduce legislation that would direct the Secretary of the Army to determine whether certain nationals of the Philippine Islands performed military service on behalf of the United States during World War II.

Mr. President, our Filipino veterans fought side by side and sacrificed their lives on behalf of the United States. This legislation would confirm the validity of their claims and further allow qualified individuals the opportunity to apply for military and veterans benefits to which, I believe, they are entitled. As this population becomes older, it is important 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. 191

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 any 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', or other benefits under the laws of the United States.

(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 described in section 1(a).

(b) EFFECT OF CERTIFICATE OF SERVICE.—A certificate of service issued to any person under subsection (a) shall, for the purpose of any law of the United States, conclusively establish the period, nature, and character of the military service described in the certificate.

SEC. 3. APPLICATIONS BY SURVIVORS.

An application submitted by a surviving spouse, child, or parent of a deceased person described in section 1(a) shall be treated as an application submitted by such person.

SEC. 4. LIMITATION PERIOD.

The Secretary may not consider for the purpose of this Act any application received by the Secretary more than two years after the date of enactment of this Act.

SEC. 5. PROSPECTIVE APPLICATION OF DETERMINATIONS BY THE SECRETARY OF THE ARMY.

No benefits shall accrue to any person for any period prior to the date of enactment of this Act as a result of the enactment of this Act.

SEC. 6. REGULATIONS.

The Secretary shall issue regulations to carry out sections 1, 3, and 4.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY OF VETERANS AFFAIRS.

Any entitlement of a person to receive veterans' benefits by reason of this Act shall be administered by the Department of Veterans Affairs pursuant to regulations issued by the Secretary of Veterans Affairs.

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. SARBANES, Mr. MOYNIHAN, Mr. LEVIN, Mr. DODD, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. KERRY, Mr. HARKIN, Ms. MIKULSKI, Mr. AKAKA, Mr. WELLSTONE, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. MURRAY, Mr. FEINGOLD, Mr. WYDEN, Mr. DURBIN, Mr. TORRICELLI, Mr. REED, and Mr. SCHUMER):

S. 192. A bill to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage; to the Committee on Health, Education, Labor, and Pensions.

THE FAIR MINIMUM WAGE ACT OF 1999

Mr. KENNEDY. Mr. President, it is an honor to join with Senator 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 two years—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 $7.15 an hour are 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—$2,900 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.

The minimum wage is a women's issue. It is a children's 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.

The provisions of section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply 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 past 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 $10,712 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 HANDGUN 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 multiemployer plans the section 415 limit on benefits to the participant's average compensation for his high 3 years; to the Committee on Finance.

PENSION IMPROVEMENT LEGISLATION

By Mrs. BOXER:

S. 197. A bill to amend the Outer Continental Shelf Lands Act to direct the Secretary of the Interior to cease mineral leasing activity on the outer Continental Shelf seaward of a coastal State that has declared a moratorium on mineral exploration, development, or production activity in State water; to the Committee on Energy and Natural Resources.

COASTAL STATES PROTECTION ACT

By Mrs. BOXER:

S. 198. A bill to amend the Public Health Service Act to provide for the training of health professions students with respect to the identification and referral of victims of domestic violence; to the Committee on Health, Education, Labor, and Pensions.

DOMESTIC VIOLENCE IDENTIFICATION AND REFERRAL ACT OF 1999

Mrs. BOXER. Mr. President, I rise today to introduce several important bills that I hope the Senate will consider early in the 106th Congress.

The first bill is the American Handgun Standards Act. This legislation would require that handguns made in the United States meet the same standards currently required of imported handguns. This legislation would halt the sale and manufacture of new ''junk guns,'' which have been found by criminologists to be disproportionately used in crimes.

The next bill is the Health Insurance Tax Deduction. This important legislation would make the costs of health insurance tax deductible for individuals who purchase their own health coverage—up to a maximum of $2,000 per year. Currently health care costs are only deductible for corporations and the self-employed. Current law clearly discriminates against individuals and should be changed.

Also included is legislation to make the Research and Experimentation Tax Credit permanent. Virtually all economists agree that the R&E Tax Credit is a valuable incentive that encourages high-tech companies to develop innovative products. 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 will 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 protection 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-mandated 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 follow:

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 failed 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) gunshots 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;

(6) traffic in junk guns constitutes a serious threat to public welfare and to law enforcement officers;

(7) junk guns are used disproportionately in the commission of crimes; and

(8) the domestic manufacture, transfer, and possession of junk guns should be restricted.

SEC. 3. DEFINITION OF JUNK GUN.

Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(35) The term 'junk gun' means any handgun that does not meet the standard imposed on imported handguns as described in section 925(d)(3), and any regulations issued under such section.''.

SEC. 4. RESTRICTION ON MANUFACTURE, TRANSFER, AND POSSESSION OF CERTAIN HANDGUNS.

Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

''(z)(1) Subject to paragraph (2), it shall be unlawful for a person to manufacture, transfer, or possess a junk gun that has been shipped or transported in interstate or foreign commerce.

''(2) Paragraph (1) does not apply to—

''(A) the possession or transfer of a junk gun otherwise lawfully possessed under Federal law on the date of the enactment of the American Handgun Standards Act of 1999;

''(B) a firearm or replica of a firearm that has been rendered permanently inoperative;

''(C)(i) the 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 of a department, agency, or political subdivision of a State, of a junk gun; or

''(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a junk gun for law enforcement purposes (whether on or off-duty);

''(D) 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 of a junk gun for the purposes of law enforcement (whether on or off-duty); or

''(E) the manufacture, transfer, or possession of a junk gun by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.''.

S. 194

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 ''Health Insurance Tax Relief Act''.

SEC. 2. FIRST $2,000 OF HEALTH INSURANCE PREMIUMS FULLY DEDUCTIBLE.

(a) IN GENERAL.—Subsection (a) of section 213 of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended to read as follows:

''(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction the following amounts not compensated for by insurance or otherwise—

''(1) the amount by which the amount of expenses paid during the taxable year (reduced by the amount deductible under paragraph (2)) for medical care of the taxpayer, the taxpayer's spouse, and the taxpayer's dependents (as defined in section 152) exceeds 7.5 percent of adjusted gross income, plus

''(2) so much of the expenses paid during the taxable year for insurance which constitutes medical care under subsection (d)(1)(D) (other than for a qualified long-term care insurance contract) for such taxpayer, spouse, and dependents as does not exceed $2,000.''

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES DEDUCTION.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by inserting after paragraph (17) the following new paragraph:

''(18) HEALTH INSURANCE PREMIUMS.—The deduction allowed by section 213(a)(2).''

(c) CONFORMING AMENDMENT.—Section 162(l)(1)(A) 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, plus

''(ii) the applicable percentage of the amount so paid in excess of $2,000.''

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

S. 195

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

SECTION 1. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 45C(b) of such Code is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1999.

S. 196

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

SECTION 1. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415 LIMIT ON BENEFITS.

(a) IN GENERAL.—Paragraph (11) of section 415(b) of the Internal Revenue Code of 1986 (relating to special limitation rule for governmental plans) is amended—

(1) in the heading, by inserting ''AND MULTIEMPLOYER PLANS'' after ''GOVERNMENTAL PLANS''; and

(2) by inserting ''or a multiemployer plan (as defined in section 414(f))'' after ''governmental plan (as defined in section 414(d))''.

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

S. 197

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 ''Coastal States Protection Act''.

SEC. 2. STATE MORATORIA ON OFFSHORE MINERAL LEASING.

Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

''(p) STATE MORATORIA.—When there is in effect with respect to land beneath navigable water (as defined in section 2 of the Submerged Lands Act (16 U.S.C. 1301)) of a coastal State a moratorium on oil, gas, or other mineral exploration, development, or production activity established by statute or by order of the Governor, the Secretary shall not issue a lease for the exploration, development, or production of minerals on the outer Continental Shelf that is seaward of or adjacent to that land.''.

S. 198

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 ''Domestic Violence Identification and Referral Act of 1999''.

SEC. 2. ESTABLISHMENT, FOR CERTAIN HEALTH PROFESSIONS PROGRAMS, OF PROVISIONS REGARDING DOMESTIC VIOLENCE.

(a) TITLE VII PROGRAMS; PREFERENCES IN FINANCIAL AWARDS.—Section 791 of the Public Health Service Act (42 U.S.C. 295j) is amended by adding at the end the following:

''(c) PREFERENCES REGARDING TRAINING IN IDENTIFICATION AND REFERRAL OF VICTIMS OF DOMESTIC VIOLENCE.—

''(1) IN GENERAL.—In the case of a health professions entity specified in paragraph (2), the Secretary shall, in making awards of grants or contracts under this title, give preference to any such entity (if otherwise a qualified applicant for the award involved) that has in effect the requirement that, as a condition of receiving a degree or certificate (as applicable) from the entity, each student have had significant training in carrying out the following functions as a provider of health care:

''(A) Identifying victims of domestic violence, and maintaining complete medical records that include documentation of the examination, treatment given, and referrals made, and recording the location and nature of the victim's injuries.

''(B) Examining and treating such victims, within the scope of the health professional's discipline, training, and practice, including, at a minimum, providing medical advice regarding the dynamics and nature of domestic violence.

''(C) Referring the victims to public and nonprofit private entities that provide services for such victims.

''(2) RELEVANT HEALTH PROFESSIONS ENTITIES.—For purposes of paragraph (1), a health professions entity specified in this paragraph is any entity that is a school of medicine, a school of osteopathic medicine, a graduate program in mental health practice, a school of nursing (as defined in section 853), a program for the training of physician assistants, or a program for the training of allied health professionals.

''(3) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of the Domestic Violence Identification and Referral Act of 1999, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report specifying the health professions entities that are receiving preference under paragraph (1); the number of hours of training required by the entities for purposes of such paragraph; the extent of clinical experience so required; and the types of courses through which the training is being provided.

''(4) DEFINITIONS.—For purposes of this subsection, the term 'domestic violence' includes behavior commonly referred to as domestic violence, sexual assault, spousal abuse, woman battering, partner abuse, child abuse, elder abuse, and acquaintance rape.''.

(b) TITLE VIII PROGRAMS; PREFERENCES IN FINANCIAL AWARDS.—Section 806 of the Public Health Service Act is amended by adding at the end the following:

''(i) PREFERENCES REGARDING TRAINING IN IDENTIFICATION AND REFERRAL OF VICTIMS OF DOMESTIC VIOLENCE.—

''(1) IN GENERAL.—In the case of a health professions entity specified in paragraph (2), the Secretary shall, in making awards of grants or contracts under this title, give preference to any such entity (if otherwise a qualified applicant for the award involved) that has in effect the requirement that, as a condition of receiving a degree or certificate (as applicable) from the entity, each student have had significant training in carrying out the following functions as a provider of health care:

''(A) Identifying victims of domestic violence, and maintaining complete medical records that include documentation of the examination, treatment given, and referrals made, and recording the location and nature of the victim's injuries.

''(B) Examining and treating such victims, within the scope of the health professional's discipline, training, and practice, including, at a minimum, providing medical advice regarding the dynamics and nature of domestic violence.

''(C) Referring the victims to public and nonprofit private entities that provide services for such victims.

''(2) RELEVANT HEALTH PROFESSIONS ENTITIES.—For purposes of paragraph (1), a health professions entity specified in this paragraph is any entity that is a school of nursing or other public or nonprofit private entity that is eligible to receive an award described in such paragraph.

''(3) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of the Domestic Violence Identification and Referral Act of 1999, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report specifying the health professions entities that are receiving preference under paragraph (1); the number of hours of training required by the entities for purposes of such paragraph; the extent of clinical experience so required; and the types of courses through which the training is being provided.

''(4) DEFINITIONS.—For purposes of this subsection, the term 'domestic violence' includes behavior commonly referred to as domestic violence, sexual assault, spousal abuse, woman battering, partner abuse, child abuse, elder abuse, and acquaintance rape.''.

By Mr. LAUTENBERG (for himself and Mr. TORRICELLI):

S. 199. A bill for the relief of Alexandre Malofienko, Olga Matsko, and their son, Vladimir Malofienko; to the Committee on the Judiciary.

PRIVATE RELIEF BILL

Mr. LAUTENBERG. Mr. President, I rise today to introduce legislation that will help my constituent Vova Malofienko, and his parents, to live a healthy and productive life in the United States.

Tragically, Vova was a victim of the Chernobyl reactor explosion. He has battled Leukemia his whole life. Since his arrival in the United States for cancer treatment in 1992, he and his parents have sought to remain here because the air, food, and water in the Ukraine are still contaminated with radiation and are perilous to those like Vova who have a weakened immune system. Additionally, cancer treatment available in the Ukraine is not as sophisticated as medical care available in the United States.

Although Vova's cancer has gone into remission because of the excellent health care he has received, the seven other children who came to the United States with Vova were not as fortunate. They returned to the Ukraine and they died, one by one, because of inadequate cancer treatment. Not one child survived.

Because of his perilous medical condition, Vova and his family have done everything possible to remain in the United States. Since 1992, they have obtained a number of visa extensions, and I have helped them with their efforts. In March of 1997, the last time the Malofienkos' visas were expiring, I appealed to the INS and the family was given what I was told would be final one-year extension.

Across the country, people have rallied in support of Vova's cause. The Children of Chernobyl Relief Fund, national Ukrainian and religious organizations, and Vova's classmates at Millburn Middle School have all worked to help the Malofienkos.

During the last session of Congress, I introduced legislation to help Vova and his family. With the help of Senators ABRAHAM, HATCH, and DASCHLE, the Senate passed the bill unanimously. However, the House failed to pass it before the end of the last session.

I hope that my Senate colleagues will help move this legislation forward expeditiously. We must give Vova and his family a chance to live their lives in peace.

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. 199

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

SECTION 1. PERMANENT RESIDENCE.

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Alexandre Malofienko, Olga Matsko, and their son, Vladimir Malofienko, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees.

SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Alexandre Malofienko, Olga Matsko, and their son, Vladimir Malofienko, as provided in section 1, the Secretary of State shall instruct the proper officer to reduce by the appropriate number during the current fiscal year the total number of immigrant visas available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).

By Mr. HARKIN (for himself and Mr. JOHNSON):

S. 200. A bill to amend the Internal Revenue Code of 1986 to increase the years for carryback of net operating losses for certain farm losses; to the Committee on Finance.

NET OPERATING LOSSES FOR FARMERS

Mr. HARKIN. 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 10 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 their losses 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 recieive 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 farms 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 agricultural equipment 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 agicultural programs to help alleviate these programs. But, I believe the Congress needs to also pass a provision broadening existing law allowing 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 10 years only apply to family farmers. That would include 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

tax rate paid by the farmer for the paid taxes that are being restored.

The 10 year provision would only cover losses occurring in 1998 to 1999. For losses occuring in 1998, farmers would be able to calculate their loss now and seek an immediate rebate from the IRS for the taxes paid in earlier years.

Current law already allows a few taxpayers in certain circumstances to go back and recover taxes that they paid for 10 years. I believe that it should be broadened to cover farmers in this difficult time. In fact, there is a precedent in the 1997 Taxpayer Relief Act in which Amtrak was allowed to use net operating losses of their predecessor railroads from over 25 years in the past.

I urge that when the Congress considers a tax bill, this provision be considered and passed.

By 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 deeply cynical toward the 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 to cope with these basic family needs without worry that they will lose their jobs or their health insurance.

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 involving 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 Americans did not take the leave they needed because they would have lost 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 remain 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 urge them 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 larger 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 94%—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 this 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,

SECTION 1. SHORT TITLE.

This Act may 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 employees 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;

(3) although both employers at workplaces with large numbers of employees and employers at workplaces with small numbers of

employees reported that compliance with the Family and Medical Leave Act of 1993 involved very easy administration and low costs, the smaller employers found it easier and less expensive to comply with the Act than the larger employers;

(4) over three-quarters of worksites with under 50 employees covered by the Family and Medical Leave Act of 1993 report no cost increases or small cost increases associated with compliance with the Act;

(5) in 1998, 27 percent of Americans needed to take family or medical leave but were unable to do so, and 44 percent of these employees did not take such leave because they would have lost their jobs or their employers did not allow it;

(6) only 57 percent of the private workforce is 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 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611(2)(B)(ii) and (4)(A)(i)) are amended by striking ''50'' each place it appears 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 individuals ages 55 to 65, and for other purposes; to the Committee on Finance.

THE MEDICARE EARLY ACCESS ACT OF 1999

Mr. MOYNIHAN. Mr. President, today, I introduce a bill to provide access to health insurance for individuals between the ages of 55–65. These individuals are too young for Medicare, not poor enough to qualify for Medicaid, and in many cases, are forced into early retirement or pushed out of their jobs in corporate downsizing.

The ''Medicare Early Access Act'' is based on the President's three-part initiative announced last January. The bill is a targeted proposal to give older Americans under 65 new options to obtain health insurance coverage. Many of these Americans have worked hard all their lives, but, through no fault of their own, find themselves uninsured just as they are entering the years when the risk of serious illness is increasing. This legislation attempts to bridge the gap in coverage between years when persons are in the labor force and the age (65) when they become eligible for Medicare.

The bill has three parts: (1) It enables persons between ages 62 and 64 to buy into Medicare by paying a full premium; (2) It provides displaced workers over age 55 access to Medicare by offering a similar Medicare buy-in option; and (3) It extends COBRA coverage to persons 55 and over whose employers withdraw retiree health benefits.

The program is largely self-financing and is substantially paid for by premiums from the beneficiaries themselves. There is a modest cost to the buy-in proposal for 62–65-year-olds because participants would pay the premium in two parts: most of the cost would be paid by the individual up front and a smaller amount would be paid after they turn 65 years-old. Medicare would in effect ''loan'' participants the second part of the premium until they reach 65, when they would make small monthly payments in addition to their regular Medicare Part B premium. The financing of the program is carefully walled off from the Medicare Part A and Part B Trust Funds, to ensure that it will not adversely impact the existing program.

In 1998, the Congressional Budget Office (CBO) analysis of this bill found no impact on the Medicare Part A or Part B Trust Funds. CBO also predicted that about 410,000 individuals would participate (or 33 percent more than first estimated by the Administration). Finally, CBO estimated that the post-65 premium that people ages 62-65 would pay would be only $10 per month per year—$6 per month, or $72 less per year, than the Administration estimated.

Mr. President, the problem of health insurance for the near elderly is getting worse. Congress should act now to provide valuable coverage for these individuals.

I ask unanimous consent that the summary and the full text of the bill be printed in the RECORD.

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

S. 202

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 ''Medicare Early Access Act of 1999''.

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

Sec. 1. Short title; table of contents.

TITLE I—ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE

Sec. 101. Access to medicare benefits for individuals 62-to-65 years of age.

''PART D—PURCHASE OF MEDICARE BENEFITS BY CERTAIN INDIVIDUALS AGE 62-TO-65 YEARS OF AGE

''Sec. 1859. Program benefits; eligibility.
''Sec. 1859A. Enrollment process; coverage.
''Sec. 1859B. Premiums.
''Sec. 1859C. Payment of premiums.
''Sec. 1859D. Medicare Early Access Trust Fund.
''Sec. 1859E. Oversight and accountability.
''Sec. 1859F. Administration and miscellaneous.''.

TITLE II—ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE

Sec. 201. Access to medicare benefits for displaced workers 55-to-62 years of age.

TITLE 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.

Subtitle B—Amendments to the Public Health Service Act

Sec. 311. COBRA continuation benefits for certain retired workers who lose retiree health coverage.

Subtitle C—Amendments to the Internal Revenue Code of 1986

Sec. 321. COBRA continuation benefits for certain retired workers who lose retiree health coverage.

TITLE I—ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE

SEC. 101. ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 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 following new part:

''PART D—PURCHASE OF MEDICARE BENEFITS BY CERTAIN INDIVIDUALS AGE 62-TO-65 YEARS OF AGE

''SEC. 1859. PROGRAM BENEFITS; ELIGIBILITY.

''(a) ENTITLEMENT TO MEDICARE BENEFITS FOR ENROLLED INDIVIDUALS.—

''(1) IN GENERAL.—An individual enrolled under this part is entitled to the same benefits under this title as an individual entitled to benefits under part A and enrolled under part B.

''(2) DEFINITIONS.—For purposes of this part:

''(A) FEDERAL OR STATE COBRA CONTINUATION PROVISION.—The term 'Federal or State COBRA continuation provision' has the meaning given the term 'COBRA continuation 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 insurance 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 benefits 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.

''(b) ELIGIBILITY OF INDIVIDUALS AGE 62-TO-65 YEARS OF AGE.—

''(1) IN GENERAL.—Subject to paragraph (2), an individual who meets the following requirements with respect to a month is eligible 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) 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.

''(C) NOT ELIGIBLE FOR COVERAGE UNDER GROUP HEALTH PLANS OR FEDERAL HEALTH INSURANCE PROGRAMS.—The individual is not eligible for benefits or coverage under a Federal health insurance program (as defined in subsection (a)(2)(B)) or under a group health plan (other than such eligibility merely through a Federal or State COBRA continuation provision) as of the last day of the month involved.

''(2) LIMITATION ON ELIGIBILITY IF TERMINATED ENROLLMENT.—If an individual described in paragraph (1) enrolls under this part and coverage of the individual is terminated under section 1859A(d) (other than because of age), the individual is not again eligible to enroll under this subsection unless the following requirements are met:

''(A) NEW COVERAGE UNDER GROUP HEALTH PLAN OR FEDERAL HEALTH INSURANCE PROGRAM.—After the date of termination of coverage under such section, the individual obtains coverage under a group health plan or under a Federal health insurance program.

''(B) SUBSEQUENT LOSS OF NEW COVERAGE.—The individual subsequently loses eligibility for the coverage described in subparagraph (A) and exhausts any eligibility the individual may subsequently have for coverage under a Federal or State COBRA continuation provision.

''(3) CHANGE IN HEALTH PLAN ELIGIBILITY DOES NOT AFFECT COVERAGE.—In the case of an individual who is eligible for and enrolls under this part under this subsection, the individual's continued entitlement to benefits under this part shall not be affected by the individual's subsequent eligibility for benefits or coverage described in paragraph (1)(C), or entitlement to such benefits or coverage.

''SEC. 1859A. ENROLLMENT PROCESS; COVERAGE.

''(a) IN GENERAL.—An individual may enroll in the program established under this part only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed by the Secretary consistent with the provisions of this section. Such regulations shall provide a process under which—

''(1) individuals eligible to enroll as of a month are permitted to pre-enroll during a prior month within an enrollment period described in subsection (b); and

''(2) each individual seeking to enroll under section 1859(b) is notified, before enrolling, of the deferred monthly premium amount the individual will be liable for under section 1859C(b) upon attaining 65 years of age as determined under section 1859B(c)(3).

''(b) ENROLLMENT PERIODS.—

''(1) INDIVIDUALS 62-TO-65 YEARS OF AGE.—In the case of individuals eligible to enroll under this part under section 1859(b)—

''(A) INITIAL ENROLLMENT PERIOD.—If the individual is eligible to enroll under such section for July 2000, the enrollment period shall begin on May 1, 2000, and shall end on August 31, 2000. Any such enrollment before July 1, 2000, is conditioned upon compliance with the conditions of eligibility for July 2000.

''(B) SUBSEQUENT PERIODS.—If the individual is eligible to enroll under such section for a month after July 2000, the enrollment period shall begin on the first day of the second month before the month in which the individual first is eligible to so enroll and shall end 4 months later. Any such enrollment before the first day of the third month of such enrollment period is conditioned upon compliance with the conditions of eligibility for such third month.

''(2) AUTHORITY TO CORRECT FOR GOVERNMENT ERRORS.—The provisions of section 1837(h) apply with respect to enrollment under this part in the same manner as they apply to enrollment under part B.

''(c) DATE COVERAGE BEGINS.—

''(1) IN GENERAL.—The period during which an individual is entitled to benefits under this part shall begin as follows, but in no case earlier than July 1, 2000:

''(A) In the case of an individual who enrolls (including pre-enrolls) before the month in which the individual satisfies eligibility for enrollment under section 1859, the first day of such month of eligibility.

''(B) In the case of an individual who enrolls during or after the month in which the individual first satisfies eligibility for enrollment under such section, the first day of the following month.

''(2) AUTHORITY TO PROVIDE FOR PARTIAL MONTHS OF COVERAGE.—Under regulations, the Secretary may, in the Secretary's discretion, provide for coverage periods that include portions of a month in order to avoid lapses of coverage.

''(3) LIMITATION ON PAYMENTS.—No payments may be made under this title with respect to the expenses of an individual enrolled under this part unless such expenses were incurred by such individual during a period which, with respect to the individual, is a coverage period under this section.

''(d) TERMINATION OF COVERAGE.—

''(1) IN GENERAL.—An individual's coverage period under this part shall continue until the individual's enrollment has been terminated at the earliest of the following:

''(A) GENERAL PROVISIONS.—

''(i) 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.

''(ii) NONPAYMENT OF PREMIUMS.—The individual fails to make payment of premiums required for enrollment under this part.

''(iii) MEDICARE ELIGIBILITY.—The individual becomes entitled to benefits under part A or enrolled under part B (other than by reason of this part).

''(B) TERMINATION BASED ON AGE.—The individual attains 65 years of age.

''(2) EFFECTIVE DATE OF TERMINATION.—

''(A) NOTICE.—The termination of a coverage period under paragraph (1)(A)(i) shall take effect at the close of the month following for which the notice is filed.

''(B) NONPAYMENT OF PREMIUM.—The termination of a coverage period under paragraph (1)(A)(ii) shall take effect on a date determined under regulations, which may be determined so as to provide a grace period in which overdue premiums may be paid and coverage continued. The grace period determined under the preceding sentence shall not exceed 60 days; except that it may be extended for an additional 30 days in any case where the Secretary determines that there was good cause for failure to pay the overdue premiums within such 60-day period.

''(C) AGE OR MEDICARE ELIGIBILITY.—The termination of a coverage period under paragraph (1)(A)(iii) or (1)(B) shall take effect as of the first day of the month in which the individual attains 65 years of age or becomes entitled to benefits under part A or enrolled for benefits under part B (other than by reason of this part).

''SEC. 1859B. PREMIUMS.

''(a) AMOUNT OF MONTHLY PREMIUMS.—

''(1) BASE MONTHLY PREMIUMS.—The Secretary shall, during September of each year (beginning with 1999), determine the following premium rates which shall apply with respect to coverage provided under this title for any month in the succeeding year:

''(A) BASE MONTHLY PREMIUM FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—A base monthly premium for individuals 62 years of age or older is equal to 1/12 of the base annual premium rate computed under subsection (b) for each premium area.

''(B) DEFERRED MONTHLY PREMIUMS FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—The Secretary shall, during September of each year (beginning with 1999), determine under subsection (c) the amount of deferred monthly premiums that shall apply with respect to individuals who first obtain coverage under this part under section 1859(b) in the succeeding year.

''(3) ESTABLISHMENT OF PREMIUM AREAS.—For purposes of this part, the term 'premium area' means such an area as the Secretary shall specify to carry out this part. The Secretary from time to time may change the boundaries of such premium areas. The Secretary shall seek to minimize the number of such areas specified under this paragraph.

''(b) BASE ANNUAL PREMIUM FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—

''(1) NATIONAL, PER CAPITA AVERAGE.—The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section 1859(b)(1)(A) as if all such individuals were eligible for (and enrolled) under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

''(2) GEOGRAPHIC ADJUSTMENT.—The Secretary shall reduce, as determined appropriate, the amount determined under paragraph (1) for a premium area (specified under subsection (a)(3)) that has costs below the national average, in order to assure participation in all areas throughout the United States.

''(3) BASE ANNUAL PREMIUM.—The base annual premium under this subsection for months in a year for individuals 62 years of age or older residing in a premium area is equal to the average, annual per capita amount estimated under paragraph (1) for the year, adjusted for such area under paragraph (2).

''(c) DEFERRED PREMIUM RATE FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—The deferred premium rate for individuals with a group of individuals who obtain coverage under section 1859(b) in a year shall be computed by the Secretary as follows:

''(1) ESTIMATION OF NATIONAL, PER CAPITA ANNUAL AVERAGE EXPENDITURES FOR ENROLLMENT GROUP.—The Secretary shall estimate the average, per capita annual amount that will be paid under this part for individuals in such group during the period of enrollment under section 1859(b). In making such estimate for coverage beginning in a year before 2004, the Secretary may base such estimate on the average, per capita amount that would be payable if the program had been in operation over a previous period of at least 4 years.

''(2) DIFFERENCE BETWEEN ESTIMATED EXPENDITURES AND ESTIMATED PREMIUMS.—Based on the characteristics of individuals in such group, the Secretary shall estimate during the period of coverage of the group under this part under section 1859(b) the amount by which—

''(A) the amount estimated under paragraph (1); exceeds

''(B) the average, annual per capita amount of premiums that will be payable for months during the year under section 1859C(a) for individuals in such group (including premiums that would be payable if there were no terminations in enrollment under clause (i) or (ii) of section 1859A(d)(1)(A)).

''(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 1859C(b), is equal to

''(B) 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 based on enrollment under section 1859(b) and the month in which the individual attains 65 years of age.

''(4) DETERMINANTS OF ACTUARIAL PRESENT VALUES.—The actuarial present values described in paragraph (3) shall reflect—

''(A) the estimated probabilities of survival at ages 62 through 84 for individuals enrolled during the year; and

''(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.—

''(1) IN GENERAL.—The Secretary shall provide for payment and collection of the base monthly premium, determined under section 1859B(a)(1) for the age (and age cohort, if applicable) of the individual involved and the premium area in which the individual principally resides, in the same manner as for payment of monthly premiums under section 1840, except that, for purposes of applying this section, any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed a reference to the Trust Fund established under section 1859D.

''(2) PERIOD OF PAYMENT.—In the case of an individual who participates in the program established by this title, the base monthly premium shall be payable for 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.—

''(1) RATE OF PAYMENT.—

''(A) IN GENERAL.—In the case of an individual who is covered under this part for a month pursuant to an enrollment under section 1859(b), subject to subparagraph (B), the individual is liable for payment of a deferred premium in each month during the period described in paragraph (2) in an amount equal to the full deferred monthly premium rate determined for the individual under section 1859B(c).

''(B) SPECIAL RULES FOR THOSE WHO DISENROLL EARLY.—

''(i) IN GENERAL.—If such an individual's enrollment under such section is terminated under clause (i) or (ii) of section 1859A(d)(1)(A), subject to clause (ii), the amount of the deferred premium otherwise established under this paragraph shall be pro-rated to reflect the number of months of coverage under this part under such enrollment compared to the maximum number of months of coverage that the individual would have had if the enrollment were not so terminated.

''(ii) ROUNDING TO 12-MONTH MINIMUM COVERAGE PERIODS.—In applying clause (i), the number of months of coverage (if not a multiple of 12) shall be rounded to the next highest multiple of 12 months, except that in no case shall this clause result in a number of months of coverage exceeding the maximum number of months of coverage that the individual would have had if the enrollment were not so terminated.

''(2) PERIOD OF PAYMENT.—The period described in this paragraph for an individual is the period beginning with the first month in which the individual has attained 65 years of age and ending with the month before the month in which the individual attains 85 years of age.

''(3) COLLECTION.—In the case of an individual who is liable for a premium under this subsection, the amount of the premium shall be collected in the same manner as the premium for enrollment under such part is collected under section 1840, except that any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed to be a reference to the Medicare Early Access Trust Fund established under section 1859D.

''(c) APPLICATION OF CERTAIN PROVISIONS.—The provisions of section 1840 (other than subsection (h)) shall apply to premiums collected under this section in the same manner as they apply to premiums collected under part B, except that any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed a reference to the Trust Fund established under section 1859D.

''SEC. 1859D. MEDICARE EARLY ACCESS TRUST FUND.

''(a) ESTABLISHMENT OF TRUST FUND.—

''(1) IN GENERAL.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Medicare Early Access Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and such amounts as may be deposited in, or appropriated to, such fund as provided in this title.

''(2) PREMIUMS.—Premiums collected under section 1859B shall be transferred to the Trust Fund.

''(b) INCORPORATION OF PROVISIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), subsections (b) through (i) of section 1841 shall apply with respect to the Trust Fund and this title in the same manner as they apply with respect to the Federal Supplementary Medical Insurance Trust Fund and part B, respectively.

''(2) MISCELLANEOUS REFERENCES.—In applying provisions of section 1841 under paragraph (1)—

''(A) any reference in such section to 'this part' is construed to refer to this part D;

''(B) any reference in section 1841(h) to section 1840(d) and in section 1841(i) to sections 1840(b)(1) and 1842(g) are deemed references to comparable authority exercised under this part; and

''(C) payments may be made under section 1841(g) to the trust funds under sections 1817 and 1841 as reimbursement to such funds for payments they made for benefits provided under this part.

''SEC. 1859E. OVERSIGHT AND ACCOUNTABILITY.

''(a) THROUGH ANNUAL REPORTS OF TRUSTEES.—The Board of Trustees of the Medicare Early Access Trust Fund under section 1859D(b)(1) shall report on an annual basis to Congress concerning the status of the Trust Fund and the need for adjustments in the program under this part to maintain financial solvency of the program under this part.

''(b) PERIODIC GAO REPORTS.—The Comptroller General of the United States shall periodically submit to Congress reports on the adequacy of the financing of coverage provided under this part. The Comptroller General shall include in such report such recommendations for adjustments in such financing and coverage as the Comptroller General deems appropriate in order to maintain financial solvency of the program under this part.

''SEC. 1859F. ADMINISTRATION AND MISCELLANEOUS.

''(a) TREATMENT FOR PURPOSES OF THIS TITLE.—Except as otherwise provided in this part—

''(1) an individual enrolled under this part shall be treated for purposes of this title as though the individual was entitled to benefits under part A and enrolled under part B; and

''(2) benefits described in section 1859 shall be payable under this title to such an individual in the same manner as if such individual was so entitled and enrolled.

''(b) NOT TREATED AS MEDICARE PROGRAM FOR PURPOSES OF MEDICAID PROGRAM.—For purposes of applying title XIX (including the provision of medicare cost-sharing assistance under such title), an individual who is enrolled under this part shall not be treated as being entitled to benefits under this title.

''(c) NOT TREATED AS MEDICARE PROGRAM FOR PURPOSES OF COBRA CONTINUATION PROVISIONS.—In applying a COBRA continuation provision (as defined in section 2791(d)(4) of the Public Health Service Act), any reference to an entitlement to benefits under this title shall not be construed to include entitlement to benefits under this title pursuant to the operation of this part.''.

(b) 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 Federal Supplementary Medical Insurance Trust Fund'' and inserting ''the Federal Supplementary Medical Insurance Trust Fund, and the Medicare Early Access Trust Fund''.

(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 established by title XVIII'' and inserting '', the Federal Supplementary Medical Insurance Trust Fund, and the Medicare Early Access Trust Fund established by title XVIII''.

(3) Section 1820(i) of such Act (42 U.S.C. 1395i–4(i)) is amended by striking ''part D'' and inserting ''part E''.

(4) Part C of title XVIII of such Act is amended—

(A) in section 1851(a)(2)(B) (42 U.S.C. 1395w–21(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–21(a)(2)(C)), by striking ''1859(b)(2)'' and inserting ''1858(b)(2)'';

(C) in section 1852(a)(1) (42 U.S.C. 1395w–22(a)(1)), by striking ''1859(b)(3)'' and inserting ''1858(b)(3);

(D) in section 1852(a)(3)(B)(ii) (42 U.S.C. 1395w–22(a)(3)(B)(ii)), by striking ''1859(b)(2)(B)'' and inserting ''1858(b)(2)(B)'';

(E) in section 1853(a)(1)(A) (42 U.S.C. 1395w–23(a)(1)(A)), by striking ''1859(e)(4)'' and inserting ''1858(e)(4)''; and

(F) in section 1853(a)(3)(D) (42 U.S.C. 1395w–23(a)(3)(D)), by striking ''1859(e)(4)'' and inserting ''1858(e)(4)''.

(5) Section 1853(c) of such Act (42 U.S.C. 1395w–23(c)) is amended—

(A) in paragraph (1), by striking ''or (7)'' and inserting '', (7), or (8)'', 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 such part and the population under parts A and B.''.

(c) OTHER CONFORMING AMENDMENTS.—

(1) Section 138(b)(4) of the Internal Revenue Code of 1986 is amended by striking ''1859(b)(3)'' and inserting ''1858(b)(3)''.

(2)(A) Section 602(2)(D)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended by inserting ''(not including an individual who is so entitled pursuant to enrollment under section 1859A)'' after ''Social Security Act''.

(B) Section 2202(2)(D)(ii) of the Public Health Service Act (42 U.S.C. 300bb–2(2)(D)(ii)) is amended by inserting ''(not including an individual who is so entitled pursuant to enrollment under section 1859A)'' after ''Social Security Act''.

(C) Section 4980B(f)(2)(B)(i)(V) of the Internal Revenue Code of 1986 is amended by inserting ''(not including an individual who is so entitled pursuant to enrollment under section 1859A)'' after ''Social Security Act''.

TITLE II—ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE

SEC. 201. ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE.

(a) ELIGIBILITY.—Section 1859 of the Social Security Act, as inserted by section 101(a)(2), is amended by adding at the end the following new subsection:

''(c) DISPLACED WORKERS AND SPOUSES.—

''(1) DISPLACED WORKERS.—Subject to paragraph (3), an individual who meets the following requirements with respect to a month is eligible to enroll under this part with respect to such month:

''(A) AGE.—As of the last day of the month, the individual has attained 55 years of age, but has not attained 62 years of age.

''(B) MEDICARE ELIGIBILITY (BUT FOR AGE).—The individual would be eligible for benefits under part A or B for the month if the individual were 65 years of age.

''(C) LOSS OF EMPLOYMENT-BASED COVERAGE.—

''(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 85(b) of the Internal Revenue Code of 1986), based on a separation from 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 CREDITABLE COVERAGE FOR AT LEAST 1 YEAR.—As of the date on which the individual loses coverage described in clause (ii), the aggregate of the periods of creditable coverage (as determined under section 2701(c) of the Public Health Service Act) is 12 months or longer.

''(D) EXHAUSTION OF AVAILABLE COBRA CONTINUATION BENEFITS.—

''(i) IN GENERAL.—In the case of an individual described in clause (ii) for a month described in clause (iii)—

''(I) the individual (or spouse) elected coverage described in clause (ii); and

''(II) the individual (or spouse) has continued such coverage for all months described in clause (iii) in which the individual (or spouse) is eligible for such coverage.

''(ii) 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 at the time of loss of coverage eligibility described in subparagraph (C)(ii); or

''(II) whose spouse was offered such coverage in a manner that permitted coverage of the individual at such time.

''(iii) MONTHS OF POSSIBLE COBRA CONTINUATION COVERAGE.—A month described in this clause is a month for which an individual described in clause (ii) could have had coverage described in such clause as of the last day of the month if the individual (or the spouse of the individual, as the case may be) had elected such coverage on a timely basis.

''(E) NOT ELIGIBLE FOR COVERAGE UNDER FEDERAL HEALTH INSURANCE PROGRAM OR GROUP HEALTH PLANS.—The individual is not eligible for benefits or coverage under a Federal health insurance program or under a group health plan (whether on the basis of the individual's employment or employment of the individual's spouse) as of the last day of the month involved.

''(2) SPOUSE OF DISPLACED WORKER.—Subject to paragraph (3), an individual who meets the following requirements with respect to a month is eligible to enroll under this part with respect to such month:

''(A) AGE.—As of the last day of the month, the individual has not attained 62 years of age.

''(B) MARRIED TO DISPLACED WORKER.—The individual is the spouse of an individual at the time the individual enrolls under this part under paragraph (1) and loses coverage described in paragraph (1)(C)(ii) because the individual's spouse lost such coverage.

''(C) MEDICARE ELIGIBILITY (BUT FOR AGE); EXHAUSTION OF ANY COBRA CONTINUATION COVERAGE; AND NOT ELIGIBLE FOR COVERAGE UNDER FEDERAL HEALTH INSURANCE PROGRAM OR GROUP HEALTH PLAN.—The individual meets the requirements of subparagraphs (B), (D), and (E) of paragraph (1).

''(3) CHANGE IN HEALTH PLAN ELIGIBILITY AFFECTS CONTINUED ELIGIBILITY.—For provision that terminates enrollment under this section in the case of an individual who becomes eligible for coverage under a group health plan or under a Federal health insurance program, see section 1859A(d)(1)(C).

''(4) REENROLLMENT PERMITTED.—Nothing in this subsection shall be construed as preventing an individual who, after enrolling under this subsection, terminates such enrollment from subsequently reenrolling under this subsection if the individual is eligible to enroll under this subsection at that time.''.

(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:

''(2) DISPLACED WORKERS AND SPOUSES.—In the case of individuals eligible to enroll under this part under section 1859(c), the following rules apply:

''(A) INITIAL ENROLLMENT PERIOD.—If the individual is first eligible to enroll under such section for July 2000, the enrollment period shall begin on May 1, 2000, and shall end on August 31, 2000. Any such enrollment before July 1, 2000, is conditioned upon compliance with the conditions of eligibility for July 2000.

''(B) SUBSEQUENT PERIODS.—If the individual is eligible to enroll under such section for a month after July 2000, 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 is eligible to so enroll (or reenroll) and shall end 4 months later.'';

(3) in subsection (d)(1), by amending subparagraph (B) to read as follows:

''(B) TERMINATION BASED ON AGE.—

''(i) AT AGE 65.—Subject to clause (ii), the individual attains 65 years of age.

''(ii) AT AGE 62 FOR DISPLACED WORKERS AND SPOUSES.—In the case of an individual enrolled under this part pursuant to section 1859(c), subject to subsection (a)(1), the individual attains 62 years of age.'';

(4) in subsection (d)(1), by adding at the end the following new subparagraph:

''(C) OBTAINING ACCESS TO EMPLOYMENT-BASED COVERAGE OR FEDERAL HEALTH INSURANCE PROGRAM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—In the case of an individual who has not attained 62 years of age, the individual is covered (or eligible for coverage) as a participant or beneficiary under a group health plan or under a Federal health insurance program.'';

(5) in subsection (d)(2), by amending subparagraph (C) to read as follows:

''(C) AGE OR MEDICARE ELIGIBILITY.—

''(i) IN GENERAL.—The termination of a coverage period under paragraph (1)(A)(iii) or (1)(B)(i) shall take effect as of the first day of the month in which the individual attains 65 years of age or becomes entitled to benefits under part A or enrolled for benefits under part B.

''(ii) DISPLACED WORKERS.—The termination of a coverage period under paragraph (1)(B)(ii) shall take effect as of the first day of the month in which the individual attains 62 years of age, unless the individual has enrolled under this part pursuant to section 1859(b) and section 1859E(c)(1).''; and

(6) in subsection (d)(2), by adding at the end the following new subparagraph:

''(D) ACCESS TO COVERAGE.—The termination of a coverage period under paragraph (1)(C) shall take effect on the date on which the individual is eligible to begin a period of creditable coverage (as defined in section 2701(c) of the Public Health Service Act) under a group health plan or under a Federal health insurance program.''.

(c) PREMIUMS.—Section 1859B of such Act, as so inserted, is amended—

(1) in subsection (a)(1), by adding at the end the following:

''(B) 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.''; and

(2) by adding at the end the following new subsection:

''(d) BASE MONTHLY PREMIUM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—

''(1) NATIONAL, PER CAPITA AVERAGE FOR AGE GROUPS.—

''(A) ESTIMATE OF AMOUNT.—The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section 1859(c)(1)(A) within each of the age cohorts established under subparagraph (B) as if all such individuals within such cohort were eligible for (and enrolled) under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

''(B) AGE COHORTS.—For purposes of subparagraph (A), the Secretary shall establish

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) GEOGRAPHIC ADJUSTMENT.—The Secretary shall adjust the amount determined under paragraph (1)(A) for each premium area (specified under subsection (a)(3)) in the same manner and to the same extent as the Secretary provides for adjustments under subsection (b)(2).

''(3) BASE ANNUAL PREMIUM.—The base annual premium under this subsection for months in a year for individuals in an age cohort under paragraph (1)(B) in a premium area is equal to 165 percent of the average, annual per capita amount estimated under paragraph (1) for the age cohort and year, adjusted for such area under paragraph (2).

''(4) PRO-RATION OF PREMIUMS TO REFLECT COVERAGE DURING A PART OF A MONTH.—If the Secretary provides for coverage of portions of a month under section 1859A(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) ADMINISTRATIVE PROVISIONS.—Section 1859F of such Act, as so inserted, is amended by adding at the end the following:

''(d) ADDITIONAL ADMINISTRATIVE PROVISIONS.—

''(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 whose enrollment under section 1859(c) would be terminated upon attaining 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 1859(b) in order to continue entitlement to benefits under this title after attaining 62 years of age.

''(2) ARRANGEMENTS WITH STATES FOR DETERMINATIONS RELATING TO UNEMPLOYMENT COMPENSATION ELIGIBILITY.—The Secretary may provide for appropriate arrangements with States for the determination of whether individuals in the State meet or would meet the requirements of section 1859(c)(1)(C)(i).''.

(e) CONFORMING AMENDMENT TO HEADING TO PART.—The heading of part D of title XVIII of the Social Security Act, as so inserted, is amended by striking ''62'' and inserting ''55''.

TITLE 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. 1163) is amended by inserting after paragraph (6) the following new paragraph:

''(7) The termination or substantial reduction in benefits (as defined in section 607(7)) 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.''.

(2) QUALIFIED RETIREE; QUALIFIED BENEFICIARY; AND SUBSTANTIAL REDUCTION DEFINED.—Section 607 of such Act (29 U.S.C. 1167) is amended—

(A) in paragraph (3)—

(i) in subparagraph (A), by inserting ''except as otherwise provided in this paragraph,'' after ''means,''; and

(ii) by adding at the end the following new subparagraph:

''(D) SPECIAL RULE FOR QUALIFYING RETIREES AND DEPENDENTS.—In the case of a qualifying event described in section 603(7), the term 'qualified beneficiary' 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.''; and

(B) by adding at the end the following new paragraphs:

''(6) QUALIFIED RETIREE.—The term 'qualified retiree' means, with respect to a qualifying event described in section 603(7), 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.

''(7) SUBSTANTIAL REDUCTION.—The term 'substantial reduction'—

''(A) means, as determined under regulations of the Secretary 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, an increase in premiums, 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 section 602(3).

(b) DURATION OF COVERAGE THROUGH AGE 65.—Section 602(2)(A) of such Act (29 U.S.C. 1162(2)(A)) is amended—

(1) in clause (ii), by inserting ''or 603(7)'' after ''603(6)'';

(2) in clause (iv), by striking ''or 603(6)'' and inserting '', 603(6), or 603(7)'';

(3) by redesignating clause (iv) as clause (vi);

(4) by redesignating clause (v) as clause (iv) and by moving such clause to immediately follow clause (iii); and

(5) by inserting after such clause (iv) the following new clause:

''(v) SPECIAL RULE FOR CERTAIN DEPENDENTS IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—In the case of a qualifying event described in section 603(7), in the case of a qualified beneficiary described in section 607(3)(D) who is not the qualified retiree or spouse of such retiree, the later of—

''(I) 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

''(II) the date that is 36 months after the date of the qualifying event.''.

(c) TYPE OF COVERAGE IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—Section 602(1) of such Act (29 U.S.C. 1162(1)) is amended—

(1) by striking ''The coverage'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the coverage''; and

(2) by adding at the end the following:

''(B) CERTAIN RETIREES.—In the case of a qualifying event described in section 603(7), in applying the first sentence of subparagraph (A) and the fourth sentence of paragraph (3), the coverage offered that is the most prevalent coverage option (as determined under regulations of the Secretary) continued under the group health plan (or, if none, under the most prevalent other plan offered by the same plan sponsor) 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.''.

(d) INCREASED LEVEL OF PREMIUMS PERMITTED.—Section 602(3) of such Act (29 U.S.C. 1162(3)) is amended by adding at the end the following new sentence: ''In the case of an individual provided continuation coverage by reason of a qualifying event described in section 603(7), any reference in subparagraph (A) of this paragraph to '102 percent of the applicable premium' is deemed a reference to '125 percent of the applicable premium for employed individuals (and their dependents, if applicable) for the coverage option referred to in paragraph (1)(B)'.''.

(e) NOTICE.—Section 606(a) of such Act (29 U.S.C. 1166) is amended—

(1) in paragraph (4)(A), by striking ''or (6)'' and inserting ''(6), or (7)''; and

(2) by adding at the end the following:

''The notice under paragraph (4) in the case of a qualifying event described in section 603(7) shall be provided at least 90 days before the date of the qualifying event.''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (e)(2)) shall apply to qualifying events occurring on or after January 6, 1999. In the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

(2) ADVANCE NOTICE OF TERMINATIONS AND REDUCTIONS.—The amendment made by subsection (e)(2) shall apply to qualifying events occurring after the date of the enactment of this Act, except 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 2203 of the Public Health Service Act (42 U.S.C. 300bb–3) is amended by inserting after paragraph (5) the following new paragraph:

''(6) The termination or substantial reduction in benefits (as defined in section 2208(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.''.

(2) QUALIFIED RETIREE; QUALIFIED BENEFICIARY; AND SUBSTANTIAL REDUCTION DEFINED.—Section 2208 of such Act (42 U.S.C. 300bb–8) is amended—

(A) in paragraph (3)—

(i) in subparagraph (A), by inserting ''except as otherwise provided in this paragraph,'' after ''means,''; and

(ii) by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR QUALIFYING RETIREES AND DEPENDENTS.—In the case of a qualifying event described in section 2203(6), the term 'qualified beneficiary' 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.''; and

(B) by adding at the end the following new paragraphs:

''(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, an increase in premiums, 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 section 2202(3).

(b) DURATION OF COVERAGE THROUGH AGE 65.—Section 2202(2)(A) of such Act (42 U.S.C. 300bb–2(2)(A)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following new clause:

''(iii) SPECIAL RULE FOR CERTAIN DEPENDENTS IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—In the case of a qualifying event described in section 2203(6), in the case of a qualified beneficiary described in section 2208(3)(C) who is not the qualified retiree or spouse of such retiree, the later of—

''(I) 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

''(II) the date that is 36 months after the date of the qualifying event.''.

(c) TYPE OF COVERAGE IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—Section 2202(1) of such Act (42 U.S.C. 300bb–2(1)) is amended—

(1) by striking ''The coverage'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the coverage''; and

(2) by adding at the end the following:

''(B) CERTAIN RETIREES.—In the case of a qualifying event described in section 2203(6), in applying the first sentence of subparagraph (A) and the fourth sentence of paragraph (3), 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 other plan offered by the same plan sponsor) 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.''.

(d) INCREASED LEVEL OF PREMIUMS PERMITTED.—Section 2202(3) of such Act (42 U.S.C. 300bb–2(3)) is amended by adding at the end the following new sentence: ''In the case of an individual provided continuation coverage by reason of a qualifying event described in section 2203(6), any reference in subparagraph (A) of this paragraph to '102 percent of the applicable premium' is deemed a reference to '125 percent of the applicable premium for employed individuals (and their dependents, if applicable) for the coverage option referred to in paragraph (1)(B)'.''.

(e) NOTICE.—Section 2206(a) of such Act (42 U.S.C. 300bb–6(a)) is amended—

(1) in paragraph (4)(A), by striking ''or (4)'' and inserting ''(4), or (6)''; and

(2) by adding at the end the following:

''The notice under paragraph (4) in the case of a qualifying event described in section 2203(6) shall be provided at least 90 days before the date of the qualifying event.''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (e)(2)) shall apply to qualifying events occurring on or after January 6, 1999. In the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

(2) ADVANCE NOTICE OF TERMINATIONS AND REDUCTIONS.—The amendment made by subsection (e)(2) shall apply to qualifying events occurring after the date of the enactment of this Act, except that in no case shall notice be required under such amendment before such date.

Subtitle C—Amendments to the Internal Revenue Code of 1986

SEC. 321. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE 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.''.

(2) QUALIFIED RETIREE; QUALIFIED BENEFICIARY; AND SUBSTANTIAL REDUCTION DEFINED.—Section 4980B(g) of such Code is amended—

(A) 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 new subparagraph:

''(E) SPECIAL RULE FOR QUALIFYING RETIREES AND DEPENDENTS.—In the case of a qualifying event described in subsection (f)(3)(G), the term 'qualified beneficiary' 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.''; and

(B) by adding at the end the following new paragraphs:

''(5) QUALIFIED RETIREE.—The term 'qualified retiree' means, with respect to a qualifying event described in subsection (f)(3)(G), 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, an increase in premiums, 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).''.

(b) DURATION OF COVERAGE THROUGH AGE 65.—Section 4980B(f)(2)(B)(i) of such Code is amended—

(1) in subclause (II), by inserting ''or (3)(G)'' after ''(3)(F)'';

(2) in subclause (IV), by striking ''or (3)(F)'' and inserting '', (3)(F), or (3)(G)'';

(3) by redesignating subclause (IV) as subclause (VI);

(4) by redesignating subclause (V) as subclause (IV) and by moving such clause to immediately follow subclause (III); and

(5) by inserting after such subclause (IV) the following new subclause:

''(V) SPECIAL RULE FOR CERTAIN DEPENDENTS 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 subsection (g)(1)(E) 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.''.

(c) TYPE OF COVERAGE IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—Section 4980B(f)(2)(A) of such Code is amended—

(1) by striking ''The coverage'' and inserting the following:

''(i) IN GENERAL.—Except as provided in clause (ii), the coverage''; and

(2) by adding at the end the following:

''(ii) CERTAIN RETIREES.—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 other plan offered by the same plan sponsor) 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.''.

(d) INCREASED LEVEL OF PREMIUMS PERMITTED.—Section 4980B(f)(2)(C) of such Code is amended by adding at the end the following new sentence: ''In the case of an individual provided continuation coverage by reason of a qualifying event described in paragraph (3)(G), any reference in clause (i) of this subparagraph to '102 percent of the applicable premium' is deemed a reference to '125 percent of the applicable premium for employed individuals (and their dependents, if applicable) for the coverage option referred to in subparagraph (A)(ii)'.''.

(e) NOTICE.—Section 4980B(f)(6) of such Code is amended—

(1) in subparagraph (D)(i), by striking ''or (F)'' and inserting ''(F), or (G)''; and

(2) by adding at the end the following:

''The notice under subparagraph (D)(i) in the case of a qualifying event described in paragraph (3)(G) shall be provided at least 90 days before the date of the qualifying event.''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (e)(2)) shall apply to qualifying events occurring on or after January 6, 1999. In the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

(2) ADVANCE NOTICE OF TERMINATIONS AND REDUCTIONS.—The amendment made by subsection (e)(2) shall apply to qualifying events occurring after the date of the enactment of this Act, except that in no case shall notice be required under such amendment before such date.

SUMMARY OF BILL

TITLE I. ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE

The centerpiece of this initiative is the Medicare buy-in for people ages 62 to 65.

Eligibility: Persons ages 62 to 65 who do not have access to employer sponsored or federal health insurance may participate.

Premium Payments: Participants would pay two separate premiums—one before age 65 and one between age 65 and 85.

Base premium: The base premium would be paid monthly between enrollment and when the participant turns age 65. It is the part of the full premium that represents what Medicare would pay on average 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. Participants will be told before they enroll what their deferred premium will be. CBO estimates that this would be about $10 per month per year of participation.

This two-part payment plan acts like a mortgage: it makes the up-front premium affordable but requires participants to pay back the Medicare ''loan'' with interest. It also ensures that in the long-run, this buy-in is self-financing.

Enrollment: Eligible persons can enroll within two months of either turning 62 or losing access to employer-based or federal insurance.

Applicability of Medicare Rules: Services covered and cost sharing 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. Medigap policy protections would apply, but the open enrollment provision remains at age 65.

Disenrollment: Persons could stop 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 buys in for 3 months in 2000 would pay the deferred premium as though they participated for 12 months). This is intended to act as a disincentive for temporary enrollment.

TITLE II. ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE

In addition to people ages 62 to 65, a targeted group of 55 to 61 year olds could buy into Medicare. The Medicare buy-in would be the same as above, with the following exceptions.

Eligibility: Persons would be eligible if they are between ages 55 and 61 and: (1) lost their job because their firm closed, downsized, or moved, or their position was eliminated (defined as being eligible for unemployment insurance) after January 1, 2000; (2) had health insurance through their previous job for at least one year (certified through the process created under HIPAA to guarantee continuation coverage); and (3) do not have access to employer sponsored, COBRA, or federal health insurance. Spouses of these eligible people may also buy into Medicare.

Premium Payments: Participants would pay one, geographically adjusted premium, with no Medicare ''loan''. This premium represents what Medicare would pay on average for all people in this age group plus an add-on (65 percent of the age average) to compensate for some of the extra costs of participants who may be sicker than average. These premiums would be about $400 per month.

Disenrollment: Like persons ages 62 to 65, eligible displaced workers and their spouses must enroll in the buy-in within 63 days of becoming eligible. Participants continue to pay premiums until they voluntarily disenroll, gain access to federal or employer-based insurance or turn 62 and become eligible for the more general Medicare buy-in. Once they disenroll, they may only re-enroll if they meet all the eligibility rules again.

TITLE III. RETIREE HEALTH BENEFITS PROTECTION ACT

The bill would also help retirees and their dependents whose former 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 coverage but whose 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: Retirees would be eligible until they turn 65 years-old and could disenroll at any time.

Mr. KENNEDY. Mr. President, I commend Senator MOYNIHAN for his strong leadership on this issue. More than three million Americans aged 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, or 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 continues to deteriorate, the longer they remain uninsured. This unnecessary burden of illness is a preventable human tragedy—and it adds to Medicare's long-term costs, because when these individuals turn 65, they enter the program with more costly health problems and greater unmet needs for health care services.

Even those with good coverage today can't be certain that it will be there tomorrow. No one nearing retirement 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 premiums until they turn 65 and Medicare starts to pay most of their health care costs. Once they turn 65, this defrayed 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.

Every American should have the security and peace of mind of knowing that their critical years in the workforce will not be haunted by the fear of devastating medical costs or the inability to meet basic medical needs. Uninsured Americans who are too young for Medicare but too old to purchase affordable private insurance coverage deserve our help—and we intend to see that they get it.

By Mr. MOYNIHAN:

S. 203. A bill to amend title XIX of the Social Security Act to provide for

an equitable determination of the Federal medical assistance percentage; to the Committee on Finance.

EQUITABLE FEDERAL MEDICAID ASSISTANCE PERCENTAGE ACT OF 1999

Mr. MOYNIHAN. Mr. President, I introduce today a bill to revise the formula for determining the Federal Medical Assistance Percentage. Medicaid services and associated administrative costs are financed jointly by the Federal government and the States. The formula for the Federal share of a State's payments for services, known as the Federal Medical Assistance Percentage (FMAP), was established when Medicaid was created as part of the Social Security Amendments of 1965.

The FMAP is a somewhat exotic creature, derived from the Hill-Burton Hospital Survey and Construction Act of 1946, specifically designed to provide a higher Federal matching rate for states with lower state funds, as measured by per capital income. A Senate colleague once described it to me as the South's revenge for the Civil War.

The Federal government's share depends upon the square of the ratio of state per capita income to national per capita income. Per capita income is a proxy but not the only proxy for measuring the States' relative fiscal capacity and its population's need for assistance. In March 1982, the Advisory Commission on Intergovernmental Relations stated that,

> * * * the use of a single index, resident per capita income, to measure fiscal capacity, seriously misrepresents the actual ability of many governments to raise revenue. Because states tax a wide range of economic activities other than the income of their residents, the per capita income measure fails to account for sources of revenue to which income is only related in part. This misrepresentation results in the systematic over and understatement of the ability of many states to raise revenue. In addition, the recent evidence suggests that per capital income has deteriorated as a measure of capacity * * *

Squaring the ration of state per capita income to national per capita income exaggerates the differences between States with regard to this inadequate proxy for both state wealth and of population in need of assistance. At a commencement address in 1977 at Kingsborough Community College in Brooklyn, New York, I proposed a change to the Hill-Burton formula by suggesting that the ''square'' in the formula be changed to the ''square root.'' The idea has not caught on.

However, I remain hopeful. The Balanced Budget Act of 1997 included a provision that increased the FMAP rate for Alaska. My colleagues in the Committee on Finance included this provision as an amendment in Committee Mark-up. The provision increased Alaska's FMAP rate from 50 percent to 59.8 percent to reflect the higher cost of living relative to the national average. For states with a higher cost of living, the per capita income proxy systematically underestimates the state's population in need and overstates its relative capacity to raise revenues. As conferees, we posited:

> 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 conferees note that the 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 increase 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 years shows that the use of per capita income to reflect a state's wealth sometimes overstates or understates 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—or its wealth—and 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 stronger 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 only 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 TTR to sum of all states' TTRs. Funding capacity would be adjusted to account for the difference 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 differences 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 portion 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 reflect regional 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 to three and a half times that for adults and six 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 a response to a request 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 by no means eliminate the existing $18 billion deficit in the balance of payments that New York annually has each year. However, it would be a start, and an important first step toward correcting a longstanding inequity in the Federal government's balance of payments with the states.

I ask unanimous consent that the 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. 203

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 ''Equitable Federal Medical Assistance Percentage Act of 1999''.

SEC. 2. EQUITABLE DETERMINATION OF FEDERAL MEDICAL ASSISTANCE PERCENTAGE.

(a) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following:

''(v) DETERMINATION OF EQUITABLE FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—

''(1) IN GENERAL.—Except 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—

''(A) the State's share of cost-adjusted total taxable resources determined under paragraph (2); to

''(B) the State's share of program need determined under paragraph (3).

''(2) DETERMINATION OF STATE'S SHARE OF COST-ADJUSTED TOTAL TAXABLE RESOURCES.—

''(A) IN GENERAL.—For purposes of paragraph (1)(A), with respect to a State, the State's share of cost-adjusted total taxable resources is the ratio of—

''(i)(I) an amount equal to the most recent 3-year average of the total taxable resources (TTR) of the State, as determined by the Secretary of the Treasury; divided by

''(II) the most recent 3-year average of the State's geographic health care cost index (as determined under subparagraph (B)); to

''(ii) an amount equal to the sum of the amounts determined under clause (i) for all States.

''(B) STATE'S GEOGRAPHIC HEALTH CARE COST INDEX.—

''(i) IN GENERAL.—For purposes of subparagraph (A)(i)(II), the geographic health care cost index for a State for a fiscal year is the sum of—

''(I) 0.10;

''(II) 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 (ii)); 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 that clause); and

''(III) 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 provide for the determination of the most recent 3-year average annual wages for hospital employees in a State or the District of Columbia and, collectively, in the 50 States and the District of Columbia, based on the area wage data applicable to hospitals under section 1886(d)(3)(E) (or, if such data no longer exists, comparable data of hospital wages) for discharges occurring during the fiscal years involved.

''(iii) DETERMINATION OF FAIR MARKET RENT INDEX.—For purposes of clause (i)(III), a State's fair market rent index is the ratio of—

''(I) the average annual fair market rent for 2-bedroom housing units in the State or the District of Columbia, to be determined by the Secretary of Housing and Urban Development for the most recent 3 fiscal years for which data are available; to

''(II) the average annual fair market rent for such housing units for all States for such 3 fiscal years, as so determined.

''(3) DETERMINATION OF STATE'S SHARE OF PROGRAM NEED.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B), with respect to a State, the State's share of program need is the ratio of—

''(i) the State's program need determined under subparagraph (B); to

''(ii) the sum of the amounts determined under clause (i) for all States.

''(B) DETERMINATION OF STATE 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) of the sum of the products determined under clause (iv) for each such fiscal year (based on the number of State residents whose income is below the State's cost-of-living adjusted poverty income level (as determined under clauses (ii) and (iii)).

''(ii) DETERMINATION OF NUMBER OF STATE RESIDENTS WITH INCOMES BELOWTHE STATE'S COST-OF-LIVING ADJUSTED POVERTY LEVEL.—

''(I) 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.

''(II) CENSUS DATA.—The determination of the number of residents under subclause (I) shall be based on data made generally available by the Bureau of the Census from the Current Population Survey.

''(iii) DETERMINATION OF STATE'S COST-OF-LIVING ADJUSTED POVERTY INCOME LEVEL.—

''(I) IN GENERAL.—For purposes of clause (ii)(I), a State's cost-of-living adjusted poverty income level is the product of—

''(aa) the United States poverty income threshold for the fiscal year involved (as defined by the Office of Management and Budget for general statistical purposes); and

''(bb) the State's cost-of-living index (as determined under subclause (II)).

''(II) DETERMINATION OF STATE'S COST-OF-LIVING INDEX.—Subject to subclause (III), a State's cost-of-living index is the sum of—

''(aa) 0.56; and

''(bb) the product of 0.44 and the State's fair market rent index determined under paragraph (2)(B)(iii).

''(III) 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)(bb) if the Commissioner determines that the alternate methodology results in a more accurate determination of that index.

''(iv) WEIGHTING OF AGE CATEGORIES OF RESIDENTS IN POVERTY TO ACCOUNT FOR HIGHER COST POPULATIONS.—For purposes of clause (i), the products determined under this clause for a fiscal year are the following:

''(I) WEIGHTING OF ELDERLY RESIDENTS IN POVERTY.—The number of residents determined under clause (ii) of the State or the District of Columbia for the fiscal year who have attained age 65 multiplied by 3.65.

''(II) WEIGHTING OF ADULT RESIDENTS IN POVERTY.—The number of residents determined under clause (ii) of the State or the District of Columbia for the fiscal year who have attained age 21 but have not attained age 65 multiplied by 1.0.

''(III) WEIGHTING OF CHILDREN IN POVERTY.—The number of residents determined under clause (ii) of the State or the District of Columbia for the fiscal year who have not attained age 21 multiplied by 0.5.

''(4) SPECIAL RULES.—For purposes of this subsection and subsection (b), the equitable Federal medical assistance percentage is—

''(A) in the case of the District of Columbia, the percentage determined under this subsection for the District of Columbia (without regard to this paragraph) multiplied by 1.4.; and

''(B) in the case of Alaska, 59.8 percent.''.

(b) CONFORMING AMENDMENTS.—Section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

(1) in the matter preceding paragraph (1), by striking ''100 per centum'' and all that follows through ''Hawaii'' and inserting ''the equitable Federal medical assistance percentage determined under subsection (v)'';

(2) in paragraph (1), by striking ''50 per centum or more than 83 per centum,,'' and inserting ''50 percent or more than 83 percent, and''; and

(3) in paragraph (2), by striking ''50 per centum'' and all that follows through the period at the end of paragraph (3) and inserting ''50 percent.''.

(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 match rate for Medicaid expenditures. The Federal Medical Assistance Percentage (FMAP) formula was intended to account for each state's financial burdens by measuring its relative wealth—or ability to pay costs—and its population in need for assistance—or its extent of poverty. However, the current formula uses a rather crude proxy for these measurements—the per capita income in the state.

Current Formula: The Federal match rate (FMAP) for each state is determined as follows:

FMA=1−0.45 (state's per capita income/national per capita income)[2]

Per capita income measures both the state's financing capacity and population in need.

Proposed Legislation: The new formula is based on several years of analysis by the GAO:

$$\text{EFMAP}=1-0.45 \quad 5 \quad \frac{\text{State Share of Resources}}{\text{State Share of Program Need}}$$

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 differences in health care prices, or a state health care index. The health care index adjustment accounts for the state's ability to purchase comparable services with similar tax efforts.

State Program Need would be measured by the number of residents with incomes below the poverty level compared to the sum of all poor in the nation. To determine the number 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 current 50 percent floor and 83 percent ceiling to EFMAP rates for states. The EFMAP would be the federal matching rate for all program's that currently use the FMAP, such as the Children's Health Insurance Program (CHIP) and foster care, as well as Medicaid.

Alaska would keep its current FMAP of 59.8 percent. The District of Columbia would have an adjusted EFMAP rate of reflect its locality status, as under current law.

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 any data relating to the incidence of poverty produced or published by the Secretary of Commerce for subnational areas is corrected for differences in the cost of living in those areas; to the Committee on Governmental Affairs.

INTRODUCTION OF THE POVERTY DATA CORRECTION ACT OF 1999

Mr. MOYNIHAN. Mr. Presidents, I rise today to introduce the Poverty

Data Correction Act of 1999, a bill to require that any data relating to the incidence of poverty in subnational areas be corrected for the differences in the cost of living in those areas. This legislation would correct a longstanding inequity and would provide us with more accurate information on the number of Americans living in poverty.

Residents of states such as New York and Connecticut earn more, on average,than do residents of Mississippi or Alabama. But they also must spend more. One need only try to rent an apartment in New York City to understand this. Yet, we have a national poverty threshold adjusted only by family size and composition, not by where the family lives. A family of four just above the poverty threshold in New York City or Anchorage is demonstrably worse off than a family of four just below the threshold in, say, rural Arkansas. And yet that family in New York might be ineligible for federal aid and will not count in the tallies of the poverty population used to allocate funds among the states, while the Arkansas family will be eligible and will be counted.

Professor Herman B. ''Dutch'' Leonard and Senior Research Associate Monica Friar of the Taubman Center for State and local government at Harvard have devised an index of poverty statistics that reflects the differences in the cost of living between States. If we look at the ''Friar-Leonard State Cost-of-Living index,'' as it has come to be known, we find that, in Fiscal Year 1997, New York had a poverty rate of 20.5% third highest in the nation. yet the official poverty level for 1997 is 16.6%. These adjusted statistics still reflect poverty accurately: the poor states of Mississippi and New Mexico remain ranked higher than New York in this ranking of misfortune.

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—New York, Connecticut, Vermont, Hawaii, California, just to name a few—are not getting their fair share of Federal dollars because differences in the cost of living are ignored. And the poor of these high cost states are penalized because they happen to live there. It is time to correct this inequity.

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. 204

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 ''Poverty Data Correction Act of 1999''.

SEC. 2. REQUIREMENT.

(a) IN GENERAL.—Chapter 5 of title 13, United States Code, is amended by adding after subchapter V the following:

''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 wage, housing, and other costs relevant to the cost of living; 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.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 13, United States Code, is amended by adding at the end the following:

''SUBCHAPTER VI—POVERTY DATA

''197. Correction of subnational data relating to poverty.

''198. Development of State cost-of-living index and State poverty thresholds.''.

POVERTY DATA CORRECTION ACT OF 1999—BRIEF DESCRIPTION OF PROVISIONS

I. REQUIRES 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 the 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.

II. 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 line'' 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 ACT OF 1999

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 CAROLYN 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 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 levels of government because the Chief Statistician of Statistics Canada holds a position equivalent to Deputy Cabinet Minister. He communicates directly with Deputy Ministers in other

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. marshals. 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 1903 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 originally an independent body, began collecting data in 1866. It too was transferred to the new Department of Commerce and Labor in 1903, but then was put in the Treasury Department in 1913 following ratification of the 16th amendment, which gave Congress the power to impose an income tax.

A Bureau of Labor, created in 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-trained social scientist, Colonel Wright pioneered techniques for collecting and analyzing survey data on income, prices and wages. He had previously served as Chief of the Massachusetts Bureau of Statistics, a post he held for 15 years, and in that capacity had supervised the 1880 Federal census in Massachusetts.

In 1888, the Bureau of Labor became an independent agency. In 1903, it was once again made a Bureau, joining other statistical agencies in the Department of Commerce and Labor. When a new Department of Labor was formed in 1913, 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 89 different organizations in the Federal government comprise parts of our national statistical infrastructure. Eleven of these organizations have as their primary function the generation of data. These 11 organizations are:

Agency	Department	Date established
National Agricultural Statistical Service	Agriculture	1863
Statistics of Income Division, IRS	Treasury	1866
Economic Research Service	Agriculture	1867
National Center for Education Statistics	Education	1867
Bureau of Labor Statistics	Labor	1884
Bureau of the Census	Commerce	1902
Bureau of Economic Analysis	Commerce	1912
National Center for Health Statistics	Health and Human Services.	1912
Bureau of Justice Statistics	Justice	1968
Energy Information Administration	Energy	1974
Bureau of Transportation Statistics	Transportation	1991

NEED FOR LEGISLATION

President Kennedy once said:

Democracy is a difficult kind of government. It requires the highest qualities of self-discipline, restraints, a willingness to make commitments and sacrifices for the general interest, and also it requires knowledge.

That knowledge often comes from accurate statistics. You cannot begin to solve a problem until you can measure it.

This legislation would require the Commission to conduct a comprehensive examination of the current statistical system and focus particularly on whether to create a centralized Federal Statistical Service.

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

Without at all prejudging the appropriate measures to deal with these difficult problems, we believe that a thoroughgoing review by a highly qualified and bipartisan Commission as provided in your Bill has great promise of showing the way to major improvements.

The letter is signed by: Michael J. Boskin, Martin Feldstein, Alan Greenspan, Paul W. McCracken, Raymond J. Saulnier, Charles L. Schultze, Beryl W. Sprinkel, Herbert Stein, and Murray Weidenbaum.

It happens that this Senator's association with the statistical system in the Executive Branch began over three decades ago. I was Assistant Secretary of Labor for Policy and Planning in the administration of President John F. Kennedy. This was a new position in which I was nominally responsible for the Bureau of Labor Statistics. I say nominally out of respect for the independence of that venerable institution, which as I noted earlier long predated the Department of Labor itself. The then-Commissioner of the BLS, Ewan Clague, could not have been more friendly and supportive. And so were the statisticians, who undertook to teach me to the extent I was teachable. They even shared professional confidences. And so it was that I came to have some familiarity with the field.

For example, we had just received a report on price indexes from a committee led by a Nobel laureate, George Stigler. The Committee stressed the importance of accurate and timely statistics noting that:

The periodic revision of price indexes, and the almost continuous alterations in details of their calculation, are essential if the indexes are to serve their primary function of measuring the average movements of prices.

While the Final Report of the Advisory Commission To Study The Consumer Price Index (The Boskin Commission) focused primarily on the extent to which changes in the CPI overstate inflation, the Commission also addressed issues related to the effectiveness of Federal statistical programs and recommended that:

Congress should enact the legislation necessary for the Departments of Commerce and Labor to share information in the interest of improving accuracy and timeliness of economic statistics and to reduce the resources consumed in their development and production.

There is, of course, a long history of attempts to reform our nation's statistical infrastructure. In her invaluable book Organizing to Count, Janet L. Norwood, former Commissioner of the BLS, has described efforts to bring some order to the national statistical system, going back to a Commission appointed by the Secretary of the Treasury in 1903 and following through to a 1990 Working Group of the Cabinet Council for Economic Policy, chaired by Michael Boskin. One such effort occurred in July of 1933 when, by Executive Order, President Roosevelt set up a Central Statistical Board—organized by the Secretary of Labor, Frances Perkins, and the sometime Commissioner 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; and four of whom 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. Sense of the Congress.

TITLE I—FEDERAL COMMISSION ON STATISTICAL POLICY

Sec. 101. Establishment.
Sec. 102. Duties of Commission.
Sec. 103. Powers.
Sec. 104. Commission procedures.
Sec. 105. Personnel matters.
Sec. 106. Other administrative provisions.
Sec. 107. Termination.
Sec. 108. Fast-track procedures for statistical reorganization bill.

TITLE II—EFFICIENCY AND CONFIDENTIALITY OF FEDERAL STATISTICAL SYSTEMS

Sec. 201. Short title.
Sec. 202. Findings and purposes.
Sec. 203. Definitions.
Sec. 204. Statistical Data Centers.
Sec. 205. Statistical Data Center responsibilities.
Sec. 206. Confidentiality of information.
Sec. 207. Coordination and oversight.
Sec. 208. Implementing regulations.
Sec. 209. Conforming 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 utility 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 are more 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 information.

(6) Federal statistical products and programs can be improved, without reducing respondent cooperation, by permitting carefully controlled sharing of data with statistical 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)(i) 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)(i) 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)(i) 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 not affect its powers, but 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.—

(A) TIME PERIOD FOR REVIEW.—Not later than 15 days after the receipt of the report (including any draft legislation) under subsection (a), the President shall approve or disapprove of the report.

(B) APPROVAL OR INACTION.—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 disapprove the report, the Commission shall submit the report to Congress on the day following the 15-day period described under subparagraph (A).

(C) DISAPPROVAL.—If the President disapproves the report, the President shall note his specific objections and any suggested changes to the Commission.

(D) FINAL REPORT AFTER DISAPPROVAL.—The Commission shall consider any objections and suggested changes submitted by the President and may modify the report based on those 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 to Congress under subsection (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 that would establish a Federal Statistical Service shall—

(A) provide for an Administrator and Deputy Administrator of the Federal Statistical Service, and the creation of other officers as appropriate; and

(B) contain a provision designating the Administrator as a member of the Interagency Council on Statistical Policy established under section 3504(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 shall include—

(A) a review and evaluation of the mission of various statistical agencies and the relevance of such missions to current and future needs;

(B) an evaluation of key statistics and measures 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 statistical data used by 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;

(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.—As used in 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 purpose of which is to carry out Federal statistical programs and to which the statistical functions of Federal statistical agencies are transferred.

SEC. 103. POWERS.

(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 this Act. Upon request of the Chairman 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 (41 U.S.C. 5).

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) VOTING.—The Commission shall adopt any recommendation by a vote of a majority 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 actual 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 without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the highest basic rate of pay established for the Senior Executive Service under section 5382 of such title.

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.

SEC. 108. EXPEDITED PROCEDURES FOR STATISTICAL REORGANIZATION BILL.

(a) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such it shall be considered as part of the rules of each House, respectively, or of that House to which it specifically applies, and shall supersede other rules only 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 (so far as relating to such House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(b) DEFINITION.—As used in this section, the term ''statistical reorganization bill'' means only a bill of either House of Congress—

(1) that is identical to the draft legislation submitted to Congress by the Commission under section 102(b); and

(2) that is introduced as provided in subsection (c).

(c) INTRODUCTION AND REFERRAL.—Within 15 legislative days after the Commission submits to Congress legislation under section 102(b), such legislation shall be introduced (by request) in the House by the Majority Leader of the House of Representatives and shall be introduced (by request) in the Senate by the Majority Leader of the Senate. Such bills shall be referred to the appropriate committee in each House.

(d) PERIOD FOR COMMITTEE AND FLOOR CONSIDERATION.—

(1) DISCHARGE.—If the committee of either House to which a statistical reorganization bill has been referred has not reported it at the close of the sixtieth day after its introduction, such committee may be discharged from further consideration of the bill upon a petition 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.

(2) DAYS.—For purposes of this subsection, in computing a number of days in either House, there shall be excluded the days on which that House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die.

(e) FLOOR CONSIDERATION IN THE HOUSE.—A motion in the House of Representatives to proceed to the consideration of a statistical reorganization bill shall be highly privileged except that a motion to proceed to consider may only be made on the second legislative day after the calendar day on which the Member making the motion announces to the House his intention to do so. The motion to proceed to consider is not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(f) FLOOR CONSIDERATION IN THE SENATE.—

(1) MOTION TO PROCEED.—On or after the fifth day after the date on which a statistical reorganization bill or conference report is placed on the Senate calendar, it shall be in order for any Senator to make a motion to proceed to consideration of the bill or conference report. The motion shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) FINAL PASSAGE.—Immediately following the conclusion of the debate on a statistical reorganization bill or conference report, the vote on final passage shall occur.

(g) CONFERENCE.—In the Senate, a motion to elect or to authorize the appointment of conferees shall not be debatable.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Commission such sums as may be necessary to carry out the functions of the Commission.

TITLE II—EFFICIENCY AND CONFIDENTIALITY OF FEDERAL STATISTICAL SYSTEMS

SEC. 201. SHORT TITLE.

This title may be cited as the ''Statistical Confidentiality Act''.

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 those persons and organizations that respond to requests for information.

(4) Federal statistical products and programs can be improved, without reducing respondent cooperation, by permitting carefully controlled sharing of data with 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 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 cooperative projects 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 552 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 552a of title 5, United States Code (popularly known as the ''Privacy Act'') or section 552 of such title (popularly known as the ''Freedom of Information Act'') are retained without change.

(8) To establish consistent procedural safeguards for records disclosed exclusively for statistical purposes, including both public input and an oversight process to ensure fair information practices.

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 3502 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 or control 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 ''identifiable form'' means any representation of information that permits information concerning individual subjects to be reasonably inferred by either direct or indirect means.

(4) The term ''nonstatistical purpose'' 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 or organization that—

(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 activities''—

(A) 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 natural environment; and

(B) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or sampling frames.

(7) The term ''statistical purpose''—

(A) means the description, estimation, or analysis of the characteristics of groups without regard to the identities of individuals or organizations that comprise such groups; and

(B) includes the development, implementation, or maintenance of methods, technical or administrative procedures, or information resources that support such purposes.

SEC. 204. STATISTICAL DATA CENTERS.

(a) IN 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.

(3) The Bureau of Labor Statistics in the Department of Labor.

(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.

(7) The Energy End Use and Integrated Statistics Division of the Energy Information Administration in the Department of Energy.

(8) 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 mission or functions of, an agency or agency component listed under subsection (a), the Director of the Office of Management and Budget, after consultation 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 under the terms of this title, if the Director determines that—

(1) the primary activities of the proposed Statistical Data Center are statistical activities specifically 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.

(c) NOTICE AND COMMENT.—The head of an agency seeking designation as a successor under this section shall, after consultation with the Director of the Office of Management and Budget, provide public notice and an opportunity to comment on the consequences of such designation and on those determinations upon which the designation is proposed to be based.

(d) 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 RESPONSIBILITIES.

The Statistical Data Centers shall—

(1) identify opportunities to eliminate duplication and otherwise reduce reporting 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;

(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

(4) respect the rights and privileges of the public by observing and promoting fair information practices.

SEC. 206. CONFIDENTIALITY OF INFORMATION.

(a) IN GENERAL.—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 Statistical 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.—Data 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 provision 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;

(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 written agreement between a Statistical Data Center or Centers and the agency supplying information as authorized by this subsection, specifying—

(A) the data or information to be disclosed;

(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 an agreement authorized under subsection (b)(4) 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 reasonably 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 ordered by the Director of the Office of Management and Budget, the terms of such agreement shall be described in a public notice issued by the agency that intends to disclose the data. Such notice shall allow a minimum of 60 days for public comment before such agreement shall take effect. The Director shall be fully apprised of any issues raised by the public and may suspend the effect of such an agreement to permit modifications responsive to public comments.

(f) FOIA AND PRIVACY ACT.—The disclosure of data or information by an agency under subsection (c) shall in no way alter the responsibility of that agency under other statutes, including sections 552 and 552a of title 5, United States Code, for the disclosure or withholding of the same or similar information retained by that agency.

(g) DISCLOSURE PROVISIONS OF OTHER LAWS.—If information obtained by an agency is released to another agency under this section, all provisions of law (including penalties) that relate to the unlawful disclosure of information apply to the officers, employees, or agents of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information. The officers, employees, and agents of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information that would apply to officers and employees of that agency if the information had been collected directly by that agency.

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.—

(1) REPORT TO THE OFFICE OF MANAGEMENT AND BUDGET.—The head of a Statistical Data Center shall report to the Office of Management and Budget—

(A) each disclosure agreement entered into under this title;

(B) the results of any review of information security undertaken at the request of the Office of Management and Budget; and

(C) 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.

(2) REPORT TO CONGRESS.—The Director of the Office of Management and Budget shall include a summary of all reports submitted to the Director under this subsection and any actions taken by the Director to advance the purposes of this title in the Office's annual report to the Congress on statistical programs.

(c) REVIEW AND APPROVAL OF RULES.—The Director of the Office of Management and Budget shall review and approve any rules proposed pursuant to this title for consistency with this title and chapter 35 of title 44, United States Code.

SEC. 208. IMPLEMENTING REGULATIONS.

(a) IN GENERAL.—Subject to subsections (b) and (c), the Director of the Office of Management and Budget, or the head of a Statistical Data Center or of an agency providing information to a Center, may promulgate such rules as may be necessary to implement this title.

(b) CONSISTENCY.—The Director of the Office of Management and Budget shall promulgate rules or provide such other guidance as may be needed to ensure consistent interpretation of this title by the affected agencies.

(c) AGENCY RULES.—Rules governing disclosures of information authorized by this title shall be promulgated by the agency that originally collected the information, subject to the review and approval required under this title.

SEC. 209. CONFORMING AMENDMENTS AND PROPOSED CHANGES IN LAW.

(a) DEPARTMENT OF COMMERCE.—

(1) The first section of the Act of January 27, 1938 (15 U.S.C. 176a; 52 Stat. 8) is amended in the second sentence by striking ''The'' and inserting ''Except as provided in the Statistical Confidentiality Act, the''.

(2)(A) Chapter 10 of title 13, United States Code, is amended by adding after section 401 the following:

''§ 402. Exchange of census information with Statistical Data Centers

''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) The table of sections for chapter 10 of title 13, United States Code, is amended by adding after the item relating to section 401 the following:

''402. Exchange of census information with Statistical Data Centers.''.

(b) DEPARTMENT OF ENERGY.—

(1) Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding after subsection (l) the following new subsection:

''(m)(1)(A) The Administrator shall designate an organizational unit to conduct statistical activities pertaining to energy end use consumption information. Using procedures authorized by the Statistical Confidentiality Act, the Administrator shall ensure the security, integrity, and 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.

''(2)(A) A person may not publish, cause to be published, or otherwise communicate, statistical information designated in paragraph

(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 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:

''(i) The term 'person' has the meaning given the term in section 1 of title 1, United States Code, but also includes a local, State, or Federal entity or officer or employee of a local State or Federal entity.

''(ii) The terms 'statistical activities', 'identifiable form', 'statistical purpose', 'nonstatistical purpose', and 'respondent' have the meaning given those terms in section 203 of the Statistical Confidentiality Act.

''(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. 7135) is amended by inserting '', excluding information designated solely for statistical purposes under subsection (m)(1),'' after ''analysis''.

(3) Section 407 of the Department of Energy Organization Act (42 U.S.C. 7177a) is amended by inserting '', excluding information designated solely for statistical purposes under subsection (m)(1),'' after ''information''.

(4) The Federal Energy Administration Act of 1974 is amended—

(A) in section 12 (15 U.S.C. 771), by adding after subsection (f) the following new subsection:

''(g) This section does not apply to information designated solely for statistical purposes under section 205(m)(1) of the Department of Energy Organization Act.'';

(B) in section 20(a)(3) (15 U.S.C. 779), by inserting '', excluding information designated solely for statistical purposes under subsection (m)(1) of the Department of Energy Organization Act (42 U.S.C. 7135)'' after ''information''; and

(C) 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 7135)'' after ''information''.

(c) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Section 306 of the Public Health Service Act (42 U.S.C. 242k) is amended by adding at the end the following new subsection:

''(o) SHARING OF IDENTIFYING INFORMATION FOR STATISTICAL PURPOSES.—

''(1) IN GENERAL.—The Director may, subject to the provisions of paragraph (2), designate as an agent of the Center (within the meaning of section 203(2) of the Statistical Confidentiality Act) an individual—

''(A) who is not otherwise an employee, official, or agent of the Center; and

''(B) who enters into a written agreement with the Director specifying terms and conditions for sharing of statistical information.

''(2) EFFECT OF DESIGNATION.—An individual designated as an agent of the Center pursuant to paragraph (1) shall be subject to all restrictions on the use and disclosure of statistical information obtained by the individual under the agreement specified in paragraph (1)(B), and to all civil and criminal penalties applicable to violations of such restrictions, including penalties under section 1905 of title 18, United States Code, that would apply to the individual if an employee of the Center.''.

(d) DEPARTMENT OF LABOR.—The Commissioner of Labor Statistics shall be authorized to designate agents, as defined under section 203(2) of this title.

(e) NATIONAL SCIENCE FOUNDATION.—Section 14 of the National Science Foundation Act of 1950 (42 U.S.C. 1873) is amended—

(1) by striking the paragraph following the heading of subsection (i) and inserting the following:

''Information supplied to the Foundation or its contractor in survey forms, questionnaires, or similar instruments for purposes of section 3(a) (5) or (6) by an individual, by an industrial or commercial organization, or by an educational or academic institution that has received a pledge of confidentiality from the Foundation, may not be disclosed to the public unless the information has been transformed into statistical or abstract formats that do not allow the identification of the supplier. Such information shall be used in identifiable form only for statistical purposes as defined in the Statistical Confidentiality Act. The names of individuals and organizations supplying such information may not be disclosed to the public.''; and

(2) by redesignating subsection (j) as subsection (k) and inserting the following new subsection after subsection (i):

''(j) OBLIGATIONS OF RESEARCHERS.—In support of functions authorized by section 3(a) (5) or (6), the Foundation may designate, at its discretion, authorized persons, including employees of Federal, State, or local agencies (including local educational agencies) and employees of private organizations who may have access, for exclusively statistical purposes as defined in the Statistical Confidentiality Act, to identifiable information collected pursuant to subsection (a) (5) or (6) of this title. No such person may—

''(1) publish information collected under section 3(a) (5) or (6) in such a manner that either an individual, an industrial or commercial organization, or an educational or academic institution that has received a pledge of confidentiality from the Foundation can be specifically identified;

''(2) permit anyone other than individuals authorized by the Foundation to examine in identifiable form data relating to an individual, to an industrial or commercial organization, or to an educational or academic institution that has received a pledge of confidentiality from the Foundation; or

''(3) knowingly and willfully request or obtain any confidential information described in subsection (i) from the Foundation under false pretenses.

Any person who violates these restrictions shall be guilty of a misdemeanor and fined not more than $10,000.''.

(f) DISCLOSURE PENALTIES.—Section 1905 of title 18, United States Code, is amended—

(1) by inserting '', or agent of a Statistical Data Center as defined in the Statistical Confidentiality Act,'' after ''thereof''; and

(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, U.S.C.—This title, including the amendments made by this title, does not diminish the authority under section 3510 of title 44, United States Code, of the Director of the Office 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) FOIA.—Data or 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[1]

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 priorities and policies and in the administration of public programs finds that: 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; 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 data sharing among the statistical agencies 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 economics of scale; and The Chief Statistician of the Office of Management and Budget (OMB) must have the authority, personnel and other resources necessary to carry out the duties.

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 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.

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[1] Prepared by the staff of Senator Daniel Patrick Moynihan, 1/19/99.

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 a written report on Federal statistics that makes recommendations on: whether the Federal statistical system could be reorganized by consolidating the statistical functions of agencies that carry out statistical programs; how such consolidation could be done without disruption in the release of statistical products; whether functions of other Federal agencies that carry out statistical programs could be transferred to the Federal Statistical Service; any other issues relating to the reorganization of Federal statistical programs; and possible improvements in procedures for the release of major economic and social indicators.

If the written report of the Commission contains recommendations on the consolidation of the Federal statistical functions of the United States into a newly established independent Federal agency, designated as the Federal Statistical Service, the report shall contain draft legislation incorporating those recommendations. The Commission should also make recommendations for nominations for the appointment of an Administrator and Deputy Administrator of the Federal Statistical Service.

During the 36 month term of the Commission, it would also be responsible for conducting comprehensive studies, and submitting reports to Congress on all matters relating to the Federal statistical infrastructure including: an evaluation of the mission of various statistical agencies and the relevance of such missions to current and future needs; a review of information technology and recommendations of appropriate methods for disseminating statistical data; and a comparison of our statistical system with the systems of other nations.

TITLE II—EFFICIENCY AND CONFIDENTIALITY OF FEDERAL STATISTICAL SYSTEMS

The title reaffirms policies that have been applied to confidential data by statistical agencies for many decades and extends these policies to protect confidentiality in an environment which permits carefully controlled sharing of information exclusively for statistical purposes. It recognizes that the credible protection of confidentiality is crucial to ensuring the level of cooperation which produces accurate and timely responses to statistical inquiries.

DESIGNATION OF STATISTICAL DATA CENTERS

The bill designates the BLS, BEA and Bureau of Census National Agricultural Statistics Service, The National Center for Education Statistics, The National Center for Health Statistics, The Energy End Use and Integrated Statistics Division of the Energy Information Administration, and The Division of Science Resources Studies as Statistical Data Centers; and assigns general responsibilities to the agencies designated as Statistical Data Centers.

DISCLOSURE OF DATA OR INFORMATION BY FEDERAL AGENCIES TO STATISTICAL DATA CENTERS

The bill establishes a uniform confidentiality policy for data acquired for exclusively statistical purposes, by prohibiting disclosures of such data for non-statistical purposes and limiting disclosures for statistical purposes.

COORDINATION AND OVERSIGHT BY OFFICE OF MANAGEMENT AND BUDGET

The bill assigns OMB the responsibility for oversight, reporting, coordination, and review and approval of any implementing regulations.

SEPTEMBER 23, 1996.

Hon. DANIEL P. MOYNIHAN,
Hon. J. ROBERT KERRY,
U.S. Senate, Washington, DC.

DEAR SENATORS MOYNIHAN AND KERRY: All of us are former Chairmen of 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. All of us have in the past relied heavily upon the availability of reasonably accurate and timely federal statistics on the national economy. Similarly, our professional training leads us to recognize how important a good system of statistical information is for the efficient operations of our complex private economy. But 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 relative priorities of one statistical collection effort against others, statistical priorities are set in a system within which individual Cabinet Secretaries recommend budgetary tradeoffs between their own substantive programs and the statistical operations which their departments, sometimes by historical accident, are responsible for collecting. 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 put a lot of effort into trying to coordinate the system, often with success, but often swimming upstream against the system.

We are also aware, as of course are you, 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 federal budget of the accuracy (or inaccuracy) with which our measures of prices capture changes in the quality of the goods and services we buy.

Without at all prejudging the appropriate measures to deal with these difficult problems, we believe that a thoroughgoing review by a highly qualified and bipartisan Commission as provided in your Bill has great promise of showing the way to major improvements.

Sincerely,

Professor Michael J. Boskin, Stanford University; Dr. Martin Feldstein, National Bureau of Economic Research; Alan Greenspan; Professor 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 evaluations 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 colleague Senator CHAFEE the CHIP Data and Evaluation Improvement Act of 1999. This legislation would ensure comparable data and an adequate evaluation of children's health coverage under the new Children's Health Insurance Program (CHIP) and Medicaid.

In 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.

THE NEED FOR DATA

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 of the CHIP programs. We will need 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 design. In 1994, 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 ADFC, 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 $2.38 billion. Appropriations for Fiscal Year 1998 limited funding for that year 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 1999

The CHIP Data and Evaluation Improvement Act of 1999 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.

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

S. 206

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 ''CHIP Data and Evaluation Improvement Act of 1999.''.

SEC. 2. FUNDING FOR RELIABLE ANNUAL STATE-BY-STATE ESTIMATES ON THE NUMBER OF CHILDREN WHO DO NOT HAVE HEALTH INSURANCE COVERAGE.

Section 2108 of the Social Security Act (42 U.S.C.1397hh) is amended by adding at the end the following:

''(c) 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 annual Current Population Survey 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 uninsurance 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 fiscal year 2000 and each fiscal year thereafter for the purpose of carrying out this subsection.''.

SEC. 3. FUNDING FOR CHILDREN'S HEALTH CARE ACCESS AND UTILIZATION STATE-BY-STATE DATA.

Section 2108 of the Social Security Act (42 U.S.C.1397hh), as amended by section 2, is amended by adding at the end the following:

''(d) COLLECTION OF CHILDREN'S HEALTH CARE ACCESS AND UTILIZATION STATE-LEVEL DATA.—

''(1) IN GENERAL.—The Secretary, acting through the National Center for Health Statistics (in this subsection referred to as the 'Center'), shall collect data on children's health insurance through the State and Local Area Integrated Telephone Survey (SLAITS) for the 50 States and the District of Columbia. Sufficient data shall be collected so as to provide reliable, annual, State-by-State information on the health care access and utilization of children in low-income households, and to allow for comparisons between demographic subgroups categorized with respect to family income, age, and race or ethnicity.

''(2) SURVEY DESIGN AND CONTENT.—

''(A) IN GENERAL.—In carrying out paragraph (1), the Secretary, acting through the Center—

''(i) shall obtain input from appropriate sources, including States, in designing the survey and making content decisions; and

''(ii) at the request of a State, may collect additional data to assist with a State's evaluation of the program established under this title.

''(B) REIMBURSEMENT OF COSTS OF ADDITIONAL DATA.—A State shall reimburse the Center for services provided under subparagraph (A)(ii).

''(3) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $9,000,000 for fiscal year 2000 and each fiscal year thereafter for the purpose of carrying out this subsection.''.

SEC. 4. FEDERAL EVALUATION OF STATE CHILDREN'S HEALTH INSURANCE PROGRAMS.

Section 2108 of the Social Security Act (42 U.S.C.1397hh), as amended by sections 2 and 3, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

''(c) FEDERAL EVALUATION.—

''(1) 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 chose 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 (b)(1), 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 practices that have successfully enrolled hard-to-reach populations such as children who are eligible for medical assistance under title XIX but have not been enrolled previously in the medicaid program under that title.

''(C) Evaluation of the extent to which State medicaid eligibility practices and procedures under the medicaid program 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 pay premiums, or barriers in the recertification process.

''(4) SUBMISSION TO CONGRESS.—Not later than December 31, 2001, the Secretary shall submit to Congress the results of the evaluation conducted under this subsection.

''(5) 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 ANNUAL REPORTS.

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

''(1) 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 (that at least identifies enrollees with income below the poverty line), age, and race or ethnicity, and, if income levels used in

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 medicaid program under title XIX; or

''(iii) determined eligible for, but not enrolled in, the program under this title or the medicaid program under title XIX.''.

SEC. 6. INSPECTOR GENERAL AUDIT AND GAO REPORT ON ENROLLEES ELIGIBLE FOR MEDICAID.

Section 2108 of the Social Security Act (42 U.S.C.1397hh), as amended by section 4, is amended by adding at the end the following:

''(f) INSPECTOR GENERAL AUDIT AND GAO REPORT.—

''(1) AUDIT.—Beginning with fiscal year 2000, and every third fiscal year thereafter, the Secretary, 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)(ii)(XIV)); 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 clearinghouse for the consolidation and coordination of all Federal data bases and reports regarding children's health.

SUMMARY OF THE CHIP DATA AND EVALUATION IMPROVEMENT ACT OF 1999

PURPOSE

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 low-income 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 make appropriate adjustments to the Current Population Survey (CPS) so that the CPS can provide reliable state-by-state data on 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 Local Area Integrated Telephone Survey (SLAITS) in order to produce reliable state-by-state date 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, with various program designs. The evaluation would include more specific and comparable evaluation elements than are already included under Title XXI, such as including surveys of the target 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 (below 100%), race/ethnicity, and age. If 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 costs: 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 for 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 the results to Congress.

Coordination of all Children Data and Reports. The Assistant Secretary of Planning and Evaluation in the Department 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 and to promote integrated physical and specialized mental health services for children and adolescents; to the Committee on Finance.

THE MATERNAL CHILD HEALTH BLOCK GRANT AUTHORIZATION

Mr. MOYNIHAN. Mr. President, in November 1998, Essence Magazine reported that between 1980 and 1995 the suicide rate among Black males ages 10 to 19 more than doubled. According to a Centers for Disease Control and Prevention (CDC) study, suicide is now the third leading cause of death among all youth aged 15–19, and the fourth leading cause of death among children aged 10–14 nationally. In many states the problem is even worse. For example, suicide is the number one killer of adolescents 15–19 years old in Alaska and of children 10 to 14 years old in Oregon. The majority of children and adolescents at risk for suicidal behavior are not seen by mental health specialists; therefore, primary health care providers and others in regular contact with young people must be available to respond to these troubled youngsters.

The legislation introduced today proposes to focus on seriously emotionally disabled children and adolescents and their families. Adolescents with special health needs, those experiencing chronic physical, developmental, behavioral, or serious emotional problems and requiring additional health and related services such as assistance in moving from pediatric to adult health care, to post-secondary education and employment will be helped by this bill. The Maternal and Child Health Bureau (MCHB) located within the Department of Health and Human Services is best situated to implement this program.

The Maternal and Child Health Bureau (MCHB) has roots that go back more than 80 years—to the creation of the Children's Bureau in 1912. This was the first government agency to act as an advocate for mothers, children, and adolescents. The Maternal and Child Health Services Block Grant, the bureau's principle statutory responsibility, was originally enacted in 1935 as Title V of the Social Security Act. The MCHB is charged with providing leadership, partnership, and resources to advance the health of all mothers, infants, children, and adolescents—including families with low income, those with diverse racial and ethnic heritages, those with special health care needs, and those living in rural or isolated areas without access to care.

Title V encompasses a program of grants to the states and two federal discretionary grant programs: Special Projects of Regional and National Significance (SPRANS) and Community Integrated Service Systems (CISS). Funds are used to support research, training, newborn screening, maternal and child health improvements. CISS is only funded when the Title V annual appropriation exceeds $600 million) which occurred for the first time in 1992. The CISS program provides direct support to public and private groups committed to building integrated health delivery systems that provide comprehensive services in local communities. Most importantly, the State

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 that expanded Medicaid eligibility 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 receive the care they need. State 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 shopping'' 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 so 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 current MCH Block Grant authorization level from $705 million 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 1999. The additional 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 and State 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,

SECTION 1. AMENDMENTS TO THE MATERNAL 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 (1) by striking ''$705,000,000 for fiscal year 1994'' and inserting ''$840,000,000 for fiscal year 2000''.

(b) PROMOTION OF INTEGRATED PHYSICAL AND SPECIALIZED MENTAL HEALTH SERVICES.—Section 501(a) 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 girl, lives in a neighborhood filled with many sexual men but few committed fathers, and finds gang life to be necessary for self-protection and valuable for self-advancement.

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 the emergence of two nations.'' 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, Jim 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 refocus our attention on the vital 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 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 ''per 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 today'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 would certainly welcome the comments of others. I first introduced this legislation last September and have received several helpful suggestions. I look forward to further such conversations and comments.

And I would commend to the attention of Senators and other 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 materials were ordered to be printed in the RECORD, as follows:

S. 208

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 ''Enhancing Family Life 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.

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 determined during the first few years of life.

TITLE I—ASSISTANCE FOR CHILDREN

SEC. 101. SECOND CHANCE HOMES.

(a) IN GENERAL.—Title XX of the Social Security Act (42 U.S.C. 1397–1397f) is amended by adding at the end the following:

''SEC. 2008. SECOND CHANCE HOMES.

''(a) ENTITLEMENT.—

''(1) IN GENERAL.—In addition to any payment under sections 2002 and 2007, beginning with fiscal year 2000, each State shall be entitled to funds under this section for each fiscal year for the establishment, operation, and support of second chance homes for custodial parents under the age of 19 and their children.

''(2) PAYMENT TO STATES.—

''(A) IN GENERAL.—Each State shall be entitled to payment under this section for each fiscal year in an amount equal to its allotment (determined in accordance with subsection (b)) for such fiscal year, to be used by such State for the purposes set forth in paragraph (1).

''(B) TRANSFERS OF FUNDS.—The Secretary shall make payments in accordance with section 6503 of title 31, United States Code, to each State from its allotment for use under this section.

''(C) USE.—Payments to a State from its allotment for any fiscal year must be expended by the State in such fiscal year or in the succeeding fiscal year.

''(D) TECHNICAL ASSISTANCE.—A State may use a portion of the amounts described in subparagraph (A) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, or administering the program funded under this section.

''(3) SECOND CHANCE HOMES.—For purposes of this section, the term 'second chance homes' means an entity that provides custodial parents under the age of 19 and their children with a supportive and supervised living arrangement in which such parents would be required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their children. A second chance home may also serve as a network center for other supportive services that might be available in the community.

''(b) ALLOTMENT.—

''(1) CERTAIN JURISDICTIONS.—The allotment for any fiscal year to Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Northern Mariana Islands shall be an amount that bears the same ratio to the amount specified under paragraph (3) as the allotment that the jurisdiction receives under section 2003(a) for the fiscal year bears to the total amount specified for such fiscal year under section 2003(c).

''(2) OTHER STATES.—The allotment for any fiscal year for each State other than Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Northern Mariana Islands shall be an amount which bears the same ratio to—

''(A) the amount specified under paragraph (3); reduced by

''(B) the total amount allotted for that fiscal year under paragraph (1),

as the allotment that the State receives under section 2003(b) for the fiscal year bears to the total amount specified for such fiscal year under section 2003(c).

''(3) AMOUNT SPECIFIED.—The amount specified for purposes of paragraphs (1) and (2) shall be $40,000,000 for fiscal year 2000 and each succeeding fiscal year thereafter.

''(c) LOCAL INVOLVEMENT.—Each State shall seek local involvement from the community in any area in which a second chance home receiving funds pursuant to this section is to be established. In determining criteria for targeting funds received under this section, each State shall evaluate the community's commitment to the establishment and planning of the home.

''(d) LIMITATIONS ON THE USE OF FUNDS.—

''(1) CONSTRUCTION.—Except as provided in paragraph (2), funds made available under this section may not be used by the State, or any other person with which the State makes arrangements to carry out the purposes of this section, for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility.

''(2) WAIVER.—The Secretary may waive the limitation contained in paragraph (1) upon the State's request for such a waiver if the Secretary finds that the request describes extraordinary circumstances to justify the waiver and that permitting the waiver will contribute to the State's ability to carry out the purposes of this section.

''(e) TREATMENT OF INDIAN TRIBES.—

''(1) IN GENERAL.—An Indian tribe may apply to the Secretary to establish, operate, and support adult-supervised group homes for custodial parents under the age of 19 and their children in accordance with an application procedure to be determined by the Secretary. Except as otherwise provided in this subsection, the provisions of this section shall apply to Indian tribes receiving funds under this subsection in the same manner and to the same extent as the other provisions of this section apply to States.

''(2) ALLOTMENT.—If the Secretary approves an Indian tribe's application, the Secretary shall allot to such tribe for a fiscal year an amount which the Secretary determines is the Indian tribe's fair and equitable share of the amount specified under paragraph (3) for all Indian tribes with applications approved under this subsection (based on allotment factors to be determined by the Secretary). The Secretary shall determine a minimum allotment amount for all Indian tribes with applications approved under this subsection. Each Indian tribe with an application approved under this subsection shall be entitled to such minimum allotment.

''(3) AMOUNT SPECIFIED.—The amount specified under this paragraph for all Indian tribes with applications approved under this subsection is $5,000,000 for fiscal year 2000 and each succeeding fiscal year thereafter.

''(4) INDIAN TRIBE DEFINED.—In this section, the term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native entity which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians.

''(f) RESEARCH AND EVALUATION.—

''(1) IN GENERAL.—The amount appropriated to carry out this section for each fiscal year shall be increased by 2 percent and the Secretary shall reserve an amount equal to that increase to pay for the costs of conducting, through grant, contract, or interagency agreement, research and evaluation projects regarding the second chance homes funded under this section. In conducting such projects, the Secretary shall give priority to projects that are undertaken by independent and impartial organizations.

''(2) REPORT.—Not later than 4 years after the date of enactment of this section, the Secretary shall submit a report to Congress on the research and evaluation projects conducted in accordance with this subsection.''.

(b) RECOMMENDATIONS ON USE OF GOVERNMENT SURPLUS PROPERTY.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services, after consultation with the Secretary of Defense, the Secretary of Housing and Urban Development, and the Administrator of the General Services Administration, shall submit recommendations to Congress on the extent to which surplus properties of the United States Government may be used for the establishment of second chance homes receiving funds under section 2008 of the Social Security Act, as added by subsection (a).

SEC. 102. ADOPTION PROMOTION.

(a) ADOPTION OF CHILDREN WITH SPECIAL NEEDS.—

(1) IN GENERAL.—Section 473(a) of the Social Security Act (42 U.S.C. 673(a)) is amended by striking paragraph (2) and inserting the following:

''(2)(A) For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if such child—

''(i) prior to termination of parental rights and the initiation of adoption proceedings was in the care of a public or licensed private child care agency or Indian tribal organization either pursuant to a voluntary placement agreement (provided the child was in care for not more than 180 days) or as a result of a judicial determination to the effect

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 (either pursuant to such a voluntary placement agreement or as a result of such a judicial determination); and

''(ii) has been determined by the State pursuant to subsection (c) to be a child with special 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.

''(B) Notwithstanding any other provision of law, and except as provided in paragraph (7), a child who is not a citizen or resident of the United States and who meets the requirements of subparagraph (A) shall be treated as meeting the requirements of this paragraph for purposes of paragraph (1)(B)(ii).

''(C) A child who meets the requirements of subparagraph (A), who was determined eligible for adoption assistance payments under this part with respect to a prior adoption (or who would have been determined eligible for such payments had the Adoption and Safe Families Act of 1997 been in effect at the time that such determination would have been made), and who is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died, shall be treated as meeting the requirements of this paragraph for purposes of paragraph (1)(B)(ii).''.

(2) EXCEPTION.—Section 473(a) of the Social Security Act (42 U.S.C. 673(a)) is amended by adding at the end the following:

''(7)(A) Notwithstanding any other provision of this subsection, no payment may be made to parents with respect to any child that—

''(i) would be considered a child with special needs under subsection (c);

''(ii) is not a citizen or resident of the United States; and

''(iii) was adopted outside of the United States or was brought into the United States for the purpose of being adopted.

''(B) Subparagraph (A) shall not be construed as prohibiting payments under this part for a child described in subparagraph (A) that is placed in foster care subsequent to the failure, as determined by the State, of the initial adoption of such child by the parents described in such subparagraph.''.

(3) REQUIREMENT FOR USE OF STATE SAVINGS.—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:

''(8) A State shall spend an amount equal to the amount of savings (if any) in State expenditures under this part resulting from the application of paragraph (2) on and after the effective date of the amendment to such paragraph made by section 4(a) of the Enhancing Family Life Act of 1999 to provide to children or families any service (including post-adoption services) that may be provided under this part or part B.''.

(b) PER CAPITA CHILD WELFARE DEMONSTRATION PROJECTS.—Section 1130(a)(2) of the Social Security Act (42 U.S.C. 1320a–9(a)(2)) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(A) IN GENERAL.—The Secretary''; and

(2) by adding at the end the following:

''(B) RESERVATION.—Of the 10 demonstration projects authorized under this subsection for each of fiscal years 2000 through 2002, the Secretary, upon receipt of an appropriate application, shall approve at least 3 demonstration projects in each of such fiscal years that are designed to test a per capita approach for the successful resolution of a foster care placement under which a private entity contracts for a fixed amount to either restore a child in foster care to the child's parent or parents or locate an adoptive placement for the child.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1999.

SEC. 103. EARLY CHILDHOOD DEVELOPMENT.

Title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by adding at the end the following:

''PART F—ASSISTANCE FOR YOUNG CHILDREN

''SEC. 480. DEFINITIONS.

''In this part:

''(1) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given that term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

''(2) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

''(3) STATE BOARD.—The term 'State board' means a State Early Learning Coordinating Board established under section 481(c).

''(4) YOUNG CHILD.—The term 'young child' means an individual from birth through age 5.

''(5) YOUNG CHILD ASSISTANCE ACTIVITIES.—The term 'young child assistance activities' means the activities described in paragraphs (1) and (2)(A) of section 482(b).

''SEC. 481. ALLOTMENTS TO STATES.

''(a) IN GENERAL.—The Secretary shall make allotments under subsection (b) to eligible States to pay for the Federal share of the cost of enabling the States to make grants to local collaboratives under section 482 for young child assistance activities.

''(b) ALLOTMENT.—

''(1) IN GENERAL.—From the funds appropriated under section 484 for each fiscal year and not reserved under subsection (i), the Secretary shall allot to each eligible State an amount that bears the same relationship to such funds as the total number of young children in poverty in the State bears to the total number of young children in poverty in all eligible States.

''(2) YOUNG CHILD IN POVERTY.—In this subsection, the term 'young child in poverty' means an individual who—

''(A) is a young child; and

''(B) is a member of a family with an income below the poverty line.

''(c) STATE BOARDS.—

''(1) IN GENERAL.—In order for a State to be eligible to obtain an allotment under this part, the chief executive officer of the State shall establish, or designate an entity to serve as, a State Early Learning Coordinating Board, which shall receive the allotment and make the grants described in section 482.

''(2) ESTABLISHED BOARD.—A State board established under paragraph (1) shall consist of the chief executive officer of the State and members appointed by such chief executive officer, including—

''(A) representatives of all State agencies primarily providing services to young children in the State;

''(B) representatives of business in the State;

''(C) chief executive officers of political subdivisions in the State;

''(D) parents of young children in the State;

''(E) officers of community organizations serving low-income individuals, as defined by the Secretary, in the State;

''(F) representatives of State nonprofit organizations that represent the interests of young children in poverty, as defined in subsection (b), in the State;

''(G) representatives of organizations providing services to young children and the parents of young children, such as organizations providing child care, carrying out Head Start programs under the Head Start Act (42 U.S.C. 9831 et seq.), providing services through a family resource center, providing home visits, or providing health care services, in the State; and

''(H) representatives of local educational agencies.

''(3) DESIGNATED BOARD.—The chief executive officer of the State may designate an entity to serve as the State board under paragraph (1) if the entity includes the chief executive officer of the State and the members described in subparagraphs (A) through (G) of paragraph (2).

''(4) DESIGNATED STATE AGENCY.—The chief executive officer of the State shall designate a State agency that has a representative on the State board to provide administrative oversight concerning the use of funds made available under this part and ensure accountability for the funds.

''(d) APPLICATION.—To be eligible to receive an allotment under this part, a State board shall annually submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. At a minimum, the application shall contain—

''(1) sufficient information about the entity established or designated under subsection (c) to serve as the State board to enable the Secretary to determine whether the entity complies with the requirements of such subsection;

''(2) a comprehensive State plan for carrying out young child assistance activities;

''(3) an assurance that the State board will provide such information as the Secretary shall by regulation require on the amount of State and local public funds expended in the State to provide services for young children; and

''(4) an assurance that the State board shall annually compile and submit to the Secretary information from the reports referred to in section 482(d)(2)(F)(iii) that describes the results referred to in section 482(d)(2)(F)(i).

''(e) FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share of the cost described in subsection (a) shall be—

''(A) 85 percent, in the case of a State for which the Federal medical assistance percentage (as defined in section 1905(b)) is not less than 50 percent but is less than 60 percent;

''(B) 87.5 percent, in the case of a State for which such percentage is not less than 60 percent but is less than 70 percent; and

''(C) 90 percent, in the case of any State not described in subparagraph (A) or (B).

''(2) STATE SHARE.—

''(A) IN GENERAL.—The State shall contribute the remaining share (referred to in this paragraph as the 'State share') of the cost described in subsection (a).

''(B) FORM.—The State share of the cost shall be in cash.

''(C) SOURCES.—The State may provide for the State share of the cost from State or local sources, or through donations from private entities.

''(f) STATE ADMINISTRATIVE COSTS.—

''(1) IN GENERAL.—A State may use not more than 5 percent of the funds made available through an allotment made under this part to pay for a portion, not to exceed 50 percent, of State administrative costs related to carrying out this part.

''(2) 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 for the State administrative costs.

''(g) MONITORING.—The Secretary shall monitor the activities of States that receive allotments under this part to ensure compliance with the requirements of this part, including compliance with the State plans.

''(h) ENFORCEMENT.—If the Secretary determines that a State that has received an allotment under this part is not complying with a requirement of this part, the Secretary may—

''(1) provide technical assistance to the State to improve the ability of the State to comply with the requirement;

''(2) reduce, by not less than 5 percent, an allotment made to the State under this section, for the second determination of noncompliance;

''(3) reduce, by not less than 25 percent, an allotment made to the State under this section, for the third determination of noncompliance; or

''(4) revoke the eligibility of the State to receive allotments under this section, for the fourth or subsequent determination of noncompliance.

''(i) RESERVATION OF FUNDS.—

''(1) TECHNICAL ASSISTANCE.—From the funds appropriated under section 484 for each fiscal year, the Secretary shall reserve not more than 1 percent of the funds to pay for 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 relating to the functions of the local collaboratives under this part.

''(2) RESEARCH AND EVALUATION.—

''(A) IN GENERAL.—From the funds appropriated under section 484 for each fiscal year, the Secretary shall reserve 2 percent of the funds to pay for the costs of conducting, through grant, contract, or interagency agreement, research and evaluation projects regarding the young child assistance activities funded with amounts made available in accordance with the requirements of this part. In conducting such projects, the Secretary shall give priority to projects that are undertaken by independent and impartial organizations.

''(B) REPORT.—Not later than 4 years after the date of enactment of this part, the Secretary shall submit a report to Congress on the research and evaluation projects conducted in accordance with this paragraph.

''SEC. 482. GRANTS TO LOCAL COLLABORATIVES.

''(a) IN GENERAL.—A State board that receives an allotment under section 481 shall use the funds made available through the allotment, and the State contribution made under section 481(e)(2), to pay for the Federal and State shares of the cost of making grants, on a competitive basis, to local collaboratives to carry out young child assistance activities.

''(b) USE OF FUNDS.—A local collaborative that receives a grant made under subsection (a)—

''(1) shall use funds made available through the grant to provide, in a community, activities that consist of education and supportive services, such as—

''(A) home visits for parents of young children;

''(B) services provided through community-based family resource centers for such parents; and

''(C) collaborative pre-school efforts that link parenting education for such parents to early childhood learning services for young children; and

''(2) may use funds made available through the grant—

''(A) to provide, in the community, activities that consist of—

''(i) activities 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) health care services for young children, including increasing the level of immunization for young children in the community, providing preventive health care screening and education, and expanding health care services in schools, child care facilities, clinics in public housing projects (as defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b))), and mobile dental and vision clinics;

''(iii) services for children with disabilities who are young children; and

''(iv) 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

''(B) to pay for the salary and expenses of the administrator described in subsection (e)(4), in accordance with such regulations as the Secretary shall prescribe.

''(c) MULTI-YEAR FUNDING.—In making grants under this section, a State board may make grants for grant periods of more than 1 year to local collaboratives with demonstrated success in carrying out young child assistance activities.

''(d) LOCAL COLLABORATIVES.—To be eligible to receive a grant under this section for a community, a local collaborative shall demonstrate that the collaborative—

''(1) is able to provide, through a coordinated effort, young child assistance activities to young children, and parents of young children, in the community; and

''(2) 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 for the county or other political subdivision in which the community is located;

''(D) parents of young children in the community;

''(E) officers of community organizations serving low-income individuals, as defined by the Secretary, in the community;

''(F) community-based organizations providing services to young children and the parents of young children, such as organizations providing child care, carrying out Head Start programs, or providing pre-kindergarten education, 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.

''(e) APPLICATION.—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—

''(1) sufficient information about the entity described in subsection (d)(2) to enable the State board to determine whether the entity complies with the requirements of such subsection; and

''(2) a comprehensive 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 unmet needs of 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—

''(i) to meet the needs, including expanding and strengthening the activities described in subparagraph (A) and establishing additional young child assistance activities; and

''(ii) to improve results for young children in the community;

''(D) how the local cooperative will use at least 60 percent of the funds made available through the grant to provide young child assistance activities to young children and parents described in subsection (f);

''(E) the comprehensive methods that the collaborative will use to ensure that—

''(i) each entity carrying out young child assistance activities through the collaborative will coordinate the activities with such activities carried out by other entities through the collaborative; and

''(ii) the local collaborative will coordinate the activities of the local collaborative with—

''(I) other services provided to young children, and the parents of young children, in the community; and

''(II) the activities of other local collaboratives serving young children and families in the community, if any; and

''(F) the manner in which the collaborative will, at such intervals as the State board may require, submit information to the State board to enable the State board to carry out monitoring under section 481(g), including the manner in which the collaborative will—

''(i) evaluate the results achieved by the collaborative for young children and parents of young children through activities carried out through the grant;

''(ii) evaluate how services can be more effectively delivered to young children and the parents of young children; and

''(iii) prepare and submit to the State board annual reports describing the results;

''(3) an assurance that the local collaborative will comply with the requirements of subparagraphs (D), (E), and (F) of paragraph (2), and subsection (g); and

''(4) an assurance that the local collaborative will hire an administrator to oversee the provision of the activities described in paragraphs (1) and (2)(A) of subsection (b).

''(f) DISTRIBUTION.—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 to young children (and parents of young children) who reside in school districts in which half or more of the students receive free or reduced price lunches under the National School Lunch Act (42 U.S.C. 1751 et seq.).

''(g) LOCAL SHARE.—

''(1) IN GENERAL.—The local collaborative shall contribute a percentage (referred to in this subsection as the 'local share') of the cost of carrying out the young child assistance activities.

''(2) PERCENTAGE.—The Secretary shall by regulation specify the percentage referred to in paragraph (1).

''(3) FORM.—The local share of the cost shall be in cash.

''(4) SOURCE.—The local collaborative shall provide for the local share of the cost through donations from private entities.

''(5) WAIVER.—The State board shall waive the requirement of paragraph (1) for poor

rural and urban areas, as defined by the Secretary.

''(h) MONITORING.—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) $250,000,000 for fiscal year 2000;

''(2) $500,000,000 for fiscal year 2001;

''(3) $1,000,000,000 for each of fiscal years 2002 through 2004; and

''(4) such sums as 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 as defined in section 32(c)(2) of the Internal Revenue Code of 1986; and

(C) is not receiving assistance under a State program funded under part A 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. 1381 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) in the case of 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, ½ of the maximum 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 is eligible for a parent grant simultaneously for each child for which the parent remains outside the labor force.

(C) LIMITATION.—The Secretary shall not award a qualifying parent a parent grant 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; and

(B) shall be used to pay—

(i) the cost of attendance (as determined in accordance with section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll)) at an institution of higher education (as defined in section 481 of such Act (20 U.S.C. 1088)); 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) ROLLOVER.—A qualifying parent may use any grant funds awarded for an academic year that are not used in the academic year, for use in a subsequent academic year, subject to paragraph (1)(A).

(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 costs 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 undertaken by independent and impartial organizations.

(2) REPORT.—Not later than 4 years after the date of enactment of this section, the Secretary shall submit a report to Congress 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 1. SHORT TITLE

This Act may be cited as the ''Enhancing Family Life Act of 1999.''

SECTION 2. 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'' maternity homes for unwed teenage mothers. 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 ''de-links'' eligibility for these subsidies from the income level of the foster child's biological parents. (Under current law, a foster child determined to have special needs only qualifies for a 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.

In addition, last year's ''Adoption and 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 parents. Because the agency, typically a non-profit social service agency, receives a fixed sum per child (rather than unlimited reimbursement of costs) the agency may settle the child in a permanent home more quickly.

SECTION 103. EARLY CHILDHOOD DEVELOPMENT

The bill provides $3.75 billion over five years for collaborative early childhood development programs. Recent research 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 home visiting 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 children under the age of six and no earned income, welfare, or SSI receipt would be eligible to receive a benefit equivalent to the largest Pell Grant available for that year (about $2,700 in FY 1998). The benefit—to 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 subjected 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 parallel 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 some version of this cap as part of their TANF programs.

As I have said in previous debate on this subject, these children have not asked to be conceived, and they have not asked to come into the world. We have an elemental 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 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].'' Is that really 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

Be it 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, deny assistance to a family in respect of an individual because the individual was born after the family became eligible for or began receiving assistance under the program.''.

(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:

''(15) NO TANF FUNDS 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 paid 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 be funded under this part but for 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 and 23 states have done 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 as market forces reshape 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 the world in the quality of its health care system.

This legislation requires that the public sector, through the Medicare and Medicaid programs, and the private sector, through an assessment on health insurance premiums, contribute broad-based and fair financial support.

My particular interest in this subject began in 1994, when the Finance Committee took up the President's Health Security Act. I was Chairman of the Committee at the time. In January of that year, I asked Dr. Paul Marks, 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 had heard something new. Minnesota is a place where they open medical schools, not close them. How, then, could this be? The answer was that Minnesota, being Minnesota, was a leading state in the growth of competitive health care markets, in which managed care organizations try to deliver services at lower costs. In this environment, HMOs and the like do not send patients to teaching hospitals, absent which you cannot have a medical school.

We are in the midst of a great era of discovery in medical science. It is certainly not a time to close medical schools. This great era of medical discovery is occurring right here in the United States, not in Europe like past ages of scientific discovery. And it is centered in New York City. This heroic age of medical science started in the late 1930s. Before then, the average patient was probably as well off, perhaps better, out of a hospital as in one. Progress from that point sixty years ago has been remarkable. The last few decades have brought us images of the inside of the human body based on the magnetic resonance of bodily tissues; laser surgery; micro surgery for reattaching limbs; and organ transplantation, among other wonders. Physicians are now working on a gene therapy that might eventually replace bypass surgery. I can hardly imagine what might be next.

After months of hearings and debate on the President's Health Security Act, I became convinced that special provisions would have to be made for medical schools, teaching hospitals, and medical research if we were not to see this great moment in medical science suddenly constrained. To that end, when the Committee on Finance voted 12 to 8 on July 2, 1994 to report the Health Security Act, it included a Graduate Medical Education and Academic Health Centers Trust Fund. The Trust Fund provided an 80 percent increase in federal funding for academic medicine; as importantly, it represented stable, long-term funding. While nothing came of the effort to enact universal health care coverage, the medical education trust fund enjoyed widespread support. An amendment by Senator Malcolm Wallop to kill the trust fund by striking the source of its revenue—a 1.75 percent assessment on health insurance premiums—failed on a 7–13 vote in the Finance Committee.

I continued to press the issue in the first session of the 104th Congress. On September 29, 1995, during Finance Committee consideration of budget reconciliation legislation, I offered an amendment to establish a similar trust fund. My amendment failed on a tie vote, 10 to 10. Notably, however, the House version of the reconciliation bill did include a graduate medical education trust fund. That provision ultimately passed both houses as part of the conference agreement, which was subsequently vetoed by President Clinton. The budget resolution for fiscal year 1997 as passed by Congress also appeared to assume that a similar trust fund was to be included in the Medicare reconciliation bill—a bill which never materialized.

The Chairman of the House Ways and Means Committee, Representative BILL ARCHER, was largely responsible for the inclusion of trust fund provisions in the Balanced Budget Act of 1995 and the budget resolution for fiscal year 1997. He and I share a strong commitment to ensuring the continued success of our system of medical education. Indeed, Chairman ARCHER and I were both honored 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 one 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, 1995 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 private insurers.''

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 repealed a state law that set hospital rates. Hospitals must now negotiate their fees with each and every health plan in the state. Where teaching hospitals were once guaranteed a payment that recognized, to some degree, its higher costs of providing services, the private sector is free to squeeze down payments to hospitals with no such recognition. While the State of New York operates funding pools that provide partial support for graduate medical education and uncompensated care, it is largely up to the teaching hospitals to try to win higher rates than other hospitals when negotiating contracts with health plans. Some may succeed in doing so, but most will probably not. New York's state law was unique, but the same process of negotiation between hospitals and private health plant 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 school 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 faculties to support their operations. As competition within the health system intensifies and managed care proliferates, these revenues are 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 policy discussions 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 alarming 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 new competitive forces reshaping health care have brought only negative results. To the contrary, the onset of competition has had many beneficial effects, the restraint of growth on average 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 ''commodification 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, long-term Federal funding. To ensure that the United States continues to lead the world in the quality of its medical education and its health system as a whole, the legislation would also create a Medical Education Advisory Commission to conduct a thorough study and make recommendations, including the potential use of demonstration projects, regarding the following:

Alternative and additional sources of medical education financing;

Alternative methodologies for financing medical education;

Policies designed to maintain superior research and educational capacities in an increasingly competitive health system;

The appropriate role of medical schools in graduate medical education; and

Policies designed to expand eligibility for graduate medical education payments to institutions other than teaching hospitals, including children's hospitals.

Mr. President, the services provided by this Nation's teaching hospitals and medical schools—groundbreaking research, highly skilled medical care, and the training of tomorrow's physicians—are vitally important and must be protected in this time of intense economic competition in the health system.

I ask unanimous consent that a summary of the bill and the text of the bill, respectively, be included in the RECORD.

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

S. 210

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 ''Medical Education Trust Fund Act of 1999''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Medical Education Trust Fund.
Sec. 3. Amendments to medicare program.
Sec. 4. Amendments to medicaid program.
Sec. 5. Assessments on insured and self-insured health plans.
Sec. 6. Medical Education Advisory Commission.
Sec. 7. Demonstration projects.

SEC. 2. MEDICAL EDUCATION TRUST FUND.

The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding after title XXI the following new title:

''TITLE XXII—MEDICAL EDUCATION TRUST FUND

''TABLE OF CONTENTS OF TITLE

''Sec. 2201. Establishment of Trust Fund.
''Sec. 2202. Payments to medical schools.
''Sec. 2203. Payments to teaching hospitals.

''SEC. 2201. ESTABLISHMENT OF TRUST FUND.

''(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Medical Education Trust Fund (in this title referred to as the 'Trust Fund'), consisting of the following accounts:

''(1) The Medical School Account.

''(2) The Medicare Teaching Hospital Indirect Account.

''(3) The Medicare Teaching Hospital Direct Account.

''(4) The Non-Medicare Teaching Hospital Indirect Account.

''(5) The Non-Medicare Teaching Hospital Direct Account.

Each such account shall consist of such amounts as are allocated and transferred to such account under this section, sections 1886(l) and 1936, and section 4503 of the Internal Revenue Code of 1986. Amounts in the accounts of the Trust Fund shall remain available until expended.

''(b) EXPENDITURES FROM TRUST FUND.—Amounts in the accounts of the Trust Fund are available to the Secretary for making payments under sections 2202 and 2203.

''(c) INVESTMENT.—

''(1) IN GENERAL.—The Secretary of the Treasury shall invest amounts in the accounts of the Trust Fund which the Secretary determines are not required to meet current withdrawals from the Trust Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

''(2) SALE OF OBLIGATIONS.—The Secretary of the Treasury may sell at market price any obligation acquired under paragraph (1).

''(3) AVAILABILITY OF INCOME.—Any interest derived from obligations held in each such account, and proceeds from any sale or redemption of such obligations, are hereby appropriated to such account.

''(d) MONETARY GIFTS TO TRUST FUND.—There are appropriated to the Trust Fund such amounts as may be unconditionally donated to the Federal Government as gifts to the Trust Fund. Such amounts shall be allocated and transferred to the accounts described in subsection (a) in the same proportion as the amounts in each of the accounts bears to the total amount in all the accounts of the Trust Fund.

''SEC. 2202. PAYMENTS TO MEDICAL SCHOOLS.

''(a) FEDERAL PAYMENTS TO MEDICAL SCHOOLS FOR CERTAIN COSTS.—

''(1) IN GENERAL.—In the case of a medical school that in accordance with paragraph (2) submits to the Secretary an application for fiscal year 2000 or any subsequent fiscal year, the Secretary shall make payments for such year to the medical school for the purpose specified in paragraph (3). The Secretary shall make such payments from the Medical School Account in an amount determined in accordance with subsection (b), and may administer the payments as a contract, grant, or cooperative agreement.

''(2) APPLICATION FOR PAYMENTS.—For purposes of paragraph (1), an application for payments under such paragraph for a fiscal year is in accordance with this paragraph if—

''(A) the medical school involved submits the application not later than the date specified by the Secretary; and

''(B) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

''(3) PURPOSE OF PAYMENTS.—The purpose of payments under paragraph (1) is to assist medical schools in maintaining and developing quality educational programs in an increasingly competitive health care system.

''(b) AVAILABILITY OF TRUST FUND FOR PAYMENTS; ANNUAL AMOUNT OF PAYMENTS.—

''(1) AVAILABILITY OF TRUST FUND FOR PAYMENTS.—The following amounts shall be available for a fiscal year for making payments under subsection (a) from the amount allocated and transferred to the Medical School Account under sections 1886(l), 1936, 2201(c)(3), and 2201(d), and section 4503 of the Internal Revenue Code of 1986:

''(A) In the case of fiscal year 2000, $200,000,000.

''(B) In the case of fiscal year 2001, $300,000,000.

''(C) In the case of fiscal year 2002, $400,000,000.

''(D) In the case of fiscal year 2003, $500,000,000.

''(E) In the case of fiscal year 2004, $600,000,000.

''(F) In the case of each subsequent fiscal year, the amount determined under this paragraph for the previous fiscal year updated through the midpoint of such previous fiscal year by the estimated percentage change in the general health care inflation factor (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 that submits to the Secretary an application for such year in accordance with subsection (a)(2) is an amount equal to an amount determined by the Secretary in accordance with subparagraph (B).

''(B) DEVELOPMENT OF FORMULA.—The Secretary shall develop a formula for allocation of funds to medical schools under this section consistent with the purpose described in subsection (a)(3).

''(c) MEDICAL SCHOOL DEFINED.—For purposes of this section, the term 'medical school' means a school of medicine (as defined in section 799 of the Public Health Service Act) or a school of osteopathic medicine (as defined in such section).

''(d) GENERAL HEALTH CARE INFLATION FACTOR.—The term 'general health care inflation factor' means the Consumer Price Index for Medical Services as determined by the Bureau of Labor Statistics.

''SEC. 2203. PAYMENTS TO TEACHING HOSPITALS.

''(a) FORMULA PAYMENTS TO ELIGIBLE ENTITIES.—

''(1) IN GENERAL.—In the case of any fiscal year beginning after September 30, 1999, the Secretary shall make payments to each eligible entity that, in accordance with paragraph (2), submits to the Secretary an application for such fiscal year. Such payments shall be made from the Trust Fund, and the total of the payments to the eligible entity for the fiscal year shall equal the sum of the amounts determined under subsections (b), (c), (d), and (e) with respect to such entity.

''(2) APPLICATION.—For purposes of paragraph (1), an application shall contain such information as may be necessary for the Secretary to make payments under such paragraph to an eligible entity during a fiscal year. An application shall be treated as submitted in accordance with this paragraph if it is submitted not later than the date specified by the Secretary, and is made in such form and manner as the Secretary may require.

''(3) PERIODIC PAYMENTS.—Payments under 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).

''(4) ADMINISTRATOR OF PROGRAMS.—The Secretary shall carry out responsibility under this title by acting through the Administrator of the Health Care Financing Administration.

''(5) ELIGIBLE ENTITY.—For purposes of this title, the term 'eligible entity', with respect to any fiscal year, means—

''(A) for payment under subsections (b) and (c), an entity which would be eligible to receive payments for such fiscal year under—

''(i) section 1886(d)(5)(B), if such payments had not been terminated for discharges occurring after September 30, 1999;

''(ii) section 1886(h), if such payments had not been terminated for cost reporting periods beginning after September 30, 1999; or

''(iii) both sections; or

''(B) for payment under subsections (d) and (e)—

''(i) an entity which meets the requirement of subparagraph (A); or

''(ii) an entity which the Secretary determines should be considered an eligible entity.

''(b) DETERMINATION OF AMOUNT FROM MEDICARE TEACHING HOSPITAL INDIRECT ACCOUNT.—

''(1) IN GENERAL.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Medicare Teaching Hospital Indirect Account under section 1886(l)(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(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(l)(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(h) if such payments had not been terminated for cost reporting periods beginning 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 Non-Medicare Teaching Hospital Indirect Account for such fiscal year under section 1936, 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 for an eligible entity 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—

''(A) such payments had not been terminated for discharges occurring after September 30, 1999; and

''(B) non-medicare patients were taken into account in lieu of medicare patients.

''(e) DETERMINATION OF AMOUNT FROM NON-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 Non-Medicare Teaching Hospital Direct Account for such fiscal year under section 1936, 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 for an eligible entity 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(h) if—

''(A) such payments had not been terminated for cost reporting periods beginning after September 30, 1999; and

''(B) non-medicare patients were taken into account in lieu of medicare patients.''.

SEC. 3. AMENDMENTS TO MEDICARE PROGRAM.

Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended—

(1) in subsection (d)(5)(B), in the matter preceding clause (i), by striking ''The Secretary shall provide'' and inserting the following: ''For discharges occurring before October 1, 1999, the Secretary shall provide'';

(2) in subsection (d)(11)(C), by inserting after ''paragraph (5)(B)'' ''(notwithstanding that payments under paragraph (5)(B) are terminated for discharges occurring after September 30, 1999)'';

(3) in subsection (h)—

(A) in paragraph (1), in the first sentence, by striking ''the Secretary shall provide'' and inserting ''the Secretary shall, subject to paragraph (7), provide''; and

(B) by adding at the end the following:

''(7) LIMITATION.—

''(A) IN GENERAL.—The authority to make payments under this subsection (other than payments made under paragraphs (3)(D) and (6)) shall not apply with respect to—

''(i) cost reporting periods beginning after September 30, 1999; and

''(ii) any portion of a cost reporting period beginning on or before such date which occurs after such date.

''(B) RULE OF CONSTRUCTION.—This paragraph may not be construed as authorizing any payment under section 1861(v) with respect to graduate medical education.''; and

(4) by adding at the end the following:

''(l) TRANSFERS TO MEDICAL EDUCATION TRUST FUND.—

''(1) INDIRECT COSTS OF MEDICAL EDUCATION.—

''(A) TRANSFER.—

''(i) IN GENERAL.—From the Federal Hospital Insurance Trust Fund, the Secretary shall, for fiscal year 2000 and each subsequent fiscal year, transfer to the Medical Education Trust Fund an amount equal to the amount estimated by the Secretary under subparagraph (B).

''(ii) ALLOCATION.—Of the amount transferred under clause (i)—

''(I) there shall be allocated and transferred to the Medical School Account of such Trust Fund an amount which bears the same ratio to the total amount available under section 2202(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred under clause (i) bears to the total amounts transferred to such Trust Fund under title XXII (excluding amounts transferred under subsections (c)(3) and (d) of section 2201) for such fiscal year; and

''(II) the remainder shall be allocated and transferred to the Medicare Teaching Hospital Indirect Account of such Trust Fund.

''(B) DETERMINATION OF AMOUNTS.—The Secretary shall make an estimate for each fiscal year involved of the nationwide total of the amounts that would have been paid under subsection (d)(5)(B) to hospitals during the fiscal year if such payments had not been terminated for discharges occurring after September 30, 1999.

''(2) DIRECT COSTS OF MEDICAL EDUCATION.—

''(A) TRANSFER.—

''(i) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 2000 and each subsequent fiscal year, transfer to the Medical Education Trust Fund an amount equal to the amount estimated by the Secretary under subparagraph (B).

''(ii) ALLOCATION.—Of the amount transferred under clause (i)—

''(I) there shall be allocated and transferred to the Medical School Account of such Trust Fund an amount which bears the same ratio to the total amount available under section 2202(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred under clause (i) bears to the total amounts transferred to such Trust Fund under title XXII (excluding amounts transferred under subsections (c)(3) and (d) of section 2201) for such fiscal year; and

''(II) the remainder shall be allocated and transferred to the Medicare Teaching Hospital Direct Account of such Trust Fund.

''(B) DETERMINATION OF AMOUNTS.—For each hospital, the Secretary shall make an estimate for the fiscal year involved of the amount that would have been paid under subsection (h) to the hospital during the fiscal year if such payments had not been terminated for cost reporting periods beginning after September 30, 1999.

''(C) ALLOCATION BETWEEN FUNDS.—In providing for a transfer under subparagraph (A) for a fiscal year, the Secretary shall provide for an allocation of the amounts involved between part A and part B (and the trust funds established under the respective parts) as reasonably reflects the proportion of direct graduate medical education costs of hospitals associated with the provision of services under each respective part.''.

SEC. 4. AMENDMENTS TO MEDICAID PROGRAM.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by adding at the end the following:

''TRANSFER OF FUNDS TO ACCOUNTS

''SEC. 1936. (a) TRANSFER OF FUNDS.—

''(1) IN GENERAL.—For fiscal year 2000 and each subsequent fiscal year, the Secretary shall transfer to the Medical Education Trust Fund established under title XXII an amount equal to the amount determined under subsection (b).

''(2) ALLOCATION.—Of the amount transferred under paragraph (1)—

''(A) there shall be allocated and transferred to the Medical School Account of such Trust Fund an amount which bears the same ratio to the total amount available under section 2202(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred under paragraph (1) bears to the total amounts transferred to such Trust Fund (excluding amounts transferred under subsections (c)(3) and (d) of section 2201) for such fiscal year; and

''(B) the remainder shall be allocated and transferred to the Non-Medicare Teaching Hospital Indirect Account and the Non-Medicare Teaching Hospital Direct Account of such Trust Fund, in the same proportion as the amounts transferred to each account under section 1886(l) relate to the total amounts transferred under such section for such fiscal year.

''(b) AMOUNT DETERMINED.—

''(1) OUTLAYS FOR ACUTE MEDICAL SERVICES DURING PRECEDING FISCAL YEAR.—Beginning with fiscal year 2000, the Secretary shall determine 5 percent of the total amount of Federal outlays made under this title for acute medical services, as defined in paragraph (2), for the preceding fiscal year.

''(2) ACUTE MEDICAL SERVICES DEFINED.—The term 'acute medical services' means items and services described in section 1905(a) other than the following:

''(A) Nursing facility services (as defined in section 1905(f)).

''(B) Intermediate care facility for the mentally retarded services (as defined in section 1905(d)).

''(C) Personal care services (as described in section 1905(a)(24)).

''(D) Private duty nursing services (as referred to in section 1905(a)(8)).

''(E) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915.

''(F) Home and community care furnished to functionally disabled elderly individuals under section 1929.

''(G) Community supported living arrangements services under section 1930.

''(H) Case-management 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)).

''(c) 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 subsection (a) shall be effective on and after October 1, 1999.

SEC. 5. ASSESSMENTS ON INSURED AND SELF-INSURED HEALTH PLANS.

(a) GENERAL RULE.—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. 4501. HEALTH INSURANCE AND HEALTH-RELATED ADMINISTRATIVE SERVICES.

''(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 any 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) SPECIAL RULE WHERE POLICY PROVIDES OTHER COVERAGE.—In the case of any taxable health insurance policy under which amounts are payable other than for accident or health coverage, in determining the amount of the tax imposed by subsection (a)(1) on any premium paid under such policy, there shall be excluded the amount of the 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 insurance policy,

''(ii) the payments or premiums referred to in subparagraph (B)(i) shall be treated as premiums received for a taxable health insurance policy, and

''(iii) the person referred to in subparagraph (B)(i) shall be treated as the issuer.

''(B) DESCRIPTION OF ARRANGEMENTS.—An arrangement is described in this subparagraph if under such arrangement—

''(i) fixed payments or premiums are received as consideration for any person's agreement to provide or arrange for the provision of accident or health coverage to residents of the United States, regardless of how such coverage is provided or arranged to be provided, and

''(ii) substantially all of the risks of the rates of utilization of services is assumed by such person or the provider of such services.

''(d) HEALTH-RELATED ADMINISTRATIVE SERVICES.—For purposes of this section, the term 'health-related administrative services' means—

''(1) the processing of claims or performance of other administrative services in connection with accident or health coverage under a taxable health insurance policy if the charge for such services is not included in the premiums under such policy, and

''(2) processing claims, arranging for provision of accident or health coverage, or performing other administrative services in connection with an applicable self-insured health plan (as defined in section 4502(c)) established or maintained by a person other than the person performing the services.

For purposes of paragraph (1), rules similar to the rules of subsection (c)(3) shall apply.

"SEC. 4502. SELF-INSURED HEALTH PLANS.

''(a) IMPOSITION OF TAX.—In the case of any applicable self-insured health plan, there is hereby imposed a tax for each month equal to 1.5 percent of the sum of—

''(1) the accident or health coverage expenditures for such month under such plan, and

''(2) the administrative expenditures for such month under such plan to the extent such expenditures are not subject to tax under section 4501.

In determining the amount of expenditures under paragraph (2), rules similar to the rules of subsection (d)(3) apply.

''(b) LIABILITY FOR TAX.—

''(1) IN GENERAL.—The tax imposed by subsection (a) shall be paid by the plan sponsor.

''(2) PLAN SPONSOR.—For purposes of paragraph (1), the term 'plan sponsor' means—

''(A) the employer in the case of a plan established or maintained by a single employer,

''(B) the employee organization in the case of a plan established or maintained by an employee organization, or

''(C) in the case of—

''(i) a plan established or maintained by 2 or more employers or jointly by 1 or more employers and 1 or more employee organizations,

''(ii) a voluntary employees' beneficiary association under section 501(c)(9), or

''(iii) any other association plan,

the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

''(c) APPLICABLE SELF-INSURED HEALTH PLAN.—For purposes of this section, the term 'applicable self-insured health plan' means any plan for providing accident or health coverage if any portion of such coverage is provided other than through an insurance policy.

''(d) ACCIDENT OR HEALTH COVERAGE EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The accident or health coverage expenditures of any applicable self-insured health plan for any month are the aggregate expenditures paid in such month for accident or health coverage provided under such plan to the extent such expenditures are not subject to tax under section 4501.

''(2) TREATMENT OF REIMBURSEMENTS.—In determining accident or health coverage expenditures during any month of any applicable self-insured health plan, reimbursements (by insurance or otherwise) received during such month shall be taken into account as a reduction in accident or health coverage expenditures.

''(3) CERTAIN EXPENDITURES DISREGARDED.—Paragraph (1) shall not apply to any expenditure for the acquisition or improvement of land or for the acquisition or improvement of any property to be used in connection with the provision of accident or health coverage which is subject to the allowance under section 167, except that, for purposes of paragraph (1), allowances under section 167 shall be considered as expenditures.

"SEC. 4503. TRANSFER TO ACCOUNTS.

''For fiscal year 2000 and each subsequent fiscal year, there are hereby appropriated and transferred to the Medical Education Trust Fund under title XXII of the Social Security Act amounts equivalent to taxes received in the Treasury under sections 4501 and 4502, of which—

''(1) there shall be allocated and transferred to the Medical School Account of such Trust Fund an amount which bears the same ratio to the total amount available under section 2202(b)(1) of such Act for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred to such Trust Fund under this section bears to the total amounts transferred to such Trust Fund (excluding amounts transferred under subsections (c)(3) and (d) of section 2201 of such Act) for such fiscal year; and

''(2) the remainder shall be allocated and transferred to the Non-Medicare Teaching Hospital Indirect Account and the Non-Medicare Teaching Hospital Direct Account of such Trust Fund, in the same proportion as the amounts transferred to such account under section 1886(l) of such Act relate to the total amounts transferred under such section for such fiscal year.

Such amounts shall be transferred in the same manner as under section 9601.

''SEC. 4504. DEFINITIONS AND SPECIAL RULES.

''(a) DEFINITIONS.—For purposes of this subchapter—

''(1) ACCIDENT OR HEALTH COVERAGE.—The term 'accident or health coverage' means any coverage which, if provided by an insurance policy, would cause such policy to be a taxable health insurance policy (as defined in section 4501(c)).

''(2) INSURANCE POLICY.—The term 'insurance policy' means any policy or other instrument whereby a contract of insurance is issued, renewed, or extended.

''(3) PREMIUM.—The term 'premium' means the gross amount of premiums and other consideration (including advance premiums, deposits, fees, and assessments) arising from policies issued by a person acting as the primary insurer, adjusted for any return or additional premiums paid as a result of endorsements, cancellations, audits, or retrospective rating. Amounts returned where the amount is not fixed in the contract but depends on the experience of the insurer or the discretion of management shall not be included in return premiums.

''(4) UNITED STATES.—The term 'United States' includes any possession of the United States.

''(b) TREATMENT OF GOVERNMENTAL ENTITIES.—

''(1) IN GENERAL.—For purposes of this subchapter—

''(A) the term 'person' includes any governmental entity, and

''(B) notwithstanding any other law or rule of law, governmental entities shall not be exempt from the taxes imposed by this subchapter except as provided in paragraph (2).

''(2) EXEMPT GOVERNMENTAL PROGRAMS.—

''(A) IN GENERAL.—In the case of an exempt governmental program—

''(i) no tax shall be imposed under section 4501 on any premium received pursuant to such program or on any amount received for health-related administrative services pursuant to such program, and

''(ii) no tax shall be imposed under section 4502 on any expenditures pursuant to such program.

''(B) EXEMPT GOVERNMENTAL PROGRAM.—For purposes of this paragraph, the term 'exempt governmental program' means—

''(A) the insurance programs established by parts A and B of title XVIII of the Social Security Act,

''(B) the medical assistance program established by title XIX of the Social Security Act,

''(C) any program established by Federal law for providing medical care (other than through insurance policies) to individuals (or the spouses and dependents thereof) by reason of such individuals being—

''(i) members of the Armed Forces of the United States, or

''(ii) veterans, and

''(D) any program established by Federal law for providing medical care (other than through insurance policies) to members of Indian tribes (as defined in section 4(d) of the Indian Health Care Improvement Act).

''(c) NO COVER OVER TO POSSESSIONS.—Notwithstanding any other provision of law, no amount collected under this subchapter shall be covered over to any possession of the United States.''.

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle D of the Internal Revenue Code of 1986 is amended by inserting after the item relating to chapter 36 the following new item:

''CHAPTER 37. Health related assessments.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to premiums received, and expenses incurred, with respect to coverage for periods after September 30, 1999.

SEC. 6. MEDICAL EDUCATION ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established an advisory commission to be known as the Medical Education Advisory Commission (in this section referred to as the ''Advisory Commission'').

(b) DUTIES.—

(1) IN GENERAL.—The Advisory Commission shall—

(A) conduct a thorough study of all matters relating to—

(i) the operation of the Medical Education Trust Fund established under section 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 maintain superior research and educational capacities in an increasing competitive health system;

(v) the role of medical schools in graduate medical education;

(vi) policies designed to expand eligibility for graduate medical education payments to children's hospitals that operate graduate medical education programs; and

(vii) policies designed to expand eligibility for graduate medical education payments to institutions other than teaching hospitals;

(B) develop recommendations, including the use of demonstration projects, on the matters studied under subparagraph (A) in consultation with the Secretary of Health and Human Services and the entities described in paragraph (2);

(C) not later than January 2001, submit an interim report to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Secretary of Health and Human Services; and

(D) not later than January 2003, submit a final report to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Secretary of Health and Human Services.

(2) ENTITIES DESCRIBED.—The entities described in this paragraph are—

(A) other advisory groups, including the Council on Graduate Medical Education and the Medicare Payment Advisory Commission;

(B) interested parties, including the Association of American Medical Colleges, the Association of Academic Health Centers, and the American Medical Association;

(C) health care insurers, including managed care entities; and

(D) other entities as determined by the Secretary of Health and Human Services.

(c) NUMBER AND APPOINTMENT.—The membership of the Advisory Commission shall include 9 individuals who are appointed to the Advisory Commission from among individuals who are not officers or employees of the United States. Such individuals shall be appointed by the Secretary of Health and Human Services, and shall include individuals from each of the following categories:

(1) Physicians who are faculty members of medical schools.

(2) Officers or employees of teaching hospitals.

(3) Officers or employees of health plans.

(4) Deans of medical schools.

(5) Such other individuals as the Secretary determines to be appropriate.

(d) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Advisory Commission shall serve for the lesser of the life of the Advisory Commission, or 4 years.

(2) SERVICE BEYOND TERM.—A member of the Advisory Commission may continue to serve after the expiration of the term of the member until a successor is appointed.

(e) VACANCIES.—If a member of the Advisory Commission does not serve the full term applicable under subsection (d), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(f) CHAIR.—The Secretary of Health and Human Services shall designate an individual to serve as the Chair 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. Such compensation may not be in an amount in excess of the maximum rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(i) STAFF.—

(1) STAFF DIRECTOR.—The Advisory Commission shall, without regard to the provisions of title 5, United States Code, relating to competitive service, appoint a Staff Director who shall be paid at a rate equivalent to a rate established for the Senior Executive Service under 5382 of title 5, United States Code.

(2) ADDITIONAL STAFF.—The Secretary of Health and Human Services shall provide to the Advisory Commission such additional staff, information, and other assistance as may be necessary to carry out the duties of the Advisory Commission.

(j) TERMINATION OF THE ADVISORY COMMISSION.—The Advisory Commission shall terminate 90 days after the date on which the Advisory Commission submits its final report under subsection (b)(1)(D).

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 7. DEMONSTRATION PROJECTS.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish, by regulation, guidelines for the establishment and operation of demonstration projects which the Medical Education Advisory Commission recommends under 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 shall be available for use by the Secretary in the establishment and operation of demonstration projects described in subsection (a).

(2) FUNDS AVAILABLE.—

(A) LIMITATION.—Not more than 1/10 of 1 percent of the funds in such Trust Fund shall be available for the purposes of paragraph (1).

(B) ALLOCATION.—Amounts under paragraph (1) shall be paid from the accounts established under paragraphs (2) through (5) of section 2201(a) of the Social Security Act, in the same proportion as the amounts transferred to such accounts bears to the total of amounts transferred to all 4 such accounts for such fiscal year.

(c) LIMITATION.—Nothing in this section shall be construed to authorize any change

in the payment methodology for teaching hospitals and medical schools established by the amendments made by this Act.

SUMMARY OF THE MEDICAL EDUCATION TRUST FUND ACT OF 1999

OVERVIEW

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 good which should be supported by all sectors of the health care system.

To ensure that the burden of financing medical education is shared equitably by all sectors, the Medical Education Trust Fund will receive funding from three sources: a 1.5 percent assessment on health insurance premiums (the private sector's contribution), Medicare, and Medicaid (the public sector's contribution). 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

[In billions of dollars]

1.5% assessment	Medicare	Medicaid	Total
5	8	4	17

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 partially offset this loss of revenue. Initially, these payments will be based upon an interim methodology developed by the Secretary of Health and Human Services.

Payments to teaching hospitals

To cover the costs of education, teaching hospitals have traditionally charged higher rates than 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. Payments from the Trust Fund reimburse teaching hospitals for both the direct[1] and indirect[2] costs of graduate medical education.

Payments for direct costs are based on the actual costs of employing medical residents. Payments for indirect costs are based on the number of patients cared for in each hospital and the severity of their illnesses as well as a measure of the teaching load in that hospital.[3] For the purposes of payments to teaching hospitals, the allocation of Medicare funds is based on the number of Medicare patients in each hospital; the allocation of the tax revenue and Medicaid funds is based on the number of non-Medicare patients in each hospital.

MEDICAL EDUCATION ADVISORY COMMISSION

The legislation also establishes a Medical Education Advisory Commission to conduct a study and make recommendations, including the potential use of demonstration projects, regarding the following: operations of the Medical Education Trust Fund; alternative and additional sources of medical education financing; alternative methodologies for distributing medical education payments; policies designed to maintain superior research and education capacities in an increasingly competitive health system; the role of medical schools in graduate medical education; and policies designed to expand, eligibility for graduate medical education payments to institutions other than teaching hospitals, including children's hospitals.

The Commission, comprised of nine individuals appointed by the Secretary of Health and Human Services, will be required to issue an interim report no later than January 1, 2001, and a final report no later than January 1, 2003.

FOOTNOTES

[1] Medical residents' salaries are the primary direct cost.

[2] These indirect costs include the cost of treating more seriously ill patients and the costs of additional tests that may be ordered by medical residents.

[3] The legislation will use Medicare's measure of teaching load as an interim measure.

By Mr. MOYNIHAN (for himself, Mr. ROTH, Mr. BAUCUS, Mrs. BOXER, Mr. BRYAN, Mr. CONRAD, Mr. GRAHAM, Mr. GRASSLEY, Mr. HATCH, Mr. JEFFORDS, Mr. KYL, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. ROBB, and Mr. SCHUMER):

S. 211. A bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes; to the Committee on Finance.

EMPLOYEE EDUCATIONAL ASSISTANCE ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation to permanently extend the tax exclusion for employer-provided educational assistance under section 127 of the Internal Revenue Code. This bill, cosponsored by Senator ROTH, the distinguished chairman of the Senate Finance Committee, ensures that employees may receive up to $5,250 annually in tuition reimbursements or similar educational benefits for both undergraduate and graduate education from their employers on a tax-free basis.

The provision enjoys virtually unanimous support in the Senate. In the 105th Congress, every member of the Committee on Finance sponsored legislation to make this provision permanent, and the full Senate twice voted to support it—in 1997 and again in 1998.

The provision enjoys equally broad support in the business, labor, and education communities. I have received letters of support from groups such as the National Association of Manufacturers, from labor and employee groups such as the College and University Personnel Association, and from professional groups such as the National Society of Professional Engineers.

Why, then, is it not a permanent feature of the Tax Code today? Because, for reasons this Senator cannot understand, the provision has been opposed in the House.

Section 127 should be permanent because it is one of the most successful education initiatives that the Federal Government has ever undertaken. Approximately one million persons benefits from this provision every year. And they benefit in the most auspicious of circumstances. An employer recognizes that the worker is capable of doing work at higher levels and skills and says, ''Will you go to school and get a degree so we can put you in a higher position than you have now—and with better compensation?'' Unlike so many of our job training programs that have depended on the hope that in the aftermath of the training there will be a job, here you have a situation where the worker already has a job and the employer agrees that the worker should improve his or her situation in a manner that is beneficial to all concerned.

And the program works efficiently. It administers itself. It has no bureaucracy—there is no bureau in the Department of Education for employer-provided educational assistance, no titles, no confirmations, no assistant secretaries. There is nothing except the individual plan of an employer for the benefit of its employees.

Since its inception in 1979, section 127 has enabled millions of workers to advance their education and improve their job skills without incurring additional taxes and a reduction in take-home pay. As one example of the reach of this provisions, IBM, a key New York employer, provides education assistance benefits worth millions of dollars to more than 4,000 participants a year.

Without section 127, workers will find that the additional taxes or reduction in take-home pay impose a significant, even prohibitive, financial obstacle to further education. For example, an unmarried clerical worker pursuing a college diploma who has income of $21,000 in 1999 ($10.50 per hour) and who received tuition reimbursement for two semesters of night courses—perhaps worth $4,000—wil owe additional Federal income and payroll taxes of $906 on this educational assistance.

And the provision makes an important contribution to simplicity in the

[1] Footnotes at end of summary.

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, the worker 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 for matters in audit—must 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 direct-aid programs. A survey 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 those 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 on average made $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 by 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 employees 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 school at the same time. But not all of them. Only the ones whose education does not directly relate to their current jobs. For these unlucky persons, we have erected a barrier to their upward mobility. Who are these people? Perhaps an engineer seeking a master's degree in geology to enter the field of environmental science, or a bank teller seeking an MPA 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 following: The environmental geologist seeking a master's in geology, the bank accountant seeking an MPA, and the management trainee seeking an MBA; each of these persons could qualify for tax-free education, whereas their colleagues would not. There is no justification for this difference in tax treatment.

Thus, section 127 removes a tax bias against lesser-skilled workers. The tax bias arises because lesser-skilled workers have narrower job descriptions, and a correspondingly greater difficulty proving that educational expenses directly relate to their current jobs. Less-skilled workers are in greater need of remedial and basic education. And they are the ones least able to afford the imposition of tax on their educational benefits. As noted by Senator Packwood in a 1978 Finance Committee hearing on this provision, employer-provided education is not taxable:

> . . . so long as it is related to the job, but the trouble is, once you get higher in a corporation, more things seem to be related to the job. If you are a vice president in charge of marketing for Mobil Oil or General Motors, you could have a wide expanse of educational experiences that would be job related. . . . but for the poor devil in private enterprise who dropped out of school at 16 and is working on a production job and would like to move out of that, all you can train him for is to do the production job better. . . . [T]he lower skilled, the minorities, 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 intended beneficiaries. Workers 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 benefits 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. Workers 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 statements, and employees had to guess whether to pay tax on the benefits they received. In the Small Business Job Protection Act of 1996, we finally extended the provision retroactively to the beginning of 1995. As a result, we had to instruct the IRS to issue guidance expeditiously 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 constituents, 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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Employee Educational Assistance Act''.

SEC. 2. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

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

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

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply with respect to expenses relating to courses beginning after the date of enactment of this Act.

(2) GRADUATE EDUCATION.—The amendment made by subsection (b) shall apply with respect to expenses relating to courses beginning after December 31, 1998.

NATIONAL ASSOCIATION OF MANUFACTURERS,
Washington, DC, January 19, 1999.

Hon. DANIEL P. MOYNIHAN,
Ranking Member, Senate Committee on Finance, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MOYNIHAN: On behalf of the National Association of Manufacturers (NAM), representing 18 million working men and women in 14,000 small, medium and large businesses across America, I want to commend you for your willingness to introduce and sponsor S. 127 in the 106th Congress. As you know, Section 127 of the Internal Revenue Code enables employers to provide tax-free tuition assistance for undergraduate education through 2000. The NAM supports your efforts to provide not only a permanent extension of Section 127, but the restoration of graduate-level assistance as well.

The NAM strongly believes that education and lifelong learning are the key to continued economic growth and worker prosperity. Last week, NAM President Jerry Jasinowski participated in Vice President Gore's Summit on Skills for 21st Century and urged that government, labor, academic and business leaders all take greater responsibility in encouraging a stronger focus on lifelong learning. Manufacturers have discovered the importance of education and lifelong learning first hand. For instance, raising the education level of workers by just one year raises manufacturing productivity by 8.5 percent and each additional year of post-high school education is worth 5–15 percent in increased earnings to the worker. Despite the fact that roughly 95 percent of manufacturers provide some form of worker training and nearly half spend at least 2 percent of payroll, 9 in 10 report a serious skills shortage. In short, our economy will only continue to grow if our workers are armed with the skills they need to thrive in tomorrow's workplace. Permanent extension of Section 127 for both undergraduate and graduate-level assistance will help do just that.

Again, thank you for your support for this important issue. The NAM looks forward to working with you and Chairman Roth in developing bipartisan support for S. 127. Please feel free to contact me at (202) 637–3133 if the NAM can be of further assistance.

Sincerely,

SANDRA BOYD,
Assistant Vice President.

NATIONAL ASSOCIATION OF INDEPENDENT COLLEGES AND UNIVERSITIES,
Washington, DC, January 13, 1999.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MOYNIHAN: I am writing to offer my sincere appreciation for your sponsorship of legislation that will permanently extend IRC Sec. 127 for both undergraduate and graduate courses. On behalf of over 900 independent colleges and universities across the country that make up 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 paid by their employers. While the Taxpayer Relief Act of 1997 temporarily extended the benefit for undergraduate courses, graduate courses are currently not included in the 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 has always received strong support in both the House and Senate, and as a time-tested initiative, it ought to be included in any tax vehicle that comes before the 106th Congress. NAICU looks forward to 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 distilled 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 research in the Commonwealth of Puerto Rico and the possessions of the United States; to the Committee on Finance.

S. 215. A bill to amend 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 of Puerto Rico, and a fourth piece of legislation to ensure fair funding for its Children's Health Insurance Program.

Twice 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 deemed ''possessions corporations'' 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 possession. 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 1993, 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

credit that would be allowable under prior-law rules. The staff of the Joint Tax Committee estimated that the 1993 Act changes would raise $3.75 billion over five years.

While Congress substantially limited tax incentives for companies doing business in Puerto Rico in 1993, the Small Business Job Protection Act of 1996 effectively repealed remaining federal tax incentives, subject to a 10-year transition rule for taxpayers with existing investments in Puerto Rico. The Joint Tax Committee staff estimated the 1996 changes would raise $10.5 billion over ten years.

In committee report language accompanying the 1976 Act, Congress recognized that the Federal government imposes upon the possessions various requirements, such as minimum wage requirements and requirements to use U.S. flag ships in transporting goods between the United States and various possessions, that substantially increase the labor, transportation and other costs of establishing business operations in Puerto Rico. In the 1990s, in light of trade agreements such as NAFTA and increased economic competition from low-wage Caribbean countries, these concerns are particularly acute.

Traditionally, Puerto Rico has been excluded from or underfinanced in many federal programs because, it has been argued, the island does not pay income taxes to the Federal government. For example, Puerto Rico has only minimal Federal participation in the Medicaid program. In 1998, Puerto Rico's Medicaid program received approximately $170 million in federal funds, whereas it could have received approximately $500 million if it were treated as a state. Clearly, Congress should not adopt a double standard of taxing Puerto Rico's economic activity while denying funding for federal programs.

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 60 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 inequitable treatment of 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 section 936, 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 research and development a centerpiece 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 economy 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 Act of the 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 1984, 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 disputed practice 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 provision 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. Last 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, 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 1968. The Trust was initially funded through an oil import fee. More recently, it was primarily financed through Section 936 of the Internal Revenue Code. The Trust lost more than 80 percent of its funding as a consequence of the decision to phase-out section 936 and eliminate the Qualified Possession Source Investment Income provision in the tax code. The proposal to transfer a portion of the restored cover-over for five years to capitalize the Trust is projected to result in a permanent endowment.

Lastly, I introduce a bill to provide sufficient funding for Puerto Rico and the Territories' Children's Health Insurance Programs (CHIP).

The Balanced Budget Act of 1997 established CHIP as a grant to states to cover uninsured low-income children. We provided approximately $20 billion in the first five years. The original allocation formula would have provided only 0.25 percent of the funding to Puerto Rico and the Territories.

Recognizing that this allocation provided insufficient funding for CHIP programs in Puerto Rico and the Territories, Congress increased their allotments by $32 million in the Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY 1999. However, this increase was provided for Fiscal Year 1999 only.

This bill would increase the allotments for Puerto Rico and the Territories for future years such that funding would equal about one percent of the total grant funding. Puerto Rico and the Territories account for about 1.52 percent of the nation's population. This would increase funding in Fiscal Year 2000 to $34.2 million. I urge my colleagues' support for this modest but significant legislation.

In an era of open borders, expanding trade, and increasingly interlinked economic ties, the United States should not punish Puerto Rico by selectively applying some laws while denying the benefits of others. Economic conditions in Puerto Rico warrant special consideration. While the United States is enjoying the benefits of an historically unprecedented period of economic expansion, unemployment among Puerto Rico's 3.5 million inhabitants remains 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.

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

S. 212

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Puerto Rico Economic Activity Credit Improvement Act of 1999''.

(b) AMENDMENT OF 1986 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 section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. 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 paragraph (1)—

''(A) IN GENERAL.—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).

''(B) LIMITATION TO LINES OF BUSINESS.—A domestic corporation shall 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.

''(C) EXCEPTION FOR CORPORATIONS ELECTING REDUCED CREDIT.—A domestic corporation shall not be treated as a qualified domestic corporation if such corporation (or any predecessor) had an election in effect under section 936(a)(4)(B)(iii) for any taxable year beginning after December 31, 1996.''

(b) APPLICATION ON SEPARATE LINE OF BUSINESS BASIS; ELIGIBLE LINE 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 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 the credit under subsection (a), this section shall be applied separately with respect to each substantial line of business of the qualified domestic corporation.

''(B) EXCEPTIONS FOR EXISTING CREDIT CLAIMANT.—This paragraph shall not apply to a substantial line of business with respect to which the qualified domestic corporation is an existing credit claimant under section 936(j)(9).

''(C) ALLOCATION.—The Secretary shall prescribe rules necessary to carry out the purposes of this paragraph, including rules—

''(i) for the allocation of items of income, gain, deduction, and loss for purposes of determining taxable income under subsection (a), and

''(ii) for the allocation of wages, fringe benefit expenses, and depreciation allowances for purposes of applying the limitations under subsection (d).

''(2) ELIGIBLE LINE OF BUSINESS.—The term 'eligible line of business' means a substantial line of business in any of the following trades or businesses:

''(A) Manufacturing.

''(B) Agriculture.

''(C) Forestry.

''(D) Fishing.

''(3) SUBSTANTIAL LINE OF BUSINESS.—For purposes of this subsection, 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 (62 Fed. Reg. 17288 et seq., formerly known as 'SIC codes').''

(c) REPEAL OF BASE PERIOD CAP.—

(1) IN GENERAL.—Section 30A(a)(1) (relating to allowance of credit) is amended by striking the last sentence.

(2) CONFORMING AMENDMENT.—Section 30A(e)(1) is amended by inserting ''but not including subsection (j)(3)(A)(ii) thereof'' after ''thereunder''.

(d) APPLICATION OF CREDIT.—Section 30A(h) (relating to applicability of section), as redesignated by subsection (b), is amended by striking ''January 1, 2006'' and inserting ''January 1, 2009''.

(e) CONFORMING AMENDMENTS.—

(1) Section 30A(b) is amended by striking ''within a possession'' each place it appears and inserting ''within Puerto Rico''.

(2) Section 30A(d) is amended by striking ''possession'' each place it appears.

(3) Section 30A(f) is amended to read as follows:

''(f) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED INCOME TAXES.—The qualified income taxes for any taxable year allocable to nonsheltered income shall be determined in the same manner as under section 936(i)(3).

''(2) QUALIFIED WAGES.—The qualified wages for any taxable year shall be determined in the same manner as under section 936(i)(1).

''(3) OTHER TERMS.—Any term used in this section which is also used in section 936 shall have the same meaning given such term by section 936.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 3. COMPARABLE TREATMENT FOR OTHER ECONOMIC ACTIVITY CREDIT.

(a) CORPORATIONS ELIGIBLE TO CLAIM CREDIT.—Section 936(j)(2)(A) (relating to economic activity credit) is amended to read as follows:

''(A) ECONOMIC ACTIVITY CREDIT.—

''(i) 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 paragraph (9), or

''(II) an eligible line of business not described in subclause (I),

the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 2002.

''(ii) LIMITATION TO LINES OF BUSINESS.—Clause (i) shall only apply with respect to the lines of business described in clause (i) which the domestic corporation is actively conducting in a possession other than Puerto Rico during the taxable year.

''(iii) EXCEPTION FOR CORPORATIONS ELECTING REDUCED CREDIT.—Clause (i) shall not apply to a domestic corporation if such corporation (or any predecessor) had an election in effect under subsection (a)(4)(B)(iii) for any taxable year beginning after December 31, 1996.''

(b) APPLICATION ON SEPARATE LINE OF BUSINESS BASIS; ELIGIBLE LINE OF BUSINESS.—

(1) IN GENERAL.—Section 936(j) is amended by adding at the end the following new paragraph:

''(11) APPLICATION ON LINE OF BUSINESS BASIS; ELIGIBLE LINES OF BUSINESS.—For purposes of this section—

''(A) APPLICATION TO SEPARATE LINE OF BUSINESS.—

''(i) IN GENERAL.—In determining the amount of the credit under subsection (a)(1)(A) for a corporation to which paragraph (2)(A) applies, this section shall be applied separately with respect to each substantial line of business of the corporation.

''(ii) EXCEPTIONS FOR EXISTING CREDIT CLAIMANT.—This paragraph shall not apply to a line of business with respect to which the qualified domestic corporation is an existing credit claimant under paragraph (9).

''(iii) ALLOCATION.—The Secretary shall prescribe rules necessary to carry out the purposes of this subparagraph, including rules—

''(I) for the allocation of items of income, gain, deduction, and loss for purposes of determining taxable income under subsection (a)(1)(A), and

''(II) for the allocation of wages, fringe benefit expenses, and depreciation allowances for purposes of applying the limitations under subsection (a)(4)(A).

''(B) ELIGIBLE LINE OF BUSINESS.—For purposes of this subsection, the term 'eligible line of business' means a substantial line of business in any of the following trades or businesses:

''(i) Manufacturing.

''(ii) Agriculture.

''(iii) Forestry.

''(iv) Fishing.''

(2) NEW LINES OF BUSINESS.—Section 936(j)(9)(B) is amended to read as follows:

''(B) NEW LINES OF BUSINESS.—A corporation shall not be treated as an existing credit claimant with respect to any substantial new line of business which is added after October 13, 1995, unless such addition is pursuant to an acquisition described in subparagraph (A)(ii).''

(3) SEPARATE LINES OF BUSINESS.—Section 936(j), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

''(12) SUBSTANTIAL LINE OF BUSINESS.—For purposes of this subsection (other than paragraph (9)(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 (62 Fed. Reg. 17288 et seq., formerly known as 'SIC codes').''

(c) REPEAL OF BASE PERIOD CAP FOR ECONOMIC ACTIVITY CREDIT.—

(1) IN GENERAL.—Section 936(j)(3) is amended to read as follows:

''(3) ADDITIONAL RESTRICTED REDUCED CREDIT.—

''(A) IN GENERAL.—In the case of an existing credit claimant to which paragraph (2)(B) applies, the credit determined under subsection (a)(1)(A) shall be allowed for any taxable year beginning after December 31, 1998, and before January 1, 2006, except that the aggregate amount of taxable income taken into account under subsection (a)(1)(A) for such taxable year shall not exceed the adjusted base period income of such claimant.

''(B) COORDINATION WITH SUBSECTION (a)(4)(B).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(4)(B) shall be such income as reduced under this paragraph.''

(2) CONFORMING AMENDMENTS.—

(A) Section 936(j)(2)(A), as amended by subsection (a), is amended by striking ''2002'' and inserting ''2006''.

(B) Section 30A(e)(1), as amended by section 2(c)(2), is amended by striking ''subsection (j)(3)(A)(ii)'' and inserting ''the exception under subsection (j)(3)(A)''.

(d) APPLICATION OF CREDIT.—

(1) IN GENERAL.—Section 936(j)(2)(A), as amended by this section, is amended by striking ''January 1, 2006'' and inserting ''January 1, 2009''.

(2) SPECIAL RULES FOR APPLICABLE POSSESSIONS.—Section 936(j)(8)(A) is amended to read as follows:

''(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 actively conducted in such possession by a domestic corporation which is an existing credit claimant with respect to such line of business, and

''(ii) this section (including this subsection) shall apply—

''(I) 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, 2009, and

''(II) with respect to any substantial line of business described in clause (i) for taxable years beginning after December 31, 2006, and before January 1, 2009.''

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

(2) NEW LINES OF BUSINESS.—The amendment made by subsection (b)(2) shall apply to taxable years beginning after December 31, 1995.

S. 213

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

SECTION 1. REPEAL OF LIMITATION OF COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) IN GENERAL.—Section 7652 (relating to limitation on cover over of tax on distilled spirits) is amended by striking subsection (f) and by redesignating subsection (g) as subsection (f).

(b) CONFORMING AMENDMENTS.—Section 7652(f) of such Code (as so redesignated) is amended by striking ''subsection (f) of this section'' in paragraph (1)(B) and inserting ''section 5001(a)(1)''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to articles containing distilled spirits that are tax-determined after September 30, 1999.

(2) SPECIAL RULE.—

(A) IN GENERAL.—For the 5-year period beginning after September 30, 1999, the treasury of Puerto Rico shall make a Conservation Trust Fund transfer within 30 days from the date of each cover over payment made during such period to such treasury under section 7652(e) of the Internal Revenue Code of 1986.

(B) 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 equal to 50 cents per proof gallon of the taxes imposed under section 5001 or section 7652 of such Code on distilled spirits that are covered over to the treasury of Puerto Rico under section 7652(e) of such Code.

(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.

(ii) RESULT OF NONTRANSFER.—

(I) IN GENERAL.—Upon notification by the Secretary of the Interior 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 of the Treasury 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, and the interest thereon, directly to the Puerto Rico Conservation Trust Fund.

(II) GOOD CAUSE EXCEPTION.—If the Secretary of the Interior finds, after consultation with the Governor of Puerto Rico, that the failure by the treasury of Puerto Rico 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.

(C) 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 United States Department of the Interior and the Commonwealth of Puerto Rico, dated December 24, 1968.

S. 214

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

SECTION 1. EXTENSION OF RESEARCH CREDIT TO RESEARCH IN PUERTO RICO AND THE POSSESSIONS OF THE UNITED STATES.

(a) IN GENERAL.—Section 41(d)(4)(F) of the Internal Revenue Code of 1986 (relating to foreign research) is amended by inserting '', the Commonwealth of Puerto Rico, or any possession of the United States'' after ''United States''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

S. 215

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

SECTION 1. INCREASED ALLOTMENTS FOR TERRITORIES UNDER THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM.

Section 2104(c)(4)(B) of the Social Security Act (42 U.S.C. 1397dd(c)(4)(B)), as added by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), is amended by inserting '', $34,200,000 for each of fiscal years 2000 and 2001, $25,200,000 for each of fiscal years 2002 through 2004, $32,400,000 for each of fiscal years 2005 and 2006, and $40,000,000 for fiscal year 2007'' before the period.

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

S. 216. A bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the use of foreign tax credits under the alternative minimum tax; to the Committee on Finance.

LEGISLATION TO REPEAL THE LIMITATION ON FOREIGN TAX CREDITS UNDER THE CORPORATE ALTERNATIVE MINIMUM TAX

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation on behalf of myself and my Finance Committee colleague, Senator JEFFORDS, to repeal a limitation in the Tax Code that results in the double taxation of certain foreign source income. The issue involves the effect of the corporate alternative minimum tax on income earned abroad by United States companies. Correction of this policy flaw is of significant importance to the affected companies, their current and future employees, and their shareholders.

The U.S. taxes the worldwide income of its corporations, citizens and residents. Under the U.S. Tax Code, U.S. bilateral treaties, and international norms, it is generally accepted that income with a nexus to two countries should not be taxed by both jurisdictions, and that the jurisdiction in which active business income is earned typically should have the primary right to tax that income. To effectuate these principles and to avoid double taxation, the U.S. tax laws—since the Revenue Act of 1918—allow U.S. taxpayers to claim a foreign tax credit with respect to foreign income taxes paid on foreign source income, and thereby reduce U.S. income taxes on such income.

It should be emphasized that the foreign tax credit is not a tax ''loophole'' or ''preference.'' Rather, as noted by the U.S. Supreme Court in the 1932 case of Burnet versus Chicago, ''the primary design'' of the foreign tax credit system is to ''mitigate the evil of double taxation.''

However, in enacting the Tax Reform Act of 1986, Congress concluded that this salutary purpose was outweighed by another. At that time, Congress was concerned with a serious problem: repeated instances of large corporations with substantial economic profits (reported to shareholders in their annual reports) paying little or no Federal income taxes. In response, Congress rewrote the corporate alternative minimum tax.

Congress had specific purposes in mind in rewriting the minimum tax. First, as noted by the Joint Tax Committee in its General Explanation of the Tax Reform Act of 1986:

> . . . Congress decided that it was inherently unfair for high-income taxpayers to pay little or no tax due to their ability to utilize tax preferences.

An obvious and incontrovertible sentiment. Yet, as noted above, foreign tax credits are not tax preferences or loopholes.

Congress was also concerned with appearances. The Joint Tax Committee Explanation continued:

> . . . Congress concluded that there must be a reasonable certainty that, whenever a company publicly reports significant earnings, that company will pay some tax for the year.

No argument here. And Congress ensured that companies reporting profits would in fact pay tax by, among other changes, requiring corporations to increase their ''alternative minimum taxable income'' by a percentage of the income reported on financial statements, and requiring the use of a slower depreciation schedule rather than accelerated depreciation for purposes of cost recovery.

But what about foreign tax credits? The Joint Tax Committee Explanation stated:

. . . While Congress viewed allowance of the foreign tax credit . . . as generally appropriate for minimum tax purposes, it was considered fair to mandate at least a nominal tax contribution from all U.S. taxpayers with substantial economic income.

To state it less elegantly, Congress believed that limited 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.

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 alone has paid significant amounts of minimum tax due to this provision, some of which was incurred in years during which the company reported losses on a worldwide basis.

Second, since the 1986 Act, there have been a number of significant modifications to the minimum tax. For example, the Taxpayer Relief Act of 1997 allows large corporate taxpayers to use accelerated depreciation under the minimum tax, and it repealed the minimum tax in its entirety for corporations with gross receipts of $5 million or less. In addition, the Energy Policy Act of 1992 allowed taxpayers to claim tax benefits under the minimum tax relating to oil & gas intangible drilling costs. Considering the post-1986 relaxations of the minimum tax, little purpose remains in the 90 percent limitation.

Finally, since 1986, many of our largest businesses have seen tremendous expansion in their exports and foreign sales, thus substantially increasing the amount of foreign source income. At the same time, these companies must compete with foreign companies that do not have to bear double taxation. As my friend Senator Alfonse D'Amato noted when introducing similar legislation last year:

The result is double (and even triple) taxation of income that is used to support U.S. jobs, R&D and other activities.

The restriction can no longer be justified.

Mr. President, I ask unanimous consent that the 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. 216

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

SECTION 1. REPEAL OF LIMITATION ON FOREIGN TAX CREDIT UNDER ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Section 59(a) of the Internal Revenue Code of 1986 (relating to alternative minimum tax foreign tax credit) is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CONFORMING AMENDMENTS.—Section 53(d)(1)(B)(i)(II) of such Code is amended by striking ''and if section 59(a)(2) did not apply''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

Mr. JEFFORDS. Mr. President, today, I am joining 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 earning income from sources outside the United States are subject to U.S. tax on that foreign-source income. In all likelihood, that income will also be subject to tax by the country where it was earned. Thus, the same income could be taxed twice, by two different countries. To guard against the double taxation of this income, the tax code allows taxpayers to offset their U.S. tax on foreign-source income with the foreign taxes paid on that income. This is accomplished by means of a foreign tax credit; that is, the foreign tax paid on foreign source income is credited against the U.S. tax that would otherwise be payable on that income. The details of the foreign tax credit rules are extraordinarily complex. (Indeed, virtually all of the Internal Revenue Code's provisions governing international taxation are complex.) The basic principle underlying the foreign tax credit rules, however, is simple: to provide relief from multiple taxation of the same income.

Many U.S. taxpayers have to perform two tax computations. First, they compute their ''regular tax.'' Then, they compute their ''alternative minimum tax'' (AMT). As a rule, taxpayers pay the larger of these two computations, the ''regular tax'' or the AMT. The AMT was enacted to ensure that taxpayers qualifying for various tax ''preferences'' allowed by the Internal Revenue Code must pay a minimum amount of tax. While foreign tax credits guard against double taxation in the ''regular tax'' computation, the principle of providing relief from double taxation falls by the wayside in the AMT computation. Under AMT rules, the allowable foreign tax credit is unlimited to 90 percent of a taxpayer's alternative minimum tax liability. Because of this limitation, income subject to foreign tax is also subject to U.S. tax. This rule operates to ensure double taxation, and the result is double (and even triple) taxation of income.

There is no sound policy reason for denying relief from double taxation to taxpayers subject to the AMT. The foreign tax credit is not a ''preference'' that serves 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 as a method of raising 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 subject to the AMT will get the same relief from double taxation allowed to taxpayers subject to the regular tax.

By Mr. MOYNIHAN (for himself, Mr. INOUYE, and Mr. WELLSTONE):

S. 217. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of charitable transfers of collections of personal papers with a separate right to control access; to the Committee on Finance.

LEGISLATION TO ENCOURAGE DONATIONS OF PERSONAL PAPERS TO HISTORICAL AND EDUCATIONAL ORGANIZATIONS

Mr. MOYNIHAN. Mr. President, today I am introducing legislation on behalf of myself and Senators INOUYE and WELLSTONE to correct a little-known estate and gift tax provision that may inadvertently penalize persons who donate 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 a corresponding charitable 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 situation occurs where the donor retains (or transfers to his or her surviving spouse or children) 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, correspondents, staffs, family and friends. Depending on how the retained rights are described in a deed of gift or will, and how such rights are treated under state law, the retention of various rights may cause the gift to fail to qualify for a charitable deduction under the estate and gift tax.

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 collection of 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, and never imagined 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, who 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 during the lifetime of his heirs, and required that permission be obtained from the executors of his estate to use the collection, to publish any writings in the collection, or to publish any writings about them. Justice Potter Stewart donated his papers to the Library of Congress with the restriction that all Court materials be closed pending retirement of all justices who served on the Supreme Court with him.

In contrast, 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 upon 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 and bequeath limited qualified rights to a collection of papers and related items. I.e., a collection substantially all the items of which are in the form of letters, memoranda, notes, and similar materials. Qualified rights would include the right of access to the materials, and the right to designate, limit, and control access to the materials, for a period of time not to exceed 25 years after the death of the person who created (or collected) the materials.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD, along with a letter from our Senate Legal Counsel.

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

S. 217

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

SECTION 1. TAX TREATMENT OF CHARITABLE TRANSFERS OF COLLECTIONS OF PERSONAL PAPERS WITH SEPARATE RIGHT TO CONTROL ACCESS.

(a) IN GENERAL.—Chapter 14 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''SEC. 2705. TREATMENT OF CHARITABLE TRANSFERS OF COLLECTIONS OF PERSONAL PAPERS WITH SEPARATE RIGHT TO CONTROL ACCESS.

''(a) GENERAL RULE.—For purposes of this subtitle, if—

''(1) an individual transfers an interest in qualified property to a person, or for a use described in section 2055(a) or section 2522 (a) or (b), and

''(2) the individual retains or transfers to another person the right to control access to such property for a period not to exceed 25 years after the death of the individual,

sections 2036, 2038, 2055(e)(2), and 2522(c)(2) shall not apply solely by reason of the individual retaining or transferring such right.

''(b) SPECIAL RULES RELATING TO TRANSFER OF RIGHT TO CONTROL ACCESS.—If any individual transfers the right to control access described in subsection (a) to another person for less than an adequate and full consideration in money or money's worth—

''(1) no tax shall be imposed under this subtitle by reason of the transfer, 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, memoranda, or 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.'' and inserting ''rules; rules affecting subtitle.''

(3) The table of sections of chapter 14 of such Code is amended by adding at the end the following new item:

''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,
OFFICE OF SENATE LEGAL COUNSEL,
Washington, DC, June 25, 1997.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN:

I am writing to bring to 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 historical 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 typically 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 interests ineligible 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 charitable 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 Senate 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. It is 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 to clarify that charitable gifts and bequests of public figures' papers 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.

TEMPORARILY REDUCING THE TARIFFS ON CERTAIN WOOL FABRIC

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 wools 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 such term has for purposes of headings 6203 and 6204.''; and

(2) by inserting in numerical sequence the following new headings:

''	9902.51.11	Fabrics, of carded or combed wool, all the foregoing certified by the importer as 'Super 70's' or 'Super 80's' intended for use in making suits, suit-type jackets or trousers (provided for in subheadings 5111.11.70, 5111.19.60, 5112.11.20, or 5112.19.90)	19.8%	No change	No change	On or before 12/31/2004	
	9902.51.12	Fabrics, of carded or combed wool, all the foregoing certified by the importer as 'Super 90's' or higher grade intended for use in making suits, suit-type jackets or trousers (provided for in subheadings 5111.11.70, 5111.19.60, 5112.11.20, or 5112.19.90)	Free	Free (CA, IL, MX)	No change	On or before 12/31/2004	''.

(b) STAGED RATE REDUCTION.—Any staged reduction of a rate of duty set forth in heading 6203.31.00 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 15th 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 inspectors 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. Yet, the 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 before the U.S.-Canada Free Trade Agreement entered into force, was $194 billion. By 1997, the volume had doubled—to $387 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 authorization 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

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 ''Northern Border Trade 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 was implemented, 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 training, and joint facilities between United States and Canadian customs agencies.

(5) Increased trade has resulted in a significant increase in merchandise entries and cross-border 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 1980 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 1980;

(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) outmoded technologies and inadequate equipment have increased congestion along the Northern border.

(7) Since 1952, 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 commerce and the movement of people and traffic across the United States-Canadian border, while maintaining enforcement, by—

(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, there are authorized to be appropriated for salaries, expenses, and equipment for the United States Customs Service for purposes of carrying out this title—

(1) $75,896,800 for fiscal year 2000; and

(2) $43,931,790 for fiscal year 2001.

SEC. 102. PEAK HOURS AND INVESTIGATIVE 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) a net increase of 125 inspectors to be distributed at large cargo facilities on the United States-Canadian border as needed to process and 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, $26,582,000 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 4 1–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 to each border crossing based on traffic volume.

(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) $40,000 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.

(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).

(b) FISCAL YEAR 2001.—Of the amounts made available for fiscal year 2001 under section 101, $2,658,200 shall be for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (a).

(c) ACQUISITION OF TECHNOLOGICALLY SUPERIOR EQUIPMENT; TRANSFER OF FUNDS.—

(1) IN GENERAL.—The Commissioner of Customs may use amounts made available for fiscal year 2000 under section 101 for the acquisition of equipment other than the equipment described in subsection (a) if such other equipment—

(A)(i) is technologically superior to the equipment described in subsection (a); and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment described in subsection (a); or

(B) can be obtained at a lower cost than the equipment described in subsection (a).

(2) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Commissioner of Customs may reallocate an amount not to exceed 10 percent of the amount specified in any of paragraphs (1) through (17) of subsection (a) for equipment specified in any other of such paragraphs (1) through (17).

TITLE II—ADDITIONAL PRECLEARANCE ACTIVITIES

SEC. 201. CUSTOMS USER FEES.

(a) ADDITIONAL PRECLEARANCE ACTIVITIES.—Section 13031(f)(3)(A)(iii) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)(A)(iii)) is amended to read as follows:

''(iii) to the extent funds remain available after making reimbursements under clause (ii), in providing salaries for up to 50 full-time equivalent inspectional positions to provide preclearance services.''.

(b) COLLECTION OF FEES FOR PASSENGERS ABOARD COMMERCIAL VESSELS.—Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended—

(1) in subsection (a), by amending paragraph (5) to read as follows:

''(5)(A) Subject to subparagraph (B), for the arrival of each passenger aboard a commercial vessel or commercial aircraft from a place outside the United States (other than a place referred to in subsection (b)(1)(A)(i)), $5.

''(B) For the arrival of each passenger aboard a commercial vessel from a place referred to in subsection (b)(1)(A)(i), $1.75''; and

(2) in subsection (b)(1)(A), by striking ''(A) No fee'' and inserting ''(A) Except as provided in subsection (a)(5)(B), no fee''.

(c) USE OF MERCHANDISE PROCESSING FEES FOR AUTOMATED COMMERCIAL SYSTEMS.—Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended by adding at the end the following:

''(6) Of the amounts collected under paragraphs (9) and (10) of subsection (a), $50,000,000 shall be available to the Customs Service, subject to appropriations Acts, for automated commercial systems. Amounts made available under this paragraph shall remain available until expended.''.

(d) EFFECTIVE DATE.—The amendments made by this section take effect 30 days after the date of enactment of this Act.

By Mr. NOYNIHAN:

S. 220. A bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance and NAFTA transitional adjustment assistance programs under that Act, and for other purposes; to the Committee on Finance.

TRADE ADJUSTMENT ASSISTANCE IMPROVEMENTS ACT OF 1999

Nr. 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 some workers are to lose their jobs as a result of 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 import competition. This is 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 in the implementing legislation 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 factories have 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 responsible 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 her 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; and

(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. Time is of the essence, however, 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. 2331(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.—

(1) IN GENERAL.—Subchapter D of chapter 2 of title II of such Act (19 U.S.C. 2331) is hereby repealed.

(2) CONFORMING AMENDMENTS.—(A) Section 249A of such Act (19 U.S.C. 2322) is hereby repealed.

(B) The table of contents of such Act is amended—

(i) by striking the item relating to section 249A; and

(ii) by striking the items relating to subchapter D of chapter 2 of title II.

(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 technical 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,''.

(d) EFFECTIVE DATE.—

(1) SUBSECTIONS (a) AND (c).—The amendments made by subsections (a) and (c) take effect on—

(A) July 1, 1999; or

(B) the date of enactment of this Act,

whichever is earlier.

(2) SUBSECTION (b).—The amendments made by subsection (b) take effect on—

(A) October 1, 1999; or

(B) 90 days after the date of enactment of this Act,

whichever is later.

SEC. 3. FILING OF PETITIONS AND PROVISION OF RAPID RESPONSE ASSISTANCE; EXPEDITED REVIEW OF PETITIONS BY SECRETARY OF LABOR.

(a) FILING OF PETITIONS AND PROVISION OF RAPID RESPONSE ASSISTANCE.—Section 221(a) of the Trade Act of 1974 (19 U.S.C. 2271(a)) is amended to read as follows:

''(a)(1) A petition for certification of eligibility to apply for adjustment assistance for a group of workers under this chapter may be filed with the Governor of the State in which such workers' firm or subdivision is located by any of the following:

''(A) The group of workers (including workers in an agricultural firm or subdivision of any agricultural firm).

''(B) The certified or recognized union or other duly authorized representative of such workers.

''(C) Employers of such workers, one-stop operators or one-stop partners (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)), or State employment agencies, on behalf of such workers.

''(2) Upon receipt of a petition filed under paragraph (1), the Governor shall—

''(A) immediately transmit the petition to the Secretary of Labor (hereinafter in this chapter referred to as the 'Secretary');

''(B) ensure that rapid response assistance and basic readjustment services authorized under other Federal laws are made available to the workers covered by the petition to the extent authorized under such laws; and

''(C) assist the Secretary in the review of the petition by verifying such information and providing such other assistance as the Secretary may request.

''(3) Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that the Secretary has received the petition and initiated an investigation.''.

(b) EXPEDITED REVIEW OF PETITIONS BY SECRETARY OF LABOR.—Section 223(a) of such Act (19 U.S.C. 2273(a)) is amended in the first sentence by striking ''60 days'' and inserting ''40 days''.

SEC. 4. ADDITION OF SHIFT IN PRODUCTION AS BASIS FOR ELIGIBILITY FOR TRADE ADJUSTMENT ASSISTANCE.

Section 222(a) of the Trade Act of 1974 (19 U.S.C. 2272(a)) is amended to read as follows:

''(a) A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as eligible to apply for adjustment assistance under this chapter pursuant to a petition filed under section 221 if the Secretary determines that—

''(1) a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated; and

''(2)(A)(i) the sales or production, or both, of such firm or subdivision have decreased absolutely;

''(ii) imports of articles like or directly competitive with articles produced by such firm or subdivision have increased; and

''(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm or subdivision; or

''(B) there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision.''.

SEC. 5. INFORMATION ON CERTAIN CERTIFICATIONS.

Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) is amended by adding at the end the following subsection:

''(e) The Secretary shall collect and maintain information—

''(1) identifying the countries to which firms have shifted production resulting in certifications under section 222(a)(2)(B), including the number of such certifications relating to each country; and

''(2) to the extent feasible, identifying the countries from which imports of articles have resulted in certifications under section 222(a)(2)(A), including the number of such certifications relating to each country.''.

SEC. 6. ENROLLMENT IN TRAINING REQUIREMENT.

Section 231(a)(5)(A) of the Trade Act of 1974 (19 U.S.C. 2291(a)(5)(A)) is amended—

(1) by inserting ''(i)'' after ''(A)'';

(2) by adding ''and'' after the comma at the end; and

(3) by adding at the end the following:

''(ii) the enrollment required under clause (i) occurs no later than the latest of—

''(I) the last day of the 16th week after the worker's most recent total separation from adversely affected employment which meets the requirements of paragraphs (1) and (2);

''(II) the last day of the 8th week after the week in which the Secretary issues a certification covering the worker; or

''(III) 45 days after the later of the dates specified in subclause (I) or (II), if the Secretary determines there are extenuating circumstances that justify an extension in the enrollment period;''.

SEC. 7. WAIVERS OF TRAINING REQUIREMENTS.

(a) IN GENERAL.—Section 231(c) of the Trade Act of 1974 (19 U.S.C. 2291(c)) is amended to read as follows:

''(c)(1) The Secretary may issue a written statement to a worker waiving the enrollment in the training requirement described in subsection (a)(5)(A) if the Secretary determines that such training requirement is not feasible or appropriate for the worker, as indicated by 1 or more of the following:

''(A) The worker has been notified that the worker will be recalled by the firm from which the qualifying separation occurred.

''(B) The worker has marketable skills as determined pursuant to an assessment of the worker, which may include the profiling system under section 303(j) of the Social Security Act (42 U.S.C. 503(j)), carried out in accordance with guidelines issued by the Secretary.

''(C) The worker is within 2 years of meeting all requirements for entitlement to old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) (except for application therefor).

''(D) The worker is unable to participate in training due to the health of the worker, except that a waiver under this subparagraph shall not be construed to exempt a worker from requirements relating to the availability for work, active search for work, or refusal to accept work under Federal or State unemployment compensation laws.

''(E) The first available enrollment date for the approved training of the worker is within 45 days after the date of the determination made under this paragraph, or, if later, there are extenuating circumstances for the delay in enrollment, as determined pursuant to guidelines issued by the Secretary.

''(F) There are insufficient funds available for training under this chapter, taking into account the limitation under section 236(a)(2)(A).

''(G) The duration of training appropriate for the individual to obtain suitable employment exceeds the individual's maximum entitlement to basic and additional trade readjustment allowances and, in addition, financial support available through other Federal or State programs, including title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.) or chapter 5 of subtitle B of title I of the Workforce Investment Act of 1998, that would enable the individual to complete a suitable training program cannot be assured.

''(2) The Secretary shall specify the duration of the waiver under paragraph (1) and shall periodically review the waiver to determine whether the basis for issuing the waiver remains applicable. If at any time the Secretary determines such basis is no longer applicable to the worker, the Secretary shall revoke the waiver.

''(3) Pursuant to the agreement under section 239, the Secretary may authorize the State or State agency to carry out activities described in paragraph (1) (except for the determination under subparagraphs (F) and (G) of paragraph (1)). Such agreement shall include a requirement that the State or State agency submit to the Secretary the written statements provided pursuant to paragraph (1) and a statement of the reasons for the waiver.

''(4) The Secretary shall submit an annual report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives identifying the number of workers who received waivers and the average duration of such waivers issued under this subsection during the preceding year.''.

(b) CONFORMING AMENDMENT.—Section 231(a)(5)(C) of such Act (19 U.S.C. 2291(a)(5)(C)) is amended by striking ''certified''.

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 in the matter preceding paragraph (1) by striking ''14 days'' and inserting ''30 days''.

SEC. 9. INCREASE IN ANNUAL 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 $70,000,000 and inserting ''$150,000,000''.

SEC. 10. ELIMINATION OF QUARTERLY REPORT.

(a) IN GENERAL.—Section 236(d) of the Trade Act of 1974 (19 U.S.C. 2296(d)) is amended by striking the last sentence.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on October 1, 1999.

SEC. 11. COORDINATION WITH ONE-STOP DELIVERY SYSTEMS, THE JOB TRAINING PARTNERSHIP ACT, AND THE WORKFORCE INVESTMENT ACT OF 1998.

(a) COORDINATION WITH ONE-STOP DELIVERY SYSTEMS.—Section 235 of the Trade Act of 1974 (19 U.S.C. 2295) is amended by inserting '', including the services provided through one-stop delivery systems described in section 134(c) of the Workforce Investment Act of 1998 (19 U.S.C. 2864(c))'' before the period at the end of the first sentence.

(b) COORDINATION WITH JOB TRAINING PARTNERSHIP ACT AND WORKFORCE INVESTMENT ACT OF 1998.—Section 239(e) such Act (19 U.S.C. 2311(e)) is amended—

(1) in the first sentence, by striking ''or title I of the Workforce Investment Act of 1998'' and inserting ''or under the provisions relating to dislocated worker employment and training activities set forth in chapter 5 of subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2861 et seq.), as the case may be,''; and

(2) by inserting after the first sentence the following: ''Such coordination shall include use of common reporting systems and elements, including common elements relating to participant data and performance outcomes (including employment, retention of employment, and wages).''.

SEC. 12. SUPPORTIVE SERVICES.

(a) IN GENERAL.—Part II of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2295 et seq.) is amended by adding at the end the following:

''SEC. 238A. SUPPORTIVE SERVICES.

''(a) APPLICATION.—Any adversely affected worker covered by a certification under subchapter A of this chapter may file an application with the Secretary for the provision of supportive services, including transportation, child and dependent care, and other similar services.

''(b) CONDITIONS.—The Secretary may approve an application filed under subsection (a) and provide supportive services to an adversely affected worker only if the Secretary determines that—

''(1) the provision of such services is necessary to enable the worker to participate in or complete training; and

''(2) the provision of such services is consistent with the provision of supportive services to participants under the program of employment and training assistance for dislocated workers carried out under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.), as in effect on the date of enactment of the Trade Adjustment Assistance Reform Act of 1999, or under the provisions relating to dislocated worker employment and training activities set forth in chapter 5 of subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2861 et seq.), as the case may be.''.

(b) CONFORMING AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 238 the following:

''Sec. 238A. Supportive services.''.

SEC. 13. ADDITIONAL CONFORMING AMENDMENTS.

(a) SECTION 225.—Section 225(b) of the Trade Act of 1974 (19 U.S.C. 2275(b)) is amended in each of paragraphs (1) and (2) by striking ''or subchapter D''.

(b) SECTION 240.—Section 240(a) of such Act (19 U.S.C. 2312(a)) is amended by striking ''subchapter B of''.

SEC. 14. AVAILABILITY OF CONTINGENCY FUNDS.

(a) IN GENERAL.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317), as amended by section 2, is amended—

(1) by striking ''There are authorized'' and inserting ''(a) IN GENERAL.—There are authorized''; and

(2) by adding at the end the following:

''(b) CONTINGENCY FUNDS.—Subject to the limitation contained in section 236(a)(2), if in any fiscal year the funds available to carry out the programs under this chapter are exhausted, there shall be made available from funds in the Treasury not otherwise appropriated amounts sufficient to carry out such programs for the remainder of the fiscal year.''.

(b) EFFECTIVE DATE.—The amendments made by this section take effect on—

(1) July 1, 1999; or

(2) the date of enactment of this Act,

whichever is earlier.

SEC. 15. REAUTHORIZATION OF ADJUSTMENT ASSISTANCE FOR FIRMS.

(a) IN GENERAL.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking ''for the period beginning October 1, 1998, and ending June 30, 1999'' and inserting ''for each of fiscal years 1999 through 2001''.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on—

(1) July 1, 1999; or

(2) the date of enactment of this Act,

whichever is earlier.

SEC. 16. EFFECTIVE DATE; TRANSITION PROVISION.

(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect on—

(1) October 1, 1999; or

(2) 90 days after the date of enactment of this Act,

whichever is later.

(b) TRANSITION.—The Secretary of Labor may promulgate such rules as the Secretary determines to be necessary to provide for the implementation of the amendments made by this Act.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 221. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to combat fraud and price-gouging committed in connection with the provision of consumer goods and services for the cleanup, repair, and recovery from the effects of a major disaster declared by the President, and for other purposes; to the Committee on the Judiciary.

THE DISASTER VICTIMS CRIME PREVENTION ACT OF 1999

Mr. AKAKA. Mr. President, today I am introducing the Disaster Victims Crime Prevention Act of 1999, which would stop fraud against victims of federal disasters. As with legislation I offered in the past, my measure would make it a federal crime to defraud persons through the sale of materials or services for cleanup, repair, and recovery following a federally declared disaster. The senior senator from Hawaii [Mr. INOUYE] joins me in sponsoring this bill.

Everyone knows the tremendous costs incurred during a natural disaster. During the winter of 1997 through the spring of 1998, there were tornadoes and flooding in the southeastern states that caused $1 billion in damage and resulted in at least 132 deaths. From December 1996 to January 1997, severe flooding over portions of California, Washington, Oregon, Idaho, Nevada and Montana resulted in $3 billion in damages, while in September 1996, Hurricane Fran struck North Carolina and Virginia at a cost of $5 billion. During the past decade, there have been a number of deadly natural disasters throughout the United States and its territories including hurricanes, floods, earthquakes, tornadoes, ice storms, wildfires, mudslides, and blizzards.

Through round-the-clock media coverage, Americans have front row seats to the destruction caused by these catastrophic events. We sympathetically watch television as families sift through the debris of their lives and as men and women assess the loss of their businesses. We witness the concern of others, such as Red Cross volunteers passing out blankets and food and citizens traveling hundreds of miles to help rebuild strangers' homes.

Despite the outpouring of public support that follows these disasters, there are unscrupulous individuals who prey on the trusting and unsuspecting victims whose immediate concerns are applying for disaster assistance, seeking temporary shelter, and rebuilding their lives.

My interest in this was heighten by Hurricane Iniki, which on September 11, 1992, leveled the island of Kauai in Hawaii and caused $1.6 billion in damage. As the people of Kauai began the recovery and rebuilding process, a contractor promising quick home repair took disaster benefits from numerous homeowners and fled the area without completing promised construction. Most of these fraud victims never found relief.

Every disaster has examples of individuals who are victimized twice—first by the disaster and later by unconscionable price hikes and fraudulent contractors. In the wake of the 1993 Midwest flooding, Iowa officials found that some vendors raised the price of portable toilets from $60 a month to $60 a day! In other flood-hit areas, carpet cleaners hiked their prices to $350 per hour, while telemarketers set up telephone banks to solicit funds for phony flood-related charities. Nor will television viewers forget the scenes of beleaguered South Floridians buying generators, plastic sheeting, and bottled water at outrageous prices in the aftermath of Hurricane Andrew.

The Disaster Victims Crime Prevention Act of 1999 would criminalize some

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 cleanup, repair, 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 contractor fraud. To fill 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 once 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 105th Congress, Senator 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 natural 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 Director 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 natural disasters. I believe there is only admiration and praise for the 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 one half of each caucus.

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 BAC laws. 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 stepped up their pressure tactics 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 constructed 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 1998, 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 former 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 tell 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 Zero Tolerance statute. No state has ever 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 In 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 sanctions and incentives. 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 passed .08? Yet, that's what 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.

Last year, supporters of our amendment included President Clinton. The National Safety Council. The Center for Disease Control. The American Automobile Manufacturers Association. Kemper, State Farm and Nationwide insurance companies. Mothers Against Drunk Driving. American College of Emergency Physicians. Consumer Federation of America. National Fire Protection Association. Advocates for Highway and Auto Safety. Newspaper editorial boards, such as The New York Times, The Washington Post, and The Baltimore Sun.

But more important than the support of scores of businesses, health and science organizations, governmental agencies, public opinion leaders, is the support from the families and friends of victims of drunk driving—like the Fraziers of Westminister, 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 thirty minutes, someone in America—a mother, husband, child, grandchild, brother, sister—dies 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. States will have the benefit of incentives for the first five years. After that, the money will be withheld. But, given past experience, I expect no state to lose funds.

The Senate has strongly supported this once. It should do so again. I urge my colleagues to cosponsor 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. 222

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Safe and Sober Streets Act of 1999''.

SEC. 2. NATIONAL STANDARD TO PROHIBIT OPERATION OF MOTOR VEHICLES BY INTOXICATED INDIVIDUALS.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

''§ 165. National standard to prohibit operation of motor vehicles by intoxicated individuals

''(a) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

''(1) FISCAL YEAR 2003.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2002, if the State does not meet the requirements of paragraph (3) on that date.

''(2) SUBSEQUENT FISCAL YEARS.—The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2003, and on October 1 of each fiscal year thereafter, if the State does not meet the requirements of paragraph (3) on that date.

''(3) REQUIREMENTS.—A State meets the requirements of this paragraph if the State has enacted and is enforcing a law providing that an individual who has an alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the State is guilty of the offense of driving while intoxicated (or an equivalent offense that carries the greatest penalty under the law of the State for operating a motor vehicle after having consumed alcohol).

''(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

''(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

''(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 2004.—Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 2004, shall remain available until the end of the third fiscal year following the fiscal year for which the funds are authorized to be appropriated.

''(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 2004.—No funds withheld under this section from apportionment to any State after September 30, 2004, shall be available for apportionment to the State.

''(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1)(A), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements, apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

''(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—

''(A) IN GENERAL.—Any funds apportioned under paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned.

''(B) TREATMENT OF CERTAIN FUNDS.—Sums not obligated at the end of the period referred to in subparagraph (A) shall lapse.

''(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1)(A), the State does not meet the requirements of subsection (a)(3), the funds shall lapse.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

''165. National standard to prohibit operation of motor vehicles by intoxicated individuals.''.

By Mr. LAUTENBERG (for himself, Mr. ROBB, Mr. KENNEDY, Mr. DASCHLE, Mr. CONRAD, Mr. BINGAMAN, Mr. EDWARDS, Mr. TORRICELLI, Mr. KERRY, Mr. BREAUX, Mr. INOUYE, Mrs. BOXER, and Mr. JOHNSON):

S. 223. A bill to help communities modernize public school facilities, and for other purposes; to the Committee on Finance.

THE PUBLIC SCHOOL MODERNIZATION ACT

Mr. LAUTENBERG. Mr. President I rise today to introduce the Public School Modernization Act of 1999. I am pleased to be joined in this effort by my cosponsors, Senators ROBB, KENNEDY, DASCHLE, CONRAD, BINGAMAN, EDWARDS, TORRICELLI, KERRY, BREAUX, INOUYE, BOXER, and JOHNSON.

Mr. President, the legislation I am introducing today is about opportunity. If there is one essential job of a responsive government, it is to provide opportunity—especially for young Americans. A solid education allows young people to open the door to a world of opportunity.

However, too many American children open the door each morning to enter a schoolhouse with inadequate facilities for a modern learning environment. To help remedy this situation, my 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.

Unfortunately, too many of our nation's school buildings fall into the inadequate category. A 1995 General Accounting Office report revealed that one-third of all schools, serving 14 million students, need extensive repair or replacement. In addition, 7 million students attend school every day with life-threatening safety code violations.

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 school facilities were at issue 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 facilities, 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 harder to move more 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 equivalent 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 offers opportunity—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 new 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 should be a bipartisan goal, and I hope that a number of Republicans will cosponsor on 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 school districts.

(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.

(4) Many schools do not have the physical infrastructure to take advantage of computers and other technology needed to meet the challenges of the next century.

(5) The Federal Government, by providing tax credits to bondholders to substitute for interest paid by school districts, can lower the costs of State and local school infrastructure investment, creating an incentive for States and localities to increase their own infrastructure improvement efforts and help ensure that all students are able to attend schools that are equipped for the 21st century.

(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 zones) 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 allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits).

''(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed 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.

''(d) QUALIFIED PUBLIC SCHOOL MODERNIZATION BOND; CREDIT ALLOWANCE DATE.—For purposes of this section—

''(1) QUALIFIED PUBLIC SCHOOL MODERNIZATION BOND.—The term 'qualified public school modernization bond' means—

''(A) a qualified zone academy bond, and

''(B) a qualified school construction bond.

''(2) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means, with respect to any issue, the last day of the 1-year period beginning on the date of issuance of such issue and the last day of each successive 1-year period thereafter.

''(e) OTHER DEFINITIONS.—For purposes of this part—

''(1) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given to such term by section 14101 of the Elementary and Secondary Education Act of 1965. Such term includes the local educational agency that serves the District of Columbia but does not include any other State agency.

''(2) BOND.—The term 'bond' includes any obligation.

''(3) STATE.—The term 'State' includes the District of Columbia and any possession of the United States.

''(4) PUBLIC SCHOOL FACILITY.—The term 'public school facility' shall not include any stadium or other facility primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

''(f) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section and the amount so included shall be treated as interest income.

''(g) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified public school modernization bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''SEC. 1397F. QUALIFIED ZONE ACADEMY BONDS.

''(a) QUALIFIED ZONE ACADEMY BOND.—For purposes of this part—

''(1) IN GENERAL.—The term 'qualified zone academy bond' means any bond issued as part of an issue if—

''(A) 95 percent or more of the proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by a local educational agency,

''(B) the bond is issued by a State or local government within the jurisdiction of which such academy is located,

''(C) the issuer—

''(i) designates such bond for purposes of this section,

''(ii) certifies that it has written assurances that the private business contribution requirement of paragraph (2) will be met with respect to such academy, and

''(iii) certifies that it has the written approval of the local educational agency for such bond issuance, and

''(D) the term of each bond which is part of such issue does not exceed 15 years.

''(2) PRIVATE BUSINESS CONTRIBUTION REQUIREMENT.—

''(A) IN GENERAL.—For purposes of paragraph (1), the private business contribution requirement of this paragraph is met with respect to any issue if the local educational agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue.

''(B) QUALIFIED CONTRIBUTIONS.—For purposes of subparagraph (A), the term 'qualified contribution' means any contribution (of a type and quality acceptable to the local educational agency) of—

''(i) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment),

''(ii) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom,

''(iii) services of employees as volunteer mentors,

''(iv) internships, field trips, or other educational opportunities outside the academy for students, or

''(v) any other property or service specified by the local educational agency.

''(3) QUALIFIED ZONE ACADEMY.—The term 'qualified zone academy' means any public school (or academic program within a public school) which is established by and operated under the supervision of a local educational agency to provide education or training below the postsecondary level if—

''(A) such public school or program (as the case may be) is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce,

''(B) students in such public school or program (as the case may be) will be subject to the same academic standards and assessments as other students educated by the local educational agency,

''(C) the comprehensive education plan of such public school or program is approved by the local educational agency, and

''(D)(i) such public school is located in an empowerment zone or enterprise community (including any such zone or community designated after the date of enactment of this section), or

''(ii) there is a reasonable expectation (as of the date of issuance of the bonds) that at least 35 percent of the students attending such school or participating in such program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

''(4) QUALIFIED PURPOSE.—The term 'qualified purpose' means, with respect to any qualified zone academy—

''(A) constructing, rehabilitating, or repairing the public school facility in which the academy is established,

''(B) providing equipment for use at such academy,

''(C) developing course materials for education to be provided at such academy, and

''(D) training teachers and other school personnel in such academy.

''(5) TEMPORARY PERIOD EXCEPTION.—A bond shall not be treated as failing to meet the requirement of paragraph (1)(A) solely by reason of the fact that the proceeds of the issue of which such bond is a part are invested for a reasonable temporary period (but not more than 36 months) until such proceeds are needed for the purpose for which such issue was issued. Any earnings on such proceeds during such period shall be treated as proceeds of the issue for purposes of applying paragraph (1)(A).

''(b) LIMITATIONS ON AMOUNT OF BONDS DESIGNATED.—

''(1) IN GENERAL.—There is a national zone academy bond limitation for each calendar year. Such limitation is—

''(A) $400,000,000 for 1999,

''(B) $1,400,000,000 for 2000,

''(C) $1,400,000,000 for 2001, and

''(D) except as provided in paragraph (3), zero after 2001.

''(2) ALLOCATION OF LIMITATION.—

''(A) ALLOCATION AMONG STATES.—

''(i) 1999 LIMITATION.—The national zone academy bond limitation for calendar year 1999 shall be allocated by the Secretary among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget).

''(ii) LIMITATION AFTER 1999.—The national zone academy bond limitation for any calendar year after 1999 shall be allocated 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 Basic 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 subparagraph (A) shall be allocated by the State education agency to qualified zone academies within such State.

''(C) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under subparagraph (B) for such calendar year.

''(3) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

''(A) the limitation amount under this subsection for any State, exceeds

''(B) the amount of bonds issued during such year which are designated under subsection (a) with respect to qualified zone academies within such State,

the limitation amount under this subsection for such State for the following calendar year shall be increased by the amount of such excess. The preceding sentence shall not apply if such following calendar year is after 2003.

''SEC. 1397G. QUALIFIED SCHOOL CONSTRUCTION BONDS.

''(a) QUALIFIED SCHOOL CONSTRUCTION BOND.—For purposes of this part, the term 'qualified school construction bond' means any bond issued as part of an issue if—

''(1) 95 percent or more of the proceeds of such issue are to be used for the construction, rehabilitation, or repair of a public school facility,

''(2) the bond is issued by a State or local government within the jurisdiction of which such school is located,

''(3) the issuer designates such bond for purposes of this section, and

''(4) the term of each bond which is part of such issue does not exceed 15 years.

Rules similar to the rules of section 1397F(a)(5) shall apply for purposes of paragraph (1).

''(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) by any issuer shall not exceed the sum of—

''(1) the limitation amount allocated under subsection (d) for such calendar year to such issuer, and

''(2) if such issuer is a large local educational agency (as defined in subsection (e)) or is issuing on behalf of such an agency, the limitation amount allocated under subsection (e) for such calendar year to such agency.

''(c) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) IN GENERAL.—There is a national qualified school construction bond limitation for each calendar year equal to the dollar amount specified in paragraph (2) for

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 after 2001.

''(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 under paragraph (2) by the Secretary. The limitation amount allocated to a State under the preceding sentence shall be allocated by the State education agency to issuers within such State and such allocations may be made only if there is an approved State application.

''(2) ALLOCATION FORMULA.—The amount to be allocated under paragraph (1) 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 (as defined in subsection (e)) shall be disregarded.

''(3) MINIMUM ALLOCATIONS TO STATES.—

''(A) IN GENERAL.—The Secretary shall adjust the allocations under this subsection for any calendar year for each State to the extent necessary to ensure that the sum of—

''(i) the amount allocated to such State under this subsection for such year, and

''(ii) the aggregate amounts allocated under subsection (e) to large local educational agencies in such State for such 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.

''(B) MINIMUM PERCENTAGE.—A State's minimum percentage for any calendar year is the minimum percentage described in section 1124(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6334(d)) for such State for the most recent fiscal year ending before such calendar year.

''(4) ALLOCATIONS TO CERTAIN POSSESSIONS.—The amount to be allocated under paragraph (1) to any possession of the United States other than Puerto Rico shall be the amount which would have been allocated if all allocations under paragraph (1) were made on the basis of respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). In making other allocations, the amount to be allocated under paragraph (1) shall be reduced by the aggregate amount allocated under this paragraph to possessions of the United States.

''(5) APPROVED STATE APPLICATION.—For purposes of paragraph (1), the term 'approved State application' 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 and management) of such 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 education to all students, and

''(B) a description of how the State will allocate to local educational agencies, or otherwise 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 or overcrowded 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, and

''(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 such agency reasonably determined that the allocation was in accordance with the plan approved under this paragraph.

''(e) 35-PERCENT OF LIMITATION ALLOCATED AMONG LARGEST SCHOOL DISTRICTS.—

''(1) IN GENERAL.—Thirty-five percent of the limitation applicable under subsection (c) for any calendar year shall be allocated under paragraph (2) by the Secretary among local educational agencies which are large local educational agencies for such year. No qualified school construction bond may be issued by reason of an allocation to a large local educational agency under the preceding sentence unless such agency has an approved local application.

''(2) ALLOCATION FORMULA.—The amount to be allocated under paragraph (1) for any calendar year shall be allocated among large local educational agencies in proportion to the respective amounts each such agency 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.

''(3) LARGE LOCAL EDUCATIONAL AGENCY.—For purposes of this section, the term 'large local educational agency' means, with respect to a calendar year, any local educational agency if such agency is—

''(A) among the 100 local educational agencies with the largest numbers of children aged 5 through 17 from families living below the poverty level, as determined by the Secretary using the most recent data available from the Department of Commerce that are satisfactory to the Secretary, or

''(B) 1 of not more than 25 local educational agencies (other than those described in clause (i)) that the Secretary of Education determines (based on the most recent data available satisfactory to the Secretary) are in particular need of assistance, based on a low level of resources for school construction, a high level of enrollment growth, or such other factors as the Secretary deems appropriate.

''(4) APPROVED LOCAL APPLICATION.—For purposes of paragraph (1), the term 'approved local application' 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 local educational agency with the involvement of school officials, members of the public, and experts in school construction and management) of such agency's needs for public school facilities, including descriptions of—

''(i) the overall condition of the local educational agency's school facilities, including health and safety problems,

''(ii) the capacity of the agency's schools to house projected enrollments, and

''(iii) the extent to which the agency's schools offer the physical infrastructure needed to provide a high-quality education to all students,

''(B) a description of how the local educational agency will use its allocation under this subsection to address the needs identified under subparagraph (A), and

''(C) a description of how the local educational agency will ensure that its allocation under this subsection is used only to supplement, and not supplant, the amount of school construction, rehabilitation, or repair in the locality that would have occurred in the absence of such allocation.

A rule similar to the rule of the last sentence of subsection (d)(5) shall apply for purposes of this paragraph.

''(f) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

''(1) the amount allocated under subsection (d) to any State, exceeds

''(2) the amount of bonds issued during such year which are designated under subsection (a) pursuant to such allocation,

the limitation amount under such subsection for such State for the following calendar year shall be increased by the amount of such excess. A similar rule shall apply to the amounts allocated under subsection (e). The subsection 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)(1) 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 Interior, in consultation with the Secretary of the Education—

''(A) through a negotiated rulemaking procedure with the tribes in the same manner as the procedure described in section 106(b)(2) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4116(b)(2)), and

''(B) based on criteria described in paragraphs (1), (3), (4), (5), and (6) of section 12005(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8505(a)).

''(3) APPROVED APPLICATION.—For purposes of paragraph (1), the term 'approved application' means an application submitted by an Indian tribe which is approved by the Secretary of Education and which includes—

''(A) the basis upon which the applicable tribal school meets the criteria described in paragraph (2)(B), and

''(B) an assurance by the Indian tribe that such tribal school will not receive funds pursuant to allocations described in subsection (d) or (e).

''(4) DEFINITIONS.—For purposes of this subsection—

''(A) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given such term by section 45A(c)(6).

''(B) TRIBAL SCHOOL.—The term 'tribal school' means a school that is operated by an Indian tribe for the education of Indian children with financial assistance under 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 6049 of the Internal Revenue Code of 1986 (relating to returns regarding payments of interest) is amended by adding at the end the following:

''(8) REPORTING OF CREDIT ON QUALIFIED PUBLIC SCHOOL MODERNIZATION BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible 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) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''

(c) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter U of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to part IV and inserting the following:

''Part IV. Incentives for qualified public school modernization bonds.''

(2) Part V of subchapter U of chapter 1 of such Code is amended by redesignating both section 1397F and the item relating thereto in the table of sections for such part as section 1397H.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to obligations issued after December 31, 1998.

(2) REPEAL OF RESTRICTION ON ZONE ACADEMY BOND HOLDERS.—The repeal of the limitation of section 1397E of the Internal Revenue Code of 1986 (as in effect on the day before the date of enactment of this Act) to eligible taxpayers (as defined in subsection (d)(6) of such section) shall apply to obligations issued after December 31, 1997.

SEC. 4. SENSE OF THE SENATE REGARDING FUNDING FOR BIA SCHOOL FACILITIES.

(a) FINDINGS.—The Senate finds that—

(1) the Bureau of Indian Affairs operates 1 of only 2 federally-run school systems; and

(2) there is a clear Federal responsibility to ensure that the more than 50,000 students attending these schools have decent, safe schools.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) sufficient funds should be provided in fiscal year 2000 to begin construction of 3 new Bureau of Indian Affairs school facilities and to increase funds available for the improvement and repair of existing facilities; and

(2) in addition, Congress should consider enacting legislation to establish other funding mechanisms that would leverage Federal investments on behalf of Bureau of Indian Affairs schools in order to address the serious construction backlog which exists at tribal schools.

By Mr. LAUTENBERG (for himself, Mr. ROBB, Mr. KENNEDY, Mr. DASCHLE, Mr. CONRAD, Mr. BINGAMAN, Mr. EDWARDS, Mr. TORRICELLI, Mr. KERRY, Mr. BREAUX, Mr. INOUYE, Mrs. BOXER, and Mr. JOHNSON):

S. 223. A bill to help communities moderize public school facilities, and for other purposes; to the Committee on Finance.

PUBLIC SCHOOL MODERNIZAATION ACT OF 1999

Mr. ROBB. Mr. President, I rise to join with Senator LAUTENBERG to introduce the Public School Modernization Act of 1999.

I was gratified that so many Members of this body recognized last year that the need for school construction and modernization is vital. The legislation that Senator LAUTENBERG and I are introducing is designed to help States build new schools and repair and modernize outdated ones, so that our children will have a better, more modern and safe environment in which to learn.

A few weeks ago, the Thomas Jefferson Center for Educational Design at the University of Virginia issued a devastating report detailing the alarming condition of many of Virginia's schools. Over 3,000 trailers are being used to hold classes. Two out of 3 school districts have held classes in auditoriums, cafeterias, storage areas, and book closets, and 53 percent of Virginia school districts had to increase the size of their classes in order to accommodate their divisions' growing student populations.

We know that smaller class sizes do, in fact, have a dramatic impact on student learning, especially in the first 3 years. So in order to give our children the learning environment they deserve, we have to fix the leaky roofs, build the additional classrooms, and build more schools to accommodate our growing student population, and to reduce class size.

This is a constructive role for the Federal Government to play. In fact, it was a Republican President, Dwight D. Eisenhower, who proposed a massive $1.1 billion school construction initiative in 1955.

Our States need our help, Mr. President. This legislation does not usurp local control of education or hinder States and localities from developing their own solutions to the problem of improving the academic performance of our children. Rather, this bill is intended to complement the efforts of the many State legislatures that are now wrestling with the questions of how to repair and equip old schools and how to build new schools.

Mr. President, no child should be forced to go to a school without heat, or have to wade regularly through standing water to get to class, or be expected to learn in a trailer with poor ventilation. Our children and their parents need our help.

I thank my colleague, Senator LAUTENBERG, for his work on this issue, and I look forward to working with him on this effort to bring it to a successful conclusion. I also thank Senators DASCHLE, KENNEDY, KERRY, TORRICELLI, EDWARDS, and BINGAMAN for joining us today.

I urge all of our colleagues in the State to recognize the urgent school construction needs of all of our States and to work with us in passing this particular legislation.

By Mr. MOYNIHAN:

S. 224. A bill to amend the Internal Revenue Code of 1986 to correct the treatment of tax-exempt financing of professional sports facilities; to the Committee on Finance.

THE STOP TAX-EXEMPT ARENA DEBT ISSUANCE ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce a tax bill that would correct a serious misallocation of our limited resources under present law: a tax subsidy that inures largely to the benefit of wealthy sports franchise owners and their players. This legislation—the Stop Tax-exempt Arena Debt Issuance Act, or STADIA for short—was introduced by the Senator from New York for the first time in 1996. Since that time, the bill has attracted the close scrutiny of bond counsel and their clients, and has received much attention in the press, almost all of which has been favorable.

Mr. Keith Olbermann, at the time an anchor of ESPN's Sportscenter program, even declared that the introduction of the bill was ''paramount among all other sports stories'' when introduced. Passage of the bill, Mr. Olbermann said, would be ''the vaccine that . . . could conceivably at least lead towards the cure, if not cure immediately, almost all the ills of sports.''

Mr. Olbermann may just be right about the importance of this bill, both to sports fans and to taxpayers. The bill closes a big loophole, a loophole that ultimately injures state and local governments and other issuers of tax-exempt bonds, that provides an unintended federal subsidy that contravenes Congressional intent, that underwrites bidding wars among cities battling for professional sports franchises, and that enriches persons who need no federal assistance whatsoever.

A decade ago, I was much involved in the drafting of the Tax Reform Act of 1986. A major objective of that legislation was to simplify the Tax Code by eliminating a large number of loopholes that had come to be viewed as unfair because they primarily benefited small groups of taxpayers. One of the loopholes we sought to close in 1986 was one that permitted builders of professional sports facilities to use tax-exempt bonds. Mind, we had nothing against new stadium construction, but we made the judgment that scarce Federal resources could surely be used in ways that would better serve the public good. The increasing proliferation of tax-exempt bonds had driven up interest costs for financing roads, schools, libraries, and other governmental purposes, led to mounting revenue losses to the U.S. Treasury, caused an inefficient allocation of capital, and allowed wealthy taxpayers to shield a growing

amount of their investment income from income tax by purchasing tax-exempt bonds. Thus, we expressly forbade use of ''private activity'' bonds for sports facilities, intending to eliminate tax-exempt financing of these facilities altogether.

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 checkmated for long. They were soon exhibiting the gall to ask mayors to finance their stadiums with [governmental] purpose bonds.'' Congress did not anticipate this. After all, by law, governmental bonds used to build stadiums would be tax-exempt only if no more than 10 percent of the debt service is derived from stadium revenue sources. In other words, non-stadium governmental revenues (i.e., tax revenues, lottery proceeds, and the like) must be used to repay the bulk of the debt, freeing team owners to pocket stadium revenues. Who would have thought that local officials, in order to attract or retain a team, would capitulate to team owners—granting concessionary stadium leases and committing limited government revenues to repay stadium debt, thereby hindering their own ability to provide schools, roads and other public investments?

The result has been a stadium construction boom unlike anything we have ever seen, and there is no end in sight.

What is driving the demand for new stadiums? Mainly, team owners' bottom lines and rising player salaries. Although our existing stadiums are generally quite serviceable, team owners can generate greater income, increase their franchise values dramatically, and compete for high-priced free agents with new tax-subsidized, single-purpose stadiums equipped with luxury skyboxes, club seats and the like. Thus, using their monopoly power, owners threaten to move, forcing bidding 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 rape 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 extraordinary 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 $87 million in tax-exempt bonds (yielding interest savings of approximately $60 million over a 30-year period as compared to taxable bonds), and contributed $30 million in cash and $64 million in state lottery revenues towards construction of the stadium. Mr. Modell agreed to contribute $24 million toward the project and, in return, receives rent-free use of the stadium (the franchise pays only for the operating and maintenance costs), $65 million in sales of rights to purchase season tickets (so-called ''personal seat licenses''), all revenues from selling the right to name the stadium, luxury suites, premium seats, in-part advertising, and concessions, and 50 percent of all revenues from stadium events other than Ravens' games (with the right to control the booking of those events).

Financial World reported that the value of the Baltimore Ravens' franchise increased from $165 million in 1992 (i.e., before the move from Cleveland) 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 important 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 stadium to house an expansion football team. When Mr. Modell decided to move his team to Baltimore, the NFL agreed to grant Cleveland a new football team with the same name: the Cleveland Browns. Most cities are not as fortunate when a team leaves.

We are even reaching a point at which stadiums are being abandoned before they have been used for 10 to 15 years. An article in Barron's reported that a perception of ''economic obsolescence'' 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 franchise, because of inadequate seating capacity and a paucity of luxury suites. The Panthers have already cut a deal to move to a new facility that nearby Broward County is building for them at a cost of around $200 million. Plans call for Dade County to build a new $210 million arena before the end of the decade, despite the fact that the move will leave local taxpayers stuck with servicing the debt on two Miami arenas rather than just one.

How do taxpayers benefit from all this? They don't. Ticket prices go way up—and stay up—after a new stadium opens. So while fans are asked to foot the bills through tax subsidies, many no longer can afford the price of admission. A study by Newsday found that ticket prices rose by 32 percent in five new baseball stadiums, as compared to a major league average of 8 percent. Not to mention the refreshments and other concessions, which also cost more in 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 cosigned to ''cheap seats'' in nosebleed land or, more often, to following his favorite team on television.

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:

> [I]n every case, the authors find that the local economic impact of sports teams and facilities is far smaller than proponents allege; in some cases it is negative. These findings are valid regardless of whether the benefits 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 indicates, the economic boost from public investment in entertainment complexes is exceptionally modest at best, and counterproductive at worst. It diverts scarce resources and public attention from the less glamorous activities that make more meaningful contributions to the public's well-being.

And what of the economic consequences to the communities abandoned by teams that relocate?

Any job growth that does result is extremely expensive. The Congressional Research Service (CRS) reported that the new $177 million football stadium for the Baltimore Ravens is expected to cost $127,000 per job created. By contrast, the cost per job generated by Maryland's economic development program is just $6,250.

Finally, Federal taxpayers receive absolutely no economic benefit for providing 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 near 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 team's new stadium in a new city? The answer is unmistakably no.

Nevertheless, it seems that every day another professional sports team is demanding a new stadium, threatening a relocation if the demand is not met. This is a growing phenomenon. Professors Noll and Zimbalist wrote that:

> Between 1989 and 1997, thirty-one new stadiums and arenas were built. At least thirty-nine additional teams are seeking new facilities, are in the process of finalizing the deal to build one, or are waiting to move into one.

When I first introduced legislation to address this issue in 1996, stadium bond issuance had already exceeded $1 billion per year. Issuance reached $1.8 billion in 1997, a 30 percent increase from 1996. The bonds issued during 1997 alone represent a federal taxpayer subsidy of approximately $300 million over 10 years. It seems safe to predict that stadium bond issuance continued to increase in 1998.

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 of a 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? Congress could certainly provide appropriate transition rules—as it did in the 1986 Act when it first shut down tax-exempt stadium financing—to allow these latter teams stadium subsidies.

What is clear is that we have got to do something about the explosion in tax-subsidized stadium construction, if not through this legislation, then through some other similar means. Perhaps Congress should consider some form of excise 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 reexamine current law, which effectively prohibits 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 following new subsection:

''(e) CERTAIN ISSUES USED FOR PROFESSIONAL SPORTS FACILITIES TREATED AS PRIVATE ACTIVITY BONDS.—

''(1) IN GENERAL.—For purposes of this title, the term 'private activity bond' includes any bond issued as part of an issue if the amount of the proceeds of the issue which are to be used (directly or indirectly) to provide professional sports facilities exceeds the lesser of—

''(A) 5 percent of such proceeds, or

''(B) $5,000,000.

''(2) BOND NOT TREATED AS A QUALIFIED BOND.—For purposes of this title, any bond described in paragraph (1) shall not be a qualified bond.

''(3) PROFESSIONAL SPORTS FACILITIES.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'professional sports facilities' means real property or related improvements used for professional sports exhibitions, games, or training, regardless if the admission of the public or press is allowed or paid.

''(B) USE FOR PROFESSIONAL SPORTS.—Any use of facilities which generates a direct or indirect monetary benefit (other than reimbursement for out-of pocket expenses) for a person who uses such facilities for professional sports exhibitions, games, or training shall be treated as a use described in subparagraph (A).

''(4) ANTI-ABUSE REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subsection, including such regulations as may be appropriate to prevent avoidance of such purposes through related persons, use of related facilities or multiuse complexes, or otherwise.''

(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) the proceeds of which are used for—

(i) the construction or rehabilitation of a facility—

(I) if such construction or rehabilitation began before June 14, 1996, and was completed on or after such date, or

(II) if a State or political subdivision thereof has entered into a binding contract before June 14, 1996, that requires the incurrence of significant expenditures for such construction or rehabilitation, and some of such expenditures are incurred on or after such date; or

(ii) the acquisition of a facility pursuant to a binding contract entered into by a State or political subdivision thereof before June 14, 1996, and

(B) which are the subject of an official action taken by relevant government officials before June 14, 1996—

(i) approving the issuance of such bonds, or

(ii) approving the submission of the approval of such issuance to a voter referendum.

(3) EXCEPTION FOR FINAL BOND RESOLUTIONS.—The amendments made by this section shall not apply to bonds the proceeds of which are used for the construction or rehabilitation of a facility if a State or political subdivision thereof has completed all necessary governmental approvals for the issuance of such bonds before June 14, 1996.

(4) SIGNIFICANT EXPENDITURES.—For purposes of paragraph (2)(A)(i)(II), the term ''significant expenditures'' means expenditures equal to or exceeding 10 percent of the reasonably anticipated cost of the construction or rehabilitation of the facility involved.

(5) EXCEPTION FOR CERTAIN CURRENT REFUNDINGS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any bond the proceeds of which are used exclusively to refund a qualified bond (or a bond which is a part of a series of refundings of a qualified bond) if—

(i) the amount of the refunding bond does not exceed the outstanding principal amount of the refunded bond,

(ii) 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

(iii) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of clause (ii), average maturity shall be determined in accordance with section 147(b)(2)(A) of the Internal Revenue Code of 1986.

(B) QUALIFIED BOND.—For purposes of subparagraph (A), the term ''qualified bond'' means any tax-exempt bond to finance a professional sports facility (as defined in section 141(e)(3) of such Code, as added by subsection (a)) issued before the 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 passed in the Senate toward 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 land 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 institute legal 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 legislature of the State of Hawaii 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 issued its final report to the Congress, ''Building the Future: A Blueprint for Change''. The Commission's Study compared housing data for Native Hawaiians with housing information for other citizens in the State of Hawaii. The Commission found that Native Hawaiians, like American Indians and Alaska Natives, lacked 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.

The Commission concluded that the unique circumstances of Native Hawaiians require the enactment of new legislation to alleviate and address the severe housing needs of Native Hawaiians, and recommended that the Congress extend to Native Hawaiians the same federal housing assistance programs that are provided to American Indians and Alaska Natives under the Low-Income Rental, Mutual Help, Loan Guarantee Program and Community Development Block Grant programs. Subsequently, the Community Development Block Grant program authority was amended to address the housing needs of Native Hawaiians.

In 1995, the U.S. Department of Housing and Urban Development (HUD) issued a report entitled, ''Housing Problems and Needs 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 housing problems in the nation—49 percent—higher than even that of American Indians and Alaska Natives residing on reservations (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 or who 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 Beneficiary Needs Study as a result of research conducted by an independent research group. This study found that among the Native Hawaiian population, the needs of Native Hawaiians eligible to reside on the Hawaiian home lands are the most severe—with 95 percent of home lands applicants (16,000) in need of housing, and with one-half of those applicant households facing overcrowding and one-third paying more than 30 percent of their income for shelter.

Eligibility for an assignment of Hawaiian home lands for purposes of housing, agricultural development or pasture land is a function of federal law—the Hawaiian Homes Commission Act of 1920. There are approximately 60,000 Native Hawaiians who would be eligible to reside on the home lands, but applying for an assignment of a parcel of home lands is voluntary. Because of the lack of resources to develop infrastructure (roads, access to water and sewer and electricity) on the home lands as required by State and county laws before housing can be constructed, hundreds of Native Hawaiians on the waiting list have died before receiving an assignment of home lands.

Once an eligible Native Hawaiian reaches the top of the waiting list, he or she must be able to qualify for a private home loan mortgage, because the limited Federal and State funds available to the Department of Hawaiian Home Lands have been used to develop infrastructure rather than the construction of housing. An assignment of home lands property is in the form of a 99-year lease. Unless the heirs of the eligible Native Hawaiian qualify in their own right for an assignment of home lands under the provisions of the Hawaiian Homes Commission Act, upon the death of the eligible Native Hawaiian, the heirs must move off the land.

Currently, Native Hawaiians who are eligible to reside on the home lands but who do not qualify for private mortgage loans do not have access to federal housing assistance programs that provide assistance to low-income families. This is due to the fact that for many years, the federal government took the legal position that because the government that represented the Native Hawaiian people had been overthrown in 1893 and thus there was no government-to-government relationship with the United States, extending federal housing program assistance to lands set aside exclusively for Native Hawaiians would be discriminating on the basis of race or ethnicity.

The Hawaiian Homes Commission Act not only provides authority for the assignment of home lands property to Native Hawaiians. The Act also authorizes general leases to non-Hawaiians. At the time the Act was passed by the Congress, it was anticipated that revenues derived from general leases would be sufficient to develop the necessary infrastructure and housing on the home lands. However, general lease revenue has not proven sufficient to address infrastructure and housing needs.

In recent years, as a result of litigation involving third-party leases of Hawaiian home 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 set aside exclusively for Native Hawaiians. The non-exclusive nature of the land set aside was thus found not to violate Constitutional prohibitions on racial discrimination.

The change in the United States' legal position may be further informed by the ruling of the Ninth Circuit Court of Appeals in *Rice* v. *Cayetano*, No. 97–16095, 146 F.3d 1075 (9th Cir. 1998) in which the Appeals Court compared the special treatment of Native Hawaiians to the special treatment of Indians that the Supreme Court approved in *Morton* v. *Mancari*, 417 U.S. 535 (1974) and cited its reference to *Mancari* in *Alaska Chapter, Associated Gen. Contractors* v. *Pierce*, 694 F.2d 1162 (9th Cir. 1981), in which the Circuit Court expressed its finding that preferential treatment that is grounded in the government's unique obligation toward Indians is a political rather than a racial classification, even though racial criteria may be used in defining eligibility.

However, the result of the United States' 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 a simple 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 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States has undertaken a responsibility to promote the general welfare of the United States by—

(A) employing its resources to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of lower income; and

(B) developing effective partnerships with governmental and private entities to accomplish the objectives referred to in subparagraph (A);

(2) pursuant to the provisions of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), the United States set aside 200,000 acres of land in the Federal territory that later became the State of Hawaii in order to establish a homeland for the native people of Hawaii—Native Hawaiians;

(3) despite the intent of Congress in 1920 to address the housing needs of Native Hawaiians through the enactment of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), some agencies of the Federal Government have taken the legal position that subsequently enacted Federal housing laws designed to address the housing needs of all eligible families in the United States could not be extended to address the needs for housing and infrastructure development on Hawaiian home lands (as that term is defined in section 801 of the Native American Housing Assistance and Self-Determination Act of 1996, as added by section 3 of this Act) with the result that otherwise eligible Native Hawaiians residing on the Hawaiian home lands have been foreclosed from participating in Federal housing assistance programs available to all other eligible families in the United States;

(4) although Federal housing assistance programs have been administered on a racially neutral basis in the State of Hawaii, Native Hawaiians continue to have the greatest unmet need for housing and the highest rates of overcrowding in the United States;

(5) among the Native American population of the United States, Native Hawaiians experience the highest percentage of housing problems in the United States, as the percentage—

(A) of housing problems in the Native Hawaiian population is 49 percent, as compared to—

(i) 44 percent for American Indian and Alaska Native households in Indian country; and

(ii) 27 percent for all other households in the United States; and

(B) overcrowding in the Native Hawaiian population is 36 percent as compared to 3 percent for all other households in the United States;

(6) among the Native Hawaiian population, the needs of Native Hawaiians, as that term is defined in section 801 of the Native American Housing Assistance and Self-Determination Act of 1996, as added by section 3 of this Act, eligible to reside on the Hawaiian Home Lands are the most severe, as—

(A) the percentage of overcrowding in Native Hawaiian households on the Hawaiian Home Lands is 36 percent; and

(B) approximately 13,000 Native Hawaiians, which constitute 95 percent of the Native Hawaiians who are eligible to reside on the Hawaiian Home Lands, are in need of housing;

(7) applying the Department of Housing and Urban Development guidelines—

(A) 70.8 percent of Native Hawaiians who either reside or who are eligible to reside on the Hawaiian Home Lands have incomes that fall below the median family income; and

(B) 50 percent of Native Hawaiians who either reside or who are eligible to reside on the Hawaiian Home Lands have incomes below 30 percent of the median family income; and

(8) ⅓ of those Native Hawaiians who are eligible to reside on the Hawaiian Home Lands pay more than 30 percent of their income for shelter, and ½ of those Native Hawaiians face overcrowding;

(9) the extraordinarily severe housing needs of Native Hawaiians demonstrate that Native Hawaiians who either reside on, or are eligible to reside on, Hawaiian Home Lands have been denied equal access to Federal low-income housing assistance programs available to other qualified residents of the United States, and that a more effective means of addressing their housing needs must be authorized;

(10) consistent with the recommendations of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing, and in order to address the continuing prevalence of extraordinarily severe housing needs among Native Hawaiians who either reside or are eligible to reside on the Hawaiian Home Lands, Congress finds it necessary to extend the Federal low-income housing assistance available to American Indians and Alaska Natives under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) to those Native Hawaiians;

(11) under the treatymaking power of the United States, Congress had the authority to confirm a treaty between the United States and the government that represented the Hawaiian people under clause 3 of section 8 of article I of the Constitution, the authority of Congress to address matters affecting the indigenous peoples of the United States includes the authority to address matters affecting Native Hawaiians;

(12) through treaties, Federal statutes, and rulings of the Federal courts, the United States has recognized and reaffirmed that—

(A) the political status of Native Hawaiians is comparable to that of American Indians and Alaska Natives; and

(B) the aboriginal, indigenous people of the United States have—

(i) a continuing right to autonomy in their internal affairs; and

(ii) an ongoing right of self-determination and self-governance that has never been extinguished;

(13) the political relationship between the United States and the Native Hawaiian people has been recognized and reaffirmed by the United States as evidenced by the inclusion of Native Hawaiians in—

(A) the Native American Programs Act of 1974 (42 U.S.C. 2291 et seq.);

(B) the American Indian Religious Freedom Act (42 U.S.C. 1996 et seq.);

(C) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.);

(D) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(E) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(F) the Native American Languages Act of 1992 (106 Stat. 3434);

(G) the American Indian, Alaska Native and Native Hawaiian Culture and Arts Development Act (20 U.S.C. 4401 et seq.);

(H) the Job Training Partnership Act (29 U.S.C. 1501 et seq.); and

(I) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.); and

(14) in the area of housing, the United States has recognized and reaffirmed the political relationship with the Native Hawaiian people through—

(A) the enactment of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), which set aside approximately 200,000 acres of public lands that became known as Hawaiian Home Lands in the Territory of Hawaii that had been ceded to the United States for homesteading by Native Hawaiians in order to rehabilitate a landless and dying people;

(B) the enactment of the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (73 Stat. 4)—

(i) by ceding 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 betterment of the conditions of Native Hawaiians, as that term is defined in section 801(15) of the Native American Housing Assistance and Self-Determination Act of 1996, as added by section 3 of this Act; and

(ii) by transferring what the United States considered to be a trust responsibility for the administration of Hawaiian Home Lands to the State of Hawaii, but retaining the authority to enforce the trust, including the exclusive right of the United States to consent to any actions affecting the lands which comprise the corpus of the trust and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), enacted by the legislature of the State of Hawaii affecting the rights of beneficiaries under the Act;

(C) the authorization of mortgage loans insured by the Federal Housing Administration for the purchase, construction, or refinancing of homes on Hawaiian Home Lands under the Act of June 27, 1934 (commonly referred to as the ''National Housing Act'' (42 Stat. 1246 et seq., chapter 847; 12 U.S.C. 1701 et seq.));

(D) authorizing Native Hawaiian representation on the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing under Public Law 101–235;

(E) the inclusion of Native Hawaiians in the definition under section 3764 of title 38, United States Code, applicable to subchapter V of chapter 37 of title 38, United States Code (relating to a housing loan program for Native American veterans); and

(F) the enactment of the Hawaiian Home Lands Recovery Act (109 Stat. 357; 48 U.S.C. 491, note prec.) which establishes a process for the conveyance of Federal lands to the Department of Hawaiian Homes Lands that are equivalent in value to lands acquired by the United States from the Hawaiian Home Lands inventory.

SEC. 3. HOUSING ASSISTANCE.

The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) is amended by adding at the end the following:

''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 agency or department of the government of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

''(2) DIRECTOR.—The term 'Director' means the Director of the Department of Hawaiian Home Lands.

''(3) ELDERLY FAMILIES; NEAR-ELDERLY FAMILIES.—

''(A) IN GENERAL.—The term 'elderly family' or 'near-elderly family' means a family whose head (or his or her spouse), or whose sole member, is—

''(i) for an elderly family, an elderly person; or

''(ii) for a near-elderly family, a near-elderly person.

''(B) CERTAIN FAMILIES INCLUDED.—The term 'elderly family' or 'near-elderly family' includes—

''(i) 2 or more elderly persons or near-elderly persons, as the case may be, living together; and

''(ii) 1 or more persons described in clause (i) living with 1 or more persons determined under the housing plan to be essential to their care or well-being.

''(4) HAWAIIAN HOME LANDS.—The term 'Hawaiian Home Lands' means lands that—

''(A) have the status as Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act (42 Stat. 110); or

''(B) are acquired pursuant to that Act.

''(5) HOUSING AREA.—The term 'housing area' means an area of Hawaiian Home Lands with respect to which the Department of Hawaiian Home Lands is authorized to provide assistance for affordable housing under this Act.

''(6) HOUSING ENTITY.—The term 'housing entity' means the Department of Hawaiian Home Lands.

''(7) HOUSING PLAN.—The term 'housing plan' means a plan developed by the Department of Hawaiian Home Lands.

''(8) MEDIAN INCOME.—The term 'median income' means, with respect to an area that is a Hawaiian housing area, the greater of—

''(A) the median income for the Hawaiian housing area, which shall be determined by the Secretary; or

''(B) the median income for the State of Hawaii.

''(9) NATIVE HAWAIIAN.—The term 'Native Hawaiian' has the meaning given the term 'Native Hawaiian' in section 201 of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

''SEC. 802. BLOCK GRANTS FOR AFFORDABLE HOUSING ACTIVITIES.

''(a) GRANT AUTHORITY.—For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this title) make a grant under this title to the Department of Hawaiian Home Lands to carry out affordable housing activities for Native Hawaiian families on or near Hawaiian Home Lands.

''(b) PLAN REQUIREMENT.—

''(1) IN GENERAL.—The Secretary may make a grant under this title to the Department of Hawaiian Home Lands for a fiscal year only if—

''(A) the Director has submitted to the Secretary a housing plan for that fiscal year; and

''(B) the Secretary has determined under section 804 that the housing plan complies with the requirements of section 803.

''(2) WAIVER.—The Secretary may waive the applicability of the requirements under paragraph (1), in part, if the Secretary finds that the Department of Hawaiian Home Lands has not complied or cannot comply with those requirements due to circumstances beyond the control of the Department of Hawaiian Home Lands.

''(c) USE OF AFFORDABLE HOUSING ACTIVITIES UNDER PLAN.—Except as provided in subsection (e), amounts provided under a grant under this section may be used only for affordable housing activities under this title that are consistent with a housing plan approved under section 804.

''(d) ADMINISTRATIVE EXPENSES.—

''(1) IN GENERAL.—The Secretary shall, by regulation, authorize the Department of Hawaiian Home Lands to use a percentage of any grant amounts received under this title for any reasonable administrative and planning expenses of the Department relating to carrying out this title and activities assisted with those amounts.

''(2) ADMINISTRATIVE AND PLANNING EXPENSES.—The administrative and planning expenses referred to in paragraph (1) include—

''(A) costs for salaries of individuals engaged in administering and managing affordable housing activities assisted with grant amounts provided under this title; and

''(B) expenses incurred in preparing a housing plan under section 803.

''(e) PUBLIC-PRIVATE PARTNERSHIPS.—The Director shall make all reasonable efforts, consistent with the purposes of this title, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in implementing a housing plan that has been approved by the Secretary under section 803.

''(f) APPLICABILITY OF OTHER PROVISIONS.—

''(1) IN GENERAL.—The Secretary shall be guided by the relevant program requirements of titles I, II, and IV in the implementation of housing assistance programs for Native Hawaiians under this title.

''(2) EXCEPTION.—The Secretary may make exceptions to, or modifications of, program requirements for Native American housing assistance set forth in titles I, II, and IV as necessary and appropriate to meet the unique situation and housing needs of Native Hawaiians.

''SEC. 803. HOUSING PLAN.

''(a) PLAN SUBMISSION.—The Secretary shall—

''(1) require the Director to submit a housing plan under this section for each fiscal year; and

''(2) provide for the review of each plan submitted under paragraph (1).

''(b) 5-YEAR PLAN.—Each housing plan under this section shall—

''(1) be in a form prescribed by the Secretary; and

''(2) contain, with respect to the 5-year period beginning with the fiscal year for which the plan is submitted, the following information:

''(A) MISSION STATEMENT.—A general statement of the mission of the Department of Hawaiian Home Lands to serve the needs of the low-income families to be served by the Department.

''(B) GOAL AND OBJECTIVES.—A statement of the goals and objectives of the Department of Hawaiian Home Lands to enable the Department to serve the needs identified in subparagraph (A) during the period.

''(C) ACTIVITIES PLANS.—An overview of the activities planned during the period including an analysis of the manner in which the activities will enable the Department to meet its mission, goals, and objectives.

''(c) 1-YEAR PLAN.—A housing plan under this section shall—

''(1) be in a form prescribed by the Secretary; and

''(2) contain the following information relating to the fiscal year for which the assistance under this title is to be made available:

''(A) GOALS AND OBJECTIVES.—A statement of the goals and objectives to be accomplished during the period covered by the plan.

''(B) STATEMENT OF NEEDS.—A statement of the housing needs of the low-income families served by the Department and the means by which those needs will be addressed during the period covered by the plan, including—

''(i) a description of the estimated housing needs and the need for assistance for the low-income families to be served by the Department, including a description of the manner in which the geographical distribution of assistance is consistent with—

''(I) the geographical needs of those families; and

''(II) needs for various categories of housing assistance; and

''(ii) 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 committed, including—

''(I) eligible and required affordable housing activities; and

''(II) 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—

''(I) rental assistance;

''(II) the production of new units;

''(III) the acquisition of existing units; or

''(IV) 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—

''(I) the involvement of private, public, and nonprofit organizations and institutions;

''(II) the use of loan guarantees under section 184A of the Housing and Community Development Act of 1992; and

''(III) 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);

''(v) a description of—

''(I) any existing or anticipated homeownership programs and rental programs to be carried out during the period covered by the plan; and

''(II) the requirements and assistance available under the programs referred to in subclause (I);

''(vi) a description of—

''(I) 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

''(II) the requirements and assistance available under the programs referred to in subclause (I);

''(vii) a description of—

''(I) 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

''(II) the requirements and assistance available under such programs;

''(viii)(I) a description of any housing to be demolished or disposed of;

''(II) a timetable for that demolition or disposition; and

''(III) any other information required by the Secretary with respect to that demolition or disposition;

''(ix) a description of the manner in which the Department of Hawaiian Home Lands will coordinate with welfare agencies in the State of Hawaii to ensure that residents of the affordable housing will be provided with access to resources to assist in obtaining employment and achieving self-sufficiency;

''(x) a description of the requirements established by the Department of Hawaiian Home Lands to—

''(I) promote the safety of residents of the affordable housing;

''(II) facilitate the undertaking of crime prevention measures;

''(III) allow resident input and involvement, including the establishment of resident organizations; and

''(IV) allow for the coordination of crime prevention activities between the Department and local law enforcement officials; and

''(xi) a description of the entities that will carry out the activities under the plan, including the organizational capacity and key personnel of the entities.

''(E) CERTIFICATION OF COMPLIANCE.—Evidence of compliance that shall include, as appropriate—

''(i) a certification that the Department of Hawaiian Home Lands will comply with—

''(I) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or with title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) in carrying out this title, to the extent that such title is applicable; and

''(II) other applicable Federal statutes;

''(ii) a certification that the Department will require adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under this title, in compliance with such requirements as may be established by the Secretary;

''(iii) a certification that policies are in effect and are available for review by the Secretary and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title;

''(iv) a certification that policies are in effect and are available for review by the Secretary and the public governing rents charged, including the methods by which such rents or homebuyer payments are determined, for housing assisted with grant amounts provided under this title; and

''(v) a certification that policies are in effect and are available for review by the Secretary and the public governing the management and maintenance of housing assisted with grant amounts provided under this title.

''(d) APPLICABILITY OF CIVIL RIGHTS STATUTES.—

''(1) IN GENERAL.—To the extent that the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) apply to assistance provided under this title, nothing in the requirements concerning discrimination on the basis of race shall be construed to prevent the provision of assistance under this title—

''(A) to the Department of Hawaiian Home Lands on the basis that the Department served Native Hawaiians; or

''(B) to an eligible family on the basis that the family is a Native Hawaiian family.

''(2) CIVIL RIGHTS.—Program eligibility under this title may be restricted to Native Hawaiians. Subject to the preceding sentence, no person may be discriminated against on the basis of race, color, national origin, religion, sex, familial status, or disability.

''(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 private 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. 804. REVIEW OF PLANS.

''(a) REVIEW AND NOTICE.—

''(1) REVIEW.—

''(A) IN GENERAL.—The Secretary shall conduct a review of a housing plan submitted to the Secretary under section 803 to ensure that the plan complies with the requirements of that section.

''(B) LIMITATION.—The Secretary shall have the discretion to review a plan referred to in subparagraph (A) only to the extent that the Secretary considers that the review is necessary.

''(2) NOTICE.—

''(A) IN GENERAL.—Not later than 60 days after receiving a plan under section 803, the Secretary shall notify the Director of the Department of Hawaiian Home Lands whether the plan complies with the requirements under that section.

''(B) EFFECT OF FAILURE OF SECRETARY TO TAKE ACTION.—For purposes of this title, if the Secretary does not notify the Director, as required under this subsection and subsection (b), upon the expiration of the 60-day period described in subparagraph (A)—

''(i) the plan shall be considered to have been determined to comply with the requirements under section 803; and

''(ii) the Director shall be considered to have been notified of compliance.

''(b) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that a plan submitted under section 803 does not comply with the requirements of that section, the Secretary shall specify in the notice under subsection (a)—

''(1) the reasons for noncompliance; and

''(2) any modifications necessary for the plan to meet the requirements of section 803.

''(c) REVIEW.—

''(1) IN GENERAL.—After the Director of the Department of Hawaiian Home Lands submits a housing plan under section 803, or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make a determination under this subsection, the Secretary shall review the plan (including any amendments or modifications thereto) to determine whether the contents of the plan—

''(A) set forth the information required by section 803 to be contained in the housing plan;

''(B) are consistent with information and data available to the Secretary; and

''(C) are not prohibited by or inconsistent with any provision of this Act or any other applicable law.

''(2) INCOMPLETE PLANS.—If the Secretary determines under this subsection that any of the appropriate certifications required under section 803(c)(2)(E) are not included in a plan, the plan shall be considered to be incomplete.

''(d) UPDATES TO PLAN.—

''(1) IN GENERAL.—Subject to paragraph (2), after a plan under section 803 has been submitted for a fiscal year, the head of the Department of Hawaiian Home Lands may comply with the provisions of that section for any succeeding fiscal year (with respect to information included for the 5-year period under section 803(b) or for the 1-year period under section 803(c)) by submitting only such information regarding such changes as may be necessary to update the plan previously submitted.

''(2) COMPLETE PLANS.—The Director shall submit a complete plan under section 803 not later than 4 years after submitting an initial plan under that section, and not less frequently than every 4 years thereafter.

''(e) EFFECTIVE DATE.—This section and section 803 shall take effect on the date provided by the Secretary pursuant to section 807(a) to provide for timely submission and review of the housing plan as necessary for the provision of assistance under this title for fiscal year 2000.

''SEC. 805. TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS.

''(a) PROGRAM INCOME.—

''(1) AUTHORITY TO RETAIN.—The Department of Hawaiian Home Lands may retain any program income that is realized from any grant amounts received by the Department under this title if—

''(A) that income was realized after the initial disbursement of the grant amounts received by the Department; and

''(B) the Director agrees to use the program income for affordable housing activities in accordance with the provisions of this title.

''(2) PROHIBITION OF REDUCTION OF GRANT.—The Secretary may not reduce the grant amount for the Department of Hawaiian Home Lands based solely on—

''(A) whether the Department retains program income under paragraph (1); or

''(B) the amount of any such program income retained.

''(3) EXCLUSION OF AMOUNTS.—The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the requirements of this subsection would create an unreasonable administrative burden on the Department.

''(b) LABOR STANDARDS.—

''(1) IN GENERAL.—Any contract or agreement for assistance, sale, or lease pursuant to this title shall contain—

''(A) a provision requiring that an amount not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, technicians employed in the development and all maintenance, and laborers and mechanics employed in the operation, of the affordable housing project involved; and

''(B) a provision that an amount not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Act commonly known as the 'Davis-Bacon Act' (46 Stat. 1494, chapter 411; 40 U.S.C. 276a et seq.) shall be paid to all laborers and mechanics employed in the development of the affordable housing involved.

''(2) EXCEPTIONS.—Paragraph (1) and provisions relating to wages required under paragraph (1) in any contract or agreement for assistance, sale, or lease under this title, shall not apply to any individual who performs the services for which the individual volunteered and who is not otherwise employed at any time in the construction work and received no compensation or is paid expenses, reasonable benefits, or a nominal fee for those services.

''SEC. 806. ENVIRONMENTAL REVIEW.

''(a) IN GENERAL.—

''(1) RELEASE OF FUNDS.—

''(A) IN GENERAL.—The Secretary may carry out the alternative environmental protection procedures described in subparagraph (B) in order to ensure—

''(i) that the policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321

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 expenditure of grant amounts provided under this title; and

''(ii) to the public undiminished protection of the environment.

''(B) ALTERNATIVE 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 assumes all of the responsibilities for environmental review, decisionmaking, and action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were the Secretary to undertake those projects as Federal projects.

''(2) REGULATIONS.—

''(A) IN GENERAL.—The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality.

''(B) CONTENTS.—The regulations issued under this paragraph shall—

''(i) provide for the monitoring of the environmental reviews performed under this section;

''(ii) in the discretion of the Secretary, facilitate training for the performance of such reviews; and

''(iii) provide for the suspension or termination of the assumption of responsibilities under this section.

''(3) EFFECT ON ASSUMED RESPONSIBILITY.—The duty of the Secretary under paragraph (2)(B) shall not be construed to limit or reduce any responsibility assumed by the Department of Hawaiian Home Lands for grant amounts with respect to any specific release of funds.

''(b) PROCEDURE.—

''(1) IN GENERAL.—The Secretary shall authorize the release of funds subject to the procedures under this section only if, not less than 15 days before that approval and before any commitment of funds to such projects, the Director of the Department of Hawaiian Home Lands submits to the Secretary a request for such release accompanied by a certification that meets the requirements of subsection (c).

''(2) EFFECT OF APPROVAL.—The approval of the Secretary of a certification described in paragraph (1) shall be deemed to satisfy the responsibilities of the Secretary under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and such other provisions of law as the regulations of the Secretary specify to the extent that those responsibilities relate to the releases of funds for projects that are covered by that certification.

''(c) CERTIFICATION.—A certification under the procedures under this section shall—

''(1) be in a form acceptable to the Secretary;

''(2) be executed by the Director of the Department of Hawaiian Home Lands;

''(3) specify that the Department of Hawaiian Home Lands has fully carried out its responsibilities as described under subsection (a); and

''(4) specify that the Director—

''(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and each provision of law specified in regulations issued by the Secretary to the extent that those laws apply by reason of subsection (a); and

''(B) is authorized and consents on behalf of the Department of Hawaiian Home Lands and the Director to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities of the Director of the Department of Hawaiian Home Lands as such an official.

''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 Federal, State 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 title 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—

''(I) section 810(b);

''(II) model activities under section 810(f); or

''(III) loan guarantee activities under section 184A of the Housing and Community Development Act of 1992 to Native Hawaiian families who are not low-income families, to the extent that the Secretary approves the activities under that section to address a need for housing for those families that cannot be reasonably met without that assistance.

''(ii) LIMITATIONS.—The Secretary shall establish limitations on the amount of assistance that may be provided under this title for activities for families that are not low-income families.

''(C) OTHER FAMILIES.—Notwithstanding paragraph (1), the Director may provide housing or housing assistance provided through affordable housing activities assisted with grant amounts under this title to a family that is not composed of Native Hawaiians 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 reside on 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 private 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).

''(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 utility 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) other services related to assisting owners, tenants, contractors, and other entities participating or seeking to participate in other housing activities assisted pursuant to this section.

''(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.—

''(1) ESTABLISHMENT.—Subject to paragraph (2), as a condition to receiving grant amounts under this title, the Director shall develop written policies governing rents and homebuyer payments charged for dwelling units assisted under this title, including methods by which such rents and homebuyer payments are determined.

''(2) MAXIMUM RENT.—In the case of any low-income family residing in a dwelling unit assisted with grant amounts under this title, the monthly rent or homebuyer payment (as applicable) for that dwelling unit may not exceed 30 percent of the monthly adjusted income of that family.

''(b) MAINTENANCE AND EFFICIENT OPERATION.—

''(1) IN GENERAL.—The Director shall, using amounts of any grants received under this title, reserve and use for operating under section 810 such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing.

''(2) DISPOSAL OF CERTAIN HOUSING.—This subsection may not be construed to prevent the Director, or any entity funded by the Department, from demolishing or disposing of housing, pursuant to regulations established by the Secretary.

''(c) 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.

''(d) 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.

''(e) MANAGEMENT AND MAINTENANCE.—As a condition to receiving grant amounts under this title, the Director shall develop policies governing the management and maintenance of housing assisted with grant amounts under this title.

''SEC. 812. TYPES OF INVESTMENTS.

''(a) IN GENERAL.—Subject to section 811 and an applicable housing plan approved under section 803, the Director shall have—

''(1) the discretion to use grant amounts for affordable housing activities through the use of—

''(A) equity investments;

''(B) interest-bearing loans or advances;

''(C) noninterest-bearing loans or advances;

''(D) interest subsidies;

''(E) the leveraging of private investments; or

''(F) any other form of assistance that the Secretary determines to be consistent with the purposes of this title; and

''(2) the right to establish the terms of assistance provided with funds referred to in paragraph (1).

''(b) INVESTMENTS.—The Director may invest grant amounts for the purposes 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) in the case of rental housing, is made available for occupancy only by a family that is a low-income family at the time of the initial occupancy of that family of that unit; and

''(B) in the case of housing for homeownership, is made available for purchase only by a family that is a low-income family at the time of purchase; and

''(2) each dwelling unit in the housing will remain affordable, according to binding commitments satisfactory to the Secretary, for—

''(A) the remaining useful life of the property (as determined by the Secretary) without regard to the term of the mortgage or to transfer of ownership; or

''(B) such other period as the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this title, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if that action—

''(i) recognizes any contractual or legal rights of any public agency, nonprofit sponsor, or other person or entity to take an action that would—

''(I) avoid termination of low-income affordability, in the case of foreclosure; or

''(II) transfer ownership in lieu of foreclosure; and

''(ii) is not for the purpose of avoiding low-income affordability restrictions, as determined by the Secretary.

''(b) EXCEPTION.—Notwithstanding subsection (a), housing assisted pursuant to section 809(a)(2)(B) shall be considered affordable housing for purposes of 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) do not contain unreasonable terms and conditions;

''(2) require the Director, owner, or manager to maintain the housing in compliance with applicable housing codes and quality standards;

''(3) require the Director, owner, or manager to give adequate written notice of termination of the lease, which shall be the period of time required under applicable State or local law;

''(4) specify that, with respect to any notice of eviction or termination, notwithstanding any State or local law, a resident shall be informed of the opportunity, before any hearing or trial, to examine any relevant documents, record, or regulations directly related to the eviction or termination;

''(5) require that 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

''(6) 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, that—

''(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the Department, owner, or manager;

''(B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or

''(C) is criminal activity (including drug-related criminal activity) on or off the premises.

''(b) TENANT OR HOMEBUYER SELECTION.—As a condition to receiving grant amounts under this title, the Director shall adopt and use written tenant and homebuyer selection policies and criteria that—

''(1) are consistent with the purpose of providing housing for low-income families;

''(2) are reasonably related to program eligibility and the ability of the applicant to perform the obligations of the lease; and

''(3) provide for—

''(A) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forth in an applicable housing plan approved under section 803; and

''(B) the prompt notification in writing of any rejected applicant of the grounds for that rejection.

''SEC. 815. REPAYMENT.

''If the Department of Hawaiian Home Lands uses grant amounts to provide affordable housing under activities under this title and, at any time during the useful life of the housing, the housing does not comply with the requirement under section 813(a)(2), the Secretary shall—

''(1) reduce future grant payments on behalf of the Department by an amount equal to the grant amounts used for that housing (under the authority of section 819(a)(2)); or

''(2) require repayment to the Secretary of any amount equal to those grant amounts.

''SEC. 816. ANNUAL ALLOCATION.

''For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this title for the fiscal year, in accordance with the formula established pursuant to section 817 to the Department of Hawaiian Home Lands if the Department complies with the requirements under this title for a grant under this title.

''SEC. 817. ALLOCATION FORMULA.

''(a) ESTABLISHMENT.—The Secretary shall, by regulation issued not later than the expiration of the 6-month period beginning on the date of enactment of the Native American Housing Assistance and Self-Determination Amendments of 1999, in the manner provided under section 807, establish a formula to provide for the allocation of amounts available for a fiscal year for block grants under this title in accordance with the requirements of this section.

''(b) FACTORS FOR DETERMINATION OF NEED.—The formula under subsection (a) shall be based on factors that reflect the needs for assistance for affordable housing activities, including—

''(1) the number of low-income dwelling units owned or operated at the time pursuant to a contract between the Director and the Secretary;

''(2) the extent of poverty and economic distress and the number of Native Hawaiian families eligible to reside on the Hawaiian Home Lands; and

''(3) any other objectively measurable conditions that the Secretary and the Director may specify.

''(c) OTHER FACTORS FOR CONSIDERATION.—In establishing the formula under subsection (a), the Secretary shall consider the relative administrative capacities of the Department of Hawaiian Home Lands and other challenges faced by the Department, including—

''(1) geographic distribution within Hawaiian Home Lands; and

''(2) technical capacity.

''(d) EFFECTIVE DATE.—This section shall take effect on the date of enactment of the Native American Housing Assistance and Self-Determination Amendments of 1999.

''SEC. 818. REMEDIES FOR NONCOMPLIANCE.

''(a) ACTIONS BY SECRETARY AFFECTING GRANT AMOUNTS.—

''(1) IN GENERAL.—Except as provided in subsection (b), if the Secretary finds after reasonable notice and opportunity for a hearing that the Department of Hawaiian Home Lands has failed to comply substantially with any provision of this title, the Secretary shall—

''(A) terminate payments under this title to the Department;

''(B) 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

''(C) limit the availability of payments under this title to programs, projects, or activities not affected by such failure to comply.

''(2) ACTIONS.—If the Secretary takes an action under subparagraph (A), (B), or (C) of paragraph (1), the Secretary shall continue that action until the Secretary determines that the failure by the Department to comply with the provision has been remedied by the Department and the Department is in compliance with that provision.

''(b) NONCOMPLIANCE BECAUSE OF A TECHNICAL INCAPACITY.—The Secretary may provide technical assistance for the Department, either directly or indirectly, that is designed to increase the capability and capacity of the Director of the Department to administer assistance provided under this title in compliance with the requirements under this title if the Secretary makes a finding under subsection (a), but determines that the failure of the Department to comply substantially with the provisions of this title—

''(1) is not a pattern or practice of activities constituting willful noncompliance; and

''(2) is a result of the limited capability or capacity of the Department of Hawaiian Home Lands.

''(c) REFERRAL FOR CIVIL ACTION.—

''(1) AUTHORITY.—In lieu of, or in addition to, any action that the Secretary may take under subsection (a), if the Secretary has reason to believe that the Department of Hawaiian Home Lands has failed to comply substantially with any provision of this title, the Secretary may refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted.

''(2) CIVIL ACTION.—Upon receiving a referral under paragraph (1), the Attorney General may bring a civil action in any United States district court of appropriate jurisdiction for such relief as may be appropriate, including an action—

''(A) to recover the amount of the assistance furnished under this title that was not expended in accordance with this title; or

''(B) for mandatory or injunctive relief.

''(d) REVIEW.—

''(1) IN GENERAL.—If the Director receives notice under subsection (a) of the termination, reduction, or limitation of payments under this Act, the Director—

''(A) may, not later than 60 days after receiving such notice, file with the United States Court of Appeals for the Ninth Circuit, or in the United States Court of Appeals for the District of Columbia, a petition for review of the action of the Secretary; and

''(B) upon the filing of any petition under subparagraph (A), shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.

''(2) PROCEDURE.—

''(A) IN GENERAL.—The Secretary shall file in the court a record of the proceeding on which the Secretary based the action, as provided in section 2112 of title 28, United States Code.

''(B) OBJECTIONS.—No objection to the action of the Secretary shall be considered by the court unless the Department has registered the objection before the Secretary.

''(3) DISPOSITION.—

''(A) COURT PROCEEDINGS.—

''(i) JURISDICTION OF COURT.—The court shall have jurisdiction to affirm or modify the action of the Secretary or to set the action aside in whole or in part.

''(ii) FINDINGS OF FACT.—If supported by substantial evidence on the record considered as a whole, the findings of fact by the Secretary shall be conclusive.

''(iii) ADDITION.—The court 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—

''(I) may—

''(aa) modify the findings of fact of the Secretary; or

''(bb) make new findings; and

''(II) shall file—

''(aa) such modified or new findings; and

''(bb) the recommendation of the Secretary, if any, for the modification or setting aside of the original action of the Secretary.

''(ii) FINDINGS.—The findings referred to in clause (i)(II)(bb) shall, with respect to a question of fact, be considered to be conclusive if those findings are—

''(I) supported by substantial evidence on the record; and

''(II) considered as a whole.

''(4) FINALITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), upon the filing of the record under this subsection with the court—

''(i) the jurisdiction of the court shall be exclusive; and

''(ii) the judgment of the court shall be final.

''(B) REVIEW BY SUPREME COURT.—A judgment under subparagraph (A) shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification, as provided in section 1254 of title 28, United States Code.

''SEC. 819. MONITORING OF COMPLIANCE.

''(a) ENFORCEABLE AGREEMENTS.—

''(1) IN GENERAL.—The Director, through binding contractual agreements with owners or other authorized entities, shall ensure long-term compliance with the provisions of this title.

''(2) MEASURES.—The measures referred to in paragraph (1) shall provide for—

''(A) to the extent allowable by Federal and State law, the enforcement of the provisions of this title by the Department and the Secretary; and

''(B) remedies for breach of the provisions referred to in paragraph (1).

''(b) PERIODIC MONITORING.—

''(1) IN GENERAL.—Not less frequently than annually, the Director shall review the activities conducted and housing assisted under this title to assess compliance with the requirements of this title.

''(2) REVIEW.—Each review under paragraph (1) shall include onsite inspection of housing to determine compliance with applicable requirements.

''(3) RESULTS.—The results of each review under paragraph (1) shall be—

''(A) included in a performance report of the Director submitted to the Secretary under section 820; and

''(B) made available to the public.

''(c) PERFORMANCE MEASURES.—The Secretary shall establish such performance measures as may be necessary to assess compliance with the requirements of this title.

''SEC. 820. PERFORMANCE REPORTS.

''(a) REQUIREMENT.—For each fiscal year, the Director shall—

''(1) review the progress the Department has made during that fiscal year in carrying out the housing plan submitted by the Department under section 803; and

''(2) submit a report to the Secretary (in a form acceptable to the Secretary) describing the conclusions of the review.

''(b) CONTENT.—Each report submitted under this section for a fiscal year shall—

''(1) describe the use of grant amounts provided to the Department of Hawaiian Home Lands for that fiscal year;

''(2) assess the relationship of the use referred to in paragraph (1) to the goals identified in the housing plan;

''(3) indicate the programmatic accomplishments of the Department; and

''(4) describe the manner in which the Department would change its housing plan submitted under section 803 as a result of its experiences.

''(c) SUBMISSIONS.—The Secretary shall—

''(1) establish a date for submission of each report under this section;

''(2) review each such report; and

''(3) with respect to each such report, make recommendations as the Secretary considers appropriate to carry out the purposes of this title.

''(d) PUBLIC AVAILABILITY.—

''(1) COMMENTS BY BENEFICIARIES.—In preparing a report under this section, the Director shall make the report publicly available to the beneficiaries of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.) and give a sufficient amount of time to permit those beneficiaries to comment on that report before it is submitted to the Secretary (in such manner and at such time as the Director may determine).

''(2) SUMMARY OF COMMENTS.—The report shall include a summary of any comments received by the Director from beneficiaries under paragraph (1) regarding the program to carry out the housing plan.

''SEC. 821. REVIEW AND AUDIT BY SECRETARY.

''(a) ANNUAL REVIEW.—

''(1) 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—

''(A) the Director has—

''(i) carried out eligible activities under this title in a timely manner;

''(ii) carried out and made certifications in accordance with the requirements and the primary objectives of this title and with other applicable laws; and

''(iii) a continuing capacity to carry out the eligible activities in a timely manner;

''(B) the Director has complied with the housing plan submitted by the Director under section 803; and

''(C) the performance reports of the Department under section 821 are accurate.

''(2) ONSITE VISITS.—Each review conducted under this section shall, to the extent practicable, include onsite visits by employees of the Department of Housing and Urban Development.

''(b) REPORT BY SECRETARY.—The Secretary shall give the Department of Hawaiian Home Lands not less than 30 days to review and comment on a report under this subsection. After taking into consideration the comments of the Department, the Secretary may revise the report and shall make the comments of the Department and the report with any revisions, readily available to the public not later than 30 days after receipt of the comments of the Department.

''(c) EFFECT OF REVIEWS.—The Secretary may make appropriate adjustments in the amount of annual grants under this title in accordance with the findings of the Secretary pursuant to reviews and audits under this section. The Secretary may adjust, reduce, or withdraw grant amounts, or take other action as appropriate in accordance with the reviews and audits of the Secretary under this section, except that grant amounts already expended on affordable housing activities may not be recaptured or

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, those transactions may be audited by the Comptroller General of the United States under such regulations as may be prescribed 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 such financial transactions and necessary to facilitate the audit.

"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 184A 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. 184A. 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 the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 set seq.).

''(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 (i).

''(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 Homes Commission Act (42 Stat. 110); or

''(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 Homes Commission Act, 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) AUTHORITY.—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 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.—Under this section, a loan is an eligible loan if that loan meets the following requirements:

''(1) ELIGIBLE BORROWERS.—The loans is made only to a borrower who—

''(A) is 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 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 803 of the Native American Housing Assistance and Self-Determination Amendments of 1999; 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.

''(4) 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 insured or guaranteed by an agency of the Federal Government or made by the Department of Hawaiian Home Lands from amounts borrowed from the United Sates shall not be eligible for a guarantee under this section.

''(B) APPROVAL.—The following lenders shall be considered to be lenders that have been approved by the Secretary:

''(i) Any mortgagee 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.).

''(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 of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949 (42 U.S.C.A. 1441 et seq.).

''(iv) Any other lender that is supervised, approved, regulated, or insured by any agency of the Federal Government.

''(5) TERMS.—The loan shall—

''(A) be made for a term not exceeding 30 years;

''(B) bear interest (exclusive of the guarantee fee under subsection (d) and service charges, if any) at a rate agreed upon by the borrower and the lender and determined by the Secretary to be reasonable, but not to exceed the rate generally charged in the area (as determined by the Secretary) for home mortgage loans not guaranteed or insured by any agency or instrumentality of the Federal Government;

''(C) involve a principal obligation not exceeding—

''(i) 97.75 percent of the appraised value of the property as of the date the loan is accepted for guarantee (or 98.75 percent if the value of the property is $50,000 or less); or

''(ii) the amount approved by the Secretary under this section; and

''(D) involve a payment on account of the property—

''(i) in cash or its equivalent; or

''(ii) through the value of any improvements to the property made through the skilled or unskilled labor of the borrower, as the Secretary shall provide.

''(d) CERTIFICATE OF GUARANTEE.—

''(1) APPROVAL PROCESS.—

''(A) IN GENERAL.—Before the Secretary approves any loan for guarantee under this section, the lender shall submit the application for the loan to the Secretary for examination.

''(B) APPROVAL.—If the Secretary approves the application submitted under subparagraph (A), the Secretary shall issue a certificate under this subsection as evidence of the loan guarantee approved.

''(2) STANDARD FOR APPROVAL.—The Secretary may approve a loan for guarantee under this section and issue a certificate under this subsection only if the Secretary determines that there is a reasonable prospect of repayment of the loan.

''(3) EFFECT.—

''(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.

''(4) 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 are on the date of issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

''(e) GUARANTEE FEE.—

''(1) IN GENERAL.—The Secretary shall fix and collect a 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.

''(2) PAYMENT.—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.

''(3) DEPOSIT.—The Secretary shall deposit any fees collected under this subsection in the Native Hawaiian Housing Loan Guarantee Fund established under subsection (j).

''(f) 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.

''(g) TRANSFER AND ASSUMPTION.—Notwithstanding any other provision of law, any

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.

''(h) DISQUALIFICATION OF LENDERS AND CIVIL MONEY PENALTIES.—

''(1) IN GENERAL.—

''(A) GROUNDS FOR ACTION.—The Secretary may take action under subparagraph (B) if the Secretary determines that any lender or holder of a guarantee certificate under subsection (c)—

''(i) has failed—

''(I) to maintain adequate accounting records;

''(II) to service adequately loans guaranteed under this section; or

''(III) to exercise proper credit or underwriting judgment; or

''(ii) has engaged in practices otherwise detrimental to the interest of a borrower or the United States.

''(B) ACTIONS.—Upon a determination by the Secretary that a holder of a guarantee certificate under subsection (c) has failed to carry out an activity described in subparagraph (A)(i) or has engaged in practices described in subparagraph (A)(ii), 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 assume 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 monetary 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 provided under section 536 of the National Housing Act (12 U.S.C.A. 1735f–1) with respect to mortgagees and lenders under that Act.

''(3) PAYMENT ON LOANS MADE IN GOOD FAITH.—Notwithstanding paragraphs (1) and (2), if a loan was made in good faith, the Secretary may not refuse to pay a lender or holder of a valid guarantee on that loan, without regard to whether the lender or holder is barred under this subsection.

''(i) PAYMENT UNDER GUARANTEE.—

''(1) LENDER OPTIONS.—

''(A) IN GENERAL.—

''(i) NOTIFICATION.—If borrower on a loan guaranteed under this section defaults on the loan, the holder of the guarantee certificate shall provide written notice of the default to the Secretary.

''(ii) PAYMENT.—Upon providing the notice required under clause (i), the holder of the guarantee certificate shall be entitled to payment under the guarantee (subject to the provisions of this section) and may proceed to obtain payment in 1 of the following manners:

''(I) FORECLOSURE.—

''(aa) IN GENERAL.—The holder of the certificate may initiate foreclosure proceedings (after providing written notice of that action to the Secretary).

''(bb) PAYMENT.—Upon a final order by the court authorizing foreclosure and submission to the Secretary of a claim for payment under the guarantee, the Secretary shall pay to the holder of the certificate the pro rata portion of the amount guaranteed (as determined pursuant to subsection (f)) plus reasonable fees and expenses as approved by the Secretary.

''(cc) SUBROGATION.—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 to the Secretary.

''(II) NO FORECLOSURE.—

''(aa) IN GENERAL.—Without seeking foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a request to 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.

''(bb) PAYMENT.—Upon assignment, the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (f)).

''(cc) SUBROGATION.—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 to the Secretary.

''(B) REQUIREMENTS.—Before any payment under a guarantee is made under subparagraph (A), the holder of the guarantee shall exhaust all reasonable possibilities of collection. Upon payment, in whole or in part, to the holder, the note or judgment evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the borrower or the United States. The Secretary shall then take such action to collect as the Secretary determines to be appropriate.

''(2) LIMITATIONS ON LIQUIDATION.—

''(A) IN GENERAL.—If a borrower defaults on a loan guaranteed under this section that involves a security interest in restricted Hawaiian Home Land property, the mortgagee or the Secretary shall only pursue liquidation after offering to transfer the account to another eligible Hawaiian family or the Department of Hawaiian Home Lands.

''(B) LIMITATION.—If, after action is taken under subparagraph (A), the mortgagee or the Secretary subsequently proceeds to liquidate the account, the mortgagee or the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property described in subparagraph (A) except to another eligible Hawaiian family or to the Department of Hawaiian Home Lands.

''(j) HAWAIIAN HOUSING LOAN GUARANTEE FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States the Hawaiian Housing Loan Guarantee Fund for the purpose of providing loan guarantees under this section.

''(2) CREDITS.—The Guarantee Fund shall be credited with—

''(A) any amount, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and any collections and proceeds therefrom;

''(B) any amounts appropriated pursuant to paragraph (7);

''(C) any guarantee fees collected under subsection (d); and

''(D) any interest or earnings on amounts invested under paragraph (4).

''(3) USE.—Amounts in the Guarantee Fund shall be available, to the extent provided in appropriations Acts, for—

''(A) fulfilling any obligations of the Secretary 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 loans;

''(B) paying taxes, insurance, prior liens, expenses necessary to make fiscal adjustment in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed under this section or held by the Secretary;

''(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 rehabilitation and repair to properties that the Secretary holds or owns pursuant to this section.

''(4) INVESTMENT.—Any amounts in the Guarantee Fund determined by the Secretary to be in excess of amounts currently required at the time of the determination to carry out this section may be invested in obligations of the United States.

''(5) LIMITATION ON COMMITMENTS TO GUARANTEE LOANS AND MORTGAGES.—

''(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 GUARANTEES.—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 guarantees for such fiscal year. Any amounts appropriated pursuant to this subparagraph shall remain available until expended.

''(C) LIMITATION ON OUTSTANDING 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 fiscal years 2000, 2001, 2002, 2003, and 2004 with an aggregate outstanding principal amount not exceeding $100,000,000 for each such fiscal year.

''(6) LIABILITIES.—All liabilities and obligations of the assets credited to the Guarantee Fund under paragraph (2)(A) shall be liabilities and obligations of the Guarantee Fund.

''(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, 2003, and 2004.

''(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;

''(ii) conform with applicable general construction standards for the region in which the housing is located;

''(iii) contain a plumbing system that—

''(I) uses a properly installed system of piping;

''(II) includes a kitchen sink and a partitional bathroom with lavatory, toilet, and bath or shower; and

''(III) uses water supply, plumbing, and sewage disposal systems that conform to any minimum standards established by the applicable county or State;

''(iv) contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any appropriate county, State, or national code;

''(v) be not less than the size provided under the applicable locally adopted standards for size of dwelling units, except that the Secretary, upon request of the Department of Hawaiian Home Lands may waive the size requirements under this paragraph; and

''(vi) conform with the energy performance requirements for new construction established by the Secretary under section 526(a) of the National Housing Act (12 U.S.C.A. 1735f–4), unless the Secretary determines that the requirements are not applicable.

''(*l*) APPLICABILITY OF CIVIL RIGHTS STATUTES.—To the extent that the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) apply to a guarantee provided under this subsection, nothing in the requirements concerning discrimination on the basis of race shall be construed to prevent the provision of the guarantee to an eligible entity on the basis that the entity serves Native Hawaiian families or is a Native Hawaiian family.''.

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 legislation regarding Nigeria, a country that stands today astride the border between a repressive history and a potentially productive future.

As the Ranking Democrat of the Senate Subcommittee on Africa, I have long been concerned about the collapsing economic and political situation in Nigeria. Nigeria, with its rich history, abundant natural resources and wonderful cultural diversity, has the 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 Africa, Senator Kassebaum, 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. I commend the help and assistance of all of my colleagues on this important issue and I appreciate the opportunity to work with them toward the broader goal of a freer Nigeria.

Mr. President, the Nigeria Democracy and Civil Society Empowerment Act provides by law for many of the sanctions that the United States has had in place against Nigeria for a number of years. It includes a ban on most foreign direct assistance and a ban on the sale of military goods and military assistance to Nigeria, and suggests the reimposition of restriction on visas for top Nigerian officials. But none of these sanctions will be imposed if the President can certify to the Congress that specific conditions, which I will call ''benchmarks,'' regarding the transition to democracy have taken place in Nigeria. These benchmarks include free and fair democratic elections, the release of political prisoners, freedom of the press, continued access for international human rights monitors and the repeal of the many repressive decrees pressed upon the Nigerian people by successive military regimes.

This legislation also provides for $37 million in development assistance over three years to support democracy and governance programs and the activities of the U.S. Information Agency, and mandates a larger presence for the U.S. Agency for International Development. I want to emphasize that this bill authorizes no new money. All of these funds would come out of existing USAID and USIA appropriations.

Finally, the bill requires the Secretary of State to submit a report on corruption in Nigeria including the evidence of corruption by government officials in Nigeria and the impact of corruption on the delivery of government services in Nigeria, on U.S. business interests in Nigeria, and on Nigeria's foreign policy. It would also require that the Secretary's report include information on the impact on U.S. citizens of advance fee fraud and other fraudulent business schemes originating in Nigeria.

The intent of this legislation is twofold. 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 Sani Abacha. Abacha presided over a 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 skimmed 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; independent media outlets were silenced; workers' rights to organize were restricted; and the infamous State Security [Detention of Persons] Decree No. 2, giving the military sweeping powers of arrest and detention, remained in force.

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. Between 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 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 series of elections scheduled for 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 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 have yet to 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 also declared as 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 habits. 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 can we take Abubakar's encouraging 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 none of 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 reports of drug trafficking 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 posied finally to make a democratic transition, during the 1993 presidential election, the military quickly annulled the results, and promptly put into prision the presumed winner of that eclection 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 died of 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 currently underway will have 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 quick to reward counties 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 spoilers 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 in Nigeria 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 Nigeria policy that vigorously 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 changes, such as the repeal of 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 printed in the RECORD.

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

S. 226

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 ''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 many political prisoners, increased respect for freedom of assembly, expression and association, and 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 political repression, although 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 revoke 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 electors.

(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 potential 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 United States should encourage political, economic, and legal reforms necessary to ensure rule of law and respect for human rights in Nigeria and support a timely, effective, and sustainable transition to democratic, civilian government in Nigeria.

SEC. 3. SENSE OF CONGRESS.

(a) INTERNATIONAL COOPERATION.—It is the sense of Congress that the President should actively seek to coordinate with other countries to further—

(1) the United States policy of promoting the rule of law and respect for human rights; and

(2) the transition to democratic civilian government.

(b) UNITED NATIONS HUMAN RIGHTS COMMISSION.—It is the sense of Congress that, in light of the importance of Nigeria to the region and the severity of successive military regimes, the President should instruct the United States Representative to the United Nations Commission on Human Rights (UNCHR) to use the voice and vote of the United States at the annual meeting of the Commission—

(1) to condemn human rights abuses in Nigeria, as appropriate, while recognizing the progress that has been made; and

(2) to press for the continued renewal of the mandate of, and continued access to Nigeria for, the special rapporteur on Nigeria.

SEC. 4. ASSISTANCE TO PROMOTE DEMOCRACY AND CIVIL SOCIETY IN NIGERIA.

(a) DEVELOPMENT ASSISTANCE.—

(1) IN GENERAL.—Of the amounts made available for fiscal years 2000, 2001, and 2002 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), not less than $10,000,000 for fiscal year 2000, not less than $12,000,000 for fiscal year 2001, and not less than $15,000,000 for fiscal year 2002 should be available for assistance described in paragraph (2) for Nigeria.

(2) ASSISTANCE DESCRIBED.—

(A) IN GENERAL.—The assistance described in this paragraph is assistance provided to nongovernmental organizations for the purpose of promoting democracy, good governance, and the rule of law in Nigeria.

(B) ADDITIONAL REQUIREMENT.—In providing assistance under this subsection, the Administrator of the United States Agency for International Development shall ensure that nongovernmental organizations receiving such assistance represent a broad cross-section of society in Nigeria and seek to promote democracy, human rights, and accountable government.

(3) GRANTS FOR PROMOTION OF HUMAN RIGHTS.—Of the amounts made available for fiscal years 2000, 2001, and 2002 under paragraph (1), not less than $500,000 for each such fiscal year should be available to the United States Agency for International Development for the purpose of providing grants of not more than $25,000 each to support individuals or nongovernmental organizations that seek to promote, directly or indirectly, the advancement of human rights in Nigeria.

(b) USIA INFORMATION ASSISTANCE.—Of the amounts made available for fiscal years 2000, 2001, and 2002 under subsection (a)(1), not less than $1,000,000 for fiscal year 2000, $1,500,000 for fiscal year 2001, and $2,000,000 for fiscal year 2002 should be made available to the United States Information Agency for the purpose of supporting its activities in Nigeria, including the promotion of greater awareness among Nigerians of constitutional democracy, the rule of law, and respect for human rights.

(c) STAFF LEVELS AND ASSIGNMENTS OF UNITED STATES PERSONNEL IN NIGERIA.—

(1) FINDING.—Congress finds that staff levels at the office of the United States Agency for International Development in Lagos, Nigeria, are inadequate.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the Administrator of the United States Agency for International Development should—

(A) increase the number of United States personnel at such Agency's office in Lagos, Nigeria, from within the current, overall staff resources of such Agency in order for such office to be sufficiently staffed to carry out subsection (a); and

(B) consider placement of personnel elsewhere in Nigeria.

SEC. 5. PROHIBITION ON ECONOMIC ASSISTANCE TO THE GOVERNMENT OF NIGERIA; PROHIBITION ON MILITARY ASSISTANCE FOR NIGERIA; REQUIREMENT TO OPPOSE MULTILATERAL ASSISTANCE FOR NIGERIA.

(a) PROHIBITION ON ECONOMIC ASSISTANCE.—

(1) IN GENERAL.—Economic assistance (including funds previously appropriated for economic assistance) shall not be provided to the Government of Nigeria.

(2) ECONOMIC ASSISTANCE DEFINED.—As used in this subsection, the term ''economic assistance''—

(A) means—

(i) any assistance under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) and any assistance under chapter 4 of part II of such Act (22 U.S.C. 2346 et seq.) (relating to economic support fund); and

(ii) any financing by the Export-Import Bank of the United States, financing and assistance by the Overseas Private Investment Corporation, and assistance by the Trade and Development Agency; and

(B) does not include disaster relief assistance, refugee assistance, or narcotics control assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.).

(b) PROHIBITION ON MILITARY ASSISTANCE OR ARMS TRANSFERS.—

(1) IN GENERAL.—Military assistance (including funds previously appropriated for military assistance) or arms transfers shall not be provided to Nigeria.

(2) MILITARY ASSISTANCE OR ARMS TRANSFERS.—The term ''military assistance or arms transfers'' means—

(A) assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.) (relating to military assistance), including the transfer of excess defense articles under section 516 of that Act (22 U.S.C. 2321j);

(B) assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.) (relating to international military education and training);

(C) assistance under the ''Foreign Military Financing Program'' under section 23 of the Arms Export Control Act (22 U.S.C. 2763); or

(D) the transfer of defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).

(c) REQUIREMENT TO OPPOSE MULTILATERAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive director to each of the international financial institutions described in paragraph (2) to use the voice and vote of the United States to oppose any assistance to the Government of Nigeria.

(2) INTERNATIONAL FINANCIAL INSTITUTIONS DESCRIBED.—The international financial institutions described in this paragraph are the African Development Bank, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty 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 by July 1, 1999, that a democratic transition to civilian rule has taken place in Nigeria, the Secretary of State should deny a visa to any alien who is a senior member of the Nigerian government or a military officer currently in the armed forces of Nigeria.

SEC. 7. WAIVER OF PROHIBITIONS AGAINST NIGERIA IF CERTAIN REQUIREMENTS MET.

(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) PRESIDENTIAL DETERMINATION REQUIRED.—A determination under this subsection is a determination that—

(1) the Government of Nigeria—

(A) is not harassing or imprisoning human rights and democracy advocates and individuals for expressing their political views;

(B) has implemented the transition program announced in July 1998;

(C) is respecting freedom of speech, assembly, and the media, including cessation of harassment of journalists;

(D) has released the remaining individuals who have been imprisoned without due process or for political reasons;

(E) is continuing to provide access for independent international human rights monitors;

(F) has repealed all decrees and laws that—

(i) grant undue powers to the military;

(ii) suspend the constitutional protection of fundamental human rights;

(iii) allow indefinite detention without charge, including the State of Security (Detention of Persons) Decree No. 2 of 1984; or

(iv) create special tribunals that do not respect international standards of due process; and

(G) has ensured that the policing of the oil producing communities is carried out without excessive use of force or systematic and widespread human rights violations against the civilian population of the area; or

(2) it is in the national interests of the United States to waive the prohibition in section 5 or 6, as the case may be.

(c) CONGRESSIONAL NOTIFICATION.—Notification under this subsection is written notification of the determination of the President under subsection (b) provided to the appropriate congressional committees not less than 15 days in advance of any waiver of any prohibition in section 5 or 6, subject to the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

SEC. 8. REPORT ON CORRUPTION IN NIGERIA.

Not later than 3 months after the date of the enactment of this Act, and annually for the next 5 years thereafter, the Secretary of State shall prepare and submit to the appropriate congressional committees, and make available to the public, a report on corruption in Nigeria. This report shall include—

(1) evidence of corruption by government officials in Nigeria;

(2) the impact of corruption on the delivery of government services in Nigeria;

(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. 9. 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.

By Mr. INOUYE:

S. 230. A bill to amend chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental illnesses; to the Committee on Governmental Affairs.

CLINICAL SOCIAL WORKERS' RECOGNITION ACT OF 1999

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 this professional 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. 230

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Clinical Social Workers' Recognition Act of 1999''.

SEC. 2. EXAMINATIONS BY CLINICAL SOCIAL WORKERS FOR FEDERAL WORKER COMPENSATION CLAIMS.

Section 8101 of title 5, United States Code, is amended—

(1) in paragraph (2) by striking ''and osteopathic practitioners'' and inserting ''osteopathic practitioners, and clinical social workers''; and

(2) in paragraph (3) by striking ''and osteopathic practitioners'' and inserting ''osteopathic practitioners, and clinical social workers''.

By Mr. INOUYE:

S. 232. A bill to amend title XVIII of the Social Security Act to provide improved reimbursement for clinical social worker services under the medicare program, and for other purposes; to the Committee on Finance.

THE CLINICAL SOCIAL WORKER ACT OF 1999

Mr. INOUYE. Mr. President, today I am introducing legislation to amend Title XVIII of the Social Security Act to correct discrepancies in the reimbursement of clinical social workers covered through Medicare, Part B. The three proposed changes contained in this legislation clarify the current payment process for clinical social workers and establish a reimbursement methodology for the profession that is similar to other health care professionals reimbursed through the Medicare program.

First, this legislation sets payment for clinical social worker services according to a fee schedule established by the Secretary. Second, it explicitly states that services and supplies furnished by a clinical social worker are a covered Medicare expense, just as these services are covered for other mental health professionals in Medicare. Third, the bill allows clinical social workers to be reimbursed for services provided to a client who is hospitalized.

Clinical social workers are valued members of our health care provider team. They are legally regulated in every state of the nation and are recognized as independent providers of mental health care throughout the health care system. I believe it is time to correct the disparate reimbursement treatment of this profession under Medicare.

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

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

S. 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 1833(a)(1)(F)(ii) of the Social Security Act (42 U.S.C. 1395l(a)(1)(F)(ii)) is amended to read as follows: ''(ii) the amount determined by a fee schedule established by the Secretary,''.

(b) DEFINITION OF CLINICAL SOCIAL WORKER SERVICES EXPANDED.—Section 1861(hh)(2) of the Social Security Act (42 U.S.C. 1395x(hh)(2)) is amended by striking ''services performed by a clinical social worker (as defined in paragraph (1))'' and inserting ''such services and such services and supplies furnished as an incident to such services performed by a clinical social worker (as defined in paragraph (1))''.

(c) CLINICAL SOCIAL WORKER SERVICES NOT TO BE INCLUDED IN INPATIENT HOSPITAL SERVICES.—Section 1861(b)(4) of the Social Security Act (42 U.S.C. 1395x(b)(4)) is amended by striking ''and services'' and inserting ''clinical social worker services, and services''.

(d) TREATMENT OF SERVICES FURNISHED IN INPATIENT SETTING.—Section 1832(a)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)(iii)) is amended by striking ''and services'' and inserting ''clinical social worker services, and services''.

(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.

By Mr. INOUYE:

S. 233. A bill to amend title VII of the Public Health Service Act to ensure that social work students of social work schools are eligible for support under the certain programs to assist individuals in pursuing health careers and programs of grants for training projects in geriatrics, and to establish a social work training program; to the Committee on Health, Education, Labor, and Pensions.

AMENDMENT TO TITLE VII OF THE PUBLIC HEALTH SERVICE ACT

Mr. INOUYE. Mr. President, on behalf of our nation's clinical social workers, I am introducing legislation to amend the Public Health Service Act. This legislation would (1) establish a new social work training program; (2) ensure that social work students are eligible for support under the Health Careers Opportunity Program; (3) provide social work schools with eligibility for support under the Minority Centers of Excellence programs; (4) permit schools offering degrees in social work to obtain grants for training projects in geriatrics; and (5) ensure that social work is recognized as a profession under the Public Health Maintenance Organization (HMO) Act.

Despite the impressive range of services social workers provide to people of this nation, particularly our elderly, disadvantaged and minority populations, few federal programs exist to provide opportunities for social work training in health and mental health care. This legislation builds on the health professional legislation enacted by the 102d Congress enabling schools of social work to apply for Acquired Immune Deficiency Syndrome (AIDS) training funding and resources to establish collaborative relationships with rural health care providers and schools of osteopathic medicine. This bill would provide funding for traineeships and fellowships for individuals who plan to specialize in, practice, or teach social work, or for operating approved social work training programs; it would help disadvantaged students earn graduate degrees in social work with a concentration in health or mental health; it would provide new resources and opportunities in

social work training for minorities; and it would encourage schools of social work to expand program in geriatrics. Finally, the recognition of social work as a profession merely codifies current social work practice and reflects modifications made by the Medicare HMO legislation.

I believe it is 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 earned and 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 Lae 105-392, is amended by striking ''mental health practice'' and inserting ''mental health practice including 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 ''offering graduate programs in behavioral and mental health'' and inserting ''offering graduate programs in behavioral and mental health including graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work''.

SEC. 2. GERIATRICS TRAINING PROJECTS.

Section 753(b)(1) of the Public Health Service Act, as amended by Public Law 105-392, is amended by inserting ''schools offering degrees in social work,'' after ''teaching hospitals,''.

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—

(1) by redesignating section 770 as section 770A;

(2) by inserting after section 769, the following:

''SEC. 770. 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) for students, interns, 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 social work training programs; and

''(4) to provide financial assistance (in the form of traineeships and fellowships) to individuals who are participants in any such program and who plan to teach in a social work training program.

''(b) ACADEMIC ADMINISTRATIVE UNITS.—

''(1) IN GENERAL.—The Secretary may make grants to or enter into contracts with schools offering programs in social work to meet the costs of projects to establish, maintain, or improve academic administrative units (which may be departments, divisions, or other units) to provide clinical instruction in social work.

''(2) PREFERENCE IN MAKING AWARDS.—In making awards of grants and contracts under paragraph (1), the Secretary shall give preference to any qualified applicant for such an award that agrees to expend the award for the purpose of—

''(A) establishing an academic administrative unit for programs in social work; or

''(B) substantially expanding the programs of such a unit.

''(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. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments.

''(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 section 770A (as so redesignated) 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) in paragraphs (1) and (2), by inserting ''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.

THE NATIONAL ACADEMIES OF PRACTICE RECOGNITION ACT OF 1999

Mr. INOUYE. Mr. President, today I am introducing legislation that would provide a federal charter for the National Academies of Practice. This organization represents outstanding medical professionals who have made significant contributions to the practice of applied psychology, medicine, dentistry, nursing, optometry, podiatry, social work, and veterinary medicine. When fully established, each of the nine academies will possess 100 distinguished practitioners selected by their peers. This umbrella organization will be able to provide the Congress of the United States and the executive branch with considerable health policy expertise, especially from the perspective of those individuals who are in the forefront of actually providing health care.

As we continue to grapple with the many complex issues surrounding the delivery of health care services, it is clearly in our best interest to ensure that the Congress has systematic access to the recommendations of an interdisciplinary body of health care practitioners.

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. 234

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

SECTION 1. CHARTER.

The National Academies of Practice organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a Federal charter.

SEC. 2. CORPORATE POWERS.

The National Academies of Practice (referred to in this Act as the ''corporation'') shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

SEC. 3. PURPOSES OF CORPORATION.

The purposes of the corporation shall be to honor persons who have made significant contributions to the practice of applied psychology, dentistry, medicine, nursing, optometry, osteopathy, podiatry, social work, veterinary medicine, and other health care professions, and to improve the practices in such professions by disseminating information about new techniques and procedures.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

SEC. 6. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.

The composition and the responsibilities of the board of directors of the corporation shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 7. OFFICERS OF THE CORPORATION.

The officers of the corporation and the election of such officers shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 8. RESTRICTIONS.

(a) USE OF INCOME AND ASSETS.—No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation 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 contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.—The corporation shall 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 any 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.

SEC. 15. TERMINATION.

If the corporation fails to comply with any of the restrictions or provisions of this Act the charter granted by this Act shall terminate.

By Mr. INOUYE:

S. 235. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in professional psychology eligible to participate in various health professions loan programs; to the Committee on Health, Education, Labor, and Pensions.

THE U.S. PUBLIC HEALTH SERVICE ACT AMENDMENT ACT OF 1999

Mr. INOUYE. Mr. President, I rise to introduce legislation today to modify Title VII of the U.S. Public Health Service Act in order to provide students enrolled in graduate psychology programs with the opportunity to participate in various health professions loan programs

Providing students enrolled in graduate psychology programs with eligibility for financial assistance in the form of loans, loan guarantees, and scholarships will facilitate a much needed infusion of behavioral science expertise into our public health community of providers. There is a growing recognition of the valuable contribution that is being made by our nation's psychologists toward solving some of our nation's most distressing problems.

The participation of students from all backgrounds and clinical disciplines is vital to the success of health care training. The Title VII programs play a significant role in providing financial support for the recruitment of minorities, women and individuals from economically disadvantaged backgrounds. Minority therapists have an advantage in the provision of critical services to minority populations because often they can communicate with clients in their own language and cultural framework. Minority therapists are more likely to work in community settings, where ethnic minority and economically disadvantaged individuals are most likely to seek care. It is critical that continued support be provided for the training of individuals who provide health care services to underserved communities.

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. 235

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

SECTION 1. PARTICIPATION IN VARIOUS HEALTH PROFESSIONS LOAN PROGRAMS.

(a) LOAN AGREEMENTS.—Section 721 of the Public Health Service Act (42 U.S.C. 292q) is amended—

(1) in subsection (a), by inserting '', or any public or nonprofit school that offers a graduate program in professional psychology'' after ''veterinary medicine'';

(2) in subsection (b)(4), by inserting '', or to a graduate degree in professional psychology'' after ''or doctor of veterinary medicine or an equivalent degree''; and

(3) in subsection (c)(1), by inserting '', or schools that offer graduate programs in professional psychology'' after ''veterinary medicine''.

(b) LOAN PROVISIONS.—Section 722 of the Public Health Service Act (42 U.S.C. 292r) is amended—

(1) in subsection (b)(1), by inserting '', or to a graduate degree in professional psychology'' after ''or doctor of veterinary medicine or an equivalent degree'';

(2) in subsection (c), in the matter preceding paragraph (1), by inserting '', or at a school that offers a graduate program in professional psychology'' after ''veterinary medicine''; and

(3) in subsection (k)—

(A) in the matter preceding paragraph (1), by striking ''or podiatry'' and inserting ''podiatry, or professional psychology''; and

(B) in paragraph (4), by striking ''or podiatric medicine'' and inserting ''podiatric medicine, or professional psychology''.

SEC. 2. GENERAL PROVISIONS.

(a) HEALTH PROFESSIONS DATA.—Section 792(a) of the Public Health Service Act (42 U.S.C. 295k(a)) is amended by striking ''clinical'' and inserting ''professional''.

(b) PROHIBITION AGAINST DISCRIMINATION ON BASIS OF SEX.—Section 794 of the Public Health Service Act (42 U.S.C. 295m) is amended in the matter preceding paragraph (1) by striking ''clinical'' and inserting ''professional''.

(c) DEFINITIONS.—Section 799B(1)(B) of the Public Health Service Act (as redesignated by section 106(a)(2)(E) of the Health Professions Education Partnerships Act of 1998) is amended by striking ''clinical'' each place it appears and inserting ''professional''.

By Mr. COVERDELL (for himself and Mr. BROWNBACK):

S. 227. A bill to prohibit the expenditure of Federal funds to provide or support programs to provide individuals with hypodermic needles or syringes for the use of illegal drugs; to the Committee on Health, Education, Labor, and Pensions.

This bill would effectively continue and make permanent the one year ban imposed through the appropriations process. Rather than revisit this issue each year, this bill would establish a firm federal policy against providing free needles to drug addicts. Health and Human Services Secretary Donna Shalala is on record strongly endorsing needle exchange programs and encouraging local communities to use their own dollars to fund needle exchange programs. This legislation is therefore needed to foreclose any temptation the Administration may feel to federally fund needle exchanges in the future.

General Barry McCaffrey, Director of the Office of National Drug Control Policy, has laid out the strong case against needle exchange programs. Handing out needles to drug users sends a message that the government is condoning drug use. It undermines our anti-drug message and undercuts all of our drug prevention efforts.

A report by General McCaffrey's office reviewed the world's largest needle exchange program in Vancouver, British Colombia, in operation since 1988. It found the program to be a failure. HIV infections were higher among users of free needles than those without access

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, was quoted in the Washington Times stating 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 heroin each day and 4,000 die every year from heroin-related causes other than HIV. Far more addicts die of drug overdoses and related violence than from AIDS. It is wrong to aid and abet those deaths by handing out free needles to drug addicts. We should not be encouraging higher rates of heroin use.

Therefore, I hope my colleagues will join me in making permanent the prohibition on federal funding and support of needle giveaway programs.

By Mr. INOUYE:

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 behavioral 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 only to meet their pay back obligations, but have continued to work in the public sector or 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 fellowship programs 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 100,000 days of hospitalization, 30,000 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 the 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. 294o 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.—

''(1) INDIVIDUALS.—In order to receive a grant under this section an individual shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such individual—

''(A) has received a doctoral degree through a graduate program in psychology provided by an accredited institution at the time such grant is awarded;

''(B) will provide services in a medically underserved population during the period of such grant;

''(C) will comply with the provisions of subsection (c); and

''(D) will provide any other information or assurances as the Secretary determines appropriate.

''(2) INSTITUTIONS.—In order to receive a grant or contract under this section, an institution shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such institution—

''(A) is an entity, approved by the State, that provides psychological services in medically underserved areas or to medically underserved populations (including entities that care for 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.

''(c) 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.

''(d) 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 unserved populations'.

''(e) 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.

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. 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

striking ''psychiatrist or psychologist'' and inserting ''psychiatrist, psychologist, or clinical social worker''.

By Mr. INOUYE:

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 Armed Services.

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 designated position and grade 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 officer grades; 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 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. 238

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

SECTION 1. INCREASED GRADE FOR HEADS OF NURSE CORPS.

(a) ARMY.—Section 3069(b) of title 10, United States Code, is amended by striking out ''brigadier general'' in the second sentence and inserting in lieu thereof ''major general''.

(b) NAVY.—The first sentence of section 5150(c) of such title is amended—

(1) by inserting ''rear admiral (upper half) in the case of an officer in the Nurse Corps or'' after ''for promotion to the grade of''; and

(2) by inserting ''in the case of an officer in the Medical Service Corps'' after ''rear admiral (lower half)''.

(c) AIR FORCE.—Section 8069(b) of such title is amended by striking out ''brigadier general'' in the second sentence and inserting in lieu thereof ''major general''.

By Mr. INOUYE:

S. 239. A bill to amend title 38, United States Code, to revise certain provisions relating to the appointment of professional psychologists in the Veterans Health Administration, and for other purposes; to the Committee on Veterans' Affairs.

THE PERKINS COUNTY RURAL WATER SYSTEM ACT OF 1999

Mr. JOHNSON. Mr. President, today I am proud to introduce legislation to authorize a critically important rural water system in South Dakota, the ''Perkins County Rural Water System Act of 1999.'' I am pleased to have my good friend and colleague from South Dakota, Senator DASCHLE, as an original cosponsor of this important legislation, which we introduced during the 105th. This legislation is also strongly supported by the State of South Dakota and local project sponsors, who have demonstrated that support by agreeing to substantial financial contributions from the local level.

During the 105th Congress the Perkins County Rural Water System Act was passed by the Senate Energy and Natural Resources Committee, as well as the full Senate. Unfortunately, this legislation was caught up in part of a larger legislative package, but I am hopeful the Senate will again support this important drinking water project and pass this legislation early this year.

Like many parts of South Dakota, Perkins County has insufficient water supplies of reasonable quality available, and the water supplies that are available do not meet the minimum health and safety standards, thereby posing a threat to public health and safety.

In addition to improving the health of residents in the region, I strongly believe that this rural drinking water delivery project will help to stabilize the rural economy as well. Water is a basic commodity and is essential if we are to foster rural development in many parts of rural South Dakota, including the Perkins County area.

The ''Perkins County Rural Water System Act of 1999'' authorizes the Bureau of Reclamation to construct a Perkins County Rural Water System providing service to approximately 2,500 people, including the communities of Lemmon and Bison, as well as rural residents. The Perkins County Rural Water System is located in northwestern South Dakota along the South Dakota/North Dakota border and it will be an extension of an existing rural water system in North Dakota, the Southwest Pipeline Project. The State of South Dakota has worked closely with the State of North Dakota over the years on the Perkins County connection to the Southwest Pipeline Project. A feasibility study completed in 1994 looked at several alternatives for a dependable water supply, and the connection to the Southwest Pipeline Project is clearly the most feasible for the Perkins County area.

Mr. President, South Dakota is plagued by water of exceeding poor quality, and the Perkins County rural water project is an effort to help provide clean water—a commodity most of us take for granted—to the people of Perkins County, South Dakota. I am a strong believer in the federal government's role in rural water delivery, and I hope to continue to advance that agenda both in South Dakota and around the country. I urge my colleagues to support this important rural water legislation, and I look forward to working with my colleagues on the Senate Energy and Natural Resources Committee to move forward on enactment as quickly as possible.

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. 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 the Southwest Area Water Supply Study, which included water service to a portion of Perkins County, South Dakota;

(3) amendments made by the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 101–294) authorized the Southwest Pipeline project as an eligible project for Federal cost share participation;

(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; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Perkins County Rural Water System, Inc., members is the waters of the Missouri River as delivered by the Southwest Pipeline Project in North Dakota.

(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 Rural Water System, Inc.'', as amended in March 1995.

(2) PROJECT CONSTRUCTION BUDGET.—The term ''project construction budget'' means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the feasibility study.

(3) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term ''pumping and incidental operational requirements'' means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Perkins County Rural Water System to each entity that distributes water at retail to individual users.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

(5) WATER SUPPLY SYSTEM.—The term ''water supply system'' means the Perkins County Rural Water System, Inc., a nonprofit corporation, established and operated substantially in accordance with the feasibility study.

SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The Secretary shall make grants to the water supply system for the Federal share of the costs of—

(1) the planning and construction of the water supply system; and

(2) repairs to existing public water distribution systems to ensure conservation of the resources and to make the systems functional under the new water supply system.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas, repairs to existing public water distribution systems, and water conservation in Perkins County, South Dakota.

(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 met 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. 5. 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. 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 the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1 and ending October 31 of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Perkins County Rural Water System, Inc.;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATES.

This Act does not limit the authorization for water projects in South Dakota and North Dakota under law in effect on or after 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;

(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;

(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—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) 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—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) 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 portion of the project to be constructed in Perkins County, South Dakota.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $15,000,000 for the planning and construction of the water system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

By Mr. INOUYE:

S. 239. A bill to amend title 38, United States Code, to revise certain provisions relating to the appointment of professional psychologists in the Veterans Health Administration, and for other purposes; to the Committee on Veterans' Affairs.

THE VETERANS' HEALTH ADMINISTRATION ACT OF 1999

Mr. INOUYE. Mr. President, I introduce legislation today to amend Chapter 74 of Title 38, United States Code, to revise certain provisions relating to the appointment of clinical and professional psychologists in the Veterans Health Administration (VHA).

The VHA has a long history of maintaining a staff of the very best health care professionals to provide care to those men and women who have served our country in the Armed Forces.

Recently, a quite distressing situation regarding the care of our veterans has come to my attention. In particular, the recruiting and retention of psychologists in the VHA of the Department of Veterans Affairs has become a significant problem.

The Congress has recognized the important contribution of the behavioral sciences in the treatment of several conditions afflicting a significant portion of our veterans. Programs related to homelessness, substance abuse, and post traumatic stress disorder (PTSD) have received funding from the Congress in recent years.

Certainly, psychologists, as behavioral science experts, are essential to the successful implementation of these programs. However, the high vacancy and turnover rates for psychologists in the VHA (more than 5% and 8% respectively as reported in one recent survey) might seriously jeopardize these programs and will negatively impact overall patient care in the VHA.

Recruitment of psychologists by the VHA is hindered by a number of factors including a pay scale not commensurate with private sector rates and the low number of clinical and professional psychologists appearing on the register of the Office of Personnel Management (OPM). Most new hires have no postdoctoral experience and are hired immediately after a VHA internship. Recruitment, when successful, takes up to six months or more.

Retention of psychologists in the VHA system poses an even more significant problem. I have been informed that almost 40% of VHA psychologists

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 nor 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 mastery. Our veterans with behavioral 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 ameliorate the recruitment and retention problems. The length of time to recruit psychologists could be abbreviated by eliminating the requirement for applicants to be rated 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, making significant contributions to the science of psychology, earning the ABPP displomate 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' 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:

S. 239

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

SECTION 1. REVISION OF AUTHORITY RELATING TO APPOINTMENT OF 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 such title 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 in the Senate Committee on Energy and Natural Resources. 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 and communities in southeastern South Dakota, northwestern Iowa and southwestern Minnesota who have joined together in an effort to cooperatively address the dual problems facing the delivery of drinking water in this region—inadequate quantities of water and poor quality water.

The region has seen substantial growth and development in recent years, and studies have shown that future water needs will be significantly greater than the current available supply. Most of the people who are served by ten of the water utilities in the proposed Lewis and Clark project area currently enforce water restrictions on a seasonal basis. Almost half of the membership has water of such poor quality it does not meet present or proposed standards for drinking water. More than two-thirds rely on shallow aquifers as their primary source of drinking water, aquifers which are very vulnerable to contamination by surface activities.

The Lewis and Clark system will be a supplemental supply of drinking water for its 22 members, acting as a treated, bulk delivery system. The distribution to deliver water to individual users will continue through the existing systems used by each member utility. This ''regionalization approach'' to solving these water supply and quality problems enables the Missouri River to provide a source of clean, safe drinking water to more than 180,000 individuals. A source of water which none of the members of Lewis and Clark could afford on their own.

The proposed system would help to stabilize the regional rural economy by providing water to Sioux Falls, the hub city in the region, as well as numerous small communities and individual farms in South Dakota and portions of Iowa and Minnesota.

The States of South Dakota, Iowa and Minnesota have all authorized the project and local sponsors have demonstrated a financial commitment to this project through state grants, local water development district grants and membership dues. The State of South Dakota has already contributed more than $400,000.

Mr. President, I do not believe our needs get any more basic than good quality, reliable drinking water, and I appreciate the fact that Congress has shown support for efforts to improve drinking water supplies in South Dakota. I look forward to continue working 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 wetland and wildlife enhancement 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 Wildlife Enhancement 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,

Iowa and Minnesota'', dated September 1993, that includes a water conservation plan, environmental report, and environmental enhancement component.

(4) MEMBER ENTITY.—The term ''member entity'' means a rural water system or municipality that signed a Letter of Commitment to participate in the water supply system.

(5) PROJECT CONSTRUCTION BUDGET.—The term ''project construction budget'' means the description of the total amount of funds needed for the construction of the water supply system, as contained in the feasibility study.

(6) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term ''pumping and incidental operational requirements'' means all power requirements that are incidental to 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.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(8) WATER SUPPLY SYSTEM.—The term ''water supply system'' means the Lewis and Clark Rural Water System, Inc., a nonprofit corporation established and operated substantially in accordance with the feasibility study.

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) Lake County, McCook County, Minnehaha County, Turner County, Lincoln County, Clay County, and Union County, in southeastern South Dakota;

(2) Rock County and Nobles County, in southwestern Minnesota; and

(3) Lyon County, Sioux County, Osceola County, O'Brien County, Dickinson County, and Clay County, in northwestern Iowa.

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the water supply system shall not exceed the amount of funds authorized 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 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 conservation program 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 and other private, State, and Federal entities, for the initial development of the environmental enhancement component.

(b) NONREIMBURSEMENT.—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;

(3) rate schedules that do not include declining block rate schedules for municipal households and special water users (as defined in the feasibility study);

(4) public education programs and technical assistance to member entities; and

(5) coordinated operation among each rural water system, and each water supply facility in existence on the date of enactment of this Act, in the service area of the system.

(c) REVIEW AND REVISION.—The programs described in subsection (b) shall contain provisions for periodic review and revision, in cooperation with the Secretary.

SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation for 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.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri Basin program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning on May 1 and ending on October 31 of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase the entire electric service requirements of the system, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It is agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the water supply system;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 8. NO LIMITATION ON WATER PROJECTS IN STATES.

This Act does not limit the authorization for water projects in the States of South Dakota, Iowa, and Minnesota under law in effect on or after the ate of enactment of this Act.

SEC. 9. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(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;

(3) preempts or modifies any Federal or State law, or interstate compact, governing 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. 10. COST SHARING.

(a) FEDERAL COST SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall provide funds equal to 80 percent of—

(A) the amount allocated in the total project construction budget for planning and construction of the water supply system under section 3;

(B) such amounts as are necessary to defray increases in the budget for planning and construction of the water supply system under section 3; and

(C) such amounts as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after September 1, 1993.

(2) SIOUX FALLS.—The Secretary shall provide funds for the city of Sioux Falls, South Dakota, in an amount equal to 50 percent of the incremental cost to the city of participation in the project.

(b) NON-FEDERAL COST SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the non-Federal share of the costs allocated to the water supply system shall be 20 percent of the amounts described in subsection (a)(1).

(2) SIOUX FALLS.—The non-Federal cost-share for the city of Sioux Falls, South Dakota, shall be 50 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 provide project construction oversight to the water supply system and environmental enhancement component for the service area of the water supply system described in section 3(b).

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Director of the Bureau of Reclamation for planning and construction of the water supply system shall not exceed the amount that is equal to 1 percent of the amount provided in the total project construction budget for the entire project construction period.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $226,320,000, of which not less than $8,487,000 shall be used for the initial development of the environmental enhancement component under section 4, to remain available until expended.

Mr. GRAMS. Mr. President, I rise today with my colleagues for the introduction of the Lewis and Clark Rural Water System Act of 1999. I would like to thank Senator JOHNSON and Senator DASCHLE for their hard work and dedication to this project over the past two Congresses.

Mr. President, the Southwestern corner of Minnesota, along with adjoining areas in South Dakota and Iowa, is now served by a wholly inadequate water system which is highly susceptible to

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. Communities such as Luverne 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 by 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 utilities infrastructure. With increasing population growth, 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 establish 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 JOE 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 significantly 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 first 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 persons in charge. This situation, if accurately 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 reform 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 fateful 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 rotated from vertical to horizontal. Both 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 a product of the satellite business attempting to move from a predominately need-based rural niche service to a full service video delivery competitor in all markets, urban and rural.

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 both in terms of cost 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 industry to the next level, making it a full competitor in the multi-channel video delivery market. It has been said 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 remoter areas of my large home state of Utah will be able to watch television programming originating in Salt 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 constituents of all my colleagues 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 the year, until 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 my colleagues in 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 Judiciary Committee 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 will proceed 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 upon which 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. 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 nationally who have been adjudged ineligible for distant signal service under current law. The granting of the local 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 my 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-BY-SECTION DESCRIPTION OF S. 247

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 applicable 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 broadcasters with lists of their subscribers receiving 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 in any way willfully alter the programming contained on a local broadcast station.

Second, 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 on a nationwide basis, 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 same network. If the willful or repeated violation of the restriction is performed on a local or regional basis, then the right to retransmit the station (or, if a network station, then all other stations affiliated with that network) can be enjoined on a local or regional basis, depending upon the circumstances. In addition to termination of service on a nationwide or local or regional basis, statutory damages are available up to $250,000 for each 6-month period during which the pattern or practice of violations was carrier out. Satellite carriers have the burden of proving that they are not improperly making use of the section 122 license to serve subscribers outside the local markets of the television broadcast stations they are providing.

The section 122 license is not limited to private home viewing, as is the section 119 compulsory license, so that satellite carriers

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 by the Federal Communications Commission as part of its broadcast carriage rules for satellite carriers.

SEC. 3. EXTENSION OF EFFECT OF AMENDMENTS TO SECTION 119 OF 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 proceedings conducted under section 802 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. A new 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 requires 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 on 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 KOHL. 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 two 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, act to lower cable and satellite rates, and will 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 with 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, as well as the typical complement 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 or by cable.

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 TV signal with a regular rooftop 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, of 1997, Chairman HATCH and I held a full Committee hearing on satellite issues to try to avoid needless cutoffs of satellite TV service while, at the same time, working to protect the network affiliate TV broadcast system.

Soon after, on March 5, 1998, we 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 TV 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 proposal 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 cut off and insisted that FCC issue a final rule that permits ''a smooth transition to 'local-into-local' satellite TV service.''

I said in my comment to their proposal that: ''The Commission's proposal raises a number of complex issues, yet the guiding principle that the FCC should follow is simple: No 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 a clear TV signal, yet all families with satellite dishes were being targeted for termination of their satellite TV channels.''

I also noted in my comment: ''A second area that concerns me relates to who should bear 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 not 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 over-the-air with roof top antennas. 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 CBS and Fox distant signals on April 30, 1999, if they live in areas where they are likely to receive a grade B intensity signal, as defined by the Court and FCC rules, and are unable to get the local CBS or Fox affiliate to consent to receipt of the distant signal. My understanding is that each subscriber that is to lose service must receive notice 45 days in advance.

I want to make clear, as I did in my comment to the FCC, that I strongly believe in the local affiliate television system. Local broadcast stations provide the public with local news, local weather, local informational programming, local emergency advisories, candidate forums, local public affairs programming, and high quality programs. Local broadcast stations contribute to our sense of community.

I strongly believe that when the full local-into-local satellite system is in place, this system will enhance the local affiliate television system.

I, thus, urge my colleagues to cosponsor this effort.

By Mr. HATCH (for himself, Mr. ASHCROFT, Mr. THURMOND, Mr. SESSIONS, and Mr. KYL):

S. 248. A bill to modify the procedures of the Federal courts in certain matters, to reform prisoner litigation, and for other purposes; to the Committee on the Judiciary.

THE JUDICIAL IMPROVEMENT ACT OF 1999

Mr. HATCH. Mr. President, I rise today to introduce, along with Senators ASHCROFT, THURMOND, KYL, and SESSIONS, the ''Judicial Improvement Act of 1999.'' This legislation is designed to preserve the democratic process by strengthening the constitutional division of powers between the Federal Government and the States and between Congress and the Courts. I introduced this legislation last session, but, to my regret, the Senate did not have an opportunity to act upon it. I am reintroducing it because the same ills that were plaguing our judicial system continue to exist, and I believe this legislation can remedy these ills. I have every expectation that this legislation will be acted upon and favorably passed this session.

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 overreaching 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 blatantly ignore that the Constitution has exclusively reserved to Congress the power to legislate and limited their power to the interpretation of the law.

This careful, but deliberate, separation of legislative and judicial functions is a cornerstone of our constitutional system. Regardless of the temptation to embrace a certain judge's decision that some may find socially or politically expedient, we must remember that no interest is more compelling than preserving our Constitution.

Now, attempts by certain federal judges 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 an elected official, my votes for legislation are subject to voter approval. Federal judges, however, are unelected, hence they are, as a practical matter, unaccountable to the public. While tenure during good behavior, which amounts to life tenure, is important in that it frees judges to make unpopular but constitutionally sound decisions, it can become a threat to liberty when placed in the wrong hands. And substituting the will of life-tenured federal judges for the democratically elected representatives is not what our Constitution's framers had in mind.

In an effort to avoid this long-contemplated problem, the proposed reform legislation we are introducing today will assist in ensuring that all three branches of the Federal Government work together in a fashion contemplated by, and consistent with, the Constitution. In addition, this legislation will ensure that federal judges are more respectful of the States and their respective sovereignty.

I want to be clear in stating that this bill does not, as some may claim, challenge the independence of federal judges. However, there are currently some activist federal judges improperly expanding their roles in an effort to substitute their own ideas and interests for the will of the people. Judges, however, are simply not entitled to deviate from their roles as interpreters of the law in order to create new law from the bench. If they believe otherwise, they are derelict in their duties and should leave the federal bench to run for public office—at least then they would be accountable for their actions. It is time that we pass legislation that precludes any federal judge from blurring the lines separating the legislative and judicial functions.

It is important to note that the effort to reign in judicial activism should not be limited simply to opposing potential activist nominees. While the careful scrutiny of judicial nominees is one important step in the confirmation process, a step reserved to the Senate alone, Congress itself has an obligation to the public to ensure that judges fulfill their constitutionally prescribed roles and do not encroach upon those powers delegated 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 in debate about a decision's merits or 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 circumstances in which the judicial power may be exercised. A good example of this is the 104th Congress' effort to reform the statutory writ of habeas

corpus in an attempt to curb the seemingly endless series of petitions filed by convicted criminals bent on thwarting the demands of justice. Legislation of this nature is an important means of curbing activism.

In an effort 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 appeals 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 reprosecuting 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 reform 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 district court judge. By improving the way federal courts analyze 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 ability of federal judges to engage in judicial activism. 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 only to have his or her 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 when a judge attempts to act like a legislator and imposes his own policy preference on the citizens of a state. Such an action weakens respect for the federal judiciary, creates cynicism in the voting public, and costs governments millions of dollars in legal fees. By requiring a ruling by a three judge panel to overturn the validity of a State law, the proposed law would eliminate the ability of one activist judge to unilaterally bar enforcement of a law or ballot initiative through an interlocutory or permanent injunction.

In addition, new time limits on injunctive relief would be imposed. A temporary restraining order would remain in force no more than 10 days, and an interlocutory injunction no more than 60 days. After the expiration of an interlocutory injunction, federal courts would lack the authority to grant 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 motivating 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 appeals 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 an 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 or until replaced by a permanent injunction.

The bill also proposes limitations on the remedial authority of federal courts. In any civil action where prospective relief or a consent judgment binds state and local officials, relief would be terminated upon the motion of any party or intervener: (a) Five years after the date the court granted or approved the prospective relief; (b) two years after the date the court has entered an order denying termination of prospective relief; or (c) in the case of an order issued on or before the date of enactment of this act, two years after the date of enactment.

Parties could agree to terminate or modify an injunction before relief is available if it otherwise would be legally permissible. Courts would promptly rule on motions to modify or terminate this relief and in the event that a motion is not ruled on within 60 days, the order or consent judgment binding state and local officials would automatically terminate.

However, prospective relief would not terminate if the federal court makes written findings based on the record that relief remains necessary to correct an ongoing violation of a federal right, extends no further than necessary to correct the violation and is the least intrusive means available to correct the violation of a federal right.

Moreover, this measure would also prohibit a federal court from having the authority to order a unit of state or local government to increase taxes as part of a judicial remedy. When an unelected federal judge has the power to order tax increases, this results in taxation without representation. Americans have fought against unfair taxation since the Revolutionary War, and this bill would prevent unfair judicial taxation and leave the power to tax to elected representatives of the people.

The bill would not limit the authority of a federal court to order a remedy which may lead a unit of local or state government to decide to increase taxes. A federal court would still have the power to issue a money judgment against a State because the court would not be attempting to restructure local government entities or mandating a particular method or structure of State or local financing. This bill also doesn't limit the remedial authority of State courts in any case, including cases raising issues of federal law. All the bill does is prevent federal courts from having the power to order elected representatives to raise taxes. This is moderate reform which prevents judicial activism and unfair taxation while preserving the federal courts power to order remedial measures.

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 bar retrial as a remedy.

This part of the legislation was cosponsored by Congressman PITTS and Senator SPECTER in response to a highly-publicized murder case in the Congressman's district. Sixteen year old Laurie Show was harrassed, stalked and assaulted for six months by the defendant, who had a vendetta against Show for briefly dating the defendant's boyfriend. After luring Show's mother from their residence, the defendant and an accomplice forcefully entered the Show home, held the victim down, and slit her throat with a butcher knife, killing her. After the defendant was convicted in state court, she filed a habeas petition in which she alleged prosecutorial misconduct and averred her actual innocence. A federal district court judge not only accepted this argument and released the defendant, but he also took the extraordinary step of barring state and local officials from reprosecuting the woman. This judge even went so far as to state that the defendant was the ''first and foremost victim of this affair.''

Congress has long supported the ability of a federal court to fashion creative remedies to preserve constitutional protections, but the additional step of barring state or local officials from reprosecution is without precedent and an unacceptable intrusion on the rights of States. This bill, if enacted, will prevent this type of judicial activism from ever occurring again.

This bill also contains provisions for the termination of prospective relief when it is no longer warranted to cure a violation of a federal right. Once a violation that was the subject of a consent decree has been corrected, a consent decree must be terminated unless the court finds that an ongoing violation of a federal right exists, the specific relief is necessary to correct the violation of a Federal right, and no other relief will correct the violation of the Federal right. The party opposing the termination of relief has the burden of demonstrating why the relief should not be terminated, and the court is required to grant the motion to terminate if the opposing party fails to meet its burden. These provisions prevent consent decrees from remaining in effect once a proper remedy has been implemented, thereby preventing judges from imposing consent decrees that go beyond the requirements of law.

The proposed reform law also includes provisions designed to dissuade prisoners from filing frivolous and malicious motions by requiring that the complainant prisoner pay for the costs of the filings. These provisions will undoubtedly curb the number of frivolous motions filed by prisoners and thus, relieve the courts of the obligation to hear these vacuous motions designed to mock and frustrate the judicial system.

Finally, the bill proposes to prevent federal judges from entering or carrying out any prisoner release order that would result in the release from or nonadmission to a prison on the basis of prison conditions. This provision effectively will preclude activist judges from circumventing mandatory minimum sentencing laws by stripping federal judges of jurisdiction to enter such orders. This will ensure that the tough sentencing laws approved by voters to keep murderers, rapists, and drug dealers behind bars for lengthy terms will not be ignored by activist judges who improperly use complaints of prison conditions filed by convicts as a vehicle to release violent offenders back on to our streets. It will also prevent any federal judge from ever endangering families and children in our communities by preventing these judges from releasing prisoners based on prison conditions.

Congress repeatedly has tried to ensure that convicted prisoners stay where they belong: in prison for the term to which they were sentenced. This effort has been ongoing for over 10 years. Consider the following examples: (1) In 1987, Congress passed the Sentencing Guidelines which effectively limited the probation of prisoners; (2) the 1994 Crime Bill contained incentives for States to pass Truth in Sentencing Laws which kept convicted prisoners incarcerated for longer periods; and (3) the Prisoner Litigation Reform Act of 1996 allowed for the revocation of good time credit if prisoners filed malicious, repetitive and frivolous law suits while in prison. The reform bill being introduced today will further Congress' ongoing efforts to provide safer streets for all Americans by ensuring that convicted prisoners who pose a danger to our communities are not released prior to the expiration of their mandated sentences.

This timely legislation is a measured effort to improve the way the federal judiciary works. It is not an attempt to infringe upon judicial independence. To the contrary, this reform bill is a sensible, balanced attempt to promote judicial efficiency and to prevent egregious judicial activism. I encourage all of my colleagues to act swiftly on and support this truly needed legislation.

By Mr. HATCH (for himself and Mr. DEWINE):

S. 249. A bill to provide funding for the National Center for Missing and Exploited Children, to reauthorize the Runaway and Homeless Youth Act, and for other purposes; to the Committee on the Judiciary.

INTRODUCTION OF THE MISSING, EXPLOITED, AND RUNAWAY CHILDREN PROTECTION ACT

Mr. HATCH, Mr. President, today I am proud to introduce the Missing, Exploited, and Runaway Children Protection Act of 1999. This bill reauthorizes two vital laws that serve a crucial line of defense in support of some of the most vulnerable members of our society—thousands of missing, exploited, homeless, or runaway children. It is a tragedy in our Nation that each year there are as many as over 114,000 attempted child abductions, 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 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 recognizing the outstanding record of achievements of this National Center for Missing and Exploited Children. It will enable NCMEC to provide even 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 around the country 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 report. In addition, the Center's Jimmy Ryce Training Center received $1.25 million.

The legislation I am introducing today continues and formalizes NCMEC's long partnership with the Justice Department and OJJDP, by directing OJJDP to make an annual grant to the Center, and authorizing annual appropriations of $10 million for fiscal years 1999 through 2004.

NCMEC's exemplary record of performance and success, as demonstrated by the fact that NCMEC's recovery rate has climbed from 62% to 91%, justifies action by Congress to formally

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 authority and grants from OJJDP. It also will allow the Center to expand its longer-term arrangements with domestic and foreign law enforcement entities. By providing and authorization, 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 clearinghouse 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 Treasury, the State Department, and many other federal and state agencies 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 FBI's National Crime Information Center, and the National Law Enforcement Telecommunications System (NLETS).

NCMEC has utilized the latest in technology, such as operating the National Child Pornography Tipline, establishing its new Interent 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 by 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 serve 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 on 59,481 cases of missing 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, targeting federal assistance to areas with the greatest need, and making numerous technical changes. According to the National Network for Youth, the Runaway and Homeless Youth Act provides ''critical assistance to youth in high-risk situations all over the country.'' Its three programs, discussed in more detail below, benefit those children truly in need and at high risk of becoming addicted to drugs, sexually exploited or abused, or involved in criminal behavior.

The cornerstone of the Runaway and Homeless Youth Act is the Basic Center Program which provides grants for temporary shelter and counseling for children under age 18. My home state of Utah received over $378,000 in grants in FY 1998 under this program, and I have received requests from Utah organizations such as the Baker Youth Service Home to reauthorize this important program.

Community-based organizations also may request grants under the two related programs, the Transitional Living and the Sexual Abuse Prevention/Street Outreach programs. The Transitional Living grants provide longer term housing to homeless teens aged 16 to 21, and aim to move these teens to self-sufficiency and to avoid long-term dependency on public assistance. The Sexual Abuse Prevention/Street Outreach Program targets homeless teens potentially involved in high risk behaviors.

In addition, the amendment reauthorizes the Runaway and Homeless Youth Act Rural Demonstration Projects which provide assistance to rural juvenile populations, such as in my state of Utah. Finally, 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 to federal prosecutors. 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 investigations. It also sets specific 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 the disciplinary procedures utilized by the Attorney General.

No one condones prosecutorial excesses. There have been instances where law enforcement, and even some federal prosecutors, have gone overboard. Unethical conduct by any attorney is a matter for concern. But when engaged in by a federal prosecutor, unethical conduct cannot be tolerated. For as Justice Sutherland noted in 1935, the prosecutor is not just to win a case, ''but that justice shall be done. . . . It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.''

We must, however, ensure that the rules we adopt to ensure proper prosecutorial conduct are measured and well-tailored to that purpose. As my colleagues may recall, last year's omnibus appropriations act included a very controversial provision known to most of my colleagues simply as the ''McDade provision,'' after its House sponsor, former Representative Joe McDade.

This 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. That deadline is approaching. In my view, if allowed to take effect in its present form, the McDade 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 relevant part, it states that an ''attorney for the government shall be subject to State laws and rules . . . governing attorneys in each state where such attorney engages 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 unchanged. I have been a frequent 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 terrorism, drug, fraud or organized crime conspiracies, in rooting out and punishing fraud against federally funded programs such as Medicare, Medicaid, and Social Security, in vindicating the federal civil rights laws, in investigating and prosecuting complex corporate crime, and in punishing environmental crime.

It is in these very cases that Section 530B will have its most pernicious effect. Federal attorneys investigating and prosecuting these cases, which frequently encompass three, four, or five 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 here. Their decisions will be subject to review by the bar and ethics review boards in each of each of these states at the whim of defense counsel, even if the federal attorney is not licensed in that state.

Practices concerning contact with unrepresented persons or the conduct of matters before a grant 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, especially witnesses to corporate misconduct, and the use of undercover investigations will at a minimum be hindered. In other states, section 530B might require—contrary to long-established federal grand jury practice—that prosecutors present exculpatory evidence 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 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 antitrust 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 stymie federal criminal or civil investigations by raising bogus defenses or bringing frivolous state bar claims. Indeed, this is happening even without Section 530B as the law of the land. The most recent example is the use of a State rule against testimony buying to brand as ''unethical'' the long accepted, 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 of federal lawyers?

What will the costs of this provision be? At a minimum, the inevitable result will be that violations of federal laws will not be punished, and justice will not be done. But there will be financial costs to the federal government as well, as a result of defending these frivolous challenges and from higher costs associated with investigating and prosecuting violations of federal law.

All of this, however, is not to say that nothing needs to be done on the issue of attorney ethics in federal court. Indeed, I have considerable sympathy for the objectives values Section 530B seeks to protect. All of us who at one time or another have been the subject of unfounded ethical or legal charges, as I have been as well, know the frustration of clearing one's name. All no one wants more than I to ensure that all federal prosecutors are held to the highest ethical standards. But Section 530B, as it was enacted last year, is not in my view the way to do it.

The bill I am introducing today addresses the narrow matter of federal prosecutorial conduct in a responsible way, and I might add, in a manner that is respectful of both federal and state sovereignty. As all of my colleagues know, each of our states has at least one federal judicial district. But the federal courts that sit in these districts are not courts of the state. They are, of course instrumentalities of federal sovereignty, created by Congress pursuant to its power under Article III of the Constitution, which vests the judicial power of the United States in ''one supreme Court and in such inferior 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 Constitutional duty to establish inferior federal courts. Should this provision take effect, Congress will have ceded the right to control conduct in the federal courts to more than fifty state bar associations, at a devastating cost to federal sovereignty and the independence of the federal judiciary. Simply put, the federal government, like 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 conduct of attorneys in federal court affects more than just prosecutors. It affects 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. Rather, applicable ethics rules 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 either the ABA Model Rules or the ABA Code, 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 confusion, especially in multiforum federal practice. As a 1997 report prepared for the Judicial Conference's Committee on Rules of Practice and Procedure put it, ''Multiforum federal practice, challenging under ideal conditions, has been made increasingly complex, wasteful, and problematic by the disarray 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 an internal conflict that will add to the confusion. Section 530B provides that federal attorneys are governed by both the state laws and bar rules and the federal court's local rules. These, of course, are frequently different, setting up the obvious quandary—which take precedence? Finally, Section 530B might further 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 debate 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 practice. 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 consider the development of federal rules of ethics, as well.

This is not to suggest, of course, a challenge to the traditional state regulation 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 attorneys in federal courts will neither impugn nor diminish the sovereign right of states to continue to do the same in state courts. However, the administration of justice in the federal courts requires the consideration of uniform rules to apply in federal courts and

thus, I will be evaluating proposals to set uniform rules governing the conduct of attorneys in federal court.

Mr. President, the legislation I am introducing today is of vital importance to the continued enforcement of federal law. Its importance is compounded by the deadline imposed by the effective date of Section 530B. I urge my colleagues to join me in this effort, and support the Federal Prosecutor Ethics Act.

By Mr. THURMOND:

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

Mr. THURMOND. Mr. President, today I am introducing the voluntary school prayer constitutional amendment. This bill is identical to S.J. Res. 73, which I introduced in the 98th Congress at the request of then President Reagan and have reintroduced every Congress since.

This proposal has received strong support from both sides of the aisle and is of vital importance to our Nation. It would restore the right to pray voluntarily in public schools—a right which was freely exercised under our Constitution until the 1960's, when the Supreme Court ruled to the contrary.

Also, in 1985, the Supreme Court ruled an Alabama statute unconstitutional which authorized teachers in public schools to provide ''a period of silence ... for meditation or voluntary prayer'' at the beginning of each school day. As I stated when that opinion was issued and repeat again: the Supreme Court has too broadly interpreted the Establishment Clause of the First Amendment and, in doing so, has incorrectly infringed on the rights of those children—and their parents—who wish to observe a moment of silence for religious or other purposes.

Until the Supreme Court ruled in the Engel and Abington School District decisions, the Establishment Clause of the First Amendment was generally understood to prohibit the Federal Government from officially approving, or holding in special favor, any particular religious faith or denomination. In crafting that clause, our Founding Fathers sought to prevent what had originally caused many colonial Americans to emigrate to this country—an official, State religion. At the same time, they sought, through the Free Exercise Clause, to guarantee to all Americans the freedom to worship God without government interference or restraint. In their wisdom, they recognized that true religious liberty precludes the government from both forcing and preventing worship.

As Supreme Court Justice William Douglas once stated: ''We are a religious people whose institutions presuppose a Supreme Being.'' Nearly every President since George Washington has proclaimed a day of public prayer. Moreover, we, as a Nation, continue to recognize the Deity in our Pledge of Allegiance by affirming that we are a Nation ''under God.'' Our currency is inscribed with the motto, ''In God We Trust''. In this Body, we open the Senate and begin our workday with the comfort and stimulus of voluntary group prayers. I would note that this practice has been upheld as constitutional by the Supreme Court.

It is unreasonable that the opportunity for the same beneficial experience is denied to the boys and girls who attend public schools. This situation simply does not comport with the intentions of the framers of the Constitution and is, in fact, antithetical to the rights of our youngest citizens to freely exercise their respective religions. It should be changed, without further delay.

The Congress should swiftly pass this resolution and send it to the States for ratification. This amendment to the Constitution would clarify that it does not prohibit vocal, voluntary prayer in the public school and other public institutions. It emphatically states that no person may be required to participate in any prayer. The government would be precluded from drafting school prayers. This well-crafted amendment enjoys the support of an overwhelming number of Americans.

I strongly urge my colleagues to support prompt consideration and approval of this legislation during this Congress.

Mr. President I ask unanimous consent that 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. 1

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is 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 if 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. CRAPO, Mr. FRIST, Mr. GRAMM, Mr. GRAMS, Mr. HAGEL, Mr. HELMS, Mrs. 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, CRAPO, FRIST, GRAMM, GRAMS, HAGEL, 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 more out of the taxpayers' pockets would require a supermajority vote to pass.

I would note that the proposed amendment includes provisions that would allow Congress to waive the supermajority vote requirement in times of war, or when the United States is engaged in military conflict which causes an imminent and serious

threat to national security. But to ensure that such waiver authority is truly reserved for such emergencies and is not abused, any new taxes imposed under a waiver could only remain in effect for a maximum of two years.

Mr. President, why is a tax-limitation 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 tie 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 American people hit a peacetime 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 revenues have exceeded 20 percent of national income. Notably, the first two times revenues broke the 20 percent mark, the economy tipped into recession.

Already, economists are beginning to project slower economic growth in coming years. Barring 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 2.3 percent annually. That compares to the 3.9 percent annual growth rate during 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 President 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, we—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 bipartisan support that would be required under the Tax Limitation Amendment.

Raising sufficient revenue to pay for government's essential operation is obviously a necessary part of governing, but raising tax rates is not necessarily 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 Treasury. It was the growing economy that helped eliminate last year's unified budget deficit.

In any event, voters around the country seem to believe that raising taxes should only be done when there is broad support for the proposition. The TLA will ensure that no tax can be raised in the future without such consensus.

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 Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

''ARTICLE—

''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 of Congress.

''SECTION 2. The Congress may waive section 1 when a declaration of war is in effect. The Congress may also waive section 1 when the United States is engaged in military conflict when causes an imminent and serious threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law. Any provision of law which would, 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 or the Senate under this article shall be determined by yeas and nays and the names of persons voting for and against shall be entered on the Journal of each House respectively.''.

By Mr. KYL (for himself, Mrs. FEINSTEIN, Mr. BIDEN, Mr. GRASSLEY, Mr. INOUYE, Mr. DEWINE, Ms. LANDRIEU, Ms. SNOWE, Mr. LIEBERMAN, Mr. MACK, Mr. CLELAND, Mr. COVERDELL, Mr. SMITH of New Hampshire, Mr. SHELBY, Mr. HUTCHINSON, Mr. HELMS, Mr. FRIST, Mr. GRAMM, Mr. LOTT, and Mrs. HUTCHISON):

S.J. Res. 3. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims; to the Committee on the Judiciary.

PROPOSING AN AMENDMENT TO THE CONSTITUTION 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 FEINSTEIN, a resolution proposing a constitutional amendment to establish and protect the rights of victims of violent 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 Congress.

This joint resolution is the product of extended discussions with House Judiciary 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 Cassell. As a result of these discussions, the core values in the original amendment remain unchanged, but the language has been refined to better protect the interest of all parties.

Before 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 language 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 constitutional rights, such as a speedy trial, a jury trial, counsel, the right against self-incrimination, the right to be free from unreasonable searches and seizures, the right to subpoena witnesses, the right to confront witnesses, and the right to due process under the law.

The Constitution, however, guarantees 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 sentencing or at a parole hearing, no right to insist on reasonable conditions of release 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 suffer twice, once at the hands of the criminal, and again at the hands of a justice system that fails to protect them. The Crime Victim Rights Amendment is a constitutional amendment that would bring balance to the judicial system by giving crime victims 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 amendment, contains the rights that we believe 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 release or escape;

To consideration for a trial free from unreasonable delay;

To an order of restitution;

To have the safety of the victim considered in determining a release from custody; and

To be notified of these rights 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 passed similar measures—by an average popular vote 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, just as the Federal Constitution provides for the accused. Second, statutory and State constitutional provisions are always subservient 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 right 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 49–1—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 consideration or protection as the rights of the accuses. 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 then 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 proven less than 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. Rights that are guaranteed by 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 bureaucratic habit, traditional indifference, sheer inertia, or any mention of an accused's rights regardless of whether those rights are genuinely threatened.'' He has also stated, ''there appears to be a considerable bloody of evidence showing that, even where statutory or regulatory 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 Ford (now retired).

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 DIANNE FEINSTEIN for her hard work on this amendment and for her tireless efforts on behalf of crime victims. Mr. President, for far to 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, if present, and to submit a statement at all such proceedings to determine a conditional release from custody, and an acceptance of a negotiated plea, or a sentence

to the foregoing rights at a parole proceeding that is not public, to the extent those rights are afforded to the convicted offender;

to reasonable notice of a release or escape from custody relating to the crime;

to consideration of the interest of the victim that any trial be free from unreasonable delay;

to an order of restitution from the convicted offender;

to consideration for the safety of the victim in determining any conditional release from custody relating to the crime; and

to reasonable notice of the rights established by this article.

SECTION 2. Only the victim or the victim's lawful representative shall have standing to assert the rights established by this article. Nothing in this article shall provide grounds to stay or continue any trial, reopen any proceeding or invalidate any ruling, except with respect to conditional release or restitution or to provide rights guaranteed by this article in future proceedings, without staying or continuing a trial. Nothing in this article shall give rise to or authorize the creation of a claim for damages against the

United States, a State, or political subdivision, 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 interest.

SECTION 4. This article shall take effect on the 180th day after the ratification of this article. The right to an order of restitution established by this article shall not apply to crimes committed before the effective date of this article.

SECTION 5. The rights and immunities established by this article shall apply in Federal and State proceedings, including military proceedings to the extent that the Congress may provide by law, juvenile justice proceedings, and proceedings in the District of Columbia and any commonwealth, territory, or possession of the United States.

Mrs. FEINSTEIN. Mr. President, I rise today with my colleague, Senator KYL, to once again introduce a constitutional amendment to provide rights for victims of violent crime.

We have achieved significant progress in our effort to pass the amendment. After working extensively—indeed, exhaustively—with prosecutors, law professors, the Justice Department, the White House Counsel's Office, and leaders of victims groups from around the country to carefully craft and hone the amendment's language, we succeeded in bringing the amendment to markup in the 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 sufficient time to consider the amendment on the Senate floor and work it through the House.

So here we are now, carrying the fight forward into this new, 106th Congress. We are fighting to ensure that the 8.6 million victims of violent crime in the country receive the fair treatment by the judicial system which they deserve. Too often in America victims 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 protection of victims' rights was a particularly horrifying case in 1974, in San Francisco, when a man named Angelo Pavageau broke into the house of the Carlson family in Portero Hill.

Pavageau tied Mr. Carlson to a chair, bludgeoning him to death with a hammer, 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 reteating 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 continues 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 was up to Mrs. Carlson to find out when his parole hearings were.

Mr. President, I believe this case represents 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 a letter 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 opportunity 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 nation's justice system. This is why Senator 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 victims' amendment to the state constitution in 1982—the imitative Proposition 8—and I supported its passage. This measure gave victims the right to restitution, the right to testify at sentencing, probation and parole hearings, established a right to safe and secure public school campuses, and made various changes in criminal law. California's Proposition 8 represented a good start to ensure victims' rights.

Since the passage of Proposition Eight, 31 more states have passed constitutional amendments guaranteeing the rights of crime victims. Just this past November, Mississippi, Montana and Tennessee added victims' rights amendments to their state constitutions. These amendments were overwhelmingly supported by the voters, winning with 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 patchwork quilt of rights that vary from state to state. And even in those states which have state amendments, criminals can assert rights grounded in the federal constitution to try to trump those rights.

The United States Constitution guarantees numerous rights to the accused in our society, all of which were established by amendment to the Constitution. I steadfastly believe that this nation 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 nature and cause of the criminal accusation;

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 victims.

To rectify this disparity, Senator KYL and I are putting forth this Crime Victims' Rights Amendment. This provides for certain rights for victims of crime:

The right to be notified of public proceedings in their case;

The right not be excluded from these proceedings;

The right to be heard at proceedings to determine a release from custody, sentencing, or acceptance of a negotiated plea;

The right to notice of the offender's release or escape;

The right to consideration for the interest 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 are more victims of violent 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 prosecutor.''

Gradually, public prosecution replaced the system of private prosecution. With the explosive growth of crime in this country in recent years (the rate of violent crime has more than quadrupled over the last 35 years), it became easier and easier for the victim to be left aside in the process.

As other scholars have noted:

With the establishment of the prosecutor the conditions for the general alienation of the victim from the legal process further increase. The victim is deprived of his ability to determine the course of a case and is deprived of the ability to gain restitution from the proceedings. Under such conditions the incentives to report crime and to cooperate with the prosecution diminish. As the importance of the prosecution increases, the role of the victim is transformed from principal actor to a resource that may be used at the prosecutor's discretion.

Thus, we see why the Constitution must be amended to guarantee these rights:

There was no need to guarantee these rights in the Constitution in 1789;

The criminal justice system has changed dramatically since then; and

The prevalence of crime in America has changed dramatically creating the need and circumstances to respond to these developments and restore balance in the criminal justice system by guaranteeing the rights of violent crime victims in the Constitution.

Among the amendment's supporters are Professor Laurence Tribe of the Harvard Law School.

Let me just briefly quote portions of his testimony from the House hearing on the amendment last Congress:

The rights in question—rights of crime victims not to be victimized yet again through the process by which government bodies and officials prosecute, punish, and release the accused or convicted offender—are indisputably basic human rights against government, rights that any civilized system of justice would aspire to protect and strive never to violate.

[O]ur Constitution's central concerns involve protecting the rights of individuals to participate in all those government processes that directly and immediately involve those individuals and affect their lives in some focused and particular way . . . The parallel rights of victims to participate in these proceedings are no less basic, even though they find no parallel recognition in the explicit text of the U.S. Constitution.

The fact that the States and Congress, within their respective jurisdictions, already have ample affirmative authority to enact rules protecting these rights is . . . not a reason for opposing an amendment altogether . . . The problem, rather, is that such rules are likely, as experience to date sadly shows, to provide too little real protection whenever they come into conflict with bureaucratic habit, traditional indifference, sheer inertia, or any mention of an accused's rights regardless of whether those rights are genuinely threatened.

Some people argue that state victims' rights amendments are sufficient.

However, crime victims throughout the country, including those in the other 18 states, deserve to have rights, just as we applied civil rights to people throughout our great nation 30 years ago.

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 beaten to death with 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 release, 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 . . .

Victims were not consistently . . . conferred with by prosecutors regarding plea bargains . . .; and

Victims were not consistently . . . provided with an opportunity to request post-conviction notification.

Ohio has a state amendment. But when the murderer of Maxine Johnson's husband change his plea, Maxine was not notified of the public hearing, and then was not given the opportunity to testify at his sentencing, as provided for in Ohio law.

A Justice Department-supported study of the implementation of state victims' rights amendments, released last year, made similar findings:

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 strong 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 at sentencing.

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 implore members of this body to examine this amendment, and to help to secure passage of this monumental piece of legislation.

The text of the amendment which we are introducing today is the very same text which the Judiciary Committee passed on a strong bipartisan basis last summer. Sen KYL and I urge the leaders of the Senate and of the committee to move this amendment expeditiously, so that the clock does not run out on us yet again. This amendment has been the subject of three Senate hearings, two hearings in the House, and an extensive examination and debate in the Judiciary Committee.

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 action with all deliberate speed, 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 exceed 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.

BALANCED BUDGET/SPENDING LIMITATION AMENDMENT

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 the average family of four. But 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. Put another way, in too many families, one parent is 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 national income. Notably, 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 families continue to be overtaxed. It is not enough to balance the budget if government continues to grow, seemingly without limits, taking choice and freedom away from people in the process. And it is not enough to balance the budget by collecting so much in taxes that it leads the economy into recession.

A balanced budget is not the only goal, or even the highest goal. A balanced budget should be the way we find what is the appropriate size and scope of government—the way to make Washington more respectful of 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 Washington 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 government 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 variety of government programs other than Social Security, tax relief, or repayment of the national debt.

Many people will recall that 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 funded out of the budget surplus. And fearful that if the President did not get his way he would veto the budget and tar Congress with the blame for another government shutdown, many Members of Congress went along and voted for this raid on the surplus.

That was just the first in what is expected to be a series of efforts by President Clinton to spend down the surplus in coming months. Another $2.5 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 government—that is, unless we agree to abide by the lasting discipline of a constitutional requirement to balance the budget.

The Balanced Budget/Spending Limitation Amendment would impose discipline 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 limited government, 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 government over the last 40 years. Interestingly, a December 1998 report by the Joint Economic Committee 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 example, 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 governing, but raising tax rates is not necessarily 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 Treasury. 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 incentive to enact pro-growth economic and tax policies. Only a healthy and growing economy—measured by GDP—would increase the dollar amount that Congress is allowed to spend, although always proportionate to the size of the economy. In other words, 19 percent of a larger GDP represents more revenue to the Treasury than 19 percent of a smaller GDP.

I urge my colleagues to consider the 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 amendment 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. 4

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

''ARTICLE—

''SECTION 1. Except as provided in this article, 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 Government for a fiscal year may not exceed 19 per centum of the Nation's gross domestic product for the last calendar year ending before the beginning of such fiscal year.

''SECTION 3. The Congress may, by law, provide 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 provide, by a roll call vote, for a specific excess of outlays over receipts or over 19 per centum of the Nation's gross domestic product for the last calendar year ending before the beginning of such fiscal year.

''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 ratification and to subsequent fiscal years.''.

By Mr. GRAMM (for himself and Mr. GORTON):

S.J. Res. 5. A joint resolution to provide for a Balanced Budget Constitutional Amendment that prohibits the use of Social Security surpluses to achieve compliance; to the Committee on the Judiciary.

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 considered a balanced budget amendment in the Senate, we have achieved balance 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 Department of the Treasury reports that the federal government ran 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 on March 4, 1997, except that surplus revenues in Social Security are not counted in determining compliance.

The President and a majority of Congress have expressed support for balancing the budget without counting Social Security surpluses, and now 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, this cost 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 enormous 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 that it is the perception is almost as damning.

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 uncompetitive 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 record amounts and made 1998 the most expensive election year 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 this will add to the public's already 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 us from the people's business. 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.

All 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. Even greater than the increases in aggregate campaign costs were those for 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 over $640,000 in 1998. 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, Senator 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 gore the other's sacred cows.

The most recent statutory attempt to reform our tangled campaign 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 in their courts, came last 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 muster.

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 from the 1972 Presidential 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 dissents, the Court drew a tortuous distinction between campaign contributions and campaign expenditures. 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 dichotomous 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 committed a grave 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 theoretically attractive of the approaches to reform since, from a broad free speech perspective, the decision in Buckley is misguided and has worsened the campaign finance atmosphere.'' Adds Professor Ashdown: ''If Congress could constitutionally limit the campaign expenditures of individuals, candidates, and committees, along with contributions, most of the troubles . . . would be eliminated.''

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 how much candidates 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 disseminate his ideas and speak to 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 enunciating any radical view 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 state in circumscribing 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 curtailed public discourse. 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 ails our campaign finance system. 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 fundraising and allow them to 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 finally, it would create a more level playing field for all candidates.

Before concluding, Mr. President, I would like to elaborate on the advantages of a constitutional amendment such as 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 coincidence 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's not be distracted by the argument that amending 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 over 200 years 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 govern 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. In 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 path for our Nation.

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,

we now have a record to demonstrate the strong benefits of a balanced budget to our economy in general and to each segment of our society in particular.

I am as proud as any Member of this body of our recent success in restraining the deficit. But that success does not mean that this amendment is no longer necessary. Our history, unfortunately, demonstrates that the fiscal discipline of recent years is the exception, not the rule. The political incentives in this town to spend now and pay later remain. Thus, it is as true now as it always been that only a structural change in our basic charter can ensure long term fiscal responsibility and a secure future for our children and grandchildren. This is a matter that remains vital to the economic health of the State of Utah and the Nation.

Mr. President, I ask unanimous consent that the text of this 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. 7

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

''ARTICLE—

''SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

''SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

''SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

''SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

''SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

''SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

''SECTION 7. 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 for those for repayment of debt principal.

''SECTION 8. This article shall take effect beginning with fiscal year 2004 or with the second fiscal year beginning after its ratification, whichever is later.''.

SENATE CONCURRENT RESOLUTION 1—EXPRESSING CONGRESSIONAL SUPPORT FOR THE INTERNATIONAL LABOR ORGANIZATION'S DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK

Mr. MOYNIHAN submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions.

S. CON. RES. 1

Whereas the International Labor Organization (in this resolution referred to as the ''ILO'') was created in 1919 by part XIII of the Treaty of Versailles for the purpose of improving labor conditions worldwide;

Whereas for 79 years, the ILO has provided an avenue for nations to improve labor standards in a manner that does not erode their competitive advantage in world commerce;

Whereas the United States has long recognized the linkage between the ILO and world trade, having joined the ILO in 1934, the same year that President Roosevelt and Secretary of State Cordell Hull launched the Reciprocal Trade Agreements program;

Whereas the increasing integration of the global economy has drawn renewed attention to the question of how best to improve labor standards in an economic environment characterized by intensified international competition;

Whereas in 1994, at the conclusion of the first Ministerial Meeting of the World Trade Organization in Singapore, Trade Ministers issued a declaration which reaffirmed the commitment of World Trade Organization members to observe internationally recognized core labor standards and identified the ILO as the ''competent body to set and deal with'' these standards;

Whereas the 174 members of the ILO have recognized the following 7 conventions as protecting core labor standards: Convention No. 29 on Forced Labor (1930), Convention No. 87 on Freedom of Association and Protection of the Right to Organize (1948), Convention No. 98 on the Right to Organize and Collective Bargaining (1949), Convention No. 100 on Equal Remuneration (1950), Convention No. 105 on the Abolition of Forced Labor (1957), Convention No. 111 on Discrimination in Employment and Occupation (1958), and Convention No. 138 on Minimum Age (1973);

Whereas in June 1998, at the conclusion of the 86th International Labor Conference, the ILO adopted the ''Declaration on Fundamental Principles and Rights at Work'', which declares the core labor standards embodied in the 7 conventions to be essential to membership in the ILO; and

Whereas an essential element of the 1998 Declaration is its ''Follow Up Mechanism'', which provides for the monitoring of ILO member countries' compliance with the core labor standards: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the International Labor Organization's Declaration on Fundamental Principles and Rights at Work is an important achievement that may help advance core labor standards in a competitive global economy; and

(2) the President should use all means at the President's disposal to ensure that the Declaration and its Follow Up Mechanism evolve into an effective means of monitoring worldwide compliance with core labor standards.

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 wanted to do something 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 President's 1997 fast track proposal 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 those 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