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 any 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 in marketing orders. The Secretary will have to certify to Congress that the criteria used by the Department do not in any way attempt to circumvent the prohibition on using distance or transportation cost as basis for pricing milk.

This is so crucial to Upper Midwest producers, because the current system has penalized them for many years. By providing disparate profits for producers in other parts of the country and creating artificial economic incentives for milk production, Wisconsin producers have seen national surpluses rise, and milk prices fall. Rather than providing adequate supplies of fluid milk in some parts of the country, the prices have led to excess production.

The prices have provided production incentives beyond those needed to ensure a local supply of fluid milk in some regions, leading to an increase in manufactured products in those markets. While manufacturers and producers 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 surpluses have generated quite too much excess production, that these markets distant from Eau Claire are now encroaching upon not only our manufactured markets, but also our markets for fluid milk, further eroding prices in Wisconsin.

The market distorting effects of the fluid price differentials in federal orders are manifest in the Congressional Budget Office estimate that eliminating the orders would save $669 million over 10 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 argued that 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 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 imported from the Southeast, 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 Southeast, 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 marketing orders by prohibiting grossly unfair practice that should have been dropped long ago. Although I understand that, because of mandates in the 1996 Farm Bill, the USDA is currently deliberating possible changes to the current system, one of the options being considered maintains this debilitating single-basing-point pricing system. This bill is the beginning of reform. It identifies the one change that is absolutely necessary in any outcome—the elimination of single-basing-point pricing.

I urge the Secretary of Agriculture to do the right thing and bring reform to this out-dated system. No proposal is reform without this important policy change.

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

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

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S. 124
Be it enacted by the Senate and House of Representa
tives of the United States of America in Congress assembled,

SECTION 1. LOCATION ADJUSTMENTS FOR MINI-
MUM PRICES FOR CLASS I MILK.

Section 8c(5) of the Agricultural Adjust-
ment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing 
Agreement Act of 1937, is amended—
(1) in paragraph (A)—
(A) by striking the last 2 sentences and in-
serting after “within a marketing area subject to the 
order” the following: “within a marketing area subject to the world market price”;
and
(B) by striking the last 2 sentences and in-
serting 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 Af-
fairs.

REDUCING THE NUMBER OF EXEC-
UTIVE BRANCH POLITICAL AP-
POINTMENTS

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 Volcker Commission 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 included in the Government Performance and Results Act of 1993 and the President's ability to develop and enforce a coherent, coordinated program would force a coherent, coordinated program.

Mr. President, this proposal is also consistent with the recommendations of the Vice President's National Performance Review. The Volcker Commission found that the number of political appointees in the Executive Branch, the appointment process and to hold cabinet secretaries accountable.

In commenting on this problem, author Paul Light noted, "As this sedentary has thickened over the decades, one-sixth of an entire presidential term." 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 regional political organizer. For a senior civil servant, it's irksome to see a position one has spent years preparing for part 20 emptied 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 are appointed more than three 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.

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Mr. President, I am introducing legislation today that would save $333 million over the next five years. 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 section 5312 through section 5316 of title 5, United States Code; or

(2) is a limited term appointee, limited emergency appointee, or noncareer appointee in the senior executive service as defined under section 3305a of title 5, United States Code, respectively; or

(3) is employed in a position in the Executive Branch of the Government of a conference or policy-determining body, as defined under Schedule C of part 213 of title 5 of the Code of Federal Regulations.

(b) LIMITATION.—The President, acting through the Office of Management and Budget and the Office of Personnel Management, shall take such actions as necessary (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.
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 closing the school would save $273 million this year, and on 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 unexpected shortage of military medical personnel. Today, however, USUHS accounts for only a small fraction of the military’s new physicians, less than 12 percent in 1994 according to CBO. This contrasts dramatically with the military’s scholarship program which provided over 80 percent of the military’s new physicians in that year.

Mr. President, what is even more troubling is that USUHS is also the single most costly source of new physicians for the military. CBO reports that based on figures from 1995, each USUHS trained physician costs the military $615,000. By comparison, the scholarship program cost about $125,000 per doctor, with other sources providing new physicians at a cost of $60,000. As CBO’s Spending and Revenue Options publication, even adjusting for the longer 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 from other sources as justification for continuation of this program, but while a greater percentage of USUHS trained physicians may remain in the military longer than those from other sources, the Pentagon indicates that the alternative sources already provide an 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 the Storm, only 108, 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 is not 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 justified, 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 constraint 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 report be printed in the Record.

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

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 cotton 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-supplies of wheat, corn and other feed grains—driving down domestic prices. The 1996 Farm Bill, sought to bring farm policy in line with a realistic agricultural and economic view, that the agricultural industry must be more market oriented—must not rely so much on government price interference.

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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 prevented 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.

For example, 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 reverts to full capability because Russia can’t adequately train its sailors. The threat to our submarines was real. But ELF technology and training. Reports even surfaced on a regular basis with less danger of detection or attack. They now surface on a regular basis with less against Soviet nuclear forces. They can need to take that extra precaution. Trident submarines no longer need to be as stealthy as Project ELF was designed for. The U.S. Strategic Command, Moscow’s continued economic hardships, it should continue to operate as a test platform. Russia’s submarine fleet has shrunk from more than 300 vessels to about 100. Even Russia’s most modern submarines cannot be used to full capability because Russia can’t adequately train its sailors. The threat to our submarines was real. But ELF technology and training. Reports even surfaced on a regular basis with less danger of detection or attack. They now surface on a regular basis with less.
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 project, noting that “U.S. submarines operating under present and foreseeable worldwide military conditions can receive ordered operations in timely fashion without need for Project ELF.”

As I mentioned, this bill would terminate operation of Project ELF, but would call for the Defense Department to maintain the infrastructure. Should Project ELF become necessary for future military action, DoD could quickly bring it back on-line. In essence, this bill would save DoD some much-needed operations and maintenance funds without degrading its capabilities.

Mr. President, I'd also like to briefly touch on the public health and environmental concerns associated with Project ELF. For almost two decades, we have received inconclusive data on this project's effects on Wisconsin and Michigan residents. In 1984, a U.S. District Court ordered the project to be shut down because the Navy paid inadequate attention to the system's possible health and environmental impacts 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.

Recently, I received a letter 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 dangerous 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:

Passed 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 retain the infrastructure necessary for resuming operation of the Extremely Low Frequency Communication System.

By Mr. F. 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 to terminate 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 insiders know 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, on February 5, 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 cost 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 or the withholding of program information by the Navy. For that reason, I have 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 of deficiency. The Navy assigns deficiency categories.

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 terminated 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 19
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 with the program's most risky category. It should also be noted that wing drop was considered by the Navy and the contractor, Boeing, to be the most challenging technical risk to the program at that time. This past February, Secretary Cohen stated unequivocally that the program would “not go forward until wing drop is corrected.” A month later, a Navy blue ribbon panel reported that the Navy does “not have a good understanding of wing drop and that the current 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 to the press. In fact, during a February, 1998, memo on the issue to Navy Secretary, Mr. President, I asked the Secretary to document the wing drop problem. Specifically, I asked Secretary Cohen questions regarding the decision to proceed with the production of the first lot of aircraft.

Following the release of the 1998 GAO report and reports of the wing drop fix, I asked the Secretary to document the wing drop problem. Specifically, I asked Secretary Cohen questions regarding the decision to proceed with the production of the first lot of aircraft.

Mr. President, given the Navy’s classification for wing drop, the test director’s assessment of the mission impact, and the significant efforts that were underway to resolve the problem, the Navy’s failure to discuss the wing drop problem with DoD officials responsible for making the decision on whether to proceed with production of the initial Super Hornets, reflects, in my view, questionable judgement at best and underscores the need for continued DoD and congressional oversight of the Super Hornet’s development and production program.

One final point, Mr. President. It should be made clear that DoD and the Navy did not begin openly discussing wing drop until after the assistant secretary John Douglass’s November 20, 1997, letter to the House Committee on Defense Acquisition Board before its decision to recommend production of the first lot of aircraft.

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 also 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 on 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 compromise 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 assumed 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 that the Super Hornet doesn’t accelerate or maneuver as well as the current C/D. The department 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 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 Stone, chief of naval operations for 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 terms of accelerating as the Hornet. The test team knew that the single-seater’s performance was significantly less capable than the single-seat C in terms of instantaneous turn performance, sustained turn performance, and in some cases, unloaded acceleration. Interestingly enough, the C models used in the comparisons were not even the most advanced C’s available. These deficiencies have not been improved.

GAO also said that the Navy board’s program officials came to “the realization that the E/F may not be as capable in a number of operational performance areas as the most recently procured ‘C’ models available 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 1997 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 has. 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 to $5 billion 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 overcome by 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 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-18E/F's with stronger landing gear could allow them to recover carrier payloads of more than 10,000 pounds, greater than the 9,000 pounds for the F/A-18E/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 and simple, 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 currentgeneration-guided weapons that are capable of hitting fixed and mobile hard targets nor 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, at this 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 continue 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 landing 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 down to $50 million. But I am 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 over the Hornet, the justification for it just isn't there. Proceeding with the Super Hornet program may not be the most cost-effective approach to modernizing the Navy's tactical aircraft fleet. In the short term, the Navy can procure the current Hornet aircraft, while upgrading it to improve further its operational capabilities. For the long term, the Navy can look toward the next generation strike fighter, the JSF, which will provide the 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 purposes that are available on or after the date of enactment of this Act for the F/A-18E/F aircraft program may be obligated for the 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 the individual and their 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—an estimated $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're 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 families and, in some cases, exceed the cost of full-time care. Child care costs 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 recent years, 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 ago and, in fact, in the 1996 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 inflation-making it refundable so that those who do not reach the tax thresholds will still receive assistance. It also raises the DCTC sliding scale from 30 to 50 percent of work-related dependent care expenses, 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 the past, the 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 paid even less: 66 cents for every dollar earned by a 55-year-old man. In addition, as we all know, women have spent more time inside the house—knowing women have spent more time 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 increasing the amount of information available by establishing a pension “hotline” at the Department of Labor.

By Ms. 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 craft legislation 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 that have produced real and lasting change in preserving America’s lands, such as the Apostle Islands.

The Apostle Islands National Lakeshore, which encompasses 15 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 Island for the study. 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 lakeded 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 manage and protect them as 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 and people.

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 that the Park Service conduct an evaluation of the lands it manages for possible inclusion in the National Wilderness System. The study would result in a recommendation to Congress about whether any of the federal lands currently managed by the Lakeshore still retain the characteristics that would make them suitable to be legally designated as wilderness. If Congress found the study indicated that some of the federal lands within the Lakeshore were in need of legal wilderness status, Congress would have to subsequently pass legislation to confer such status.

We need this study, Mr. President because 28 years have passed and it is time to determine the proper level of management for the Lakeshore. During the General Management Planning Process for the Lakeshore, which was completed nearly a decade ago in 1989, the need for a formal wilderness study was identified. Although a wilderness study has been identified as a high priority by the Lakeshore, it has never been funded.

Since 1989, most of the Lakeshore, roughly 80 percent of the acreage, is being managed by the Park Service as if it were federally designated wilderness. As a protective measure, all lands which may be suitable for wilderness designation were zoned to protect any wilderness characteristics they may have. When Congress completed 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 lightouses. It 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 retreat of the lake shoreward of the bluffs. Although the stabilization of the banks, and of these structures requires protection were exceedingly high.

Some structural damage due to its low-archipelago, fully exposed to Lake Superior. The lighthouse building.

The Raspberry Island lighthouse was completed in 1963 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 Lake Superior. 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 lighthouse is now the most 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 enclosed by an outside walkway and topped by the lantern. As its name implies, the light is stationed on the promontory at the end 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 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 contain a set-aside by that amount, reserving $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 $9.1 million above the money that it needs to take actions at the Apostle Islands back to the Treasury.

Mr. President, I am concerned that we have spent a massive amount of money for the Clean Coal Technology Program, which the program has been unable to spend, when we have acute appropriations needs at places like the Apostle Islands National Lakeshore.

Finally, this legislation adds language to the act which created the Lakeshore allowing the Park Service to enter into cooperative agreements with state, tribal, local governments, universities or other non-profit entities to enlist their assistance in managing the Lakeshore. Some parks have specific language in the act which created the park allowing them to enter into such agreements. Parks have used them for activities such as research, historic preservation, and emergency services. Apostle Islands currently does not have this authority, which this legislation adds.

Other National Park lands and lands which are managed by the Park Service, as well as Wisconsin, 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 National Park Service, 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 the political challenge. I believe 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 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:

SEC. 2. GAYLORD NELSON APOSTLE ISLANDS.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting in his capacity as Secretary of the Interior, and as the term is so used in this Act, shall mean the Secretary of the Interior, and shall include any Assistant Secretary of the Interior for whom authority is granted by law.

(9) the need for improvements to the Lake- shore 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 the political challenge. I believe 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 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:

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 may be suitable for wilderness are zoned and managed to protect wilderness characteristics pending completion of such a study;

(6) several historic lighthouses within the Lakeshore are in danger of structural damage due to severe erosion;

(7) the Secretary of the Interior has been unable to take full advantage of cooperative agreements with Federal, State, local, and tribal governmental agencies, institutions of higher education, and other nonprofit organizations that could assist the National Park Service by contributing to the management of the Lakeshore;

(8) because of competing needs in other units of the National Park System, the standard authorizing and budgetary process has not resulted in updated legislative authority and necessary funding for improvements to the Lakeshore and

(9) the need for improvements to the Lake- shore and completion of a wilderness study should be accorded a high priority among National Park Service priorities.

(b) DEFINITIONS.—In this section:

(1) LAKESHORE.—The term “Lakeshore” means the Apostle Island 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 the demolition of the bluffs) to protect the Apostle Islands National Lakeshore Light Station and the West Bar Point Lighthouse.

(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) $5,000,000 to carry out subsection (d).

g) FUNDING.—(1) IN GENERAL.—Of the funds made available under the heading “CLEAN COAL TECHNOLOGY” under the heading “DEPARTMENT OF ENERGY” for obligation in prior years, amounts made available under subsection (f), amounts made available under paragraph (1) 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) TREATMENT OF UNINCURRED.—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, Mrs. WELLSTONE, Mr. BOXER, Mr. KERRY, Ms. MUKULSKIS, Mr. Baucus, Mr. Boxer, Mr. Baucus, the Committee on Health, Education, Labor, and Pension.

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

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. A large number of the nation’s schools and communities have to do more to ensure improved student achievement. Schools must have small classes, particularly in the early grades. They must have strong parent involvement. They must have safe, modern facilities with up-to-date technology. They must have high-quality after-school opportunities for children who need extra help. They must have well-trained teachers in the classroom who keep up with current developments in their field and the best teaching practices.

Education must continue to be a top priority in the new Congress. We must do more to meet the needs of public schools, families, and children, so that all children have an opportunity to attend good schools and grow to their potential. We must 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 12-to-62 programs 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 ongoing training they need to stay abreast of modern technologies and new research. The Teacher Excellence Act will make it harder for schools 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 for the state. The state has spent $1.2 billion to attract 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 regular 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.

The Teacher Excellence Act we are introducing will invest $1.2 billion 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 is a top priority in the new Congress. It is a top priority to improve recruitment, retention, and on-going professional development of 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 or 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 coaching 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 quality 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 assessed in 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, 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 quality of teaching. States will receive grants through this program. 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 target grants to schools with the highest needs in order to address these accountability requirements.

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.

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.

The "K through 12 Community Participation Act" would offer tax credits to teachers worth about $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 academic 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 is clear 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 overlapping) programs 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 46.6 million dollars worth of paperwork per year—this is the equivalent of 25,000 employees working full time.

States get at most seven percent of their total education funds from the federal government, but most states report that roughly half of their paperwork is imposed by federal education authorities.

The federal government spends tax dollars on closed captioning of “educational” programs such as “Baywatch” and Jerry Springer’s squalid daytime talk show.

With such a large number of programs funded by the federal government, it’s no wonder local school authorities feel the heavy hand of Washington upon them.

And what are the nation’s taxpayers getting for their money? According to the report,

Around 40 percent of fourth graders cannot read; and 57 percent of urban students score below their grade level. Half of all math and science standards from urban school districts fail to graduate on time, if at all.

U.S. 12h 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 Salmond 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 does it work? A group of businesses in any community could join forces to send sums for which they received tax credits to charitable “school-tuition organizations” which would make scholarships and grants available to low income parents of children currently struggling to learn in unsafe, non-functional schools.

Providing all parents—including low income parents—increased freedom to choose will foster competition and increase parental involvement in education.

Insuring this choice will make the federal education tax code more like Arizona’s. It is a limited but important step the Congress and the President can—and I believe, must—take.

Mr. President, it’s clear that top-down, one-size fits all, big government education policy has failed our children and our country.

This tax-credit legislation will refocus our educational priorities on 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, 1995, 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 understood the importance of line-item veto authority in prioritizing spending. The legislation we introduce today is similar to that passed by the Senate in 1995, which is patterned on the separate enrollment process that we both supported with former Senator Bill Bradley of New Jersey.

I have been a long-time supporter of various line-item veto measures because I believe that only the President should set the national 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, I believe a line-item veto could at least make sure the public is aware of how its money is being spent.

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 stand on its own merits.

In closing, let me acknowledge that this line item veto legislation, like the previous experiment, won’t solve all
the nation's fiscal problems, but that it is a needed step if we are interested in pursuing good public and budget policy.

Mr. HOLINGS. Mr. President, I rise today along with Senator Robb to introduce the Separated Enrolment 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 Court—winds down, he often is forced to "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; to provide for the establishment of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

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 artisitic 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 Kensett. A number of them had tried to do them justice, but let me say that their moody, dramatic style and subject matter were in sharp contrast to the pastoral European landscapes that Americans previously had admired. The new country was just settled enough to get some time and resources to devote to collecting art. Cole's new style coincided with this growing interest, to the benefit of both.

Cole had begun his painting career in Manhattan, but one day took a steamboat up the Hudson for inspiration. It worked. The landscapes he saw set him on the artistic course that became his life's work. He eventually moved to a house up the river in Catskill. First he married and raised his family there. That house, known as Cedar Grove, remained in the Cole family until 1979, when it was put up for sale.

The Cole house would be 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 to have the National Park Service 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 already is qualified for the job. The Society cooperate into cooperative agreements with the National Park Service for the preservation and interpretation of the site.
I ask that my colleagues support this legislation, and that the text of the bill be printed in the Record.

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

S. 140

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

SECTION 1. SHORT TITLE. This Act may be cited as the "Thomas Cole National Historic Site Designation Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Hudson River school of landscape painting was inspired by Thomas Cole and was characterized by a group of 19th century landscape artists who recorded and celebrated the landscape and wilderness of the Hudson River Valley region in the State of New York;

(2) Thomas Cole is recognized as the United States's most prominent landscape and allegorical painter of the mid-19th century;

(3) located in Greene County, New York, the Thomas Cole House, also known as Thomas Cole's Cedar Grove, is listed on the National Register of Historic Places and has been designated as a National Historic Landmark;

(4) within a 15-mile radius of the Thomas Cole House, an area that forms a key part of the rich cultural and natural heritage of the Hudson River Valley region, significant landscapes and scenes painted by Thomas Cole and other Hudson River artists, such as Frederic Church, survive intact;

(5) the State of New York has established the Hudson 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; 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 acres, located 218 Spring Street, 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 accordance 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 System, 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 subsection (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 TO SECRETARY.—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 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 quantities not to exceed 50 pounds for sporting or recreational purposes. 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.F.) when they sell such items. Now, there is no requirement that a seller notify the B.A.T.F.F. when a customer buys explosives. In 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.F.

In all likelihood, any terrorist attack aimed at this country's infrastructure will use explosives to achieve its purpose. One key way to prevent an attack...
such as this is to have information about the individuals who are buying these items.

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

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

S. 142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SEC. 2. AMENDMENTS TO THE PROFESSIONAL BOXING SAFETY ACT AMENDMENTS OF 1996

(a) STANDARIZED PHYSICAL EXAMINATIONS.—Section 6(b)(2) of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6303(b)(2)) is amended by inserting after "be included in the proposed comprehensive plan to restore, prepare and protect the South Florida ecosystem required by section 528(b) of the Water Resources Development Act of 1996 (110 Stat. 3767); but 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)."

(b) CAT SCANS.—Section 6(b)(2) of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6303(b)(2)) is amended by inserting before the period the following: "and, with respect to such a professional, only if the physician to whom such a professional is assigned has, on a basis acceptable to the Secretary, satisfied the requirements of section 528(b) of the Water Resources Development Act of 1996 (110 Stat. 3767); but 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. 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.

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 Florida's 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 uninterrupted water flow to the Everglades' aquifers, the main water source for the majority of the rapidly growing state of Florida. Over the last 100 years, this ecosystem has been altered by man to provide for development, to manage water for irrigation, and to control flooding in times of hurricanes. The review of this land for potential as wilderness may lead to greater 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 103(c) of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410g-9c).

(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 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.

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 101st 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 few in number—"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 or leaving 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 orders are issued 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 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, may 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 refuses 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 allow the court to prevent 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 satisfy an restitution order, 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 higher degree of certainty, 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 that a letter of support from those victims' rights organizations be placed in the RECORD.

I urge my colleagues to support my legislation, which will empower victims to collect on the debts that they are owed by criminals who 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 the pre-sentence report, or in a separate report, information sufficient for the court to exercise 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 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 means relating to the suspect.

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 to the victim by the probation service under specified circumstances; (2) a victim to object 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 documents or hear testimony before approving the report of the probation service. Provides for the privacy of records filed and testimony heard and permits records to be filed of testimony to be heard after review of the report.

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 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 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 his 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 enforcement of restitution orders. Further, this section specifies that: (1) a conviction of a defendant for an offense giving rise to restitution shall enable the court to impose an restitution order, if specified circumstances apply; and (2) the victim, in subsequent proceeding, shall not be precluded from establishing
a loss that is greater than that determined by the court in the earlier criminal proceeding.

Section 3. Civil Remedies

This section adds restitution to a provision governing the post-sentence administration of fines. Provides that an order of restitution shall operate as a lien in favor of the United States for its benefit or for the benefit of any non-federal victims against that property belonging to the defendant. Authorizes the court, in enforcing a restitution order, to order jointly owned property divided and sold, subject to specified requirements.

Section 4. Finality

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. HUTCHINS, 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 sentences of powder cocaine a person must be convicted of distributing in order to receive a mandatory 5 year minimum sentence.

I am convinced, Mr. President, that we need tougher sentences for powder cocaine dealers so that we may protect our children from drugs and we need to support our schools and communities so they can be a healthy environment for children.

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 an 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 Administration is clearly importing much of the current debate 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 sign here. The most recent “Monitoring the Future” Study done by the University of Michigan, which tracks drug use and attitudes by teenagers, showed an increase in the use of both crack and powder cocaine this year. This is in contrast to its finding that the use of other drugs by kids may finally be leveling off, albeit at unacceptably high levels.

Yet surprisingly, despite these developments, in last year’s Ten Year Plan for a National Drug Control Strategy, the Administration proposed making crack sentences 5 times more lenient than they are today. Why? The Administration said 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 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 any category of drug dealers. Second, it makes sentences for powder cocaine dealers a good deal tougher than they are today.

Mr. President, this legislation will reduce the differential between the sentences for crack and powder cocaine. It is required to trigger a mandatory minimum sentence from 10 to 1 to 10—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 drug enforcement is effective 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 clearly import 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. First, 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 its 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:

SEC. 1. SHORT TITLE.

This Act may be cited as the “Powder Cocaine Sentencing Act of 1999.”

SEC. 2. SENTENCING FOR VIOLATIONS INVOLVING COCAINE POWDER.

(a) AMENDMENT OF CONTROLLED SUBSTANCES ACT.—

(1) LARGE QUANTITIES.—Section 401(b)(3)(A)(ii) of the Controlled Substances Act (21 U.S.C. 841(b)(3)(A)(ii)) is amended by striking “5 kilograms” and inserting “500 grams”.

(2) SMALL QUANTITIES.—Section 401(b)(3)(B)(ii) of the Controlled Substances Act (21 U.S.C. 841(b)(3)(B)(ii)) is amended by striking “500 grams” and inserting “5 grams”.

(b) AMENDMENT OF CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—

(A) AMENDMENT OF SECTION 1001(b)(7) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—

(1) LARGE QUANTITIES.—Section 1001(b)(7) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(7)) is amended by striking “5 kilograms” and inserting “500 grams”.

(B) AMENDMENT OF SECTION 1001(b)(2) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—

(1) LARGE QUANTITIES.—Section 1001(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) 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 100 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, overwhelming bipartisan 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, and 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 and drug-using 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 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 lesser offense under which 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 that seeks 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 America's young people a future free 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 law. This 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.

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, the legislation offered today by Senator Abraham represents a fair and effective approach toward federal cocaine sentencing policy. Rather than make federal crack cocaine sentences more lenient, the Abraham bill would reduce from 500 to 50 grams the lesser offense under which a person must be convicted of distributing before receiving a mandatory 5-year sentence. This legislation would adjust the current 100-to-1 quantity
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; the 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 farmers in the United States. 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 United States. 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 with the business community, nongovernmental organizations and foreign nations. By teaming businesses with international organizations concerned to protect the environment we can combine capital with know-how. By partnering these entities with local 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 legislation includes 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 interests, 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. 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 multilayered 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 habitats.

I urge all concerned individuals to support this bill and ask that a copy of the legislation be printed in the RECORD.

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

S. 148

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Neotropical Migratory Bird Conservation Act."

SEC. 2. FINDINGS.

Congress finds that—

(1) of the nearly 800 bird species known to occur in the United States, approximately 500 migrate among countries, and the large majority of those species, the neotropical migrants, winter in Latin America and the Caribbean;

(2) neotropical migratory bird species provide invaluable environmental, economic, recreational, and aesthetic benefits to the United States, as well as to the Western Hemisphere;

(3) many neotropical migratory bird populations, once considered common, are in decline, and 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, these 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) the term "Account" means the Neotropical Migratory Bird Conservation Account established by section 9(a).

(2) 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) 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—

(A) an individual, corporation, partnership, trust, association, or other private entity; an officer, employee, agent, depart- ment, or instrumentality of the Federal Government, of any State, municipality, or po-litical 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 Orga-nizations Immunities Act (22 U.S.C. 288)).

(c) PROJECT PROPOSALS.—To be considered for financial assistance for a project under this Act, an applicant shall submit a project proposal that—

(A) includes—

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

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

(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 conducted 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 historical 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.—The Federal share of the cost of each project shall be paid in cash.

(ii) 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 kind.

(f) 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 will meet 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.

(g) Authorization of Appropriations.

There is appropriated to the Secretary $8,000,000 for each of fiscal years 2000 through 2003, to remain available until expended, of which not less than $6,000,000 shall be available 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 the goal of bringing 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 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 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 ranges.

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 in-kind contributions. The Secretary of the Interior may establish an advisory group to assist in implementing the legislation. The success of this initiative will depend on close coordination with private organizations and partnerships 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 co-sponsor 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 to become, fill the gap 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 unloaded 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 hand guns 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. 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, as 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 be detached from 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:

“(2) LOCKING DEVICES.—

“(i) manufacture for, transfer to, or possess 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 or a department or agency, board, or other entity, except with respect to an action to enforce this section.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection 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.

(3) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance with the non-Federal share requirement made by this subsection shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, with respect to an action to enforce this section.

(4) Rule of construction.—Nothing in this subsection shall be construed to bar a governmental action to impose a penalty under section 924(m) of title 18, United States Code, for a failure to comply with section 922(y) of that title.

(b) CIVIL PENALTIES.—

Section 924 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 with the non-Federal share requirement made by this subsection 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(m) 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, as 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.—

“(I) 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, 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 remedies 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 at any moment. They were taken steps in a border court that sees 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 needs.

Forcibly removing them and sending them back to Russia would result in extreme hardship for both of them and would make it virtually impossible for Albert to receive 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 both unavailable or extremely difficult to obtain in Russia.

Although life has not been easy for Marina and Albert, they have both shown bravery in the face of adversity. This bill will allow Marina and Albert to stay in the United States so that Albert can receive the care he needs to lead a normal life. I urge you to support this legislation.

By Mr. SARBANES:

S. 151. A bill to amend the International Maritime Satellite Telecommunications Act to ensure the 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.

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 restructuting to ensure the continued provision of global maritime distress and safety satellite communications services. Second, it repeals the provisions of the International Maritime Satellite Telecommunications Act that will be rendered obsolete by the restructuring of Inmarsat, which will lead to the formation of a new organization--the Mobile Satellite Organization (MSO)--to assume responsibility for IMSO'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 INTERNATIONAL MOBILE SATELLITE ORGANIZATION.

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 take such action as is necessary to ensure 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 "IMO"—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 this process 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 organization is a scaled-down secretariat with a small permanent staff to ensure that the new corporation continues to meet certain public service obligations, such as the Global Maritime Distress and Safety System (GMDDSS). It is important to U.S. interests that the United States participate in the oversight of this function, as well as be fully represented in the organization throughout the process of privatization.

By Mr. MOYNIHAN:

S. 152. A bill to amend the International 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

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.

HANDBGUN 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 require the keeping of records 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 HANDBGUN 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 you 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 fires the 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 injury 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. Gallager, director of Emergency Medicine at Albert Einstein College of Medicine 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. The existing ban is an 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 this weapon 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 injury is $5 billion per year, with the total cost to the economy of such injuries approximately $14 billion. We can ill afford further increases in this number, but this would surely be the result if bullets with the destructive capacity of the Black Talon are allowed onto the streets.

Mr. President, 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 alarming 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 caliber of ammunition used in criminal activities 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 involved or manufactured. Second, it would authorize 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? Who pays for it? None of these questions is adequately answered by the ridiculously inadequate database systems in place. 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. But that ban has not worked as a lethal weapons 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 1962 Phil Caruso of the New York City Patrolmen’s Benevolent Association asked me to do something about armor-piercing bullets. I asked the Bureau of Alcohol, Tobacco and Firearms [BATF] on the disposition of ammunition. Beginning in 1990, the city of Los Angeles banned the sale of all ammunition. But how much is really needed? Ammunition has always been used in the chase 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.

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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 similar 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 something about the plethora of ammunition. We have the moral imperative to develop a comprehensive ammunition control system. We have the moral imperative to develop a comprehensive ammunition control system. We have the moral imperative to develop a comprehensive ammunition control system. We have the moral imperative to develop a comprehensive ammunition control system. We have the moral imperative to develop a comprehensive ammunition control system.
and importers and by directing a study by the National Academy of Sciences. We also need to encourage manufacturers of ammunition to be more responsible. By substantially increasing application fees for licenses to manufacture .25 caliber, and small 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 need to 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 are we 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 and Prevention. 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 caliber guns are used disproportionately in crime. They are not sport ing or hunting rounds, but instead are the bullets of choice for drug dealers and violent felons. Every year they contribute overwhelmingly to the pervasive loss of life caused by bullet wounds.

Today marks the fifth time in as many Congresses that I have introduced legislation to ban or tax these pernicious bullets. As the terrible gunshot death toll in the United States continues unabated, so too does the need for these bills, which, by keeping these bullets out of the hands of criminals, would save a significant number of lives.

The number of Americans killed or wounded each year by bullets demonstrates their true cost to American society. 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, it is a vital issue for the health community to learn more about the nature and extent of bullet-related death and injury. To do this, we must require records to be kept on the disposition of ammunition.

In 1999, ban or heavily tax .25 caliber, .32 caliber, and 9-mm ammunition, this bill would discourage the reckless production of unsafe ammunition or ammunition which causes excessive damage.
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, Jr., 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, all of the data to make cars crashworthy, including airbags, was developed prior to 1970.

Experience shows the approach worked. Of course, it could have worked better if it worked. Had we been able to totally eliminate the agent—the second collision—the cure would have been complete. Nonetheless, merely by focusing on simple, achievable remedies, we reduced the traffic death and injury epidemic by 30 percent. Motor vehicle deaths declined in absolute terms by 13 percent from 1980 to 1990, despite significant increases in the number of drivers, vehicles, and miles driven. Driver behavior is changing, too. National seatbelt usage increased from 60 percent in late 1980 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 20 years ago: the gun problem is not a new problem. The Law Enforcement Officers Protection Act of 1982 to prohibit the manufacture, importation, and sale of any handgun ammunition determined by 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 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. By 1986, 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 soft lead composition of most other ammunition, this hard steel core prevented these rounds from deforming at the point of impact—thus permitting the rounds to penetrate the 18 layers of Kevlar in a standard-issue police vest or “flak-jacket.” These bullets could go through a bullet-proof vest like a hot knife through butter. My legislation simply banned any handgun ammunition made with a core of steel or other hard metals.

Despite the strong support of the law enforcement community, it took four years before this seemingly non-controversial legislation was enacted into law. The National Rifle Association initially opposed it—that is, until the NRA realized that a large number of its members were themselves police officers strongly opposing 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 even found a new way around the 1986 law. By 1993, a new Swedish-made armor-piercing round, the M398, had appeared. This perversive bullet evaded the 1986 statute’s prohibition because of its unique construction. Unlike 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.

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 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. By 1986, 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 soft 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.

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Another protracted series of negotiations ensued before we were able to update the 1986 statute to cover the M 39B. 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 July 14, 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 and its constituent ammunition manufacturers, felt that any such broad-based ban based on a bullets "performance standard" would inevitably lead to the outlawing of additional classes of ammunition. They viewed it as a slippery slope, much as they have regarded the assault weapons ban as a slippery slope. The NRA had agreed to the 1996 and 1993 laws only because they were narrowly drawn to cover individual types of bullets.

Any agreement reached the ATF for the technical assistance necessary to 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 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 testing 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 any armor-piercing rounds capable of evading the ban will be compliant, 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 will have 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 1966 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 business permanently.

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

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

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

(2) TO ADDITIONAL TAXES ADDED TO THE GENERAL FUND.—Section 3(a) of the Act of September 2, 1937 (16 U.S.C. 668(a)), commonly referred to as the "Pittman-Robertson Wildlife Restoration Act", is amended by adding at the end the following new sentence: "There shall be added to the fund the portion of the tax imposed by such section 4181 that is attributable to an 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."

(b) ADDITIONAL TAXES ADDED TO THE GENERAL FUND.—Section 3(a) of the Act of September 2, 1937 (16 U.S.C. 668(a)), commonly referred to as the "Pittman-Robertson Wildlife Restoration Act", is amended by adding at the end the following new sentence: "There shall be added to the fund the portion of the tax imposed by such section 4181 that is attributable to an 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 AMMUNITON.

(a) IN GENERAL.—(1) IMPOSITION OF TAX.—Section 5801 of the Internal Revenue Code of 1986 (relating to imposement of tax on imported firearms) is amended by adding at the end the following new sentence: "There shall be added to the fund the portion of the tax imposed by such section 5801 that is attributable to an 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."

(b) SPECIAL RULE FOR HANDGUN AMMUNITON.—(1) IN GENERAL.—Section 5801 of the Internal Revenue Code of 1986 (relating to imposement of tax on imported firearms) is amended by adding after title 18, United States Code, is amended—


SEC. 2. DEFINITION.

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

SEC. 3. PROHIBITION.

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

SEC. 4. EFFECTIVE DATE.

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

SEC. 5. COMMENCING DATE.

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

SEC. 6. EXTENSION TO IMPORTS.

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

SEC. 7. EXTENSION TO IMPORTS.

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

SEC. 8. EFFECTIVE DATE.

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

SEC. 9. COMMENCEMENT DATE.

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

SEC. 10. EXTENSION TO IMPORTS.

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

SEC. 11. COMMENCEMENT DATE.

This Act may be cited as the "Handgun Ammunition Control Act of 1999".

SEC. 12. RECORDS.

This Act may be cited as the "Handgun Ammunition Control Act of 1999".

SEC. 13. COMMISSION.

This Act may be cited as the "Handgun Ammunition Control Act of 1999".
(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, manufacturing, 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, 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, shipment, 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) by inserting before subparagraph (B), as redesignated, the following:
(A) the amount, caliber, and type of ammunition.

SEC. 3. INCREASE IN LICENSING FEES FOR MANUFACTURERS OF AMMUNITION.
Section 921(a)(15) 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) .25 caliber, .32 caliber, or 9 mm ammunition, a fee of $10,000 per year.”.

S. 135

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, or shipped;
(3) the rate of bullet-related deaths in the United States is unacceptably high and growing;
(4) .25 caliber, .32 caliber, and .38 caliber bullets are used disproportionately in crime; 9 millimeter, .25 caliber, and .32 caliber bullets;
(5) injury and death are greatest in young males, particularly young black males;
(6) epidemiology can be used to study bullet-related death and injury to evaluate control options;
(7) bullet-related death and injury has placed increased stress on the American family resulting in increased welfare expenditures under title IV of the Social Security Act;
(8) bullet-related death and injury have contributed to the increase in Medicaid expenditures under title XIX of the Social Security Act;
(9) bullet-related death and injury have contributed to increased supplemental security income benefits under title XVI of the Social Security Act; and
(10) a tax on the sale of bullets will help control bullet-related death and injury; and

(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;
(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 impact 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 the capacity for implementing bullet-related death and injury; and
(4) to build the capacity and encourage responsibility at the Federal, State, community, group, and individual levels for control and elimination of bullet-related death and injury; and
(5) to promote a better understanding of the utility of the epidemiologic approach for evaluating options to control or reduce death and injury from 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 synthesize 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) awards 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 measures 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 regarding the collection and interpretation of bullet-related data; and
(7) to provide 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
(8) 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;
(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;
(K) 1 public communications expert from a university or nonprofit organization;
(L) 1 member 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 5303 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 Com-
mission. All members of the Commission who
are employees of the United States shall serve
without compensation in addition to that received for their services as
officers 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 in advance inappropri-
ations 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 resi-
dence.

(b) CHAIR.—The members of the advisory
board shall select 1 member to serve as
chair.

(2) CONSULTATION.—The Center shall con-
duct 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 fis-
cal year 2001, and $5,000,000 for each of fiscal
years 2002, 2003, and 2004 for the purpose of
carrying out this section.

(g) REPORT.—The Center shall prepare an
annual report on the Program's findings, the status of coordination with other agencies, its progress, and problems encountered with options and recommenda-
tions for their solution. The report for De-
cember 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 In-
ternal Revenue Code of 1986 (relating to the im-
position of tax on firearms, etc.) is amended
by adding at the end the following:

"(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) by substituting in paragraph (6) (A) the
word "firearm" for "firearm or firearm
ammunition";

(2) by striking "of destructive devices, am-
munition for destructive devices, or armor piercing or .25 or .32 caliber or 9 millimeter ammunition.";

(3) by striking paragraph (7) and inserting in
its place the following:

"(7) for any person to manufacture, trans-
fer, or import .25 or .32 caliber or 9 millime-
ter 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 political subdivision thereof or
any State or political subdivision thereof,
and

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

(C) 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, or armor piercing or .25 or .32 caliber or 9 millimeter ammunition, a fee of $1,000 per year; or

SEC. EFFECTIVE DATE.

This Act may be cited as the "Real Cost of
Handgun Ammunition Act of 1999".

SEC. 2. UNLAWFUL ACTS.

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.

SEC. 3. LICENSING OF NONDESTRUCTIVE DE-
VICES.

This Act may be cited as the "Law En-
forcement 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 by striking "(i)" at the end of clause (i); (ii) strikes the period at the end of clause (ii) and inserting "or"; and (iii) adding the following: `(iii) a projectile that may be used in a handgun and that the Secretary of the Treasury, in consultation with the Attorney General, for the uniform testing of projectiles to determine whether such projectiles are capable of penetrating National Institute of Justice Level II-A body armor.'.

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 18, 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 so that they may receive $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. Federal jurors also receive $3.00 per 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 allotted for parking; to the Committee on Rules and Administration.

ARC OF PARK CAPITAL GROUNDS IMPROVEMENT PLAN

Mr. MOYNIHAN. Mr. President, just over 98 years ago, in March 1901, the Senate Committee on the District of Columbia was directed by Senate Reso- lution 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 securing 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 through the new station and tracks. 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. Were it not for the following suitable connections between the great departments . . . (V)istas and axes; sites for monuments and museums; parks and pleasure grounds; and a word to 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 afflication 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. Fee parking is a 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 was simply met. 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 and transformed 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 implement a comprehensive plan (referred to as the “comprehensive
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 millions of dollars 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, the PMA and TVA 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 and to participate in market prices. Revenue accrued from the reversal 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:

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.

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 for 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 various 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, and to non-recourse for full cost recovery rates for power at market rates, the PMAs have failed to recover their operating costs for too long, and it is taxpayers who bear the cost of the discrepancy between cost of generation and consumer rates. This discrepancy has brought about a fiscal shortfall and significant environmental damage.

Reports over past years from the General Accounting Office (GAO), the Congressional Budget Office (CBO), and the U.S. Department of Energy confirm this view. In 1997, for instance, the GAO reported that the Bonneville Power Administration, the Rural Utilities Service, and three other PMAs cost American taxpayers $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 millions of dollars 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, the PMA and TVA 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 and to participate in market prices. Revenue accrued from the reversal 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—

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

(ii) the Federal government incurring losses in lending to the PMAs, but recovering only 3.5 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, the PMA and TVA 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 and to participate in market prices. Revenue accrued from the reversal 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,
and operation of the facilities from which power may be recovered under paragraph (1)—

(1) full cost recovery rates for power sold by the Federal Power Marketing Administration 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) as are applied by the Commission to the electric operations of public utilities.

(b) DEVELOPMENT AND SUBMISSION OF RATES TO THE FEDERAL ENERGY REGULATORY 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; and

(B) shall not include any cost of transmitting that portion of the power which is sold at prices that reflect demand and supply conditions in the wholesale market.

(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 and expenses described in paragraph (1)(A) and (B), and that rate structures are not excessively burdensome for Federal power operations.

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

(d) APPLICABILITY.—

(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 law.

(2) APPLICABILITY.—This section shall cease to apply to a Federal Power Marketing Administration or the Tennessee Valley Authority after 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 the Federal Power Marketing Administrations, the Tennessee Valley Authority, and the Commission shall rely on the accounting principles and requirements described in 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 Administration 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 market pricing would result in rates that exceed market rates, the Secretary of Energy may approve rates for power sold by the Federal Power Marketing Administrations and the Tennessee Valley Authority.

(2) 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.

(h) FUND FOR ENVIRONMENTAL MITIGATION AND RESTORATION.—

(1) 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 (b)(ii).

(ii) FUND FOR ENVIRONMENTAL MITIGATION AND RESTORATION.—

(1) ESTABLISHMENT.—

(A) 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 (b)(ii).

(B) 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.

(C) 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 are 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.

(i) PROJECT-SPECIFIC PLANS.—

(1) 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 shall utilize to the maximum extent practicable, rely on existing data, information, and mitigation and restoration plans developed by—

(I) the Secretary of the Interior; and

(II) the Federal Energy Regulatory Commission.

(2) COMMISSIONER OF THE BUREAU OF RECLAMATION.—

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

(I) the Secretary of the Interior; and

(II) the Federal Energy Regulatory Commission.

(3) 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.

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

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

(A) REVENUE FOR OPERATIONS, FISH AND WILDLIFE, AND PROJECT-SPECIFIC PLANS.—

(B) REMAINING REVENUE.—Revenue that remains after payment 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).

(iii) 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.

(2) AGENCY USE.—The Board of Directors of the Fund shall use such revenue for the purpose of—

(I) mitigation projects and activities under project-specific plans described in subparagraph (b)(i); and

(II) the Federal Energy Regulatory Commission.
of the Treasury for purposes of reducing the Federal budget deficit.

(3) FUND FOR RENEWABLE RESOURCES.—

(a) ESTABLISHMENT.—

(i) FUND.—There is established in the Treasury of the United States a fund to be known as the “Fund for Renewable Resources” (hereafter in this paragraph referred to 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 of Funds.—In the Fund shall be available for making expenditures—

(1) to pay the incremental cost (above the expected cost at 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 expended only by the Secretary of the Treasury for purposes of reducing the Federal budget deficit.

(E) PREFERENCE.

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

(ii) USE.—(A) Power purchased under paragraph (1)—

(1) 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 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 and operating services for other entities); and

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

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

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

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

(a) IN GENERAL.—Subject to subsection (b), a Federal Power Marketing Administration and the Tennessee Valley Authority shall provide transmission service on an open access basis, and at just and reasonable rates 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 section 215 of the Federal Power Act (16 U.S.C. 824 note; 106 Stat. 1343) is repealed.

(b) EXCLUDED SCHEDULES OR TRANSMISSION.—(1) SCHEDULES.—Section 215 of the Federal Power Act (16 U.S.C. 824b(c)(1)) is amended by striking the words “High” and “Interstate” as they appear in such section and inserting in lieu thereof the words “Highly”. The remainder of such section shall be applied to schedules of Federal Power Marketing Administrations and to the Tennessee Valley Authority.

(2) TRANSMISSION.—Section 215 of the Federal Power Act (16 U.S.C. 824b(c)(2)) is amended by inserting “or to the Tennessee Valley Authority” after “Federal Power Marketing Administrations”.

(c) COMMISSION ACTIONS.—As the Federal Energy Regulatory Commission determines is necessary to protect the public interest in accordance with section 216 of the Federal Power Act (16 U.S.C. 824q), a full transition to market-based rates for power sold by a Federal Power Marketing Administration.

(2) Basic rate in evaluating rates under subsection (a), the Federal Energy Regulatory Commission, in accordance with section 3, shall—

(1) base rate on the costs of the rates on the protection of the public interest; and

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

(d) COMMISSION ACTIONS.—As the Federal Energy Regulatory Commission determines is necessary to protect the public interest in accordance with section 216 of the Federal Power Act (16 U.S.C. 824q), a full transition to market-based rates for power sold by a Federal Power Marketing Administration and the Tennessee Valley Authority.

(2) Basic rate in evaluating rates under subsection (a), the Federal Energy Regulatory Commission, in accordance with section 3, shall—

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

(2) revise or modify those findings as appropriate.

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

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—

(1) review the rate schedules of power sold by the Federal Power Marketing Administration; and

(2) submit to the Congress a report on such review.

(b) COMMISSION ACTIONS.—As the Federal Energy Regulatory Commission determines is necessary to protect the public interest in accordance with section 216 of the Federal Power Act (16 U.S.C. 824q), a full transition to market-based rates for power sold by a Federal Power Marketing Administration.

(c) COMMISSION ACTIONS.—As the Federal Energy Regulatory Commission determines is necessary to protect the public interest in accordance with section 216 of the Federal Power Act (16 U.S.C. 824q), a full transition to market-based rates for power sold by a Federal Power Marketing Administration.

(d) COMMISSION ACTIONS.—As the Federal Energy Regulatory Commission determines is necessary to protect the public interest in accordance with section 216 of the Federal Power Act (16 U.S.C. 824q), a full transition to market-based rates for power sold by a Federal Power Marketing Administration.
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 coins and precious metal markets. The networks function in precisely the same manner as the NASDAQ with a series of published "bid" and "ask" prices and last trades. The buys and sells are enforceable prices that must be honored as posted until updated. Mr. President, the liquidity provided through a bona fide national trading network, combined with published prices, makes legal tender coinage a practical investment that offers investors diversification and liquidity. Investment in these tangible assets has become a safe and prudent course of action for both the small and large investor and should be given the same treatment under the law as other financial investments. I urge the Senate to enact this important legislation as soon as possible.

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

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

S. 163

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

SECTION 1. Legal tender coins not treated as collectibles.

(a) IN GENERAL.—Subparagraph (A) of section 408(m)(3) of the Internal Revenue Code of 1986 (relating to exception for certain grades of 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 are not faring well in international competition. The most striking finding was that American students do worse, comparative speaking, the longer they are in our schools. Our fourth graders performed in the middle range of scores in math and were second to Japan in science. Our seniors are bringing up the rear.

American high school seniors performed among the lowest of the 21 countries in mathematics. In science 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 9 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 1980's. In September 1989, President Bush met with the Nation's governors in Charlottesville to set out goals for education. Four months later he devoted a sizable portion of his State of the Union Address to setting forth the agreed-upon goals. Some were measurable and some were not. Some were measurable and some were unmeasurable: "By the year 2000 every child must start school ready to learn." Most children are. "Every adult must be a skilled literate worker and citizen." We know what it means to be skilled, literate citizens. 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. He 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 impact they have on 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 be deemed realistic. In mathematics and science instruction; to the Committee on Health, Education, Labor, and Pensions." 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 question will be not whether serious debate as to why what was basically a political plan went wrong. We might even consider how it might have turned out better."

"Our children will not meet the goals set for math and science leadership. How can we help them do better? The TIMSS report says that it is too early to draw specific conclusions about how to improve performance in twelfth grade, that it will take some time to analyze all the data therein. I should add that the higher commonality 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 test 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 construction 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 procedure to determine where states rank in comparison with the upcoming results of the TIMSS exams by a new group of eight graders around the world. Those states whose students score below the median in either math or science would be eligible to apply for these grants.

Mr. President, money is not the answer to our dismal showing among the nations of the world. Better families is the place to start. These grants, however, would help the States that need them the most, and I urge 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 in Congress assembled, for the purpose 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 ‘‘pennyweight’’ 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 H. Citrin and T. Michael, is entitled ‘‘Measuring Poverty: A New Approach.’’ A Congressional Research Service review of the report states: The NAS panel makes several recommendations which, if fully adopted, could dramatically alter the way 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, the mix of noncash benefits and taxes into account, and would be adjusted for regional differences in living costs.

Mr. President, our current poverty data are inaccurate. And these substandard data are used in allocation formulas used to distribute millions of Federal dollars each year. As a result, States with high costs of living—states like New York, Massachusetts, Connecticut, New Hampshire, New Jersey and California, just to name a few—are not getting their fair share of Federal dollars because differences in the cost of living are not factored into the allocation formula. And the poor of these high cost states are penalized because they happen to live there. It is time to correct this inequity. The ESEA authorization 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, I adds, take the current poverty rate and adjusted for the undercount and the adjusted figures would be 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 quoted 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 this statisticians 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 Census has become less dense, less inclusive, and 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. As 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 highest for Blacks, 3.2 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 publish the white undercount in the 1960 census and to foster concern about the problems of obtaining a full enumeration, especially of the urban poor. I ask that my forward to the report from that conference be printed following my remarks, for it is, save for some small numerical changes, disturbingly still relevant.

My hope is that if governors and other interested parties learn the financial and statistical 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 grants programs, our 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
Bel 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.

(3) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa, and the Commonwealth of the Northern Marianas 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 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 corresponding decennial census (as determined by the Secretary, acting through the Bureau of the Census), any State recipient of a grant award under paragraph (1) received a grant award that was less than or greater than the amount that the recipient would otherwise have received if an adjustment to the grant award had been made for undercounting.

(c) REPORTS.—

(1) IN GENERAL.—Upon making the determinations under subsection (b), the Secretary shall prepare, for each State, an annual report that includes—

(A) a listing of any grant award under subsection (b)(1) provided to that State that was an amount less than or greater than 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 referred to in subparagraph (A), the amount of the shortfall or surplus determined under subsection (b)(2).

(2) DISTRIBUTION.—The Secretary shall provide to each grant award designated under paragraph (1) a copy of the report prepared under paragraph (1) for that State.

FOREWORD

(SOCIAL STATISTICS AND THE CITY

By David M. Heer

At one point in the course of the 1950’s John Kenneth Galbraith observed that it is the statisticians 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 unassailable intuition, perhaps, but a majority, one, and one that did more than he may know to sustain morale in a number of Washington bureaucracies (hateful word!) when the relevant cabinet officers had on their own reached very much the same conclusion—and distrust their charges all the more. Heer’s introduction explains, were presented at a conference held in June 1967 with the independent and therefore no one in particular. But 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 partisan? When Census and impatience on the other, it is something of a wonder that the statistical officers of the federal government have with such formidable and fairness and impartial 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 shaped by official data. And yet for all this, it is somehow ignored.

The answer, of course, is that this is not what the Census will have in 1970 to do.

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 shaped by official data. And yet for all this, it is somehow ignored.

The answer, of course, is that this is not what the Census will have 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, but perhaps the most compelling argument arose from a chance remark by a congressperson during the debate. That remark, however, 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 underrate significantly the population in those areas is to rob residents of their rights under Article I, Section 2 of the Constitution, as well, no doubt, as under Section 1 of the Fourteenth Amendment. Given the further, once-axiomatic but now vacated Federal State, and local categorical aid on the basis not only of the number but also social and economic characteristics of local populations, the use of 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 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 and operation of a visitor 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 only 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 Deepdor in the vicinity of Mongaup. This bill allows the Secretary to enter into a lease 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 perspectives of local residents are kept in mind when management decisions are made. My colleague from New York and I ask for the support of other Senators, and I ask unanimous consent that the bill be printed in the Record.

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

S. 167

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

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

Section 704(f)(1) of the National Parks and Recreation Act of 1978 (16 U.S.C. 1274 note; Public Law 95-92-652) 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 95-92-652);

(2) the management plan called for the development of a primary visitor contact facility located at the southern end of the river corridor;

(3) the management plan determined that the visitor center would be built and operated by the National Park Service;

(4) section 704 of that Act limits the authority of the Secretary of the Interior to acquire land within the boundaries of the river corridor; and

(5) on June 21, 1993, the State of New York authorized a 99-year lease between the New York Department of Environmental Conservation and the National Park Service for construction and operation of a visitor center on State-owned land in the town of Deepdor, 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 95-92-652) is amended--

(1) by striking "Notwithstanding" and inserting the following:

"(d) ACQUISITION OF LAND.--"

(2) by adding at the end the following:

"(2) VISITOR CENTER.--For the purpose of constructing and operating a visitor center for the segment of the Upper Delaware River designated as a scenic and recreational river by section 3(a)(19) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(19), subject to the 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 Town 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 1991. He 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 1996, Congress passed the Vaccine Injury Act to take care of vaccine injuries because the shots that we required our children to get were not as safe as they could have been. Since the program was established, more than 1100 children have been compensated. Over the first ten years, a great percentage of those with seizures or brain damage or other symptoms were recognized as DPT-injured, and, they were summarily 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-injured. So, HHS changed the definitions of encephalopathy (inflammation of the brain), and of vaccine injury. Those new definitions had unintended consequences. Now, the program that we set up to be expeditious and fair, uses criteria that are so strict that the fund from which these claims are paid pays fewer claims than before and the fund has ballooned to over $1.2 billion. As a result, families of children like Tommy find it nearly impossible to win a claim against the Vaccine Injury Compensation Program. The program is failing its mission.

To be clear, VICP is not a medical insurance policy. The program is not designed to take care of those who cannot get or receive care. VICP is a compensation program, where the government makes amends for a failure in the system that it established. Claims are
Tommy was in all ways normal, but for the first six months of his life, he suffered to this day. Tommy also has severe seizures and brain damage (encephalopathy) by the legal representatives of Tommy 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).

Mr. CLELAND. Mr. President, I am extremely pleased to introduce with my colleagues, Senators ROBB, LEVIN, KENNEDY, BYRD, BINGAMAN, LIEBERMAN, REED, and DASCHLE—The Military Recruiting and Retention Improvement Act of 1999—stands the critical needs of military members and their families.

Twenty-five years ago Americans opted to end the draft and to establish an all-volunteer military force to provide for our national security. That policy carried with it a requirement that we invest the needed resources to bring into existence a competent and professional military. Currently, all services are having difficulty in attracting and retaining qualified individuals. Seasoned, qualified 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.

The military force we are trying to protect are the shorts of our recent 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, and that the goal 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 industry leaders agree: the number one shortfalls must be addressed if our Nation to continue to have a highly capable, cutting edge military force.

The bill I am introducing today is to continue to have a highly capable, cutting edge military force.

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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. 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 the civilian sector. 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 1989. In addition, our bill, as recommended by 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 section of our legislation extends for three years—through December 31, 2002—the authority for military members to contribute $1,200 of their own money in order to participate in the current Thrift Savings Plan. This will provide military managers with the authority now through the end of 2002, we will provide military managers with these crucial retention tools. By acting now, we will provide military managers with the authority now through the end of 2002, we will provide military managers with these crucial retention tools. By acting now, we can move in that direction.

The third part of our legislation takes 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. 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.

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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 takes 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. This 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.

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Another section of our legislation extends for three years—through December 31, 2002—the authority for 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, we can move in that direction.
of our Services. The President has announced a very good plan, as has the distinguished Majority Leader. We must move forward, together, in addressing these important personnel and readiness issues.

In closing, I want to recognize the leadership of Senator Levin, and the other members of the Armed Services Committee who are co-sponsoring this legislation. We are all absolutely committed to the welfare of our service-men and women and their families. They provide for us, and it is time for us to provide our obligation to them. I look forward to working with Senator Levin, Chairman Warner, and all of our colleagues on the Armed Services Committee in the months ahead to honor that obligation. I know I speak for myself and all of my co-sponsors in pledging to do our utmost to achieve that goal.

Mr. President, I now ask an unanimous consent that a summary and the text of the Military Recruitment and Retention Improvement Act of 1999 be printed into the Record.

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

S. 169

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Military Recruiting and Retention Improvement Act of 1999”.

COMMISSIONED OFFICERS

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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 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

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PAY. Ð Effective on January 1, 2000, the rates of monthly basic pay for members of the uniformed services by section 203(a) 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. Ð 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. Ð Effective on July 1, 2000, the rates of monthly basic pay for members of the uniformed services are as follows:

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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 pay authorized to be paid to members 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 1503(b) of title 5, United States Code, for such fiscal year (without regard to whether rates of pay under the statutory pay system are increased by the percentage calculated under such section) during each of fiscal years 2001 through 2006.

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

(a) A VIATION OFFICER RETENTION BONUS.--Section 308f(c) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(b) E NLISTMENT BONUS FOR ACTIVE MEMBERS.--Section 308h(g) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(c) E NLISTMENT BONUSES FOR CERTAIN HIGH PRIORITY UNITS.--Section 308i(f) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(d) E RECRUITMENT BONUS FOR SELECTED RESERVE.--Section 309f(c) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(e) S ELECTED RESERVE REENLISTMENT BONUS.--Section 312b(c) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(f) S ELECTED RESERVE ENLISTMENT BONUS.--Section 308c of title 37, United States Code, is amended by striking "December 31, 2002".

(g) S ELECTED RESERVE ENLISTMENT BONUS.--Section 312c(d) of title 37, United States Code, is amended by striking "December 31, 2002".

(h) S PECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.--Section 308b of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(i) E NLISTMENT BONUS FOR CERTAIN HIGH PRIORITY UNITS.--Section 308d of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(j) H ETAL R EENLISTMENT BONUS.--Section 312a of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(k) C HARTERED FLYING OFFICER ENLISTMENT BONUS.--Section 308c(a)(1) of title 37, United States Code, is amended by striking "December 31, 2002".

(l) NURSE OFFICER CANDIDATE ACCESSION BONUS.--Section 1410(a)(1) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(m) NURSE OFFICER CANDIDATE ACCESSION BONUS.--Section 308a of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(n) CERTAIN OFFICER BONUSES.--Section 312b of title 37, United States Code, is amended by striking "December 31, 1999".

SEC. 104. PAY INCREASES FOR SELECTED RESERVE BONUSES AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) S PECIAL PAY FOR HEALTH PROFESSIONALS.--Section 302d of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(b) S ELECTED RESERVE ENLISTMENT BONUS.--Section 308a(b)(1) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(c) S ELECTED RESERVE ENLISTMENT BONUS.--Section 308b(a)(1) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(d) S ELECTED RESERVE ENLISTMENT BONUS.--Section 308c(a) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

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

(a) N URSE OFFICER CANDIDATE ACCESSION BONUS.--Section 1410(a)(1) of title 37, United States Code, is amended by striking "December 31, 1999" and inserting "December 31, 2002".

(b) S ELECTION BONUS FOR REGISTERED NURSES.--Section 302a(a)(1) of title 37, United States Code, is amended by striking "December 31, 2002".

SEC. 106. THREE-YEAR EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITY.

(a) P ARTICIPATION AUTHORIZED.--Section 302a(a)(2) of title 37, United States Code, is amended by striking "(3)" and inserting "(3); and

(b) I NCREASES.--Section 302a(a)(3) of title 37, United States Code, is amended by striking "(3)" and inserting "(3); and

(c) I NCREASES.--Section 302a(a)(3) of title 37, United States Code, is amended by striking "(3)" and inserting "(3); and

SEC. 201. REPEAL OF REDUCTION IN RETIRED PAY.

The reductions in section 1409(b)(2) of title 37, United States Code, made only during a period provided under section 8432(b)(1) for individuals subject to this title, shall apply with respect to members of the uniformed services making contributions to the Thrift Savings Fund as if such contributions had been made only during a period provided under section 8432(b)(1) for individuals subject to this title.

SEC. 202. MODIFIED "CHI-1" COST-OF-LIVING ADJUSTMENT.

(a) I NCREASES.--Section 1409(b)(2) of title 37, United States Code, is amended by striking paragraph (2).

(b) I NCREASES.--Section 1409(b)(2) of title 37, United States Code, is amended by striking paragraph (2).

(c) I NCREASES.--Section 1409(b)(2) of title 37, United States Code, is amended by striking paragraph (2).

SEC. 203. CONFORMING AMENDMENTS.

(a) S PECIAL PAY.--Section 1409(a)(1) of title 37, United States Code, is amended by striking "(1) in paragraph (2), by striking "paragraphs (2) and (3) and inserting thereof "paragraph (2); and

(b) S PECIAL PAY.--Section 1409(a)(1) of title 37, United States Code, is amended by striking "(1) in paragraph (2), by striking "paragraphs (2) and (3) and inserting thereof "paragraph (2); and

(c) S PECIAL PAY.--Section 1409(a)(1) of title 37, United States Code, is amended by striking "(1) in paragraph (2), by striking "paragraphs (2) and (3) and inserting thereof "paragraph (2); and

(d) S PECIAL PAY.--Section 1409(a)(1) of title 37, United States Code, is amended by striking "(1) in paragraph (2), by striking "paragraphs (2) and (3) and inserting thereof "paragraph (2); and

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) A UTHORITY.--Subchapter III of chapter 84 of title 5, United States Code, is amended by striking paragraph (2) and inserting in lieu thereof paragraph (2) of this title.

(b) S HORT-TERM LIMITATION.--Paragraph (2) of section 8440a of the United States Code, is amended by striking "3 years" and inserting "1 year".

(c) E XECUTION AND FUNDING.--Paragraph (3) of section 8440a of the United States Code, is amended by striking "December 31, 2002" and inserting "December 31, 2006".

SEC. 302. MODIFICATION OF PROVISIONS RELATING TO THE UNITED STATES MILITARY RESERVE FORCES.

(a) A MENDMENT.--Section 8432(b)(2) of title 37, United States Code, is amended to read as follows:

"(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) A MENDMENT.--Section 8432(b)(2) of title 37, United States Code, is amended to read as follows:

"(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.

SEC. 303. PROVISIONS RELATING TO MEMBERS OF THE UNIFORMED SERVICES MAKING CONTRIBUTIONS TO THE SAVINGS FUND.

(a) A MENDMENT.--Section 8432(b)(2) of title 37, United States Code, is amended to read as follows:

"(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) A MENDMENT.--Section 8432(b)(2) of title 37, United States Code, is amended to read as follows:

"(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.

SEC. 304. APPLICABILITY OF THRIFT SAVINGS PLAN PROVISIONS.

The amendments made by this title shall not apply to members of the uniformed services who are not members of the uniformed services making contributions to the Thrift Savings Fund as if such contributions had been made only during a period provided under section 8432(b)(1) for individuals subject to this title.
SEC. 401. INCREASE IN RATES OF EDUCATIONAL ASSISTANCE FOR FULL-TIME EDUCATIONAL ATTENDANCE.

(a) INCREASE. Ð Section 3015 of title 38, United States Code, is amended Ð
to add a new subsection (a) as follows:

``(a) The Secretary may, for the purpose of making payments of basic educational assistance on an accelerated basis, make payments under this subsection only to an individual entitled to payment of the allowance under this subchapter.

(b) The entitlement to a basic educational assistance allowance on an accelerated basis 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. Ð (1) Section 3011 of title 38, United States Code, is amended Ð
to strike paragraph (1) and to add the following as a new paragraph (1):

``(1) The term `armed forces' has the meaning given in title 5, United States Code, is amended by striking paragraph (1), by striking the term `army' and inserting `army or air force' and inserting `except as provided in paragraph (4) of subsection (c)';

(b) TERMINATION OF REDUCTIONS IN PAY. Ð 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(b) of title 38, by reason of such section 3012(b), as the case may be, shall cease to have effect for purposes of this section, and such individual shall not be subject to any such reduction for purposes of this section.

SEC. 403. ACCELERATED PAYMENTS OF EDUCATIONAL ASSISTANCE.

(a) INCREASE. Ð Section 3014 of title 38, United States Code, is amended Ð
to add a new subsection (a) as follows:

``(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 chapter 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).

``(4) To an individual who is an orphan or ward of the court.''

SEC. 404. TRANSFER OF ENTITLEMENT TO EDUCATIONAL ASSISTANCE.

(a) AUTHORIZED ELECTION TO FAMILY MEMBER. Ð 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 chapter 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).

``(4) To an individual who is an orphan or ward of the court.''

SEC. 501. ANNUAL REPORT ON EFFECTS OF INITIATIVES ON RECRUITMENT AND RETENTION.

(a) REQUIREMENT FOR REPORT. Ð 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 effectiveness of the initiatives set forth in this subchapter. The report shall state the Secretary's assessment of the effects that the provisions of this Act and the amendments made by the Act are having on members of the uniformed services in active service."

TITLE IV—MONTGOMERY GI BILL BENEFITS

SEC. 401. INCREASE IN RATES OF EDUCATIONAL ASSISTANCE FOR FULL-TIME EDUCATIONAL ATTENDANCE.

(a) INCREASE. Ð Section 3015 of title 38, United States Code, is amended Ð
to insert the following new subsection (a) as follows:

``(a) The Secretary may, for the purpose of making payments of basic educational assistance on an accelerated basis, make payments under this subsection only to an individual entitled to payment of the allowance under this subchapter.

(b) The entitlement to a basic educational assistance allowance on an accelerated basis 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. Ð (1) Section 3011 of title 38, United States Code, is amended Ð
to strike paragraph (1) and to add the following as a new paragraph (1):

``(1) The term `armed forces' has the meaning given in title 5, United States Code, is amended Ð
to add a new paragraph (1), by striking ``$528'' and inserting ``$500'' and inserting ``$429'' and inserting ``$488''

(b) EFFECTIVE DATE. Ð 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 the rate of educational assistance shall be made under subsection (g) of section 3015 of title 38, United States Code, for fiscal year 2000.

SEC. 403. ACCELERATED PAYMENTS OF EDUCATIONAL ASSISTANCE.

(a) INCREASE. Ð Section 3014 of title 38, United States Code, is amended Ð
to add a new subsection (a) as follows:

``(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 chapter 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).

``(4) To an individual who is an orphan or ward of the court.''

SEC. 501. ANNUAL REPORT ON EFFECTS OF INITIATIVES ON RECRUITMENT AND RETENTION.

(a) REQUIREMENT FOR REPORT. Ð 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 effectiveness of the initiatives set forth in this subchapter. The report shall state the Secretary's assessment of the effects that the provisions of this Act and the amendments made by the Act are having on members of the uniformed services in active service."
Mr. LEVIN. 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 absorberiness left in the system," and further that if the trends continue, we will "find ourselves in a nosedive that might cause irreparable damage to this great force." The Army and Air Force Chiefs of Staff, the Chief of Naval Operations, and the Commandant of the Marine Corps all agree that we are only five years away from a hollow force. Put simply, we are placing at risk the future readiness of the finest fighting force in the world.

Mr. President, this bill provides the resources to reverse the steady downward spiral we've seen in military recruiting and retention. It is also a strong signal to our most important asset—our men and women in uniform and their families—that we are serious about them. In my view, it is nothing more than adequately compensating our people for the job they are already performing. And it is exactly the kind of "fix" we need 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 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 CLYNN, Senior Senator Rose, and a number of my colleagues today in introducing The Military Recruiting and Retention Improvement Act of 1999. Secretary Cohen, General Shelton, and the Joint Chiefs have told us that the single greatest challenge they face right now is recruiting and retaining the people we need to man our military services. This legislation will go a long way to ensuring that we continue to attract and retain the high quality people that make up our military services today. Just last month, the men and women of our Armed Forces demonstrated once again that they are by far the best trained, best equipped, best disciplined and most highly skilled and motivated military force in the world. Operation Desert Fox was a large-scale military operation that was carried out flawlessly. It involved 40,000 troops from bases virtually around the world. Over 40 ships performed strike and support roles. Over 600 aircraft sorties were flown in 4 days, and 300 of these were night strike operations.

General Zinni, the commander in chief 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 training 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 series 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 the Joint Chiefs said that enactment of this package of pay and benefits was their highest priority.

Mr. President, the bill my colleagues and I are introducing today includes all the elements of the Administration's pay and retirement package, as well as some of the key recommendations from the recent report of the Congressional Commission on Servicemembers and Veterans Transition Assistance.

First, it includes an across-the-board pay raise for all military members of 4.8 percent, effective January 1, 2000. This is slightly higher than the 4.4 percent recommended by Secretary Cohen and the Joint Chiefs, but it carries out their stated objective of increasing military pay in FY 2000 by one-half a percentage point above the annual increase in the Employment Cost Index (ECI). This 4.8 percent increase will be the largest increase in military pay since 1982.

In addition, our legislation calls for annual increases in military pay of one-half percent above the increase in the ECI in each year of the five-year period recommended by Secretary Cohen, and the Joint Chiefs. This will mean a 7.9 percent increase in military pay over the five years, bringing military compensation in line with comparable civilian employees Thrift Savings Plan.
line with private sector wages as measured by the ECI.

The second part of DOD's plan included in our legislation is a targeted pay raise that would be effective July 1, 2000. Taken in conjunction with the January 1, 2000, across-the-board pay raise 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 Montgomery 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 on Servicemembers and Veterans Transition Assistance to increase the attractiveness of the GI Bill to potential new recruits.

The Commission also recommended, and our legislation includes, a provision 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 certain bonuses and special and incentive pays that are critical to recruiting and retaining highly skilled military members. Under current law, the authority to pay these bonuses and special pays runs out at the end of this year. Reauthorizing this authority now through the end of 2002 will reassure military personnel managers and military members themselves—that these crucial authorities will continue to be available to them.

Mr. President, detailed costing of this legislation will have to be done by the Congressional Budget Office over the next several weeks. In my view however, the provisions contained in this legislation will not require us to increase the funding for national defense above the levels I understand will be proposed in President Clinton's FY 2001 budget. We should be able to accommodate any increase in funding necessary for these initiatives from lower priority programs.

I believe this package of pay and benefits is fair and will ensure that we continue to attract and retain high quality people to serve in our armed forces. All of us are committed to the well-being of our military members and their families. There may be some 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 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 1999.

America continues to rely heavily on its Armed Forces, and we want our service members and families to know how proud we in Congress are of their contributions to our country and to our national defense. We are deeply indebted to them for their service, and we have the highest respect for their dedication, their patriotism, and their courage.

This past year once again demonstrated the importance of guaranteeing that our military forces are well prepared to meet any challenge. However, I am very concerned about the future readiness of our Armed Forces. I am troubled by reports of declining readiness, poor retention, and recruiting shortfalls.

Two years ago the Army reduced its recruiting standards, and now the Navy has followed suit. Secretary of the Navy Danzig has announced that the Navy is lowering its standards for new recruits. This and other reductions in personnel standards by the Navy are taking place because the Navy fell short of its recruiting goals last year for the first time since the draft ended in 1973. Secretary Danzig also recently announced that retention of Naval Officers is so low that the Navy will have 50 percent fewer officers than required to man its ships in the coming years. These are serious concerns that must be addressed, and this legislation does so.

Congress must do all it can to provide for our men and women in the Army, Navy, Air Force, and Marine Corps. They have worked hard for us. Now we must provide the support they need to do their jobs and care for their families.

The Military Recruiting and Retention Improvement Act is a substantial step toward meeting these urgent needs of our service members, and will encourage more of these highly skilled and well-trained men and women to remain in the military ranks. I also hope that the provisions in this act will encourage more of the Nation's young men and women to join the military and serve their country in that way.

Our proposal increases base pay for our troops.

It contains pay table reforms and guaranteed pay raises above inflation.

It restores equity to the military retirement system by allowing 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 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 legislation aimed at addressing the problem of attracting and retaining the right men and women in the right numbers for our military. The effectiveness of our military, and its readiness to act immediately to protect our national interests, must always be a priority concern of Congress, as the continuing challenges around the world today demonstrate. There are few things that we will do this year that are more important, because the security of our country rests squarely on the shoulders of the men and women that provide our defenses and protect our interests. The outstanding performance of our forces in Desert Fox shows that the American military remains more than equal to the task, and that it 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 matched in 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 the urgent deployment of the Joint Chiefs. 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, it is not sufficient to address the long term readiness concerns we face. The military faces a complex set of issues affecting the readiness of our military. The Joint Chiefs of Staff have identified a range of critical problems for which we must take extraordinary measures to be sure that the nation's defenses are adequate to meet future challenges and threats.

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 Under Secretary of Defense Gadsler 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 change the current readiness and meeting the modernization needs of all the Services. So it is extremely important that we take extraordinary measures to be sure that we are spending our money wisely.

Manpower is a critical resource. There is no doubt that spending our money to adequately and fairly compensate our armed forces 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 to the American people [and] to military personnel that it is a good bill. I support supporting 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 personnel. I think the Joint Chiefs of Staff and the 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. 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. Reforming the pay table to make their daily lives easier and more enjoyable. Reforms that military personnel will no longer have to contribute $1,200 to take advantage of the Montgomery GI bill and would have increased monthly benefits. In addition, the service secretaries would be able to use their discretionary funds to transfer their education benefits to a spouse or child. Education is vital in today's society, yet financing needed training is an enormous burden to shoulder. I believe that many of our men and women in uniform choose to leave the service because they must find a job which will allow them to pay for their children's education. With the provisions in this bill, military personnel can continue their careers and more readily afford the cost of education.

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esteeemed 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 improve recruitment and retention of service members. The bill proposes several 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 resources to complete college and postgraduate degree programs in compensation for military service. The nation as a whole has prospered by the talented and trained workforce who benefitted from the GI bill.

Senator Cleland's bill goes beyond even those benefits which, I believe, were only extended to service members themselves. According to the legislation proposed, the military services can choose to permit service members to use those educational benefits to immediate family members should they choose to use them for themselves. Again, I believe the nation's labor force will benefit greatly from such flexibility, not to mention the families of our men and women in uniform.

Educational benefits provided by the Military Recruiting and Retention Improvement Act would be increased to reflect the rising cost of education. Monthly benefits would increase from $528 to $600 per month for member who served from $429 to $498 per month for those who served 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. At the request of 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 the potential impact of increasing assistance to military personnel on pay and benefits provided to defense and government civilian employees. A report 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.

Section 1.

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) 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 additional documentation 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 for such taxable year (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 application for a 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 for which an application for 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 supported by payment of an amount equal to the total of the taxes that would have been imposed by section 1401 of such Code with respect to all of the applicant's income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of such Code (notwithstanding paragraph (a) or (b) of section 1402(c) of such Code) but for the exemption under section 1402(e)(1) of such Code.

(b) Effective Date.—Subsection (a) shall apply with respect to service performed (to the extent specified in such subsection) in taxable years beginning after December 31, 1999, with respect to monthly insurance benefits payable under title II of the Social Security Act on the basis of the wages and self-employment income of any individual for months in such 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 out." 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 individual must be an "individual who is a full 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 action, 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 out" would thereafter be irrevocable and credited for 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 Amendment Act 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 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, today I rise 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\textsubscript{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\textsubscript{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 ecological damage from NO\textsubscript{x} emissions. We now know that ozone pollution, caused in large part by NO\textsubscript{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 1990 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 enjoy 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\textsubscript{x} emissions, which we underestimated as a cause of air pollution, in fact play an important role in the formation of ground level ozone, acid 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\textsubscript{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 toxic nitrogen entering water bodies stretching from the Gulf of Mexico 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 NOX emissions and further reduce SO2 emissions. My bills address the major sources of NOX and SO2. The Acid Deposition and Ozone Control Act of 1998 would affect "stationary sources" of NOX and SO2, mainly electric utilities, and the Clean Gasoline Act of 1999 would affect "mobile sources", mainly cars and trucks, and NOX and other tailpipe emissions.

ACID DEPOSITION AND OZONE CONTROL ACT: CONTROLLING STATIONARY SOURCES

When we designed the SO2 Allowance Program in 1990, our task was simplifityed by the fact that over 85 percent of SO2 emissions originated in fossil fuel-fired electric utilities. Utility emissions account for just under 30 percent of total NOX emissions, a smaller share than SO2 because of the high sulfur content of coal. My bill establishes a year-round cap-and-trade program for NOX emissions from the utility sector and mandates a further 50 percent cut in emissions of SO2 through the existing cap and trade program. Because of the human health risks of urban ozone pollution during the summer months, the Acid Deposition and Ozone Control Act requires utilities to surrender two allowances for each ton of NOX 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 highest.

In light of the impressive success and cost effectiveness of the cap and trade program which regulates SO2, the Acid Deposition and Ozone Control Act is designed to build on our success and to make the most of our experience. Under the proposed Phase III, total utility emissions of SO2 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 sulfur content standard for 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 in gasoline does not affect engine performance. In the 1970s, 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 NOX because of the high levels of sulfur in the gasoline they burn. The cost 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 and ALPCO) 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 of $2.8 billion to $4.5 billion for 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 as far as possible by establishing a "Phase III" under the existing program. Under the proposed Phase III, total utility emissions of SO2 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.

SEC. 2. FINDINGS.

Congress finds that --

(1) according to the National Air Quality and Emissions Trends Report of the Environmental Protection Agency, dated April 1997, 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 (PM10), and 78 percent of carbon monoxide emissions;

(2)(A) control gasoline sulfur concentration adversely affects catalytic converter function for 41 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 10 ppm:

(i) hydrocarbon emissions are reduced by 18 percent;

(ii) carbon monoxide emissions are reduced by 10 percent; and

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

(3)(A) recent studies conducted by the Association of International Automobile Manufacturers, and the Coordinating Research Council confirm that sulfur in vehicle fuel impairs 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 "$ULEV$")

(B) because sulfur-induced impairment of advanced technology emission control systems is not fully reversible under normal in-use conditions, nationwide, year-round sulfur standard is necessary to prevent impairment of vehicles' emission control systems as the vehicles travel across State lines;

(C) industry research on LEVs and ULEVs demonstrates that when gasoline sulfur concentration is lowered from 330 ppm to 40 ppm:

(i) hydrocarbon emissions are reduced by 34 percent;

(ii) carbon monoxide emissions are reduced by 43 percent; and

(iii) nitrogen oxide emissions are reduced by 51 percent;

(D) failure to control sulfur in gasoline will inhibit the introduction of more fuel-efficient technologies, such as direct injection engines and "NO, trap" after-treatment technology, which require fuel with a very low sulfur concentration; and

(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;

Sec. 3. Definitions.

For purposes of this Act:

(A) the term "gasoline" means all gasoline; and

(B) the term "motor vehicle" means all motor vehicles; and

(C) the term "combustion engine" means all internal combustion engines; and

(D) the term "vehicle" means all mobile sources.

SEC. 4. IMPLEMENTATION.

This Act shall be implemented by the Secretary, acting through the Environmental Protection Agency, in consultation with the counterpart State agency.

SEC. 5. ENFORCEMENT.

This Act shall be enforceable by all Federal and State courts.

SEC. 6. REPORT.

The Administrator shall submit to Congress a report on the implementation of this Act within one year of enactment.

Constitutional provision:

This Act is consistent with the Constitution of the United States of America.

SEC. 7. REPEAL.

This Act shall be deemed repealed by Congress if it is in effect for 15 years.

SEC. 8. TRANSITION.

This Act shall be deemed to be in effect as of the date of enactment and apply to gasoline manufactured or imported on or after that date and sold or delivered for sale after that date.
(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 Air Basin 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.—

(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 the motor vehicle gasoline that contains a concentration of sulfur that is greater than 40 parts per million per gallon of gasoline.

(c) REGULATION.—The Administrator shall promulgate such regulations as are necessary to carry out this paragraph.

(d) FUNDINGS.—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, built 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) will not result in increased sulfur oxide and sulfide emissions; and

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

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

(1) by striking ‘‘or (n)’’ and inserting ‘‘(n), and’’; and

(2) in paragraph (2), by striking ‘‘and (n)’’ and inserting ‘‘(n)’’.

S. 172

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) initial reports and subsequently annual reports to the Congress provide evidence that air quality has improved in many areas of the United States resulting from implementation of the Clean Air Act (42 U.S.C. 7401 et seq.) and the State Implementation Plans.

(2) states and local governments have developed successful programs to control air pollution.

(3) emissions of nitrogen oxide and sulfur dioxide and the acid deposition resulting from 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;

(4) to reduce utility emissions of nitrogen oxide and sulfur dioxide; 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 contribute to the deposition of nitrogen and sulfur in watersheds that are needed to reduce acid deposition and its serious adverse effects on public health, natural resources, built structures, sensitive ecosystems, and visibility;

(2) to reduce utility emissions of nitrogen oxide and sulfur dioxide; and

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

(c) ALLOCATION.—Section 211(b) of the Clean Air Act (42 U.S.C. 7545(b)) is amended—

(1) by striking ‘‘or (n)’’ and inserting ‘‘(n), and’’; and

(2) in paragraph (2), by striking ‘‘and (n)’’ and inserting ‘‘(n)’’.

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(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 the motor vehicle gasoline that contains a concentration of sulfur that is greater than 40 parts per million per gallon of gasoline.

(c) REGULATION.—The Administrator shall promulgate such regulations as are necessary to carry out this paragraph.

(d) FUNDINGS.—Congress finds that—

(1) initial reports and subsequently annual reports to the Congress provide evidence that air quality has improved in many areas of the United States resulting from implementation of the Clean Air Act (42 U.S.C. 7401 et seq.) and the State Implementation Plans.

(2) states and local governments have developed successful programs to control air pollution.

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(4) to reduce utility emissions of nitrogen oxide and sulfur dioxide; and

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

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

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

(1) to recognize the current scientific understanding that emissions of nitrogen oxide and sulfur dioxide contribute to the deposition of nitrogen and sulfur in watersheds that are needed to reduce acid deposition and its serious adverse effects on public health, natural resources, built structures, sensitive ecosystems, and visibility;

(2) to reduce utility emissions of nitrogen oxide and sulfur dioxide; and

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

(c) ALLOCATION.—Section 211(b) of the Clean Air Act (42 U.S.C. 7545(b)) is amended—

(1) by striking ‘‘or (n)’’ and inserting ‘‘(n), and’’; and

(2) in paragraph (2), by striking ‘‘and (n)’’ and inserting ‘‘(n)’’.

S. 172

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
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 NOx allowances by the Administrator under subparagraph (D) shall not be subject to judicial review.

(B) ALLOWANCE TRANSFER SYSTEM.—

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

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

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

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

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

(4) CERTIFICATION OF TRANSFER.—A transfer of a NOx allowance shall not be effective until the Administrator certifies the transfer, signed by a responsible official of the person making the transfer, is received and recorded by the Administrator.

(c) NOx ALLOWANCE TRACKING SYSTEM.—Not later than 18 months after the date of enactment of this Act, the Administrator shall promulgate regulations for issuing, recording, certifying, tracking the use and transfer of NOx allowances that will specify all necessary procedures and requirements for an orderly and competitive functioning of the NOx allowance system.

(d) PERMIT REQUIREMENTS.—A NOx allowance allocation or transfer shall, on recordation by the Administrator, be considered to be a part of the 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 NOx allowances under subsection (a)(5)(D), the Administrator shall place 10 percent of the total annual NOx allowances of the State in a new source reserve to be distributed by the Administrator.

(A) for calendar years 2002 through 2005, to sources that commence operation after 1996;

(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
"(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 harvest.

(a) in the case of allowances allocated for calendar years 1997 through 2004, 1 ton of sulfur dioxide and 250 million Btu's of mercury emissions per year.

(b) in the case of allowances allocated for calendar year 2005 and each calendar year thereafter, 0.5 ton of sulfur dioxide; and

(c) in the case of allowances allocated for calendar years 1997 through 2004, 1 ton of sulfur dioxide and 250 million Btu's of mercury emissions per year.

SEC. 8. REGIONAL ECOSYSTEMS.

(a) In General.—Not later than December 31, 2002, the Administrator shall submit to Congress a report identifying objectives for the regional ecosystems referred to in paragraph (1) and assessing the status of each objective identified in surveys begun in 1984.

(1) DETERMINATION.—Not later than December 31, 2002, the Administrator shall determine whether emissions reductions under section 4 are sufficient to protect sensitive ecosystems of the Adirondack Mountains, Lake Champlain, Long Island Sound, and the Chesapeake Bay.

(b) ACID NEUTRALIZING CAPACITY.—The report under paragraph (1) shall—

(1) include acid neutralizing capacity as an indicator; and

(2) identify as an objective under paragraph (1) the objective of increasing the proportion of water bodies in sensitive receptor areas with acid neutralizing capacity greater than zero from the proportion identified in surveys begun in 1984.

(c) REGULATIONS.—

(1) DETERMINATION.—Not later than December 31, 2002, the Administrator shall determine whether emissions reductions under section 4 are sufficient to achieve the objectives specified in subsection (a)(1).

(2) PROMULGATION.—If the Administrator determines under paragraph (1) that emissions reductions under section 4 are not sufficient to achieve 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 other measure, as the Administrator determines are necessary to protect the sensitive ecosystems described in subsection (a)(1).

SEC. 9. GENERAL COMPLIANCE WITH OTHER PROVISIONS.

As 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 practicability of monitoring mercury emissions from all combustion units with a capacity equal to or greater than 250 million Btu'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 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 million Btu'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 status of the research described in paragraph (1) and the results of monitoring activities 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, 2002, and 2003.

By Mr. MOYNIHAN:

S. 173. A bill to amend the Immigration and Nationality Act to ensure that the granting of immigration relief for illegal immigrants is fair and efficient.

Mr. MOYNIHAN. Mr. President, today I rise to introduce a bill that will amend several parts of our existing immigration laws and who pose no threat to our communities.

Today I rise to introduce a bill that will amend several parts of our existing immigration laws and who pose no threat to our communities.

The first change will amend Section 240A(a) of the Immigration and Nationality Act. In 1996, the laws applying to criminal aliens from seeking a judicial review in deportation 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.

Similarly, I believe that aliens should have the right to 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 beyond the time when they are heard. The law should be continued. This is unfair.

My second change amends Section 240A(1)(a) of the same act. At present, the Immigration and Nationality Act now bar relief for anyone convicted of a felony. This provision has led to many injustices because of the sheer number of offenses that are now represented.

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 of residency period stops when an aggravated crime is charged and not when the crime is or was committed.

Another of my amendments made the transitional rules permanent governing 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 1996, 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.

I propose that we make the provisions permanent.

I propose that we amend the Immigration and Nationality Act to ensure that the granting of immigration relief for illegal immigrants is fair and efficient.
CONGRESSIONAL RECORD—SENATE
JANUARY 19, 1999

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:

(b) DIVERSITY LOTTERY.—Section 221(a)(2)(B) of the Immigration Act of 1990 (8 U.S.C. 1153(a)(2)(B)) is amended to read as follows:

(2) REPEAL.—Section 303(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is repealed.

(c) JUDICIAL REVIEW.—Section 242(g) of the Immigration and Nationality Act (8 U.S.C. 1252(g)) is amended by adding at the end the following:

(b) REPRESENTATION.—Section 292 of the Immigration and Nationality Act (8 U.S.C. 1326(d)) is amended—

(1) by striking "in" and inserting "except as provided in paragraph (2),"; and

(2) by adding at the end the following:

(d) DIVERSITY LOTTERY.—Section 221(a)(2)(B) of the Immigration Act of 1990 (8 U.S.C. 1153(a)(2)(B)) is amended to read as follows:

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 244(c) (8 U.S.C. 1255c(c)).

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

(4) Section 201(a)(1)(F) and (G) (8 U.S.C. 1154a(1)(F) and (G)).


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

S 173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
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 welfare programs are not ready for the new millennium—84 percent of Medicaid systems, 76 percent of food stamp, and 75 percent of TANF systems were not compliant. Since these programs are administered at the state and local level, it is these computers which ensure that benefit payments are on time and accurate. Given the lack of means of those assisted by the programs, the possible disruption of benefit payments should be a cause for concern—a trillion dollars in benefits payments might not be delivered because of the millennial malady.

Historically the fin de siecle has caused quite a stir. Prophecy, prophets, monks, mathematicians, and soothsayers warn Anno Domini 2000 will draw the world to its catastrophic conclusion. I am confident that the Y2K problem will not play a part in this. But the election 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 under the jurisdiction of Federal or State governments which provide cash or in kind, fairly evaluated, including equipment, or services.

(C) FOOD STAMPS.—The food stamp program, as defined in section 3(b) of the Food Stamp Act of 1977 (7 U.S.C. 1281a).

(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 program designed to promote safe and stable family functioning (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. 9857 et seq.) (including funding provided under section 41B of the Social Security Act (42 U.S.C. 618).

(H) TANF.—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.

SECTION 3. GRANTS TO STATES TO MAKE STATE AND LOCAL GOVERNMENT ASSISTANCE 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 the programs described in subsection (a)(1) Y2K compliant.

(b) APPLICATION.—

(1) MATCHING REQUIREMENT.—

(A) IN GENERAL.—A State that is awarded a grant under this section shall match the grant amount, subject to the requirement that the amounts may be counted for purposes of determining the expenditure requirement under subparagraph (A) may be in cash or in kind, fairly evaluated, including equipment, or services.

(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 under this section shall remain available until expended without fiscal year limitation.

(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 containing 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 2003 funded from the Y2K Emergency Supplemental Funds appropriated in the FY 99 Omnibus Act, Public Law 106-277.

By Mr. MOYNIHAN:

S. 175. A bill to repeal the habeas corpus requirement; the District of Columbia court and 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. ROY 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:

(A) 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—

(B) Was the result 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 unfounded the framers. Thus, under 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 mightily and properly concerned about the public safety, which is why under a virus that will surely spread throughout our system of laws.

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.

This is one of the fundamental civil liberties upon which every democratic society of the world has built political liberties that have come subsequently.

I make the point that the abuse of habeas corpus--appeals of capital sentences--is hugely overstated. A 1995 study by the Department of Justice's Bureau of Justice Statistics determined that habeas corpus appeals by death row inmates constitute 1 percent of all federal filings. Habeas corpus 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 to respond to the tragic circumstances of the Oklahoma City bombing 1995. Habeas corpus has little to do with terrorism. The Oklahoma City bombing was a Federal crime and has been tried in Federal court.

Nothing in our present circumstance requires the suspension of habeas corpus, which was the practical effect of the provision in that bill. To require a Federal court to defer to a State court's judgment unless the State court's decision is “unreasonably wrong” effectively precludes Federal review. I find this disorienting.

Anthony Lewis has written of the habeas provision in that bill: “It is a new and remarkable concept in law: that mere wrongness in a constitutional decision is not to be noticed.” We have agreed to this; to what will we be agreeing if we agree to permit the State court to tamper with the Great Writ of Habeas Corpus? The., a person of great experience, long a student of the courts, “It is a new and remarkable concept in law: that mere wrongness in a constitutional decision is not to be noticed.”

Backward read the 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.”

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 have provided in this statement 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, D.C.

DEAR MR. PRESIDENT: The habeas corpus provisions in the Senate terrorism bill, which the House will soon take up, are unconstitutional and designed in large part to expedite the death penalty review process, the litigation and constitutional rulings will in fact delay and frustrate the dispossession of Wingo. We strenuously urge you to communicate to the Congress your resolve and your duty under the constitution, to prevent the enactment of such unconstitutional legislation and the consequent disruption of so critical a part of our criminal punishment system.

The constitutional infirmities reside in three provisions set forth in the legislation: one requiring federal courts to defer to erroneous state court rulings on federal constitutional matters, one imposing time limits which would operate to frustrate federal habeas corpus review at all, and one preventing the 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 court files its on a 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 a vacuum. The period of filing of federal habeas corpus petition. Indeed, the period could be consumed before counsel had even been appointed in the state process, so that there 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 Cases 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 it 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 essential to the due process of law." (1980). Therefore, this provision in that bill is unconstitutional legislation and the consequence of 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 it as one of the privileges and immunities so protected.

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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, then-Minority Leader Mondale sought to combine the two 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 not want habeas corpus every time." Senator Chafee noted that his uncle, a Harvard law scholar, has called habeas corpus "the most important human rights provision in the Constitution." With the debate back on constitutional grounds, Senator Biden's amendment to delete the deference requirement was rejected, 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 measure 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 evident weaknesses be permitted wherever the factual record is deficient on an important constitutional issue. Either this 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, and to seize the 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 the cornerstone of the rule of law. They are intended in large part to expedite the death penalty review process, the litigation and the prohibition against ex post facto laws—obviated the need to add a Bill of Rights to the Constitution.

The letter from the Attorneys General continues, but that is the gist of it. I might point out that there was, originally, an objection to ratification of the Constitution, with those objecting arguing that there had to be a Bill of Rights added. Madison wisely added one during the first session of the first Congress. But he, and Hamilton and Jay, as authors of The "Federalist Papers," argued that with habeas corpus and the prohibition against ex post facto laws in the Constitution, there would be no need even for a Bill of Rights. As Madison wrote, "(the Bill) 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 perhaps on occasion 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 "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 the 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 before. 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 the Constitution? Why are we in such a rush to amend the Constitution?

There being no objection, the material was ordered to be printed in the Record, as follows:
There have been American presidents to whom the Constitution has been a nuisance to be overruled by any means necessary. In 1978, only seven years after the Bill of Rights was ratified, John Adams triumphantly led Congress to reject the Alien and Sedition Acts, which imprisoned a number of journalists and others for bringing the president or Congress into ‘contempt or dis- pute’. He wanted to keep his power as small as possible, for the First Amendment.

During the Civil War, Abraham Lincoln actually suspended the writ of habeas corpus. Alleged constitutional guarantees of peaceful, disloyal 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 enemies.

No American president, however, has done so much damage to constitutional liberties as Bill Clinton—often with the consent of the Republican Congress. But it has been Clinton who had the power and the will to seriously weaken our binding document in ways that were almost entirely ignored by the electorate and the press during the campaign.

Unlike Lincoln, for example, Clinton did a lot more than temporarily suspend habeas corpus. One of his bills that has been enacted into law guts the rights that Thomas Jefferson 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—contrary to the ACLU’s Laura Murphy recently told the National Law Journal—the ‘most wire-tap-friendly administration in history.’ And Clinton ordered the Justice Department to appeal to the 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 lewing 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 Republic, ‘Clinton administration lawyers 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 a budget surplus.

What more could we possibly want?—[From the New York Times, Oct. 14, 1996]

ABROAD AT HOME; CLINTON’S SORRIEST RECORD

(Bill Clinton)

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 the effects of an attack on the Bill of Rights. The courts of appeal have been used much more than in the past to protect the rights of aliens, stalking the courts with deportations actions; a Federal district judge, finding that it was an unlawful selective program, declared that there was no violation of constitutional rights.

The Senate might well have moderated the harshest provisions of the law. 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 violating constitutional rights. The new immigration law says the courts may not proceed against people for exercising their constitutional rights.

No American president, however, has done so much damage to constitutional rights as Bill Clinton—often with the consent of the Republican Congress. But it has been Clinton who had the power and the will to seriously weaken our binding document in ways that were almost entirely ignored by the electorate and the press during the campaign.

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There is a chilling insouciance in Clinton’s lewing 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 converts the right of aliens who may be entitled to legal status into a legal right under a 1988 law making the giving of amnesty to illegal aliens."

Cases involving as many as 300,000 people may still qualify for amnesty have been waiting to be decided by courts which have 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 Republican Bob Dole, who has clearly been in agreement with this big government approach to constitutional “guarantees.”

[From the Washington Post, November 16, 1996]

FIRST IN DAMAGE TO CONSTITUTIONAL LIBERTIES

(By Nat Hentoff)

No 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 are 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, which was founded on the premise that the President’s civil liberties record probation. (The Post did mention the FBI at the White House.) Other ethical problems were cited, but nothing mentioned about habeas corpus, court-stripping, the lowering of the content of the Internet to material suitable for children and the Clinton administration’s derecognition of the right 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 D. Don Wycliff, editor-page editor of the Chicago Tribune. He says New York Times and The Washington Post 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 a budget surplus.

What more could we possibly want?—[From the New York Times, Oct. 14, 1996]

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The Senate might well have moderated the harshest provisions of the law. 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 violating constitutional rights. The new immigration law says the courts may not proceed 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 delivering discriminatory policies, for example the practice of disallowing virtually all asylum claims by people fleeing persecution in certain countries. The law bans all lawsuits of this kind.

Those are just a few examples of recent invasions on due process of law and other constitutional guarantees. A compelling piece by John Heilemann in the NYU School of Law’s 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 decisions that was larger.

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 churning 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 REFER TO A STATE COURT UNLESS THE STATE COURT ACTED IN AN UNREASONABLE MANNER IN HARBING HABEAS CORPUS CASES.

(a) REPEAL—Section (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 "(c)" and "(d)."

By Mr. MOYNIHAN:

S. 176. A bill to direct the Secretary of the Interior to conduct a study of alternative means for commemorating and interpreting the history of the Harlem Renaissance, and for other purposes; to the Committee on Energy and Natural Resources.

S608 CONGRESSIONAL RECORD—SENATE January 19, 1999
Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill to establish a cultural zone commemorating the Harlem Renaissance, one of this country’s greatest cultural, literary, and musical movements. Pioneers of the Renaissance, W. E. B. DuBois, Alain Locke, and James Weldon Johnson, the Harlem Renaissance was at the forefront of this country’s intellectual, literary, and artistic development in the 1920s. Langston Hughes, Zora Neale Hurston, Claude McKay, Countee Cullen, Jean Toomer, and Wallace Thurman were among this movement’s most gifted writers. The Harlem Renaissance also included the music of Duke Ellington, the theatrical productions of Eubie Blake and Noble Sissle, and the rich nightlife of the Cotton Club, the Savoy, and Connie’s Inn.

This bill empowers the Secretary of the Interior, acting through the National Park Service, to conduct a study to determine how best to memorialize this great movement and to preserve and maintain its rich history. Working and cooperating with the appropriate 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 1920s;

(2) W. E. B. DuBois, James Weldon Johnson, and Alain Locke planted the seeds of the New Negro Movement, while Langston Hughes, Zora Neale 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 musical productions of Eubie Blake, and the nightlife of the Cotton Club and the Alhambra 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 provide indemnity compensation to Kathryn E. Box, the now deceased mother of Donald C. Pence. It is rare that a federal agency admits a mistake. In this case, the Department of Veterans Affairs has admitted that a mistake was made and explored ways to permit payment under the law, including equitable relief, but has found no provision to release the remaining benefits that were unpaid to Mrs. Box at the time of her death. My bill would correct this injustice and I urge my colleagues to support this measure.

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

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

S. 178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. SHORT TITLE. This Act may be cited as the “Relief of Donald C. Pence Act.”

SEC. 2. 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 $21,128 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.

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 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 in the RECORD.

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

S. 178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. SHORT TITLE. This Act may be cited as the “National Center for Social Work Research Act.”

SEC. 2. ESTABLISHMENT OF NATIONAL CENTER FOR SOCIAL WORK RESEARCH.

(a) IN GENERAL.—Section 401(b)(2) of the Public Health Service Act (42 U.S.C. 261(b)(2)) is amended by adding at the end the following:

"(F) The National Center for Social Work Research;"

(b) ESTABLISHMENT.—Part E of title IV of the Public Health Service Act (42 U.S.C. 287..."
S610

CONGRESSIONAL RECORD—SENATE
J January 19, 1999

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 purposes of the National Center for Social Work Research (referred to in this subpart as the ‘Center’) are to conduct and disseminate research and other information with respect to the social, economic, and behavioral conditions and factors affecting the health and well-being of individuals and families, 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.

(a) 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 travel and subsistence and dependency allowances) as the Director determines necessary.

(b) Gifts.—The Director of the Center may make grants to nonprofit institutions to provide training and instruction and establish, in the Center and in other nonprofit institutions, research traineeships and fellowships in the study and investigation of topics related to health, community health, and the social work care of individuals with and families of individuals with acute and chronic illnesses, including child abuse and neglect and child and family care.

(2) Gifts.— The Secretary shall make appointments to the advisory council in such a manner as to ensure that the members do not all expire in the same year.

(3) Compensations.— 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) 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.

(d) Administrative Proceedings.—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 for its effective participation in the functions of the advisory council.

(e) Comments and Recommendations.— The advisory council may prepare, for inclusion in the biennial report under section 489—

(1) comments with respect to the activities of the advisory council for the fiscal years for which the report is prepared; and

(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.

(f) Advisory Council.—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 a biennial report for 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 shall make 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 489(g).”

By Mr. INOUYE:

S. 179. A bill to amend the Public Health Service Act to provide health care practitioners in rural areas with the proper tools, training, and resources, including both physical and mental care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.
Am ericans 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 mental health 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 services as part of the health care team will contribute to the overall health of rural communities.

The Rural Preventive Health Care Training Act of 1999 would implement the risk-reduction model described in the IOM study. This model is based on the identification of risk factors and targets specific interventions for those risk factors.

The human suffering caused by poor health is immeasurable, and places a huge financial burden on communities, families and individuals. By implementing preventive measures to reduce this suffering, the potential psychological and financial savings are enormous.

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

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

S. 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, institutions to enable 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 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 this subsection, a health care practitioner shall be determined by the eligible applicant involved to be practicing, or desiring to practice, in a rural area.

(c) LIMITATION.—Amounts received under a grant made or contract entered into under this section shall be—

(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 serve predominantly rural communities to facilitate the provision of preventive health care training;

(3) to provide training in appropriate research and program evaluation skills in rural communities;

(4) to create and implement innovative programs and curriculums with a specific prevention component;

(5) for other purposes as the Secretary determines to be appropriate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 2000 through 2002—

$5,000,000 for each fiscal year.

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 cost-effective primary care to all Americans by offering grants and incentives for nursing schools to establish primary care clinics in underserved areas where additional medical services are most needed. In addition, this measure provides the opportunity for nursing schools to enhance the scope of student training and education by providing firsthand clinical experience in primary care facilities.

Nursing school administered primary care clinics or nonprofit entity primary care centers developed primarily in collaboration with university schools of nursing and the communities they serve. These centers are staffed by faculty and staff who are nurse practitioners and public health nurses. Students supplement patient care while receiving preceptorships provided by college of nursing faculty and primary care physicians, often associated with academic institutions, who serve as collaborators with nurse practitioners.

To date, the comprehensive models of care provided by nursing clinics have yielded excellent results including significantly fewer emergency room visits, fewer hospital inpatient days, and less use of specialists, as compared to conventional primary health care. The LaSalle Neighborhood Nursing Center, for example, reported that in 1997, 11 percent of its primary care clients reported hospitalization for asthma; fewer than 4 percent of expectant mothers who enrolled delivered newborn infants; and 17 percent of young children were immunized within six months. In addition, there was a 50 percent reduction in emergency room visits and a 79 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 into the system.

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. 1395d(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 159(a)(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 1005 of the Social Security Act (42 U.S.C. 1396a) 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 section shall apply with respect to payments made under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 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 only to a patient under the care of a physician, and for other purposes; to the Committee on Finance.

AUTONOMOUS FUNCTIONING OF CLINICAL PSYCHOLOGISTS AND SOCIAL WORKERS UNDER MEDICARE, COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY PROGRAM

Mr. INOUYE. Mr. President, today I rise to introduce legislation to authorize the autonomous functioning of clinical psychologists and clinical social workers under Medicare, comprehensive outpatient rehabilitation facility program.

In my judgment, it is truly unfortunate that Medicare requires clinical supervision of the services provided by certain health professionals and does not allow these health professionals to function to the full extent of their state practice licenses. It is especially inappropriate that those who need the services of outpatient rehabilitation facilities have access to a wide range of social and behavioral science expertise. Clinical psychologists and clinical social workers are recognized as independent providers of mental health care services through the Federal Employee Health Benefits Program, the Civilian Health and Medical Program of the Uniformed Services, the Medicare (Part B) Program, and numerous private insurance plans.

Mr. President, I ask unanimous consent that the text of 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 1902(c)(2)(E) of the Social Security Act (42 U.S.C. 1396r(c)(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 establish a prisoner-of-war medal program for civilian Federal employees; and for other purposes; to the Committee on Finance.

PRISONER-OF-WAR MEDAL: ISSUE

Mr. INOUYE. Mr. President, today I rise to introduce legislation to enable former prisoners of war who have been separated honorably from their respective services and who have been forcibly detained or interned as described in subsection (a) of such section.

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 FEDERAL EMPLOYEES.

(a) AUTHORITY TO ISSUE PRISONER-OF-WAR MEDAL.—(1) A prisoner-of-war medal shall be issued to a person who is forcibly detained or interned by an enemy government or a hostile force during periods of war; to the Committee on Finance.

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 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.
§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.—Section 1063 is amended by inserting after the item relating to prisoners of war described in subsection (a) the following new item:

``(b) COVERED INDIVIDUALS.ÐSubsection (a) applies to any former prisoner of war who—

(1) is serving or has served on 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.ÐIn 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 disability' has the meaning given the term in section 101(18) of title 38:

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. WINTERS, Mr. LEVIN, 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 in support of a bill that will establish a Chief Agricultural Negotiator in the Office of the United States Trade Representative to the Committee on Finance.

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.

In September 1998, American farmers and ranchers faced the first-ever monthly drop in 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 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 tobacco production, third in cotton, and leading in corn. 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 one percent of their income coming from exports, Missouri farmers need to know that their ability to export will expand over time, rather than decrease. They are therefore 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 KERR and 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 interest of 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. 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 represent the United States' interest in negotiations with Mexico and the European Union.

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 NAFTA to provide protection and relief for NAFTA and other bilateral 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 is a priority. 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 reorganiza-
tion of the Ninth Circuit Court of Appeals, and for other purposes; to the Committee on the Judiciary.

NINTH CIRCUIT DIVISION

Mr. MURKOWSKI. Mr. President, I am pleased to be joined by my distinguished colleagues from Washington: Senators SLADE GORTON, in introducing the Committee on the Judiciary; Nation's economy.

I hope the administration will recognize the same year. By establishing this po-
ters reached a record level of $60 bil-
Canada. In 1996, U.S. agricul-
tural exports reached a record level of $60 bil-
ian. In 1996, U.S. agricultural ex-
reduction to the current limited and ineffective on banc system. Lastly, the Circuit would re-
main intact as an administrative unit, functioning as it now does.

It is important to note that the Com-
mision adopted the arguments that I and several other Senators have put forth to justify a complete division of the Ninth Circuit—Circuit population, record caseloads, and inconsistency in judicial decisions. However, the Com-
mision rejected an administrative di-
vision because it believed it would “dis-
rupt the core Ninth Circuit of the administrative advantages afforded by the present circuit configuration and deprive the West and the Pacific seaboard of a means for main-
taining 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 comments concerning the structuring 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 pro-
cedure for maintaining uniform decisonal law within the circuit, and relate the appellate forum more closely to the region it serves.”

Mr. President, swift congressional ac-
tion is needed. One need only look at the contours of the Ninth Circuit to see that we need to reorganize.

Stretching from the Arctic Circle to the Mexican border, past the tropics of Hawaii and across the International Dateline to Guam and the Mariana Is-
lands, by any means of measurement, the Ninth Circuit is the largest of all U.S. Circuit Courts of Appeal.

The Ninth Circuit serves a popu-
lation of more than 49 million people, well over a third more than the next largest circuit. By 2010, the Census Bu-
ceau 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 develop-
ments within the Ninth Circuit. This unwieldy caseload creates an inconsist-
ency in Constitutional interpretation. In fact, Ninth Circuit cases have an ex-
traordinarily 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 uni-
ified 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 re-
organization of the Ninth Circuit. The Fourteenth Circuit of the Ninth Circuit would join Alaska, Washington, Oregon, Montana, and Idaho. This pro-
posal reflects legislation I introduced in the last Congress which created a new Twelfth Circuit consisting of the States of our lives. Like my pre-
vious legislation, the Commission’s re-
port 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 Com-
mmittee conducts hearings on their legis-
lation, certain modifications be closely examined:

1. Elimination of the requirement that judges within a region are re-
quired to rotate to other regions of the Circuit;

2. Adjustment of the regional align-
ments to include Hawaii, the Mariana Islands and the Territory of Guam in the Northern Region; and

3. Shortening the term in which the Federal Judicial Center conducts a study of the effectiveness and effi-
ciency 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 resi-
dents of the Ninth Circuit are the per-
sons that suffer. Many wait years be-
fore 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, therefore, 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 information is held by their bank, securities broker-dealer, or insurance company, 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 Ameri-
can's personal, sensitive financial in-
formation that is held by their bank, securities broker-dealer, or insurance company. I am introducing a bill to provide basic financial privacy protec-
tions to all our citizens. I am pleased that Senators DODD, EDWARDS, and HOLLINGS are joining me in the introduction of the Financial Infor-
mation 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 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 new financial 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, brokers 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 confidence in the financial institutions that use their personal information. An article in the Washington Post in an October 31, 1998 editorial entitled “Privacy Here and Abroad” observed widespread public concern over privacy, stating: Concern over the privacy of personal data is sharpening as the problem appears in more and more fields. In the online world, everything from employer testing of people’s genetic predisposition to resale of their online reading habits or their bank records. When the data are 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 concern, Congress passed privacy laws restricting private companies’ disclosure of customer information without customer consent, such as in the Cable Communications Policy and the Video Privacy Protection Act. Yet while video rentals and cable television selections are prohibited by law from being disclosed, millions of Americans’ financial transactions each day have no Federal privacy protection.

Abuses have arisen from the sharing of financial information without a customer’s knowledge or permission. For example, after 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: 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 unsolicited, non-banking affiliates. Brokerage affiliates routinely solicit bank customers based upon the bank’s 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 diversify and “one-stop shopping” becomes the norm, 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 Privacy Defender, recently expressed concern about a recent Treasury decision to allow banks to affiliate with securities companies.

[Note: The text continues with various references and statistics.]

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tion 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 unimaginable forms of commerce become ever more important."

The 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 published 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 means of 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 of information to affiliates—unless the customer objects, institutions could sell or share customer information with an unaffiliated third party;
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, securities holding or insurance company. The regulators would require:

1. define the term "confidential customer information" to be personally identifiable information that is not personally identifiable, or disclose necessary to execute the customer's transaction, and other limited purposes. The Federal bank and securities regulators would enforce the rules.

The bill recognizes the complexity of the subject matter involved. Rather than have Congress micromanage a 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.
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 of that person 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 subpart, in a separate and easily identifiable and distinguishable form;

(5) require that the covered person provide notices 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 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 (5) are followed by the provider of the information (or an affiliate or agent of that provider); and

(8) establish a means of examination for compliance and enforcement of such rules and regulations and this subpart.

(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 633 of the Fair Credit Reporting Act, 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 most sensitive personal kinds of privacy. Even the most private of thoughts will be kept from prying eyes. As with medical data, though, the privacy of even highly sensitive financial data has been increasingly compromised by 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 and finance bill, is weighing an 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 and finance bill already passed by the House, that would allow banks to merge more freely with the providers of other financial services, such as insurers. In the current law, however, 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 but 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 Ins. 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 specific type.

An amendment proposed by Sens. Paul Sarbanes and Christopher Dodd is likely to face a difficult time, though, as the Senate's Banking Committee is expected to take up the legislation. The committee's top Democrat, Sen. Richard Durbin of Illinois, includes the Fair Credit Reporting Act as a key piece to a wealth of customer information, in-cluding mutual fund and consumer claims on insurance policies, and credit card, mortgage and car loan balances. Many consumer advocates are worried that such sensitive financial information might be devalued by mergers or sold to marketers who wish to target customers of a specific type.

So far, this privacy debate has centered mainly on the use of patients' medical records. An amendment proposed by Sens. Paul Sarbanes and Christopher Dodd is likely to face a difficult time, though, as the Senate's Banking Committee is expected to take up the legislation. The committee's top Democrat, Sen. Richard Durbin of Illinois, inclusion the Fair Credit Reporting Act as a key piece to a wealth of customer information, including mutual fund and consumer claims on the abil-ity 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 consumers many of them sold complex derivative securities that were far too risky for them. Nationsbank'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, vice 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 driver of many mergers. Banks want to broaden their ability to "cross-market" credit cards to checking 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, 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 broker, who tells you you have new stock 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 newfound riches.

Both situations may be hypothetical but they aren't so far-fetched, according to a growing number of bankers, lawmakers, consumers 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, with and legislation before Congress to make such mergers even easier, there is increasing concern about the amount of personal and financial 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. 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.

J ust 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 and consumer claims on insurance policies, and credit card, mortgage and car loan balances. Many consumer advocates are worried that such sensitive financial information might be devalued by mergers or sold to marketers who wish to target customers of a specific type.

It is very important for banks to realize that the privacy area is something new, different and more difficult than what they've dealt with before," said John Harris, director of the Center for Banking and Financial Services.

"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.

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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 issue 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 banks 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 even recall seeing anything like this," Ms. Williams said.

As part of its merger application to the Federal Reserve, Citigroup made a "Global Privacy Promise," which would "provide customers the right to prevent Citigroup from sharing customer information with unaffiliated third parties for cross-marketing purposes." Customers will also be given opt-out provisions and Travelers has pledged that it will not share the medical 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 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 more contexts, from the routine 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 Americans as a result of a European Union directive called the European Union Data Privacy Directive. This directive goes into effect. The European directive has drawn attention not only because it addresses what will be known as a European law, but also because the new directive comes with prohibitions on export that would be impossible to avoid. Citigroup and other planned banking behemoths strain to avoid having their data used for other purposes, banks generally do little to alert customers to their rights—often burying it in legal boilerplate.

"We are very concerned," said Edward Yingling of the American Bankers Association, "that this constant dossier-compiling makes possible a more general right to data privacy." 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 charging you 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 financial 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.

Что бы такое могло повлечь за собой такое использование данных? Это могут быть наказания, штрафы, аресты, уголовные дела, и даже смерть. С другой стороны, это также может привести к увеличению объемов торговли данными, что может быть полезно для бизнеса. В общем, это все зависит от того, как эти компании будут использовать данные.

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 jurisdiction of such regulatory authorities' jurisdictions.

Sec. 3. Privacy of confidential customer information

(A) Rulemaking.—The Act requires the Federal Reserve, Federal Deposit Insurance Corporation, National Credit Union Administration, the 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.

(B) Customer opt-out rights.—The Act provides that consumers have the right to prohibit disclosure or sharing of confidential customer information with affiliates of the institution or any other person.

(C) Ombudsman.—The Act requires the Federal Reserve, Federal Deposit Insurance Corporation, National Credit Union Administration, the Office of the Comptroller of the Currency and Securities and Exchange Commission to designate an Ombudsman to receive complaints related to the Act's provisions.

(D) Enforcement.—The Act provides for enforcement of the Act by the Federal Reserve, Federal Deposit Insurance Corporation, National Credit Union Administration, the Office of the Comptroller of the Currency and Securities and Exchange Commission.

(E) Effective date.—The Act specifies that it shall take effect on the date of enactment.

Summary

The Financial Information Privacy Act of 1999 is a bill that was introduced in the United States Senate on January 19, 1999. It is designed to protect the privacy of financial information relating to the customers of financial institutions. The bill requires financial institutions to provide customers with access to their financial information and to inform them of the types of information that will be shared with third parties. The bill also establishes penalties for violations of the act and provides for an ombudsman to receive complaints related to the act. The act became law on October 9, 1999.
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.

Mr. President, over the past year I have introduced comprehensive medical privacy legislation. I plan to soon introduce the Financial Information Privacy Act of 1999. 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 on a roll-call vote of 10-8 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 Senators DODD and BRYAN, along with others, to reintroduce and pass our legislation within 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 and I 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 our personal privacy. I believe that everywhere we turn, new technologies, new communications media, and new business services create new threats and pose a threat to our ability to keep our lives to ourselves, to live, to work and think without having giant corporations looking over our shoulders.

The 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. 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 our government. But the new technology also presents new threats to our individual privacy and security. In particular, it controls 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 one the customer thought he or she was providing it for. 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 financial information by directing the Federal Reserve Board, Office of Thrift Supervision, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and the Securities and Exchange Commission to jointly promulgate rules requiring financial institutions to protect the customer's privacy. These rules require financial institutions to protect the customer's privacy:

1. to inform their customers what information is to be disclosed, and to whom and for what purposes the information is to be disclosed;
2. to allow customers to review the information for accuracy; and
3. to allow customers, upon request, to obtain the customers' consent to disclosure, and for existing customers, to allow 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 protect the privacy issues raised by ultra-competitive marketplace in the information age.

For the past three Congresses, I have introduced comprehensive medical privacy legislation. I plan to soon introduce the Medical Information Privacy and Security Act to establish the first comprehensive federal medical privacy law. It would close the existing gaps in federal privacy law and protect the privacy of personally identifiable health information. Medical records contain the most intimate, sensitive information about a person and must be safeguarded.

This Congress will also need to consider how our privacy safeguards for personal, financial and medical information measure up to the tough privacy standards established by the European Union Data Protection Directive, which took effect on May 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 the 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 category of data collection; bans on the collection and storage of unnecessary personal information; requirements regarding data accuracy; limitations regarding duration of storage; and centralized supervision of privacy protections and practices.

The problem is not that Europe protects privacy too much. The problem is...
our own failure to keep U.S. privacy laws up to date. The EU Directive is an example of the kind of privacy protection that American consumers need and do not have. It has encouraged European companies to develop good privacy practices, to help create incentives to reduce wasteful use of existing water supplies.

A major problem for many streams 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 from 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 States.

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:

SEC. 1. SHORT TITLE. This Act may be cited as the "Water Conservation and Quality Incentives Act."

SEC. 2. FINDINGS.

Congress finds that—

(1) in many parts of the United States, water supplies are insufficient to meet current or expected future demand during certain times of the year;

(2) a number of factors (including growing populations, increased demands for food and fiber production, and new environmental demands for water) are increasing demands on existing water supply sources;

(3) increased water conservation, water quality enhancement, and more efficient use of water, including water recycling, would help meet increased demands on water sources;

(4) in States that recognize rights to conserved water for persons who conserve it, irrigators and other water users could gain rights to use conserved water while also increasing the 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, 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. 1338) is amended—

(1) in the first sentence of subsection (c)—

(A) by striking "and" and inserting "and";

(B) by striking "and" and inserting "and";

and

(2) by inserting before the period at the end the following: "(1) 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, non-profit private organization, a member of such an association, 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 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) pollution prevention techniques.
“(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 by 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.—There may be 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 section “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) Voluntary 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 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383(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. 188. 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.

**Travelling on Military Aircraft:**

On travel military aircraft: certain disabled former members of the armed forces.

``(a) In General.—Section 610b of title 10, United States Code, is amended by adding after section 1000a the following new section:

``§1060b. Travel on military aircraft: certain disabled former members of the armed forces.

``The Secretary of Defense shall permit any former member of the armed forces who is entitled to compensation under the laws administered by the Secretary of Veterans Affairs for a service-connected disability rated as total to travel, in the same manner and to the same extent as retired members of the armed forces, on unscheduled military flights within the United States and on scheduled overseas flights operated by the Military Airlift Command. The Secretary of Defense shall permit such travel on a space-available basis.’’

``(b) Clerical Amendment. —The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1000a the following new item:

``1060b. Travel on military aircraft; certain disabled former members of the armed forces.’’

**By Mr. Inouye:**

S. 190. A bill to amend title 10, United States Code, to permit former members of the Armed Forces who are veterans of wars and other military service on behalf of the United States to observe Memorial Day as a day for observation purposes.

**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 Act to codify 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 provide the same benefits for 100 percent service-connected disabled veterans as total to travel, 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.

**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 1000a the following new section:

``§1060b. Travel on military aircraft: certain disabled former members of the armed forces.

``The Secretary of Defense shall permit any former member of the armed forces who is entitled to compensation under the laws administered by the Secretary of Veterans Affairs for a service-connected disability rated as total to travel, in the same manner and to the same extent as retired members of the armed forces, on unscheduled military flights within the United States and on scheduled overseas flights operated by the Military Airlift Command. The Secretary of Defense shall permit such travel on a space-available basis.’’

``(b) Clerical Amendment. —The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1000a 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 Philippines who performed military service on behalf of the United States during World War II.

Mr. President, our Filipino veterans fought by the 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:

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 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) EFFECT OF CERTIFICATE OF SERVICE.—A certificate of service issued to any person pursuant to this section shall be conclusive as to 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 shall not consider for the purpose of this Act any application received by the Secretary more than two years after the date of enactment of this Act.

SEC. 5. PROSPECTIVE APPLICATION OF DETERMINATIONS BY THE SECRETARY OF THE ARMY.

No benefits shall accrue to any person for any period prior to the date of enactment of this Act as a result of the enactment of this Act.

SEC. 6. REGULATIONS.

The Secretary shall issue regulations to carry out sections 1, 3, and 4.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY OF VETERANS AFFAIRS.

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. SARBAJNE, Mr. MOYNIHAN, Mr. LEVIN, Mr. DODD, Mr. LAUTENBERG, Mr. BINGMAN, Mr. KERRY, Mr. HARKIN, Ms. MUKULSKI, Mr. AKAKA, Mr. WELLSTONE, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. MURRAY, Mr. FEINGOLD, Mr. WYDEN, Mr. DURBIN, Mr. TORRICELLI, Mr. REED, and Mr. SCHUMER):

S. 192. A bill to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage; to amend the Federal Employees' Compensation Act of 1911; to amend the Federal Employees' Health Benefits Act of 1959; to amend the Social Security Act; to authorize $10.7 million for the Department of Health and Human Services, Public Health Service; to amend the immigration law; to extend the term of employment for certain employees of the United States Government; to make changes in the number of employees of the Government of the Northern Mariana Islands; to amend the Internal Revenue Code of 1986; to extend the period of time for filing certain claims, suits, or other proceedings; to extend the term of employment for certain employees of the Government of the Northern Mariana Islands; to make amendments to the Internal Revenue Code of 1986; to extend the period of time for filing certain claims, suits, or other proceedings; to extend the term of employment for certain employees of the Government of the Northern Mariana Islands; to provide for veterans' benefits of service performed in the Philippine Islands in aid of the Armed Forces of the United States during World War II; to amend the Fair Labor Standards Act of 1938; to increase the Federal minimum wage; to amend the Fair Labor Standards Act of 1938 to authorize an additional $10.7 million for the Department of Health and Human Services, Public Health Service; to amend the immigration law; to extend the term of employment for certain employees of the United States Government; to make changes in the number of employees of the Government of the Northern Mariana Islands; to amend the Internal Revenue Code of 1986; to extend the period of time for filing certain claims, suits, or other proceedings; to extend the term of employment for certain employees of the Government of the Northern Mariana Islands; to provide for veterans' benefits of service performed in the Philippine Islands in aid of the Armed Forces of the United States during World War II; to amend the Fair Labor Standards Act of 1938; to increase the Federal minimum wage; to amend the Fair Labor Standards Act of 1938 to authorize an additional $10.7 million for the Department of Health and Human Services, Public Health Service; to amend the immigration law; to extend the term of employment for certain employees of the United States Government; to make changes in the number of employees of the Government of the Northern Mariana Islands; to amend the Internal Revenue Code of 1986; to extend the period of time for filing certain claims, suits, or other proceedings; to extend the term of employment for certain employees of the Government of the Northern Mariana Islands; to provide for veterans' benefits of service performed in the Philippine Islands in aid of the Armed Forces of the United States during World War II; to amend the Fair Labor Standards Act of 1938; to increase the Federal minimum wage; to amend the Fair Labor Standards Act of 1938 to authorize an additional $10.7 million for the Department of Health and Human Services, Public Health Service; to amend the immigration law; to extend the term of employment for certain employees of the United States Government; to make changes in the number of employees of the Government of the Northern Mariana Islands; to amend 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. Minimum wage 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:

SEC. 2. MINIMUM WAGE INCREASE.

(a) WAGE.—Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than—"

"(A) $5.65 an hour during the year beginning on September 1, 1999 and"

"(B) $6.15 an hour beginning on September 1, 2000."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on September 1, 1999.

SEC. 3. APPLICABILITY OF MINIMUM WAGE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

Mr. DODD. Mr. President, today I join a number of my colleagues in introducing legislation to increase the minimum wage. There is no better way to reward work than by ensuring each and every worker be paid a living wage.

During the last three decades, the purchasing power of the minimum wage has declined by 30 percent. Even after the modest minimum wage increase in 1996, a person working full-time for the minimum wage earns only $10,792 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 HANDBOON STANDARDS ACT OF 1999

By Mrs. BOXER:

S. 194. A bill to amend the Internal Revenue Code of 1986 to allow the first $2,000 of health insurance premiums to be fully deductible; to the Committee on Finance.

HEALTH INSURANCE TAX RELIEF ACT

By Mrs. BOXER:

S. 195. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit; to the Committee on Finance.

RESEARCH AND EXPERIMENTATION TAX CREDIT

By Mrs. BOXER:

S. 196. A bill to amend the Internal Revenue Code of 1986 to waive in the case of multi-employer plans the section 415 limit on benefits to the participate'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 in 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 bill would improve our pension system by exempting multi-employer plans from the annual income limits of Section 415 of the Internal Revenue Code. Current law sets pension compensation based on three consecutive years of pay. However, for workers whose income fluctuate from year-to-year, this requirement may lower annual benefits. To ensure fairness for these workers, multi-employer plans should be exempted from Section 415.

Next is the Coastal States Protection Act, which will provide necessary 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-managed protection of state waters.

I ask that the text of the bills be printed in the Record.

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

S. 193

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

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 per year;

(5) the disparate treatment of imported handguns and domestically produced handguns has led to the creation of a high-volume illegal market for junk guns, defined as those handguns that fail to meet the quality and safety standards required of imported handguns;
CONGRESSIONAL RECORD — SENATE
January 19, 1999

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. 295g) 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 an award (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 dynamics and nature of domestic violence.

“(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.

“(D) 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, or a graduate program in mental health practice, a school of nursing (as defined in section 833), a program for the training of physician assistants, or a program for the training of allied health professionals.

“(2) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce of the House of Representatives and the Senate 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 such health professions entities, and the extent of clinical experience so required; and the types of courses through which the training is being provided.

“(D) DEFINITIONS.—For purposes of this sub-section, the term ‘domestic violence’ includes behavior commonly referred to as domestic abuse, including, but not limited to, sexual assault, emotional abuse, stalking, protective order abuse, woman battering, partner abuse, child abuse, domestic violence, elder abuse, and acquaintance rape.”.

(b) TITLE VIII PROGRAMS; PREFERENCES IN FINANCIAL AWARDS.—Section 891 of the Public Health Service Act (42 U.S.C. 295z–3) is amended by adding at the end the following:

“(b) 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 an award (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 dynamics and nature of domestic violence.

“(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.

“(D) 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, or a graduate program in mental health practice, a school of nursing (as defined in section 833), a program for the training of physician assistants, or a program for the training of allied health professionals.

“(2) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to the Committee on Commerce of the House of Representatives and the Senate 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 such health professions entities, and the extent of clinical experience so required; and the types of courses through which the training is being provided.

“(D) DEFINITIONS.—For purposes of this sub-section, the term ‘domestic violence’ includes behavior commonly referred to as domestic abuse, including, but not limited to, sexual assault, emotional abuse, stalking, protective order abuse, woman battering, partner abuse, child abuse, elder abuse, and acquaintance rape.”.
"(I) Preferences Regarding Training in Identification and Referral of Victims of Domestic Violence.—

"(I) 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) that has significant training in carrying out the following functions as a provider of health care:

(A) Identifying victims of domestic violence; preparing 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 (I), 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, 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 with respect to health professions entities that are receiving preference under paragraph (I); 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 commonaly referred to as domestic violence, sexual assault, child abuse, woman battering, partner abuse, child abuse, elder abuse, and acquaintance rape.”

By Mr. LAUTENBERG (for himself and Mr. TORICELLI):

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 explosion. He had 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 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 as a result of the Chernobyl disaster are not so 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 Nationality Act (8 U.S.C. 1101 et seq.), Alexandre Malofienko, Olga Matsko, and their son, Vladimir Malofienko, shall be held 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 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 extend 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
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 occurring 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 dealing with typical work and family they 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 workers 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 are 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 document 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 96%—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 be called 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 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 generally reported greater ease of administration and even smaller costs than large work sites.

SEC. 3. REPEAL OF ADDITIONAL COSTS.

This Act may be cited as the “Family and Medical Leave Act of 1993.”

SEC. 4. FURTHER 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 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 generally reported greater ease of administration and even smaller costs than large work sites.
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 eligible for Medicare, and have no option other than the employees' or former employees' health benefit plans 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 withdrew 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 reach 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 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) estimated that 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 $170 per month per year. $6 per month, or $72 less per year, than the Administrationestimated.

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 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


"PART D—PURCHASE OF MEDICARE BENEFITS BY CERTAIN INDIVIDUALS AGE 62-TO-65 YEARS OF AGE

"Sec. 1859. Program benefits; eligibility.

"(1) In general.—The term 'Federal or State COBRA continuation provision' has the meaning given the term 'COBRA continuation provision' in section 2791 of the Public Health Service Act and includes a comparable State program, as determined by the Secretary.

"(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(4)(d) of the Public Health Service Act and includes a comparable State program, as determined by the Secretary.

"(B) MEDICAID.—A State plan under title XV of the Social Security Act.

"(C) TRICARE.—The TRICARE program.

"(D) FEHBP.—The Federal employees health benefit program.

"(E) ACTIVE DUTY MILITARY.—Health benefits under title 10, United States Code.

"(F) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term in section 7701(2) of the Public Health Service Act.

"(G) 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) CONTINUATION OF 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 clause (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.

"(D) LIMITATION ON ELIGIBILITY IF TERMINATED FOR NONPAYMENT.—An individual entitled to benefits under this part after the month of October 1999 shall be terminated under this part as of the last day of the month in which the individual fails to make payment of premiums required for enrollment under this part; provided that the Secretary may, in the Secretary's discretion, provide for a period of at least 60 days during which the individual may resume the payment of required premiums or make other arrangements for the resumption of 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 to determine, for each month:

"(1) Individuals eligible to enroll as of a month are permitted to pre-enroll during a prior month within an enrollment period described in paragraph (2); and

"(2) Each individual seeking to enroll under section 1859(b) is notified, before enrollment, of the deferred monthly premium amount that would be payable if the individual were to enroll under section 1859(b) upon attaining 65 years of age as determined under section 1859(b)(3).

"(B) INITIAL ENROLLMENT PERIOD.—If the individual is eligible to enroll under such section for a month after July 1, 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 1, 2000.

"(B) SUBSEQUENT PERIODS.—If the individual is eligible to enroll under such section for a month after July 1, 2000, the enrollment period shall begin on the first day of the second 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.

"(B) 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% of the base annual premium established under subsection (b) for each premium area.

"(B) DEFERRED MONTHLY PREMIUMS FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—The deferred premium rate for individuals who were entitled to benefits under part A or enrolled under this part under section 1859(b) in the succeeding year.

"(B) 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 if the program had been in operation over a previous period of at least 4 years.

"(B) DEFERRED PREMIUM RATE FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—The deferred premium rate for individuals with a group of individuals who obtained coverage under section 1859(b) in a year shall be computed by the Secretary.

"(B) ESTIMATION OF NATIONAL, PER CAPITA ANNUAL AVERAGE EXPENDITURES FOR ENROLLMENT GROUP.—The Secretary shall estimate the annual per capita amount that will be paid under this part for individuals in such group during the period of enrollment under section 1859(b).

"(B) ESTIMATION OF NATIONAL, PER CAPITA ANNUAL AVERAGE EXPENDITURES FOR ENROLLMENT GROUP.—The Secretary shall estimate the annual per capita amount that will be paid under this part for individuals in such group during the period of enrollment under section 1859(b).

"(B) ESTIMATION OF NATIONAL, PER CAPITA ANNUAL AVERAGE EXPENDITURES FOR ENROLLMENT GROUP.—The Secretary shall estimate the annual per capita amount that will be paid under this part for individuals in such group during the period of enrollment under section 1859(b).

"(B) ESTIMATION OF NATIONAL, PER CAPITA ANNUAL AVERAGE EXPENDITURES FOR ENROLLMENT GROUP.—The Secretary shall estimate the annual per capita amount that will be paid under this part for individuals in such group during the period of enrollment under section 1859(b).
"(3) Actuarial computation of deferred monthly premium rates.—The Secretary shall determine deferred monthly premium rates for individuals in such group in a manner so that —

(A) the estimated actuarial value of such premiums payable under section 1859(b), is equal to

(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 first month of coverage and an 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 1859(b), for each individual who is liable for a premium under this title if the individual was so entitled and enrolled.

(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 liable for a deferred premium under this part; and

(B) any reference in section 1859(b)(2) to section 1840(d) and in section 1841(i) to sections 1859(b)(3); 1859(b)(2) and 1859(b)(3); and (C) in section 1852(a)(1) (42 U.S.C. 1395w±21(a)(2)(B)), by striking “1859(b)(3)” and inserting “1858(b)(3); 1859(b)(2)”.

"SEC. 1859D. MEDICARE EARLY ACCESS TRUST FUND.—

(1) ESTABLISHMENT OF TRUST FUND.—

(1) IN GENERAL.—There is hereby created 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 1859F(a)(2)(A) and in 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 1854 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 established under section 1859D.

(2) MISCELLANEOUS REFERENCES.—In applying provisions of section 1841 under paragraphs (1) and (2) of section 1851(a)(2)(B) (42 U.S.C. 1395w±21(a)(2)(C)), by striking “1859(b)(2)” and inserting “1858(b)(3); 1859(b)(2)”.

(3) Section 1853(c) of such Act (42 U.S.C. 1395w±22(a)(3)(B)(iii)) is amended by strike “1859(b)(3)” and inserting “1858(b)(3); 1859(b)(2)”.

"SEC. 1859E. OVERSIGHT AND ACCOUNTABILITY.—

(1) 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 report to the Committees on the adequacy of the financing of coverage provided under this part. The Comptroller General shall include in such report such recommendations for such financial 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.—

(1) TREATMENT FOR PURPOSES OF THIS TITLE.—Except as otherwise provided in this Act—

(A) an individual entitled under this part shall be treated for purposes of this Act as though the individual was entitled to benefits under part A and enrolled under part B; and

(B) 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.

(2) MEDICARE EARLY ACCESS TRUST FUND 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 under this title shall not be construed to include entitlement to benefits under this title pursuant to the operation of this part.

(3) FORMING AMENDMENTS TO SOCIAL SECURITY ACT PROVISIONS.—

(A) 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 established by title XVII”.

(B) Section 201(i)(1)(A) of such Act (42 U.S.C. 401(g)(1)(A)) is amended by striking “and the Federal Supplementary Medical Insurance Trust Fund, and” and inserting “the Federal Supplementary Medical Insurance Trust Fund, and the Medicare Early Access Trust Fund established by title XVII”.

(C) Section 1821(i) of such Act (42 U.S.C. 1395s–4(i)) is amended by striking “part D” and inserting “part E”.

(D) The Secretary of Health and Human Services shall include in such report such recommendations for such financial and coverage as the Secretary deems appropriate in order to maintain financial solvency of the program under this part.

(E) Section 1821(a)(2)(B) of such Act (42 U.S.C. 1395s–22(a)(2)(B)) is amended by striking “1859(e)(4)” and inserting “1858(e)(4)”.

(F) Section 1821(a)(3)(D) of such Act (42 U.S.C. 1395s–22(a)(3)(D)) is amended by striking “1859(e)(4)” and inserting “1858(e)(4)”.

(G) Section 1821(c) of such Act (42 U.S.C. 1395w–23(c)) is amended—

(A) in paragraph (1), by striking “or (7)” and inserting “7, (8), and”;

(B) by adding at the end the following:

"(8) ADJUSTMENT FOR EARLY ACCESS.—In applying this subsection with respect to individual 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 parts A and B.”

(C) OTHER CONFORMING AMENDMENTS.—
(1) Section 138(f)(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)(i) 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. 300b-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".

(3) Section 488(f)(2)(B)(i)(IV) 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 paragraph:

"(C) DISPLACED WORKERS AND SPOUSES.—

"(1) DISPLACED WORKERS.—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 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.—

"(ii) 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 3302(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 THE YEAR.—At least 1 year of the 2-year period which the individual loses coverage described in clause (ii), the aggregate of the periods of creditable coverage (as determined under section 2710(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 (ii) in which the individual (or spouse) was so entitled.

"(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 provision described in clause (ii) and

"(II) whose spouse was offered such coverage in a manner that permitted coverage of the individual 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 under such provision described in clause (ii) during such month.

"(III) MONTHS OF POSSIBLE COBRA CONTINUATION COVERAGE.—A month described in this clause is a month for which an individual described in clause (ii) was so entitled to enroll under such provision as of the last day of the month in which the individual (or the spouse of the individual, as the case may be) had elected such coverage under such provision described in clause (ii) during such month.

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

"(A) ESTIMATE OF AMOUNT.—The Secretary shall estimate the average, annual per capita premium for individuals residing in the United States who meet the requirements of section 1859(c)(1)(A) within each of the age groups 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 the highest rate for such year).

(b) BASE MONTHLY PREMIUM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—

"(A) ESTIMATE OF AMOUNT.—The Secretary shall estimate the average, annual per capita premium for individuals residing in the United States who meet the requirements of section 1859(c)(1)(A) within each of the age groups 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 the highest rate for such year).

"(B) AGE COHORTS.—For purposes of subparagraph (A), the Secretary shall establish

(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 adding at the end the following new subparagraph:

"(C) AGE OR MEDICARE ELIGIBILITY.—

"(i) IN GENERAL.—The termination of a coverage period under paragraph (1)(A)(ii) or (1)(B)(ii) 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 B.

"(ii) DISPLACED WORKERS.—The termination of a coverage period under paragraph (1)(B)(iii) 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 1859(c)(1)(C) and (1859(c)(1)(A)(ii)) and (1859(c)(1)(B)(ii)) as 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 1/2 of the base annual premium rate computed under subsection (d)(3) for each premium area and age cohort; and

"(2) in subsection (d)(2), by adding at the end the following new subsection:

"(D) ACCESS TO COVERAGE.—The termination of a coverage period under paragraph (1)(C) shall take effect as of the first day of the month in which 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;".

(6) in subsection (d)(3), by adding at the end the following new subparagraph:

"(B) LOSS OF COVERAGE.—The individual loses coverage under the 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.

(7) in subsection (e)(1), by adding at the end the following new subparagraph:

"(C) NOTICE OF CONTINUATION.—The Secretary shall provide notice and an opportunity for reenrollment from subsequently reenrolling individual attains 65 years of age.

(8) in subsection (e)(2), by adding at the end the following new subparagraph:

"(D) RIGHT TO TERMINATE COVERAGE.—The individual has the right to terminate coverage at any time.
(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 beneficiary of another group health plan described in this section, the plan and the individual’s relationship to such qualified beneficiary shall be treated as if it were a qualified beneficiary of the group health plan described in section 1162(3) and the individual’s relationship to such qualified beneficiary shall be treated as if it were a qualified beneficiary of the group health plan described in section 1162(3). (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:

(a) Establishment of New Qualifying Event.—

1. in general.—Section 603 of the Employee Retirement Income Security Act of 1974 (42 U.S.C. 1162(3)) is amended by inserting after paragraph (6) the following new paragraph:

SEC. 301. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.

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 (42 U.S.C. 1162(3)) is amended by inserting after paragraph (6) the following new paragraph:

2. qualified retiree; qualified beneficiary; and substantial reduction defined.—Section 607 of such Act (29 U.S.C. 1167(b)) is amended—

(A) in paragraph (3)—

1. in subparagraphs (A), (B), and (C) of subsection (A), respectively, by removing any reference to the plan and the individual’s relationship to such qualified beneficiary.

2. by adding at the end the following new subparagraph:

(a) in general.—Except as provided in paragraph (B), the coverage; and

(b) 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 beneficiary or, at the election of the plan and the individual’s relationship to such qualified beneficiary shall be treated as if it were a qualified beneficiary of the group health plan described in section 1162(3) and the individual’s relationship to such qualified beneficiary shall be treated as if it were a qualified beneficiary of the group health plan described in section 1162(3).
of section 2202(3).

(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 (or, if later, January 6, 1999), in an amount equal to at least 50 percent of the 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).

(3) DURATION OF COVERAGE THROUGH AGE 65.—Section 2202(2)(A) of such Act (42 U.S.C. 300bb±2(1)) is amended—

(B) by adding at the end the following:

``(i) I N GENERAL .—Except as provided in clause (ii), 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 clause (i) of paragraph (1) of subsection (f)(2); and

(ii) IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—In the case of a qualifying event described in section 2203(6), any reference in clause (i) of paragraph (1) of subsection (f)(2) shall apply to qualifying events occurring after 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) INCREASED LEVEL OF PREMIUMS FOR FORMER EMPLOYEES.—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.''.

(3) 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:

``(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 subparagraph (A) of paragraph (1) of subsection (f)(2) under the plan as of such date (taking into account an appropriate adjustment to permit comparison of values over time); and

(C) Notice of terminations and reductions.—The amendments made by subsection (e)(2) shall apply to qualifying events occurring after 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 HEALTH COVERAGE.

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 4980B(f)(3)(i) 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:

``(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.''.

(b) 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 section 2203(6), any reference in subparagraph (C) of paragraph (3) to ‘125 percent of the applicable premium’ is deemed to refer to ‘125 percent of the applicable premium for employed individuals (and their dependents, if applicable) of the premium level described in the fourth sentence of subsection (f)(2)(C)’’.”.

(c) 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 on or 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 55 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 66.

Base case premium would be paid monthly between enrollment and when the participant turns age 65. It is the part of the premium that represents what Medicare would pay for all persons of this age group. The Congressional Budget Office (CBO) estimates that this would be about $350 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 65. It is the part of the premium that covers the extra costs for participants who are sicker than average. The maximum 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 either of the six months of either turning 62 or losing access to employer-based or federal insurance.

Applicability of Medicare Rules: Services covered under this buy-in 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 who may be sicker than average.

**Title II: Medicare Benefits for Displaced Workers 55-62 Years of Age**

In addition to people ages 62 to 65, a targeted group of 55 to 62 year olds could buy into Medicare.

The centerpiece of this initiative is the Medicare buy-in for people ages 55 to 62.

Eligibility: Persons 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 66.

Base case premium would be paid monthly between enrollment and when the participant turns age 65. It is the part of the premium that represents what Medicare would pay for all persons of this age group. The Congressional Budget Office (CBO) estimates that this would be about $350 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 65. It is the part of the premium that covers the extra costs for participants who are sicker than average. The maximum 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 either of the six months of either turning 62 or losing access to employer-based or federal insurance.

Applicability of Medicare Rules: Services covered under this buy-in 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 who may be sicker than average.

**Title III: Retiree Health Benefits**

The bill would also help retirees and their dependents whose former employer unexpectedly dropped their retiree health insurance, leaving them uncovered and with few options.

Eligibility: Persons ages 55 to 65 and their dependents who were receiving retiree health insurance coverage when their 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 the higher of the two premiums if the 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 eligible.

Enrollees would be allowed to choose whether or not they would 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.

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.

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.

By Mr. MOYNIHAN:

S. 203. A bill to amend title XIX of the Social Security Act to provide for rent health problems that 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 costs are higher than older Americans because 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 can be confident that the health insurance they have now will protect them until they qualify for Medicare at 65.

Our legislation provides three kinds of assistance. First, any uninsured American who is 62 years old or older and not yet eligible for Medicare can buy into the program. Participants will pay the full cost of their coverage, but to help keep premiums affordable, they can defer payment of part of the premium until they turn 65 and Medicare starts to pay most of their health care costs. Once they turn 65, this deferred premium will be paid back over time at a modest monthly charge, currently estimated at about $10 per month for each year of participation in the buy-in program. Individuals age 55-61 who lose their health insurance because they are laid off or because their company closes will also be able to buy into Medicare. Finally, people who have retired before 65 with the expectation of employer-paid health insurance coverage would be allowed to buy into the company's program for active workers if the company dropped retirement coverage.

Today's proposal is a lifeline for all of these Americans. It is also a constructive step toward the day when every American will be guaranteed the fundamental right to health care.

In the past, opponents have waged a campaign of disinformation that this sensible plan is somehow a threat to Medicare. They are wrong—and the American people understand that they are wrong. Under our proposal, the participants themselves will ultimately pay the full cost of this new coverage. The modest short-term budget impact can be financed through savings obtained by reducing fraud or abuse in Medicare.

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.
the Senate, we posited:

Relative capacity to raise revenues. As population in need and overstates its systematically underestimates the state's living, the per capita income proxy systematically underestimates the state's living, the per capita income proxy 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—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 is a proxy for measuring the number of people in need of assistance. At a commencement address in 1997 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 am most hopeful. The Balanced Budget Act of 1997 included a provision that increased the FMAP rate for Alaska. My colleagues in the Senate and House of Representatives included this provision as an amendment in the Conference Report. The increase in Alaska's FMAP rate from 50 percent to nearly 50 percent greater than in Massachusetts, according to GAO.

The EFMAP would also use adjusted poverty levels to produce a proportional 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 the care for adults and tax to eight times the cost for children.

Currently, New York's FMAP is 50 percent. This proposed formula with more accurate and equitable measures of wealth and need would provide New York with a 70 percent matching rate. In State Fiscal Year 1998-1999, this would yield $6.5 billion in additional federal Medicaid funds for New York. In fact, several other states and the District of Columbia would receive a greater matching rate under this bill.

In response to 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 $5.5 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 is an important and an important first step toward correcting a long-standing inequity in the Federal government's balance of payments with the states.

I ask unanimous consent that the material be included 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—

(i) the State's share of cost-adjusted total taxable resources determined under paragraph (2); to

(ii) the sum of the amounts determined under clause (ii) for all States.

"(B) The State's share of program need determined under subsection (3);

"(2) Determination of State's share of cost-adjusted total taxable resources.—

"(A) in general.—For purposes of paragraphs (A)(i) and (ii), the geographic health care cost index for a State for a fiscal year is the ratio of—

(i) the State's cost-of-living adjusted poverty level, 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), the geographic health care cost index for a State for a fiscal year is the sum of—

(I) the fair market rent index determined under clause (ii); to

(II) the average annual fair market rent index for hospital employees in the State or the District of Columbia (as determined under clause (ii)); to

(iii) the average annual fair market rent index for hospital employees in the 50 States and the District of Columbia (as determined under clause (ii)); and

(iv) 0.56;

"(ii) 0.575 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 clause (ii)); and

(iii) 0.15 multiplied by the State's fair market rent index (as determined under clause (iii)).

"(B) State's share of cost-adjusted total taxable resources is the ratio of—

(i) the average annual fair market rent for 2- and 3-story 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 fiscal years, as so determined.

"(3) Determination of State's share of program need.—

"(A) in general.—For purposes of paragraphs (1)(B) and (2), 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) 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 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 below the 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 State residents for purposes of clause (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 purposes); and

(bb) the State's cost-of-living index (as determined under subclause (II)).

"(II) Determination of State's cost-of-living index for purposes of clause (ii)(I).—

(a) for purposes of subclause (II), a State's cost-of-living index is the sum of—

(aa) the average of 0.44 and the State's fair market rent index determined under paragraph (2)(B)(iii); to

(bb) the average 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 in section 1005(b) of the Social Security Act (42 U.S.C. 1905(b)) to determine a State's cost-of-living index for purposes of subparagraphs (A)(ii) and (III), 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 1.75.

(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 0.75.

"(2) Special rules.—For purposes of this subsection and subsection (b), the equitable Federal Medical Assistance Percentage is—

(I) in the case of the District of Columbia, the percentage determined under subsection (d) for residents in poverty, without regard to this paragraph, multiplied by 1.4; and

(II) in the case of Alaska, 59.8 percent.

"(b) Conforming Amendments.—Section 1905(b) of the Social Security Act (42 U.S.C. 1905(b)) is amended—

(1) in the matter preceding paragraph (1), by striking "100 percent" and all that follows through "Health" and inserting "the equitable Federal medical assistance percentage determined under subsection (v)";

(2) in paragraph (1), by striking "50 percent" and all that follows through "in the succeeding year," and inserting "50 percent or more than 83 percent," and; and

(3) in paragraph (2), by striking "50 percent" and all that follows through the period at the end of paragraph (3) and inserting "50 percent."
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 in federal aid by providing much 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 these 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 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 incorrect. 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 for equity government.

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”.

SECTION 2. REQUIREMENT.

(a) GRAMM-LEACH-BLILEY ACT.—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 costs of living, including at least:

(A) food,

(B) housing,

(C) utilities,

(D) transportation,

(E) medical care,

(F) clothing,

(G) personal care,

(H) communication,

(I) recreation,

(J) tobacco,

(K) children’s education,

(L) post-graduate education,

(M) other necessities,

(2) develop or cause to be developed a multidimensional cost-of-living index to reflect differences among states in the cost of living.

(b) The State cost-of-living index and resulting State poverty thresholds shall each be published before September 30, 2000, for calendar year 1999 and shall be updated annually for each subsequent calendar year.

§199. Correction of subnational data relating to poverty


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 differences in the cost of living by state or sub-state areas. The cost 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. REQUIRE DEVELOPMENT OF STATE COST-OF-LIVING INDEX AND POVERTY THRESHOLDS

To enable the adjustments required above, the bill requires the development of a state-specific cost-of-living index based upon wage, housing, and other cost information relevant to the cost of living. The bill also requires that the Federal government’s poverty thresholds be multiplied by this index to produce state-specific poverty thresholds. These thresholds, which vary by family size, are the “poverty lines” used to determine the number of individuals and families in poverty.

By Mr. MOYNIHAN (for himself and Mr. KERREY):

S. 205. A bill to establish a Federal Commission on Statistical Policy to study the reorganization of the Federal statistical system, to provide uniform safeguards for the confidentiality of information acquired from exclusively statistical purposes, and to improve the efficiency of Federal statistical programs and the quality of Federal statistics by permitting limited sharing of records among designated agencies for statistical purposes under strong safeguards; to the Committee on Governmental Affairs.

FEDERAL COMMISSION ON STATISTICAL POLICY

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 Congressman POLYN 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 Subcommittees 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 his government. Consolidation seemed the way to solve this problem, and so it happened—as it can in a parliamentary government—rather quickly, just as World War I ended.

In April of 1997, a member of my staff met in Ottawa with the Assistant Chief Statistician of Statistics Canada. He reported that Statistics Canada is doing quite well. Decisions about the allocation of resources among statistical functions are made at the highest level of government. The Canadian 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 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 sprang up as needed. And they moved back and forth as new executive departments were formed. Today, some 89 different organizations in the Federal government comprise parts of our national statistical infrastructure. Eleven of these organizations have as their primary function the generation of data. These 11 organizations are:

<table>
<thead>
<tr>
<th>Agency / Department</th>
<th>Date established</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agricultural Statistics Service</td>
<td>1860</td>
</tr>
<tr>
<td>Bureau of Labor Statistics</td>
<td>1884</td>
</tr>
<tr>
<td>Bureau of the Census</td>
<td>1890</td>
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<tr>
<td>Bureau of Labor</td>
<td>1893</td>
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<tr>
<td>Bureau of the Census</td>
<td>1913</td>
</tr>
<tr>
<td>Bureau of the Census</td>
<td>1914</td>
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<tr>
<td>Bureau of Transportation Statistics</td>
<td>1919</td>
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<tr>
<td>Bureau of Labor Statistics</td>
<td>1956</td>
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<tr>
<td>Bureau of Labor Statistics</td>
<td>1974</td>
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<tr>
<td>Energy Information Administration</td>
<td>1974</td>
</tr>
<tr>
<td>National Center for Education Statistics</td>
<td>1990</td>
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</tbody>
</table>

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 overstated inflation, they 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 and the Treasury to establish 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
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, that:

SEC. 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. 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 and programs requires full cooperation between Federal statistical agencies and those persons and organizations that respond to their requests for data.

(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." (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;

(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;

(ii) have 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, 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;

(ii) have 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.
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 be maintained in a confidential, consistent, and comparable manner.

(b) PRESIDENTIAL REVIEW.—

(1) IN GENERAL.—

(A) TIME PERIOD FOR REVIEW.—Not later than 30 days after receipt of the report (including any draft legislation) under subsection (a), the President shall approve or disapprove the report.

(B) REVIEW AND ACTION.—If the President approves the report, the Commission shall submit the report to Congress on the day following such approval. If the President disapproves the report, the Commission shall submit the report to Congress on the day following the 15-day period described under subparagraph (A).

(c) APPROPRIATIONS.—If the President disapproves the report, the President shall note his specific objections and any suggested changes to the Commission.

(d) REPORT AFTER DISAPPROVAL.—The Commission shall consider any objections and suggested changes submitted by the President and may modify the report based on the 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.

(e) STATISTICAL REORGANIZATION BILL.—

(1) IN GENERAL.—If the written report submitted under subparagraph (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.

(f) PROVISIONS IN DRAFT LEGISLATION.—Draft legislation submitted to Congress under subsection (a) shall—

(A) provide for an Administrator and Deputy Administrator of the Federal Statistical Service; and

(B) contain a provision designating the Administrator and the Interagency Council on Statistical Policy established under section 3504(e)(8) of title 44, United States Code.

(g) 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—

(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, and the 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, reliability, and timeliness of Federal agencies, including statistical data relating to—

(i) the national poverty level and county poverty levels of 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.—For purposes of this section, the term "Federal Statistical Service" means an entity established after the date of the enactment of this Act as an independent agency in the executive branch, the purpose of which is to carry out Federal statistical programs and to which the statistical functions of Federal statistical agencies are transferred.

SEC. 103. SERVICES OF THE COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(b) OBTAINING INFORMATION.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its functions under this Act. Upon request of the Commission, the head of that department or agency shall furnish that information to the Commission.

(c) CONTRACT AUTHORITY.—The Commission may contract with and compensate government and private agencies or persons without regard to section 3709 of the Revised Statutes of the United States.

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) AGENDA OF MEETINGS.—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 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 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.

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.—The Commission may contract for and purchase services from any agency of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, in accordance with such terms and conditions as the Commission deems appropriate.

(c) PER diem and subsistence.—The Commission may employ or retain (or enter into contract with) any expert or consultant to provide the Commission with advice and assistance in any matter under the jurisdiction of the Commission.

(d) 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, in such a manner as to be consistent with the rules of each House, respectively, or of either House to which it is submitted;

(2) with full recognition of the constitutional right of either House to change the rules of which it is a member, and to that extent as to the extent to which they are inconsistent with this section; and

(3) to provide a means for expediting consideration of and action on the Conference report.

(b) INTRODUCTION AND REFERRAL.—Within 15 legislative days after the Conference report is submitted to Congress, such legislation shall be introduced (by request) in the House by the Majority Leader of the House and shall be introduced (by request) in the Senate by the Majority Leader of the Senate. Such bills shall be referred to the appropriate committees of each House.

(c) 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 sixth legislative 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 the 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.

(d) FLOOR CONSIDERATION IN THE HOUSE.—A motion to proceed to the consideration of a statistical reorganization bill shall be highly privileged, except that a motion to proceed to consider a bill 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 a bill may be agreed to or disagreed to.

(e) FLOOR CONSIDERATION IN THE SENATE.—

(1) MOTION TO PROCEED.—On or after the fifth legislative day after the day 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 motion to 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 conference committees shall not be debatable.
SEC. 205. STATISTICAL DATA CENTER RESPONSIBILITIES.

The Statistical Data Centers shall—
(1) identify opportunities to eliminate duplicative data collection and reduce the burden and cost imposed on the public by sharing information for exclusively statistical purposes;
(2) enter into joint statistical projects to improve the quality and reduce the cost of statistical programs;
(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) coordinate and perform the functions of the public by observing and promoting fair information practices.

SEC. 206. CONFIDENTIALITY OF INFORMATION.

(a) Data or information acquired by a Statistical Data Center for exclusively statistical purposes shall be used only for statistical purposes. Such data or information shall not be disclosed in identifiable form for any other purpose without the informed consent of the respondent.

(b) RULE DISTINGUISHING DATA OR INFORMATION.—If a Statistical Data Center is authorized by any other statute to collect data or information for nonstatistical purposes, the head of that 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) PROTECTION OF DATA OR INFORMATION.—If a 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 applicable law or regulation, or any 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 contract between a Statistical Data Center or Centers and the agency supplying the data or 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 entered into under subsection (c) (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 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) FORCING DISCLOSURE OF DATA OR INFORMATION.—If a written agreement authorizes 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 apply 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 if 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 the employees and agents 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 CONGRESS.—The head of a Statistical Data Center shall report to the Office of Management and Budget—
(A) each written 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 inform the Office of Management and Budget of any agreements submitted to the Director under this subsection and any actions taken by the Director to advance the purposes of this title in the Office of Management and Budget's comments 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. CONFORMING AND TECHNICAL 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 disclosure of information under 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. 7125) is amended by adding after subsection (f) 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. Procedures authorized by the Statistical Confidentiality Act, the Administrator shall ensure that data collections and dissemination 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 information to Statistical Data Centers for statistical purposes only consistent with the Paperwork Reduction Act and the Statistical Confidentiality Act."

[(C) The information may be used only for the purpose for which it was collected and may be contained in a document that is required to be published, or otherwise communicated, statistical information designated in paragraph..."
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(1) in a manner that identifies any respondent.

`(B) A person may not use statistical information designated in paragraph (1) for a nonstatistical purpose.

`(C) The identity of a respondent who supplies, or is the subject of, information collected solely for statistical purposes—

``(i) may not be disclosed through any process, including disclosure through legal process, unless the respondent consents in writing;

``(ii) may not be disclosed to the public, unless information has been transformed into a statistical or aggregate form that does not allow the identification of a 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 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 term `statistical activities', `identifiable form', `statistical purpose', `nonstatistical purpose', and `respondent' have the meaning given those terms in section 203 of the Statistical Information Act.

``(3) In subsection (m)(1) of the Department of Energy Organization Act of 1974, the term `person' means any person other than an employee of an agency who has received a pledge of confidentiality from the Foundation.

`(f) DISCLOSURE PENALTIES. Section 1905 of title 18, United States Code, is amended—

``(1) by striking `false pretenses.' and inserting `shall be fined not more than $10,000.'

``(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., as a whole, 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 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) USE OF DATA.—Information acquired for exclusively statistical purposes as provided in section 206 is exempt from mandatory disclosure under section 552 of title 5, United States Code, pursuant to section 552(b)(3) of such title.

SUMMARY OF THE FEDERAL COMMISSION ON STATISTICAL POLICY ACT OF 1999

OVERVIEW

The Commission, recognizing the importance of statistical information in the development of national policies and programs and in the administration of public programs finds that: the decentralized Federal statistical system has limited the usefulness of statistical information in defining national policies to deal with complex social and economic issues; coordination is necessary to strengthen and improve the quality and reliability of Federal statistics, and to reduce duplication and waste; high-quality Federal statistics are essential for sound business and public policy decisions; the challenge of providing high-quality statistics has increased because of the complexity of our economy and society and because of the need for more accurate information; maintaining the quality of Federal statistics requires cooperation between the Federal statistical agencies and respondents to Federal statistical surveys; and Federal statistics may be improved by developing mechanisms for sharing confidential information in a controlled manner that protects the confidentiality promised to respondents.

FINDINGS

The bill expresses the Sense of Congress that: A more centralized statistical system is integral to efficiency; Increased efficiency would result in better integration of research methodology, survey design and economic and social statistics; The Chief Statistician of the Office of Management and Budget (OMB) must have the authority, personnel and other resources necessary to carry out the functions assigned to him under this title.

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.


The Commission would have a term of 36 months from the date of enactment.

DUTIES OF THE COMMISSION

Within 18 months of its appointment, the Commission shall study and submit to Congress on Federal statistical systems that makes recommendations on: whether the Federal statistical system could be reorganized by consolidating the statistical functions and responsibilities carry out statistical programs; how such consolidation could be done without disruption in the release of statistical products; whether functions of other Federal statistical programs could be transferred to the Federal Statistical Service; or any other issues relating to the reorganization of Federal statistical programs and the statistical operations of the current system is grappling. These include the increasing importance in the national economy. Similarly, our 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 the extent of the current system is grappling. These include the increasing importance in the national economy. Similarly, our economic Advisers put a lot of effort into trying to coordinate the system, often with success, but often swimming upstream against the system.

Sincerely,

Professor Michael J. Boskin, Stanford University;
Dr. Martin Feldstein, National Bureau of Economic Research;
Alan Greenspan, Federal Reserve Board of Governors;
P. J. Gertler, Federal Reserve Bank of New York;
Raymond J. Saulnier; Charles L. Schultze, The Brookings Institution;
Beryl W. Sprinkel; Herbert Stein, American Enterprise Institute; 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 evaluation of State Children's Health Insurance Programs, and for other purposes; to the Committee on Finance.
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 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 ASSAMLED:

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 200b 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 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 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 200b 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. Such 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, 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 information consistent 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 $10,000,000 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 200b 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 each State with approved health plans.

“(2) Selection of States.—In selecting States for the evaluation conducted under this subsection, the Secretary shall choose 10 States that utilize diverse approaches to providing child health assistance, represent various geographic areas (including mix of rural and urban areas), and contain a significant portion of uncovered children.

“(3) Matters included.—In addition to the elements described in subparagraph (A)(i), the evaluation conducted under this subsection shall include, but is not limited to, the following:

“(A) Surveys of the target population (enrollees, disenrolees, 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 title XIX and the program under title XIX), and identification of enrollment barriers and key elements of effective outreach and enrollment practices, including barriers that have a disproportionate impact on 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 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.

“(F) Submission to Congress.—Not later than February 1, 2001, the Secretary shall submit to Congress the results of the evaluation conducted under this subsection.

“(G) Funding.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $10,000,000 for fiscal year 2000 for the purpose of conducting the evaluation authorized under this subsection. Amounts appropriated under this paragraph shall remain available without fiscal year limitation.”.

SEC. 5. STANDARDIZED REPORTING REQUIREMENTS.

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:

“(A) 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, race, and age, at least in those with income below the poverty line, age, and race or ethnicity, and, if income levels used in
January 19, 1999

CONGRESSIONAL RECORD — SENATE

S645

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. It is estimated that 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, is authorized by 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 and sustaining health delivery systems that provide comprehensive services in local communities. Most importantly, the State

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—

(ii) enrolled in the program under this title;

(iii) determined eligible for, but not enrolled under this program 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. 1397h), 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, the Comptroller General of the United States shall audit CHIP enrollee data for the State under this title, if the Secretary, through the Inspector General of the Department of Health and Human Services, would audit a sample from among the States described in paragraph (2) in order to—

“(A) determine the number, if any, of enrollees under the plan under this title who are eligible for medical assistance under title XIX (other than as an optional targeted low-income children under section 1902(a)(10)(A)(i)(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 the 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)(iii) and (D)(iii) of section 506(a)(2) of the Social Security Act (42 U.S.C. 700(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 to consolidate and coordinate all Federal data bases and reports regarding children’s health.

SUMMARY OF THE CHIP DATA AND EVALUATION IMPROVEMENT ACT OF 1999

PROPOSAL

State-by-state Uninsured Counts and Children’s Health Care Access and Utilization. (1) Provide funds ($10 million annually) to the Census Bureau to appropriate adjustments to the Current Population Survey (CPS) so that the CPS can provide reliable state-by-state uninsured children. (2) Provide funds ($9 million annually) to the National Center for Health Statistics to conduct the Children’s Health portion of the State and Local Area Integrated Telephone Survey (SLAIITS) in order to produce reliable state-by-state data on the health care access and utilization for low-income children covered by various insurance programs such as Medicaid and CHIP.

Federal Evaluation. With funding ($10 million), the Secretary of Health and Human Services would submit to Congress a Federal evaluation report that would include 10 states representing varying geographic, rural/urban, and program design features. The evaluation would include more specific and comparable evaluation elements than are already included under Title XXI, such as including Medicaid population (enrollees and other eligibles). The study would evaluate outreach and enrollment practices (for both CHIP and Medicaid), identify barriers to continued or expanded enrollment, and CHIP and Medicaid program coordination, assess the effect of cost sharing on enrollment and coverage retention, and identify the reasons for disenrollment/retention.

Standardized Reporting. States would submit standardized data to the Secretary, including enrollee counts disaggregated by income, the Secretary would perform states’ Medicaid and CHIP program coordination, assess the effect of cost sharing on enrollment and coverage retention, and identify the reasons for disenrollment/retention.

Administrative Spending Reports for Title XXI. States would submit standardized spending reports for the following administrative spending: outreach efforts and program operation (eligibility/enrollment, etc.)

Coordinate CHIP Data with Title V Data Requirements. Existing reporting requirements for the Maternal and Child Health Block Grant provide data based on children’s health insurance, including Medicaid. This bill would include the CHIP program in its reporting.

IG Audit and GAO Report. The Inspector General of the Department of Health and Human Services would audit CHIP enrollee data to identify children who are actually eligible for Medicaid. The General Accounting Office will report to Congress.

Coordination of All Children Data and Reports. The Assistant Secretary of Planning and Evaluation 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 to promote integrated physical and specialized mental health services for children and adolescents; to the Committee on Finance.
Title V programs are required to coordinate with other related Federal health, education, and social service programs. For example, MCH programs have provided the technical expertise and the service delivery systems to ensure that Medicaid and other Federal programs are required to develop family-centered, community-based, coordinated care systems for children with special health care needs. Services for these children are most often provided through specialty clinics and through purchase of private office or hospital-based outpatient and inpatient diagnostic, treatment, and follow up services. Three-fourths of the State MCH programs have supported local “one-stop” models integrating access to Title V, Medicaid, the WIC food program, and other health or social services at one site. In New York, MCH helps to fund or operate regional pediatric resource centers for children with special needs. These centers offer multidisciplinary team care, family support and service coordination and they are beginning to integrate this approach into private practice settings where children are now receiving their specialty medical care. Yet, even though these programs have had encouraging results, most states’ health care systems are unable to address all the needs of these vulnerable children—and adolescent youth with special health needs are particularly at risk. And that is why this legislation is needed.

Under current law, Title V is permanently authorized at $705 million. It was last extended in FY 2000 to conform to funding levels that went beyond the prior authorization level. This legislation would increase the MCH Block Grant authorization level from $705 million 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. Further 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” and inserting “$840,000,000”.

(b) PROMOTION OF INTEGRATED PHYSICAL AND SPECIALIZED MENTAL HEALTH SERVICES.—Section 4201 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”;

(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 of the subparagraph;

(B) in subparagraph (F), by striking the period and inserting “, “;

(C) by adding after the period “; and

(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 AEI’s Boyer Lecture that after I set about writing a bill to put its 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 families eligible in foster care 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 “one 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 return, 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 strongly and sincerely 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 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 “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 by the first few years.

TITLE I—ASSISTANCE FOR CHILDREN

SEC. 101. SECOND CHANCE HOMES.

(a) IN GENERAL.—Title XX of the Social Security Act (42 U.S.C. 1397-1397y) is amended by adding at the end the following:

“SEC. 473. SECOND CHANCE HOMES.

“(a) ENACTMENT.—

“(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 316 of the Social Security Act (42 U.S.C. 1396i-1), to each State from its allotment for use under this section.

“(B) 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) TREATMENT OF INDIAN TRIBES.—A State may use a portion of the amounts described in subparagraph (A) for the purpose of purchasing technical assistance from public or private agencies and Indian tribes for such activities. In the case of any such assistance, the Secretary must ensure that such assistance is required in developing, implementing, or administering the program funded under this section.

“(E) SENATE OF THE UNITED STATES.—Not later than 4 years after the date of enactment of this Act, the Secretary of the Senate shall submit a report to Congress on the research and evaluation projects conducted in accordance with this section.

“(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 for the costs of conducting, through grant, contract, or inter-agency 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 2001 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. 1397b) is amended by adding at the end the following:

“(b) OF INDIVIDUALS WITH SPECIFIC NEEDS.—In the case of an individual with specific needs, the Secretary may, at the request of an Indian tribe or other entity, take appropriate action to facilitate the adoption of such an individual, including the following:

“(1) IN GENERAL.—The Secretary may make grants to Indian tribes and to other entities for the purposes of carrying out this section.

“(2) NONDISCRIMINATORY.—The Secretary shall make grants under this section in a manner that is nondiscriminatory.
that continuation in the home would be con-
tary 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 par-

ent (or to such a voluntary placement agree-

ment or as a result of such a judicial determi-
nation); and

(ii) has been determined by the State pur-
suant to paragraph (c) to be a child in spe-
cial needs, which needs shall be consid-
ered by the State, together with the cir-

stances of the adopting parents, in deter-

mining the amount of any payments to be

made to the adopting parents.

(B) Notwithstanding any other provision of
law, the Secretary, as provided in paragraph
(7), may determine that—

(i) a child who is not a citizen or resident of
the United States and who meets the re-

quirements of subparagraph (A) shall be

treated as meeting the requirements of
paragraph (b) of the Adoption and Safe
Families Act of 1997; and

(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
at the end of 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

meanings given in section 10010 of the
Elementary and Secondary Education


(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 672(c) of the Elementary and

Secondary Education Block Grant Act (42
U.S.C. 2802(c)) applicable to a family of

the size involved.

(3) STATE BOARD.—The term ‘State board’
means a State coordinating board estab-
lished 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 481.

SEC. 481. ALLOTMENTS TO STATES.

(a) IN GENERAL.—The Secretary shall
make grants to local educational agencies in

an amount equal to the Federal share of

the cost described in subsection (b) or (c) of

section 482(b).

(b) ALLOTMENT.—To be eligible for an
al-

lotment under this subsection, a State shall

provide the Secretary with an assurance that

the State board will be in effect at the

beginning of the fiscal year and will serve as
the State board under paragraph (1) if the

entity is not the State board under para-

graph (1) if the entity is the State board un-

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(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 expenses for which the Secretary shall provide assistance under section 481.

(g) MONITORING.—The Secretary shall monitor the activities of States that receive allotments under this part to ensure compliance with paragraphs (A)(ii) and (D) of section 481. The Secretary 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;

(2) LOCAL COLLABORATIVES.—The State board shall—

(A) in general.—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.

(B) services provided through community; and

(C) the manner in which the collaborative will comply with the requirements of subsection (a)(3) and (b).

(C)WAIVER.—The State board shall waive the requirement of paragraph (1) for poor States that consist of education and supportive services; and

(D) community; and

(3) W AIVER.—A State may apply to the Secretary for a waiver of paragraph (1) if the Secretary determines that unusual circumstances prevent the State from complying with paragraph (1). The Secretary may grant the waiver if the Secretary finds that unusual circumstances prevent the State from complying with paragraph (1).

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 to the State under this section, for the second determination of non-compliance;

(b) USE OF FUNDS.—A local collaborative that receives a grant made under subsection (a) shall—

(1) make grants for periods of more than 1 year to local collaboratives that demonstrate success in carrying out young child assistance activities;

(2) make grants for periods of more than 1 year to local collaboratives that demonstrate success in carrying out young child assistance activities;

(3) grant to local collaboratives that—

(4) ensure that at least 60 percent of the funds made available through each grant are used to provide 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 reduced price meals under the National School Lunch Act (42 U.S.C. 1751 et seq.).

(b) LOCAL COLLABORATIVES.—To be eligible to receive a grant under this section, a local collaborative shall—

(1) have the required infrastructure,

(2) the activities of other local collaboratives serving young children and families in the community, if any; and

(3) may use funds made available through the grant to provide young child assistance activities to young children and parents described in subsection (f);

(4) provide for the local share of the costs and containing such information as the Secretary shall prescribe.

(c) GRANTS TO LOCAL COLLABORATIVES.—A local collaborative may use funds made available through the grant—

(1) to provide technical assistance to the community; and

(2) reduce, by not less than 5 percent, an allotment made to the State under this section, for the fourth subsequent determination of non-compliance;

(3) make grants for periods of more than 1 year to local collaboratives that demonstrate success in carrying out young child assistance activities;

(4) an assurance that the local collaborative will comply with the requirements of subsection (a)(3) and (b).

(d) LOCAL COLLABORATIVES.—To be eligible to receive a grant under this section, the local collaborative shall demonstrate that the collaborative—

(1) is able to provide, through a coordinated effort, young child assistance activities to 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 political sub-division in which the community is located;

(D) parents of young children in the community;

(E) 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.

(b) LOCAL COLLABORATIVES.—To be eligible to receive a grant under this section, the local collaborative shall—

(1) have the required infrastructure,

(2) the activities of other local collaboratives serving young children and families in the community, if any; and

(3) may use funds made available through the grant to provide young child assistance activities to young children and parents described in subsection (f);

(4) provide for the local share of the costs and containing such information as the Secretary shall prescribe.

(c) GRANTS TO LOCAL COLLABORATIVES.—A local collaborative may use funds made available through the grant—

(1) to provide technical assistance to the community; and

(2) reduce, by not less than 5 percent, an allotment made to the State under this section, for the first subsequent determination of non-compliance;

(3) make grants for periods of more than 1 year to local collaboratives that demonstrate success in carrying out young child assistance activities;

(4) an assurance that the local collaborative will comply with the requirements of subsection (a)(3) and (b).

(d) LOCAL COLLABORATIVES.—To be eligible to receive a grant under this section, the local collaborative shall—

(1) have the required infrastructure,

(2) the activities of other local collaboratives serving young children and families in the community, if any; and

(3) may use funds made available through the grant to provide young child assistance activities to young children and parents described in subsection (f);

(4) provide for the local share of the costs and containing such information as the Secretary shall prescribe.
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) $200,000,000 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. 1382 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) $5,000 plus 25 percent of the qualifying parent's annual income for 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 Federal 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 $80,000, 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 that the qualifying parent is outside the labor force except that the Secretary shall prorate the amount for which the qualifying parent is eligible for the first year in which a child is born if the qualifying parent is outside the labor force for at least 4 months of the calendar year in which the child is born.

(B) SIMULTANEOUS AWARDS.—A qualifying parent may aggregate parent grants simultaneously for each child for which the parent remains outside the labor force.

(C) LIMITATION.—The Secretary shall not award a parent grant 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 the Higher Education Act of 1965); or

(ii) for expenses incurred in obtaining a secondary school diploma or its recognized equivalent.

(2) AGGREGATION OF AWARDS.—A qualifying parent may aggregate parent grants awarded for more than 1 year or more than 1 child for use in a single academic year.

(3) 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).

(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 grants to projects that are conducted by independent and impartial organizations.

(2) REPORT.—Not later than 4 years after the date of enactment of this section, the Secretary shall submit 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

SEC. 1. SHORT TITLE.

This Act may be cited as the "Enhancing Family Life Act of 1999."

SEC. 2. FINDINGS.

The Congressional findings support the importance of families in society and social policy.

TITLE I—ASSISTANCE FOR CHILDREN

SEC. 101. "SECOND CHANCE HOMES."

The bill would provide $45 million annually to establish or expand "second chance" homes for young parents. These are group homes where mothers live with their children under adult supervision and strict rules while learning good parenting skills.

SECTION 2. ADOPTION PROMOTION

SEC. 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 is determined to be eligible for only a portion of 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 children permanent homes.

The Children's Action Network and the Safe Families Act authorizes the authorities 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 move the child in a permanent home more quickly.

TITLE III. EARLY CHILDHOOD DEVELOPMENT

The bill provides $3.75 billion over five years for collaborative early childhood development programs which has demonstrated the importance of the earliest years in a child's life in the child's intellectual and emotional development. States would use the funds for programs, parenting education, high-quality child care, and preventive health services. States would have great flexibility in deciding which services to provide.

SEC. 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 who was out of the labor force to pursue education with a parent grant awarded under this section could use the funds for home visiting programs, family and child care, family emotionally disorganized, and financial aid programs.

By Mr. MOYNIHAN:

S. 209. A bill to prohibit States from imposing a family cap under the program of temporary assistance to needy families; to the Committee on Finance.

LEGISLATION TO PROHIBIT THE FAMILY CAP

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation to prohibit States from imposing the so-called "family cap" as part of their Temporary Assistance to Needy Families (TANF) programs. The "family
cap” is a policy under which a child born to a poor family on assistance is simply ignored when calculating the family’s benefit—as if the child, this new infant, did not exist and had no needs. More than 20 states have imposed this cap as part of their TANF programs.

As I have said in previous debate on this subject, these children have not asked to be conceived, and they have not asked to come into the world. We have an element of 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].” That is, it did little to move welfare recipients to work, the ostensible objective of the 1996 welfare law intended? Further, the evaluation notes 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 sum of the legislation and its full text be included in the RECORD.

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. Their importance was acknowledged in the outcome that authors of the 1996 welfare law intended? Further, the evaluation notes the New Jersey welfare reform effort, of which the cap as a component, that “[w]e found no evidence that [the program] had any systemic positive impact on employment, employment stability, or earnings among AFDC recipients.” That is, it did little to move welfare recipients to work, the ostensible objective of the 1996 welfare law.

And so, with this bit of evidence to reinforce my original position, I propose today to end the family cap, and I ask unanimous consent that a summary of the legislation and its full text be included in the RECORD.

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

S. 209

Bel t 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, impose a family cap. Any policy of a State that would be inconsistent with this part is inconsistent with such section.”

(b) PENALTY.—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by adding at the end the following:

“(13) PENALTY FOR PROGRAM WITH FAMILY CAP.—Notwithstanding any other provision of this part, a State that violates section 408(a)(12) during a fiscal year shall remit to the Secretary all funds 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 inconsistent with this part. This part is inconsistent with such section.”
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 can be compelled to pay. Accordingly, 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 placing off traditional implicit revenue sources (such as additional payments from private payers) that have supported medical schools, graduate medical education, and research until now. In its June 1996 Report to Congress, the Prospective Payment Assessment Commission (ProPAC), created to advise Congress on Medicare Hospital Insurance (Part A) payment, summarized the situation of teaching hospitals as follows:

As the health care market 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 payments." 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 revised 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. New York's single payment system, however, is unique, but the same process of negotiation between hospitals and private health plans takes place across the country. Who, in this context, will pay for the higher costs of operating teaching hospitals?

It is worth mentioning that the NY state funding pools for GME were established as a temporary, yet important source of support for GME until Federal law—like the bill I am introducing today—can be passed by Congress. While New York has historically recognized the value of supporting GME through the state funding pools, this source of funding is currently in jeopardy of not being reauthorized by the state legislature.

It is obvious that teaching hospitals can no longer rely on higher payments from private payers to do so. Nor should they. The establishment of this trust fund, which explicitly reimburses teaching hospitals for the costs of graduate medical education, will ensure that teaching hospitals can pursue their vitaly important patient care, training, and research missions in the face of an increasingly competitive health system.

Medical schools also face an uncertain future. There are many policy issues that need to be examined regarding the role of medical schools in our health system, but two threats faced by medical schools require immediate attention. This legislation addresses both. First, many medical schools are immediately threatened by the dire financial condition of their affiliated teaching hospitals. Medical schools rely on teaching hospitals to provide a place for their faculty to practice and perform research, a place to send third and fourth-year medical students for training, and for some direct revenues. By improving the financial condition of teaching hospitals, this legislation significantly improves the outlook for medical schools.

The second immediate threat faced by medical schools stems from their reliance on a portion of the clinical practice revenue generated by their facilities to support their operations. As competition within the health system intensifies and managed care plans multiply, the pressure is shrinking. This legislation provides payments to medical schools from the Trust Fund that are designed to partially offset this loss of revenue.

As we begin the 106th Congress, the Bipartisan Commission on the Future of Medicare as established in the Balanced Budget Act of 1997 is debating its recommendations to assure the long-term solvency and viability of the Medicare program. One of the most important policy recommendations is 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 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 our competitive forces reshaping health care have brought only negative results. To the contrary, the onset of competition has had many beneficial effects, the recognition of the growth of health insurance premiums being the most obvious. But as Monsignor Charles J. Fahey of Fordham warned in testimony before the Finance Committee in 1994, we must be wary of the "commercialization of health care," by which he meant that health care is not just another commodity. We can rely on competition to hold down costs in much of the health system, but we must not allow it to bring a premature end to this great age of medical discovery, an age made possible by this country's exceptionally well-trained health professionals and superior medical schools and teaching hospitals. This legislation complements a competitive health system by providing essential, pay-as-you-go supported funding for the public services provided by teaching hospitals and medical schools.

Accordingly, the Medical Education Trust Fund established in the legislation I have just reintroduced would receive funding from three sources broadly representing the entire health care system: a 1.5 percent tax on health insurance premiums (the private sector's contribution), Medicare and Medicaid (the latter two sources comprising the public sector's contribution). The relative contribution from each of these sources will be in rough proportion to the medical education costs attributable to their respective covered populations.

Over the five years following enactment, the Medical Education Trust Fund provides average annual payments of about $17 billion. The tax on health insurance premiums (including self-insured health plans) raises approximately $5 billion per year for the Trust Fund. Federal health programs contribute about $12 billion per year to the Trust Fund: $8 billion of current Medicare graduate medical education payments and $4 billion in federal Medicaid spending.

This legislation is only a first step. It establishes the principle that, as a public good, medical education should be supported by dedicated federal funding. To ensure that the United States continues to lead the world in the quality of its medical education and its health system as a whole, the legislation would also create a Medical Education Advisory Commission to conduct a thorough study and make recommendations, including the potential use of demonstration projects, regarding the following:

Alternative 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:

SEC. 2. MEDICAL EDUCATION TRUST FUND.

The 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"

"SECTION 2201. Establishment of Trust Fund.

"(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 medicare program.
Sec. 5. Amendments to medical education trust fund.
Sec. 6. Medical Education Advisory Commission.
Sec. 7. Demonstration projects.

SEC. 2202. AMOUNTS 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 such medical school.

"(2) Amount 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) In General.—The Secretary shall make payments under subsection (a) from the amount available under paragraph (1) for a fiscal year beginning after September 30, 1999, to eligible entities.

"(2) Eligible Entities.—For purposes of this section, the term 'eligible entity' means a school of medicine (as defined in such section).

"(c) Eligible Entity Defined.—For purposes of this section, the term 'eligible entity' means a school of medicine (as defined in such section).

"(d) Administrator of Programs.—The Secretary shall carry out responsibility under this title by acting through the Administrator of the Health Care Financing Administration.

"(e) Eligible entity Defined.—For purposes of this section, the term 'eligible entity', with respect to any fiscal year, means—

"(A) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had been made periodically, at such intervals and in such amounts as the Secretary determines to be appropriate (subject to applicable Federal law regarding Federal payments).

"(B) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(C) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(D) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(E) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(F) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(G) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(H) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(I) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(J) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(K) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(L) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(M) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(N) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(O) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(P) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(Q) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(R) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(S) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(T) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(U) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(V) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(W) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(X) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(Y) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(Z) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(AA) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(BB) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(CC) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.

"(DDD) for payment under subsection (b) and (c), an entity which would be eligible to receive payments for such fiscal year under section 1886(h), if such payments had not been terminated for discharges occurring after September 30, 1999.
(B) for payment under subsections (d) and (e)—

(i) an entity which meets the requirement of subparagraph (A); or

(ii) any portion of a cost reporting period beginning on or before such date which occurs 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(e)(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(e)(5)(B) if such payments had not been terminated for discharges occurring after September 30, 1999.

(d) Determination of Amount From Non-Medicare Teaching Hospital Indirect Account.—

(1) In General.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Medicare Teaching Hospital Indirect Account for such fiscal year under section 1936, 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(e)(2) if such payments had not been terminated for discharges occurring after September 30, 1999.

(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 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(e)(5)(B) 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.

(f) 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 for such fiscal year under section 1886(e)(5)(B) if such payments had not been terminated for discharges occurring after September 30, 1999.

(2) Applicable Percentage.—For purposes of paragraph (1), the applicable percentage for any fiscal year is equal to the percentage of the total payments which, as determined by the Secretary, would have been made in such fiscal year under section 1886(e)(2) 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.
(C) Personal care services (as described in section 1905(a)(24)).
(2) Private duty nursing services (as referred to in section 1905(a)(8)).
(E) Home and community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915.
(F) Home and community care furnished to functionally disabled elderly individuals under section 1922.
(G) Community supported living arrangement services under section 1919.
(H) Home and community-based services (as described in section 1915(g)(2)).
(I) Home health care services (as referred to in section 1905(a)(7)), clinic services, and rehabilitation services that are furnished to an individual who has a condition or disability that qualifies the individual to receive any of the services described in a previous subparagraph.
(J) Services furnished in an institution for mental diseases (as defined in section 1905(i)).
(C) ENTITLEMENT—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to pay for the purposes 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 section 167 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. 4505. Health-related administrative services.

Sec. 4506. 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.

(3) TAXABLE HEALTH INSURANCE POLICY.—For purposes of this section—

(1) in general.—Except as otherwise provided in this section, the term ‘taxable health insurance policy’ means any insurance policy providing accident or health insurance with respect to individuals residing in the United States.

(2) Exemption of Certain Policies.—The term ‘taxable health insurance policy’ does not include an accident insurance policy if substantially all of the coverage provided under such policy relates to—

(3) liabilities incurred under workers’ compensation laws,

(4) tort liabilities,

(5) liabilities relating to ownership or use of property,

(6) credit insurance,

(7) other such similar liabilities as the Secretary may specify by regulations.

(c) Special 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, more than the amount of the tax imposed by subsection (a)(1) on any premium paid under such policy, there shall be excluded the amount of such month’s 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).

(d) 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 coverage arrangement with respect to—

(1) the payments or premiums referred to in subparagraph (B)(i) shall be treated as premiums received for a taxable health insurance policy,

(2) the person referred to in subparagraph (B)(i) shall be treated as the issuer;

(ii) the payments or premiums referred to in subparagraph (B)(ii) shall be treated as premiums received for a taxable health insurance policy,

(3) the person referred to in subparagraph (B)(iii) shall be treated as the issuer,

(4) the processing of claims or performing of other administrative services in connection with accident or health coverage under a taxable health insurance policy if there shall be disregarded for purposes of this section, and

(5) the payments or premiums referred to in subparagraph (B)(iv) shall be treated as premiums received for a taxable health insurance policy.

(B) Description of Arrangements.—An arrangement described in this subparagraph—

(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.

(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 (by insurance or otherwise) of an 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 treated as a reduction in accident or health coverage expenditures.

(3) Certain Expenditures Disregarded.—

Paragraph (1) shall not apply to any expenditures 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 expenditures.

SEC. 4503. TRANSFER TO ACCOUNTS.

For fiscal year 2000 and each subsequent fiscal year, there are hereby appropriated to the Federal 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 transferred to such Trust Fund under section 2202(a)(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 section 2201(b)(1) of such Act for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) bears to the total amount transferred to such Trust Fund under section 2201(b)(1) of such Act for the fiscal year.

(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 2201(b)(1) of such Act bears 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) Definition.—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 written by any person acting as the primary insurer, adjusted for any return or additional premiums paid as a result of endorsements, cancellations, audits, or retroactive rate changes. 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 as 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 reported 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 their service—

"(i) members of the Armed Forces of the United States, or

"(ii) veterans, and

"(iii) any individual 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 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.

(b) DUTIES.—

"(1) IN GENERAL.—The Advisory Commission shall—

"(i) 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(p));

"(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;

"(vii) policies designed to expand eligibility for graduate medical education payments to institutions other than teaching hospitals;

"(viii) 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 1, 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 1, 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.

"(b) 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.

"(c) 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).

"(d) 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 Secretary of Health and Human Services may enter into with States or other eligible entities to test the feasibility of the programs and policies described in subsection (b) in an effort to improve the quality of health care services for the poor and underserved.

(b) PROJECTS AVAILABLE.—

"(1) IN GENERAL.—No more than 10 percent of the funds available under this section shall be used by the Secretary for the purposes of this paragraph.

"(2) ALLOCATION.—Amounts under paragraph (1) shall be paid from the accounts established under paragraph (2) of section 2202(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 such accounts for such fiscal year.

"(3) 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**

The legislation establishes a Medical Education Trust Fund to support America’s 144 medical schools and 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 that should be provided to all sectors of the health care system.

To ensure that the burden of financing medical education is shared equally by all sectors, the Medical Education Trust Fund will receive funding from three sources: a 1.5 percent assessment on health insurance premiums (the private sector’s contribution), Medicare, and Medicaid (the public sector’s contribution). The relative contribution from each of these sources 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**

<table>
<thead>
<tr>
<th>Source</th>
<th>Millennium</th>
<th>Medicare</th>
<th>Medicaid</th>
<th>Total</th>
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<td>8</td>
<td>4</td>
<td>17</td>
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**Interim Payment Methodologies** Payments to medical schools

Medical schools rely on a portion of the clinical practice revenue generated by their faculties to support their operations. As competition within the health system intensifies and managed care proliferates, these revenues are being constrained. Payments to medical schools from the Trust Fund are designed to mitigate this loss of revenue. Initially, these payments will be based on an interim methodology developed by the Secretary of Health and Human Services.

To cover the costs of education, teaching hospitals have traditionally charged higher rates 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** Payments from the Trust Fund reimburse teaching hospitals for both the direct and indirect 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 non-Medicare patients in each hospital and the severity of their illnesses as well as a measure of the teaching load in that hospital. For the purposes of payments to teaching hospitals, the number of Medicare patients 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 stability and predictability 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.

By Mr. MOYNIHAN

**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 programs, and for other purposes; to the Committee on Finance.

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**Notes**

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. JENNINGS, Mr. KYL, Mr. LIEBERMAN, Ms. MUKLSKI, Mr. MURKOWSKI, Mr. ROBS, 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 Committee for Education and the Workforce, 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
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 earned an average of $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 such as the Senate, the most recent extension of section 127 excluded graduate level education. This was a mistake. Historically, one quarter of the individuals who have used section 127 went to graduate schools. Ask major employers about their employee training and they will say nothing is more helpful than being able to send a promising young person, or middle management person, to a graduate school to learn a new field that has developed since that person acquired his or her education. As Dr. Greenspan stated, . . . education, especially to enhance advanced skills, is so vital to the future growth of our economy.

By eliminating graduate level education from section 127, we impose a tax increase on many citizens who work and go to graduate 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 individuals, they have directed 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 average high school graduate, who has a job-related degree. The lower skilled, the minorities, the handicapped are 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. With section 127, 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 extended benefit employers 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. We know that employers 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. We cannot know 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 to the same uncertainty?
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, thereby 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

Belt 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 of 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.—

(i) IN GENERAL.—The amendments made by subsection (a) shall apply with respect to expenses relating to courses beginning after the date of enactment of this Act.

(ii) THE AMENDMENT MADE BY SUBSECTION (B) SHALL APPLY WITH RESPECT TO EXPENSES RELATING TO COURSES BEGINNING AFTER DECEMBER 31, 1998.

NATIONAL ASSOCIATION OF MANUFACTURERS,


Hon. Daniel Patrick Moynihan,
United States Senate, Hart Senate Office Building,
Washington, D.C.

Dear Senator Moynihan:

I am writing to offer my sincere appreciation for your sponsorship of legislation that will permanently extend IRD Sec. 127 for both undergraduate and graduate courses. On behalf of the National Association of Manufacturers (NAM), I thank you for your continued commitment to encouraging a well-educated and properly-trained workforce through the permanent extension of this tax credit.

As you know, this important provision of the tax code allows employees to exclude from their income the first $5,250 of educational benefits provided by their employers. While the Taxpayer Relief Act of 1997 temporarily extended the benefit for undergraduate courses, graduate courses are currently not included in Act Sec. 127 extension that is set to expire on May 31, 2000. Legislation that will permanently extend the credit for both graduate and undergraduate courses is absolutely critical.

Employees benefit from Sec. 127 by keeping current in rapidly advancing fields, improving basic skills, or, in extreme cases, learning new skills. Sec. 127 also serves as an effective means for entry level employees to move from low wage jobs to higher wage jobs while remaining in the workforce.

Sec. 127 has also proven 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. The NAM 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 distilleries, 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 the commonwealth of Puerto Rico and the possessions of the United States; to the Committee on Finance.

S. 215 A bill to amend the Sec. 211 of the Social Security Act to increase the allotments for territories under the State Children's Health Insurance program; to the Committee on Finance.

PUERTO RICO LEGISLATIVE PACKAGE

Mr. Moynihan, Mr. President, I rise today on behalf of myself and my distinguished colleague from New York, Mr. Schumer, to introduce three tax measures designed to strengthen our commitment to enhancing the prospects for long-term economic growth in the Commonwealth, and a fourth piece of legislation to ensure fair funding for its Children's Health Insurance Program.

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 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, thereby preventing 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 1983, 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
The R&D credit has never applied to equitable treatment of Puerto Rico businesses would have a 10 year period would terminate three years later for located in Puerto Rico. New as well as after 2001, the aggregate taxable in-
terest 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 in Puerto Rico is 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 Representa-tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986

(a) SHORT TITLE.--This Act may be cited as the "Puerto Rico Economic Activity Credit Improvement Act of 1999".
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(b) AMENDMENT OF 1996 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a line of business, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. MODIFICATIONS OF PUERTO RICO ECONOMIC ACTIVITY CREDIT.

(a) CORPORATIONS ELIGIBLE TO CLAIM CREDIT.—Section 30A(a)(2), defining qualified domestic corporation, is amended to read as follows:

``(2) QUALIFIED DOMESTIC CORPORATION.—For purposes of paragraph (1):

``(A) 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 within paragraph (A) if such corporation (or any predecessor) had an election in effect under section 936(a)(4)(B) for the taxable year beginning after December 31, 1996.

``(D) ELIGIBLE LINE OF BUSINESS.—For purposes of this section—

``(1) QUALED 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) QUALED 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 section 936(j)(9),

``(II) an eligible line of business not described in clause (I),

``(iii) a line of business with respect to which the 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 subsection, 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).

``(D) ELIGIBLE LINE OF BUSINESS.—For purposes of this section, 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.''

(b) REPEAL OF BASE PERIOD CAP FOR ECONOMIC ACTIVITY CREDIT.—

``(a) IN GENERAL.—Section 936(j)(2)(B) of the Internal Revenue Code of 1986, as added by the Economic Growth and Tax Relief Reconciliation Act of 2001, and all amendments made to such section after the date of the enactment of such Act, are amended by striking 'January 1, 2006' and inserting 'January 1, 2009'.

``(b) REPEAL OF BASE PERIOD CAP.—Section 936(j)(2)(B) of the Internal Revenue Code of 1986, as added by the Economic Growth and Tax Relief Reconciliation Act of 2001, and all amendments made to such section after the date of the enactment of such Act, are amended by striking 'January 1, 2006' and inserting 'January 1, 2009'.

``(c) REPEAL OF BASE PERIOD CAP FOR ECONOMIC ACTIVITY CREDIT.—

``(A) IN GENERAL.—In the case of an existing credit claimant to an acquisition described in subparagraph (A), the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1996, and before January 1, 2002, 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 (D)(1) OF THE AMENDMENTS MADE TO SECTION 936.—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.

``(d) CONFORMING AMENDMENTS.—

``(1) IN GENERAL.—Section 936(j)(2)(B), as added by subsection (a), is amended by striking 'subparagraph (A)' and inserting 'subsection (j)(3)(A)(ii)' and inserting 'the section which is also used in section 936 shall

``(2) APPLICATION.—Section 936(j)(2)(B), as amended by subsection (a), is amended by striking 'January 1, 2002' and inserting 'January 1, 2009'.

``(c) ADDITIONAL RESTRICTED REDUCED CREDIT.—

``(A) IN GENERAL.—In the case of an existing credit claimant to an acquisition described in subparagraph (A), the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1996, and before January 1, 2002, 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 (D)(1) OF THE AMENDMENTS MADE TO SECTION 936.—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.

``(c) CONFORMING AMENDMENTS.—

``(A) IN GENERAL.—Section 936(j)(2)(B), as added by subsection (a), is amended by striking 'subparagraph (A)' and inserting 'subsection (j)(3)(A)(ii)' and inserting 'the section which is also used in section 936 shall

``(2) APPLICATION.—Section 936(j)(2)(B), as amended by subsection (a), is amended by striking 'January 1, 2002' and inserting 'January 1, 2009'.

``(c) ADDITIONAL RESTRICTED REDUCED CREDIT.—

``(A) IN GENERAL.—In the case of an existing credit claimant to an acquisition described in subparagraph (A), the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1996, and before January 1, 2002, 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 (D)(1) OF THE AMENDMENTS MADE TO SECTION 936.—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.

``(c) CONFORMING AMENDMENTS.—

``(A) IN GENERAL.—Section 936(j)(2)(B), as added by subsection (a), is amended by striking 'subparagraph (A)' and inserting 'subsection (j)(3)(A)(ii)' and inserting 'the section which is also used in section 936 shall

``(2) APPLICATION.—Section 936(j)(2)(B), as amended by subsection (a), is amended by striking 'January 1, 2002' and inserting 'January 1, 2009'.

``(c) ADDITIONAL RESTRICTED REDUCED CREDIT.—

``(A) IN GENERAL.—In the case of an existing credit claimant to an acquisition described in subparagraph (A), the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1996, and before January 1, 2002, 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 (D)(1) OF THE AMENDMENTS MADE TO SECTION 936.—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.

``(c) CONFORMING AMENDMENTS.—

``(A) IN GENERAL.—Section 936(j)(2)(B), as added by subsection (a), is amended by striking 'subparagraph (A)' and inserting 'subsection (j)(3)(A)(ii)' and inserting 'the section which is also used in section 936 shall

``(2) APPLICATION.—Section 936(j)(2)(B), as amended by subsection (a), is amended by striking 'January 1, 2002' and inserting 'January 1, 2009'.
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 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 redesignating subsection (g) as subsection (f).

(b) Conforming Amendments.—Section 7652(f) of such Code (as so redesignated) is amended by striking such subsection (f) of this section" in paragraph (1) and inserting "section 5001(a)(3)."

(c) Effective Date.—(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) New lines of business.—The amendment made by subsection (b)(2) shall apply to taxable years beginning after December 31, 1995.

SEC. 2. 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 ON 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 June 30, 1998."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.
But what about foreign tax credits? The Joint Tax Committee Explanation stated:

"... While Congress viewed allowance of the foreign tax credit... as generally appropriate in 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 1966 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 1966, 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 supplied significantly large 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.

Secondly, with the 1986 Tax 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'Amauro 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. 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 the 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, or personal friends. Depending on the nature of 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..."
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 Blackmun, who laid out a constitution that Supreme Court Justices might no longer donate their papers to the Library of Congress.

Certainly, retained rights can have value, and could be subjected to commercial exploitation. One can imagine a publishing house would want access to the papers of prominent Members, Congressmen, or others, for use in biographies or on books related to the events that they helped shape.

However, any opportunity to retain and bequeath commercially exploitable rights in historical papers free of estate taxes is of little importance relative to the need to preserve the documents for scholarly research. Consider decision memoranda from key aides, correspondence, notes of strategy sessions, recordings of telephone conversations such as those made by President Lyndon Johnson and only now being aired—will these documents be destroyed if the choice were to open the items under death or to pay an estate tax on them? Consider Chief Justice Rehnquist's chilling warning.

Yet, in most if not all cases, any retained rights can be expected to have little realizable value, and opportunities for commercial exploitation would appear to be quite limited in scope.

To this Senator, the right thing to do is clear. I am introducing legislation to clarify the tax law. In brief, this legislation provides that a person may retain 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,
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 high quality wool fabric used to make men's and boy's 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.

The bill Senators SCHUMER, DURBIN and I are introducing today would correct this problem, at least temporarily. It suspends through December 31, 2004 the duty on the finest wool fabrics (known in the trade as Super 90s or higher grade)—fabrics that are produced in only very limited quantities in the United States. And it would reduce the duty for slightly lower grade but still very fine wool fabric (known as Super 70s and Super 80s) to 19.8 percent—equivalent to the duty that applies to most finished wool suits.

The bill also provides that, in the event the President proclaims a duty reduction on wool suits, corresponding changes would be made to the tariffs applicable to "Super 70s" and "Super 80s" grade wool fabric.

I introduced a similar measure last year. I do so again because of the obvious inequity of this tariff inversion, which so clearly puts U.S. producers and workers at a competitive disadvantage. This bill represents a small step toward modifying a tariff schedule that favors foreign producers of wool suits at the expense of U.S. suit makers. We should do so permanently, and perhaps, in time, will do so. In the meantime, we ought to make this modest start.

I ask unanimous consent that the text of the bill be inserted in the RECORD.

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

S. 218
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, in the ONE HUNDRED FOURTH CONGRESS, first Session.

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 to subheading 9902.51.11 the following new notes:

"13. For purposes of headings 9902.51.11 and 9902.51.12, the term 'suit' has the same meaning as the term 'suit' as defined in section 1302 of the Tariff Act of 1930, except that it shall include any garment manufactured in the United States that is provided for in one of the following subheadings: 6203.31.00 of the Harmonized Tariff Schedule of the United States, or any suit, suit jacket, or trousers for which a duty is payable under a subheading of chapter 62, not elsewhere specifically provided for.

"(2) by inserting in numerical sequence the following new subheads:

<table>
<thead>
<tr>
<th>Tariff Number</th>
<th>Description</th>
<th>Duty Rate</th>
<th>Effective Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>9902.51.11</td>
<td>Fabrics, of carded or combed wool, all the foregoing certified by the importer as 'Super 70s' or 'Super 80s' intended for use in making suits</td>
<td>19.6%</td>
<td>On or before 12/31/2004</td>
</tr>
<tr>
<td>9902.51.12</td>
<td>Fabrics, of carded or combed wool, all the foregoing certified by the importer as 'Super 90s' or higher grade intended for use in making suits</td>
<td>Free (CA, IL, MX)</td>
<td>On or before 12/31/2004</td>
</tr>
</tbody>
</table>

(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 cooperation and technology along the U.S.-Canadian border.

The United States is a long-established border in the world. Canada is also our largest trading partner, with two-way trade surpassing $1 trillion a year. 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 1980, the year that the Canada Free Trade Agreement entered into force, was $394 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," which 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 Crossings Facilitation Act."
Training of personnel to maintain and support of the equipment and acquisition of equipment described in subsection (a); and shall be at a lesser cost than the equipment described in subsection (a); or (b) be obtained at a lower cost than the equipment described in subsection (a).

(2) Transfer of funds.—Notwithstanding any other provision of this Act, the Commissioner of Customs may reallot an amount not to exceed 10 percent of the amount specified in any of the paragraphs (1) through (4) of subsection (a) for equipment specified in any of the other such paragraphs (1) through (4).

TITLE II—ADDITIONAL PRECLEARANCE ACTIVITIES

SEC. 201. CUSTOMS USER FEES.

(a) Additional Preclearance Activities.—Section 1303(i)(3)(A)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(i)(3)(A)(i)) 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 MERCHANTABILITY Processing Fees for Passengers Aboard Commercial Vessels.—Section 1303 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 (ii) by striking "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 1303(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 programs, to establish an industry pro-gram to promote the earliest possible adjustment to new jobs, and for other purposes; to the Committee on Finance.

TRADE ADJUSTMENT ASSISTANCE

IMPROVEMENTS ACT OF 1999

Mr. MOYNIHAN. Mr. President, I am introducing today legislation that will preserve a decades-old commitment by the United States Government to the American worker. The Trade Adjustment Assistance Improvements Act of 1999 will ensure that the trade adjustment assistance programs for workers and for firms, first established in 1962 and now set to expire on June 30, 1999, will continue uninterrupted through September 30, 2001. The legislation also proposes a number of reforms to these programs to help make them into more effective tools for assisting workers who lose their jobs as a result of competition from imports or shifts in production to overseas sites.

By way of background, the Trade Adjustment Assistance program provides eligible workers with income support, training and other forms of assistance. It also grants technical help to eligible companies to improve their manufacturing, marketing and other capabilities in the face of import competition. First outlined in 1954 by United Steel Workers President David MacDonald, the basic Trade Adjustment Assistance program was enacted in the Trade Expansion Act 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 something threatens their jobs or their income 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 foreign 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 a provision in the Omnibus Trade and Competitiveness Act creating the NAFTA Trade Adjustment Assistance program for firms—NAFTA TAA. Unlike the basic TAA program for workers, which provides training and income support only for workers who lose their jobs as a result of competition from imports, the NAFTA-TAA program also provides assistance when workers lose their jobs because their company shutters 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 the Hill during the last Congress, which yielded a reform bill similar to the one I am introducing today.

The most significant of the reforms would merge the two separate programs for workers, in an effort to make the program more effective and responsive to workers, while at the same time reducing administrative costs. Key features of the merged programs include the following:

(1) Eligible workers may receive benefits because production has shifted to any country, and not just to either Mexico or Canada as the law currently provides;

(2) The Secretary of Labor will expedite 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;

(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. In 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
SEC. 4. ADDITION OF SHIFTS IN PRODUCTION AS BASIS FOR ELIGIBILITY FOR TRADE ADJUSTMENT ASSISTANCE.

Section 232(a) of the Trade Act of 1974 (19 U.S.C. 2273(a)) is amended in the first sentence by striking "60 days" and inserting "40 days".

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 to which articles like or directly competitive with articles produced by such firm or subdivision have resulted in certifications under section 222(a)(2)(A), including the number of such certifications relating to each country."
SEC. 8. PROVISION OF TRADE READING USTMENT ALLOWANCES DURING BREAKS IN TRAINING.

Section 232(b) 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 INITIAL 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 "$70,000,000" and inserting "$150,000,000".

SEC. 10. ELIMINATION OF QUARTERLY REPORT.

(a) In GENERAL.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking "There are authorized" and inserting "Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking "30 days".

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on October 1, 1999.


(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 32 of the Workforce Investment Act of 1998 (29 U.S.C. 2864 et seq.) before the period at the end of the first sentence.

(b) COORDINATION WITH JOB TRAINING PARTNERSHIP ACT.—Section 2 of the Job Training Partnership Act of 1998 (29 U.S.C. 2293(f)) is amended by inserting "including the services provided through one-stop delivery systems described in section 32 of the Workforce Investment Act of 1998 (29 U.S.C. 2864 et seq.) before the period at the end of the first sentence.

SEC. 12. SUPPORTIVE SERVICES.

(a) In GENERAL.—Section 238A of the Trade Act of 1974 (19 U.S.C. 2298) is amended by inserting "including the services provided through one-stop delivery systems described in section 32 of the Workforce Investment Act of 1998 (29 U.S.C. 2864 et seq.) before the period at the end of the first sentence.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on October 1, 1999.

SEC. 13. ADDITIONAL CONFORMING AMENDMENTS.

(a) Section 235(b) of the Trade Act of 1974 (19 U.S.C. 2297(b)) is amended in paragraphs (1) and (2) by striking "or" and replacing it with "and".

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on October 1, 1999.

SEC. 14. AVAILABILITY OF CONTINGENCY FUNDS.

(a) IN GENERAL.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking "There are authorized" and inserting "Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking "There are authorized" and inserting "30 days".

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on October 1, 1999.

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 October 1, 1999.

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

(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 abuse that have resulted 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 in the western states, including 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 sympathetic 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 homes.

My interest in this was heightened 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 $380 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 unprinciplcd people whose sole intent is to defraud hard-working men and women. This legislation will make it a federal crime to defraud persons through the sale of materials or services for clean-up, 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. If a disaster is declared, federal 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 are imposed only after a federal disaster has been declared. I am pleased to incorporate a provision in this bill initiated by my colleague and co-sponsor of this legislation in the 106th 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 materials 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. DE WINE):

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 DE WINE—a bill that will, if enacted into law, save 500-700 lives a year. The Safe and Sober Streets Act establishes a legal framework for discouraging drunk driving at .08 Blood Alcohol Content (BAC) in all 50 states.

Mr. President, Senator DE WINE 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 a strong majority in the Senate.

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 pass laws of this nature. 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 noise was quite 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 and safety advocates who voted 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 incentive grants never worked, but the latter already has.

Withholding federal resources, which has been tested and proven constitutionally sound, has worked. All 50 states have a minimum drinking age of 21. The National Highway Traffic Safety Administration tells us that the 21 law has saved the lives of over 10,000 precious young Americans. South Carolina just became the 50th state to pass a coherent law. South Carolina 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 I am introducing today, all states would have three years in which to adopt .08 BAC as the DWI definition. After those three years, states would, as with the 21 drinking age and Zero Tolerance, face a withholding of five percent of their highway construction funds.

Those who voted against the Safe and Sober Streets Act or prevented a vote in the other body said this was a choice between 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 done so? Yet, the $500 million incentive grant program does.

Mr. President, we have provided a fig leaf to cover our shame for failing to do what 70 percent of the American people expected us to do—to override the narrow special interest and act to protect public health and safety.

Mr. President, we know that .08 BAC is the right level for DWI. Adopting this level will simply bring the United States into the ranks of most other industrialized nations with reasonable drunk driving limits. Canada, Great Britain, Ireland, Italy, Austria and Switzerland have .08 BAC limits. France, Belgium, Finland and the Netherlands’ limit is .05 BAC. Sweden’s is .02 BAC.


But more important than the support of scores of businesses, health and science organizations, governmental agencies, public 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 two 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. The bill having no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 222

Congressional Record — Senate

S. 223. A bill to help communities meet their 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 Mr. Johnson:

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S. 223. A bill to help communities meet their public school facilities, and for other purposes; to the Committee on Finance.
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 schools as well as those 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 her teachers from working on a "one to one" basis with students.

This overcrowding often costs students their normal recreation area. Formica 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 school buildings, built quickly in the 1960s, are not holding up well and need extensive repair.

And in order, urban schools the condition and age of buildings is making it harder to house 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, expand and improve school 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 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 issuers.

``(c) LIMITATION BASED ON AMOUNT OF TAX.

``(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

``(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

``(B) the sum of the credits allowed under part IV of subchapter U (other than subsection (c) thereof, relating to refundable credits).

``(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the amount determined by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and
added to the credit allowable under subsection (a) for such taxable year.

"(d) QUALIFIED PUBLIC SCHOOL MODERNIZATION BOND; CREDIT ALLOWANCE.—For purposes of this section—

"(1) QUALIFIED PUBLIC SCHOOL MODERNIZATION BOND.—The term ‘qualified public school modernization bond’ means—

(A) a school modernization bond, and

(B) a qualified school construction bond.

"(2) CREDIT ALLOWANCE.—The term ‘credit allowance’ means, with respect to any such bond, the last day of the 1-year period beginning on the date of issuance of such bond and the last day of each successive 1-year period thereafter.

(e) General Definitions.—For purposes of this part—

"(1) LOCAL EDUCATIONAL AGENCY.—The term ‘local educational agency’ has the meaning given to such term by section 1401 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 of the United States.

"(3) PRIVATE BUSINESS.—The term ‘private business’ includes—

(A) any qualified public school construction bond issued 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.

"(4) PUBLIC SCHOOL FACILITY.—The term ‘public school facility’ includes any qualified public school modernization bond issued by a regulated investment company.

"(f) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section, to the extent the amount included shall be treated as interest income.

"(g) BONDS HELD BY REGULATED INVESTMENT COMPANY.—Any qualified public school modernization bond issued 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 section—

"(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 a qualified zone academy 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) support 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) such public school is located in an empowerment zone or community designated after the date of enactment of this section.

"(4) TEMPORARY PERIOD EXCEPTION.—A bond shall not be treated as failing to meet the requirement of paragraph (1)(A) solely by reason of the period of time during which the proceeds of an issue of which such bond is a part are invested in a reasonable temporary period for the purpose of ensuring the success of such public school or program.

"(B) CARRYOVER OF UNLIMITED BONDS.—If any proceeds during such period shall be treated as failing to meet the requirement of paragraph (1)(A), such proceeds shall be carried over into the following calendar year.

(c) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

"(1) IN GENERAL.—There is a national zone academy bond limitation for calendar year 1999 which shall not exceed the limitation amount for such year as determined under subsection (b) for such calendar year.

"(2) LIMITATION AMOUNT.—The limitation amount for such calendar year shall be allocated by the Secretary to each State under subparagraph (A) and subject to the provisions of subsection (b).

"(A) ALLOCATION AMONG STATES.—The limitation amount for each calendar year shall be allocated by the Secretary to each State on the basis of each State’s share of the average of the basic grant to each State for all fiscal years since 1990.

"(B) LIMITATION AMOUNT.—The limitation amount for each calendar year shall be allocated by the Secretary to each State on the basis of each State’s share of the average of the basic grant to each State for all fiscal years since 1990.
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 thereafter.

``(d) 65 PERCENT OF LIMITATION ALLOCATED AMONG STATES.—

``(1) IN GENERAL.—Sixty-five percent of the limitation applicable under subsection (c) for any calendar year shall be allocated among the States in proportion to the respective amounts each such State received for Basic Grants under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year. For purposes of the preceding sentence, Basic Grants attributable to large local educational agencies in such State 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.

``(B) MINIMUM PERCENTAGE.—A State's minimum percentage for any calendar year is the percentage of such State's allocation under paragraph (1) for such calendar year.

``(C) 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 the 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 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 to the public schools in the State 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), including a description of what it will—

``''''(i) give highest priority to localities with the greatest needs, as demonstrated by inadequate school facilities coupled with a low level of resources to meet those needs,

``''''(ii) use its allocation under this subsection to assist localities that lack the fiscal capacity to issue bonds on their own, including the issuance of bonds by the State on behalf of such localities,

``''(C) a description of how the local educational agency will use its allocation under this subsection to address the needs identified under subparagraph (A), including a description of what it will—

``''''(i) give highest priority to localities with the greatest needs, as demonstrated by inadequate school facilities coupled with a low level of resources to meet those needs,

``''''(ii) use its allocation under this subsection to assist localities that lack the fiscal capacity to issue bonds on their own, including the issuance of bonds by the State on behalf of such localities,

``''(D) a description of how the local educational agency will use its allocation under this subsection to address the needs identified under subparagraph (A), including a description of what it will—

``''''(i) give highest priority to localities with the greatest needs, as demonstrated by inadequate school facilities coupled with a low level of resources to meet those needs,

``''''(ii) use its allocation under this subsection to assist localities that lack the fiscal capacity to issue bonds on their own, including the issuance of bonds by the State on behalf of such localities,

``''(E) a description of how the local educational agency will use its allocation under this subsection to address the needs identified under subparagraph (A), including a description of what it will—

``''''(i) give highest priority to localities with the greatest needs, as demonstrated by inadequate school facilities coupled with a low level of resources to meet those needs,

``''''(ii) use its allocation under this subsection to assist localities that lack the fiscal capacity to issue bonds on their own, including the issuance of bonds by the State on behalf of such localities,

``''(F) a description of how the local educational agency will use its allocation under this subsection to address the needs identified under subparagraph (A), including a description of what it will—

``''''(i) give highest priority to localities with the greatest needs, as demonstrated by inadequate school facilities coupled with a low level of resources to meet those needs,

``''''(ii) use its allocation under this subsection to assist localities that lack the fiscal capacity to issue bonds on their own, including the issuance of bonds by the State on behalf of such localities,

``''(G) a description of how the local educational agency will use its allocation under this subsection to address the needs identified under subparagraph (A), including a description of what it will—

``''''(i) give highest priority to localities with the greatest needs, as demonstrated by inadequate school facilities coupled with a low level of resources to meet those needs,

``''''(ii) use its allocation under this subsection to assist localities that lack the fiscal capacity to issue bonds on their own, including the issuance of bonds by the State on behalf of such localities,

``''(H) a description of how the local educational agency will use its allocation under this subsection to address the needs identified under subparagraph (A), including a description of what it will—

``''''(i) give highest priority to localities with the greatest needs, as demonstrated by inadequate school facilities coupled with a low level of resources to meet those needs,

``''''(ii) use its allocation under this subsection to assist localities that lack the fiscal capacity to issue bonds on their own, including the issuance of bonds by the State on behalf of such localities,

``''(I) a description of how the local educational agency will use its allocation under this subsection to address the needs identified under subparagraph (A), including a description of what it will—

``''''(i) give highest priority to localities with the greatest needs, as demonstrated by inadequate school facilities coupled with a low level of resources to meet those needs,

``''''(ii) use its allocation under this subsection to assist localities that lack the fiscal capacity to issue bonds on their own, including the issuance of bonds by the State on behalf of such localities,

``''(J) a description of how the local educational agency will use its allocation under this subsection to address the needs identified under subparagraph (A), including a description of what it will—

``''''(i) give highest priority to localities with the greatest needs, as demonstrated by inadequate school facilities coupled with a low level of resources to meet those needs,

``''''(ii) use its allocation under this subsection to assist localities that lack the fiscal capacity to issue bonds on their own, including the issuance of bonds by the State on behalf of such localities,

``(6) ALLOCATION FORMULA.—The amount to be allocated under paragraph (5) for any calendar year shall be increased by the amount of the limitation amount under such subsection which is increased after such calendar year.

``(7) DETERMINATION OF LIMITATION ALLOCATED AMONG LARGEST SCHOOL DISTRICTS.—

``(1) IN GENERAL.—Thirty-five percent of the limitation applicable under subsection (c) for any calendar year may be allocated under paragraph (2) by the Secretary among the local educational agencies with the largest numbers of children living below the poverty level, as determined by the Secretary.

``(2) ALLOCATION FORMULA.—The amount to be allocated under paragraph (1) for any calendar year shall be allocated among the 100 local educational agencies with the largest numbers of children living below the poverty level, as determined by the Secretary, 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—

``''(A) among the 100 local educational agencies with the largest numbers of children living below the poverty line, as determined by the Secretary using the most recent data available from the Department of Commerce that are satisfactory to the Secretary,

``''(B) 1 of not more than 25 local educational agencies (other than those described in clause (i)) that the Secretary determines (based on the most recent data) to be 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 other such 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) a description of how the local educational agency will use its allocation under this subsection to address the needs identified under subparagraph (A), including a description of what it will—

``''''(i) give highest priority to localities with the greatest needs, as demonstrated by inadequate school facilities coupled with a low level of resources to meet those needs,

``''''(ii) use its allocation under this subsection to address the needs identified under subparagraph (A), including a description of what it will—

``''''(i) give highest priority to localities with the greatest needs, as demonstrated by inadequate school facilities coupled with a low level of resources to meet those needs,

``''''(ii) use its allocation under this subsection to address the needs identified under subparagraph (A), including a description of what it will—

``''(B) TRIBAL SCHOOL.—The term 'tribal school' means a school that is operated by an Indian tribe for the education of Indian children who are enrolled in an Indian tribe and is certified by the Secretary as a qualified school for financial assistance under title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6104).
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 of 1999—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.

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.

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As Mr. Patricia H. Oberg, a professor at the University of Virginia, recently said, "the vaccine that . . . could conceivably at least lead towards the cure, if not cure immediately, almost all the ills of sports." Mr. Obergman may just be right about the importance of this bill, both to sports fans and to taxpayers. The bill closes a large loophole, a loophole that ultimately injures state and local governments and other issuers of tax-exempt bonds, that provides an unintended federal subsidy that contributes to the growing professional sports franchise debts.

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 ones.

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 . . . to a successful conclusion. I also thank Senators Daschle, Kennedy, Kerry, Torricelli, Edwards, and Bingaman for joining us today.

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.

PUBLIC SCHOOL MODERNIZATION ACT OF 1999

Mr. ROBB. Mr. President, I rise to join with Senator Lautenberg to introduce the Public School Modernization Act of 1999.

Mr. President, I want to comment 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 the ones they have. So our children will have a better, more modern and safe environment in which to learn.

A few weeks ago, the Thomas Jefferson Foundation at Monticello, which is the original home of Thomas Jefferson, issued a report saying that the condition of America’s schools is not what it should be. So what we’re doing is trying to help our States build new schools and repair and modernize the ones they have.

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.
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 check-mate/topic/proceeds, and the like) must be used to repay the bulk of the debt, freeing team owners to pocket 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, concourses, 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 allow 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 $67 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), rights in sales and in licensing of $26 million in season ticket purchases (so-called "personal seat licenses"), all revenues from selling the right to name the stadium, luxury suites, premium boxes, in-part advertising, and concessions, and 50 percent of all revenues from shows 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 $365 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 that. I'm all in 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 that 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 have come to 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 team, because Heat management, which has 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 plans to build at a cost of around $200 million. Plans call for Dade County to build a new $210 million arena before the end of the decade, despite the fact that the move will leave local tax-payers stuck with servicing the debt on two Miami arenas rather than just one.

How do taxpayers benefit from all this? They don't. Ticket prices go way up—and stay up—after a new stadium opens. So while fans are asked to foot the bills through tax subsidies, many no longer can afford the price of admission. A study by Newsday found that ticket prices rose by 32 percent in five new baseball stadiums, as compared to none or at most a 3 percent increase in five older stadiums. Not to mention the refreshments and other concessions, which also cost more in the new venues.

According to Barron's, the projects: . . . cater largely to well-heeled fans, meaning the folks who can afford to pay for seats in glassed-in luxury boxes. While the suit-and-cell-phone crowd get all the best seats, the average taxpayer is consigned to 'cheap seats' and more often, to following his favorite team on 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: [In every case, the authors find that the local economic impact of sports teams and facilities is far smaller than alleged; in some cases it is negative. These findings are valid regardless of whether the benefits are measured for the local neighborhood, for the city, or for the 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 exceedingly modest at best and counter-productive 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 major league franchises? Any job growth that this result is extremely expensive. The Congressional Research Service (CRS) reported that the new $177 million football stadium for the Baltimore Ravens is expected to generate 1,200 jobs, while in 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 that would have been made on other activities within the United States, which means that benefits to the fans can be a wash or even a negative." 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 tax subsidy of at least $30 million per year. After 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 effects of 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 a tax or some limitation on use of bonds to situations that do not involve a relocating team. We could also consider requiring that stadium bonds be repaid by stadium revenues—or at the very least we could re-examine the tax 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 undermine 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.—

“(ii) 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 reason is 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 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 not 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, and was completed on or after such date, or

(ii) a State or political subdivision thereof has entered into a binding contract before June 14, 1996, and was completed on or after such date, or

(iii) if such construction or rehabilitation began before June 14, 1996, and was completed on or after such date, or

(iv) if such construction or rehabilitation began before June 14, 1996, and was completed on or after such date, or

(B) which are the subject of an official action taken by relevant government officials before June 14, 1996; or

(i) approving the issuance of such bonds, or

(ii) approving the submission of the application for 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)(I), 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 REFINANCINGS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any bond which proceeds of which are used exclusively to refund any 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 such refunding bond is a date 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 refund the bonds 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 167(b)(2)(A) of the Internal Revenue Code of 1986.

(B) QUALIFIED BOND.—For purposes of subsection (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 is designed to close a loophole in the 1986 Act when it first shut down tax-exempt stadium financing. The lands are now administered by a State agency, the Department of Hawaiian Home 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 retains and continues to retain the exclusive authority to enforce the trust and ensure that the Act is used to protect 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 Hawaiian Home Lands 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 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 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 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 that of American Indians and Alaska Natives, with housing overcrowding (44 percent) and substantially higher than that of all U.S. households (27 percent). Additionally, the HUD study found that the percentage of overcrowding in the Native Hawaiian population is 36 percent as compared to 3 percent for all other households in the United States.

Applying the HUD guidelines, 70.8 percent of Native Hawaiians who either reside on the Hawaiian home lands or those Native Hawaiians who 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 a severe housing problem, including 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 only one-half of those eligible have families that can afford the $500 required to purchase a parcel of home lands.

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 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 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 who are eligible to reside on the Hawaiian home lands, but it authorizes general leases to non-Native 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 structures on the Hawaiian 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-Native 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 Rei v. Cayetano, No. 97-16095, 146 F. 3d 1075 (9th Cir. 1998). In Rei v. Cayetano, the Appeals Court reversed 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. 1983), in which the Circuit Court expressed its finding that preferential treatment that is grounded in the government's unique obligation toward Indians as a political 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 for 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 1996".

SEC. 2. Home Lands.
Congress finds that—
(1) the United States has undertaken a responsibility to promote the general welfare of Native Hawaiians; and
(A) by executing its resources to remedy the unsafe and unsanitary living conditions and the lack 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; and
(3) despite the intent of Congress in 1920 to address the housing needs of Native Hawaiians by the establishment of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), some agencies of the Federal Government, acting in an illegal position, subsequently enacted Federal housing laws designed to address the housing needs of all eligible families in the United States could not be extended to 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 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 of overcrowding among 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;
(6) overcrowding in the Native Hawaiian population is 36 percent as compared to 3 percent for all other households in the United States; and
(7) 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 constitutes 95 percent of the Hawaiian Home Lands population, are in need of housing;
(8) attainment of the housing needs 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
(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, the 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; and
(11) under the treaty making 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 on March 27, 1899, and the separation of Native Hawaiians from the United States, and mandating that those lands be homesteaded by Native Hawaiians in order to rehabilitate a landless and dying people; and
(A) the enactment of the Native American Housing Assistance and Self-Determination Act of 1996, as added by section 3 of this Act; and
(B) amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), enacted by the legislature of 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 constitute 95 percent of the Hawaiian Home Lands and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), enacted by the State of Hawaii; and
(C) by ceding to the State of Hawaii title to the public lands formerly held by the United States; and
(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 inherent 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 Older Americans Act of 1965 (42 U.C.S. 2001 et seq.);
(B) the American Indian Religious Freedom Act (42 U.S.C. 1996 et seq.);
(C) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); and
(D) the National Museum of the American Indian Act (25 U.S.C. 301 et seq.);
(E) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.);
(F) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); and
(G) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.);
(H) the National Historic Preservation Act (16 U.S.C. 470 et seq.);
(I) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.);
(J) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); and
(K) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.);
(14) 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 Hawaiian Home Lands that had been ceded to the United States for homesteading by Native Hawaiians in order to rehabilitate a landless and dying people; and
(B) the enactment of "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 16); and
(C) 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 Hawaiian people;
(D) the aboriginal, indigenous people of the United States, and mandating that those lands be held in public trust, for the betterment of the Hawaiian people;
(E) the congress of the Hawaiian Home Lands to address the needs 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 constitute 95 percent of the Hawaiian Home Lands and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), enacted by the legislature of the State of Hawaii; and
(F) by establishing the rights of beneficiaries under the Act;
(G) 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 "Hawaiian Housing Act") (42 U.S.C. 1246 et seq., chapter 847, 12 U.S.C. 1701 et seq.);
(H) authorizing Native Hawaiian representation on the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing under Public Law 101-235; and
(I) 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
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 of the following:
"TITLE VIII—HOUSING ASSISTANCE FOR NATIVE HI
SEC. 801. DEFINITIONS.
"In this title—
(1) DEPARTMENT OF HAWAIIAN HOME LANDS; DEPARTMENT.—The term 'Department of Hawaiian Home Lands' or 'Department' means the Director of the Department of Hawaiian Home Lands of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).
(2) 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) 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.

“(A) Hawaiian homes lands.—The term ‘Hawaiian Home Lands’ means lands that—

“(a) have the status as Hawaiian home lands under section 204 of the Hawaiian Homelands 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 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 Homelands 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 have been approved under a housing plan approved under section 804.

“(d) Administrative Expenses.—

“(1) In general.—The Secretary shall, by regulation, provide that the Department of Hawaiian Home Lands shall 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 for preparing a housing plan under section 803.

“(e) Public-Private Partnerships.—The Director shall ensure 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 this section.

“(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 the plan, including—

“(I) an identification 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 described 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

“(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 or the disposition of non-Federal property.

"(ix) a description of the manner in which the Department of Hawaiian Home Lands will coordinate with welfare agencies in the State, including the establishment of resident organizations; and

"(x) a description of the title that will carry out the activities under the plan, including the organizational capacity and key personnel of the entity.

"(E) CERTIFICATION OF COMPLIANCE.—Evidence of compliance that shall include, as appropriate—

"(i) a certification that the Department of Hawaiian Home Lands shall comply with—

"(I) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or 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) any other applicable Federal statutes;

"(ii) a certification that the Department of Hawaiian Home Lands will take appropriate 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 the maintenance and management 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.

"(2) REVIEW OF PLAN.—(A) When the Department of Hawaiian Home Lands shall, to the extent practicable, provide for private nonprofit organizations experienced in the planning and development of affirmative action programs, in carrying out affordable housing activities with those grant amounts.

"SEC. 804. REVIEW OF PLANS.

"(a) REVIEW AND NOTICE.—

"(1) 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 Department of Hawaiian Home Lands whether the plan complies with the requirements under that section.

"(B) EFFECT OF FAILURE OF SECRETARY TO TAKE ACTION.—If the Secretary fails to take action under this title, if the Secretary does not notify the Department, as required under this subsection and section 802 of the Affordable Housing Act of 1997 (42 U.S.C. 5301 et seq.), on the expiration of the 60-day period described in subparagraph (a)(I), the Secretary shall be considered to have been notified of compliance.

"(C) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that the plan submitted under section 803 does not comply with the requirements of that section, the Secretary shall specify in the notice under subsection (a)—

"(i) the reasons for noncompliance; and

"(ii) any modifications necessary for the plan to meet the requirements of section 803.

"(d) CERTIFICATION.—

"(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, the Secretary shall consider whether the requirements of this section are met. 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)—

"(i) the reasons for noncompliance; and

"(ii) any modifications necessary for the plan to meet the requirements of section 803.

"(c) REVIEW.—

"(1) IN GENERAL.—The Secretary may, by regulation, exclude from consideration for 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.

"SEC. 805. TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS.

"(a) PROGRAM INCOME.—

"(1) IN GENERAL.—

"(A) PROGRAM INCOME.—Program income under paragraph (1); or

"(B) the amount of any program income retained by the Department.

"(1) EXCLUSION OF AMOUNTS.—

"(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 that the plan submitted under section 803(c)(2)(E) are not included for the purpose of computation of any program income under paragraph (1); or

"(1) AUTHORITY TO RETAIN.—The Department of Hawaiian Home Lands may retain any program income that is realized from any program income received by the Department.

"(1) LIMITATION.—The Secretary may, by regulation, exclude from consideration for 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) 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.—If the Secretary fails to take action under this title, if the Secretary does not notify the Department, as required under this subsection and section 802 of the Affordable Housing Act of 1997 (42 U.S.C. 5301 et seq.), on the expiration of the 60-day period described in subparagraph (a)(I), the Secretary shall be considered to have been notified of compliance.

"(iii) a certification that policies are in effect and are available for review by the Secretary and the public governing the maintenance and management 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.

"(2) REVIEW OF PLAN.—(A) When the Department of Hawaiian Home Lands shall, to the extent practicable, provide for private nonprofit organizations experienced in the planning and development of affirmative action programs, in carrying out affordable housing activities with those grant amounts.
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 title, the grant amounts provided under this title; and

"(iii) to the public undiminished protection of the environment.

"(B) Real property acquisition—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 planning 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 Secretary of a certification described in subsection (b) may, if the Secretary determines that the acquisition and development of properties assisted with grant amounts provided under this title are subject to that certification.

"(4) Certification.—A certification under this paragraph is advisable 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 this paragraph is advisable to the extent that those responsibilities relate to the releases of funds for projects that are covered by that certification.

"(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 under such an official.

"SEC. 807. REGULATIONS. 

"The Secretary shall issue final regulations necessary to carry out this title no 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; and

"(B) to ensure better access to private mortgage markets and to promote self-sufficiency of low-income Native Hawaiian families.

"(2) Developing communities.—The provision of safety, security, and self-sufficiency for low-income Native Hawaiian families is facilitated by developing communities.

"(3) Eligible families. 

"(A) In general.—Except as provided under subparagraph (B), assistance for eligible housing activities under this section shall be limited to low-income Native Hawaiian families.

"(B) Exception to low-income requirement. 

"(i) In general.—The Secretary may provide assistance for public housing activities under—

"(I) section 803(b); or

"(II) model activities under section 801(f); or

"(III) loan guarantee activities under section 808; or

"(B) priority. 

"(C) Other families.—Notwithstanding paragraph (1), the Secretary may make available to Native Hawaiian families that are not low-income families, to the extent that the Secretary determines that the provision of activities described in this paragraph is appropriate to meet the needs of families for which the Secretary determines that such assistance is appropriate.

"(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 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 Secretary 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 activities of private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians to carry out affordable housing activities under this section.

"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 801 to—

"(1) develop or to support affordable housing for rental or homeownership; or

"(2) provide housing services with respect to affordable housing, through the activities described in subsection (b), to low-income Native Hawaiian families.

"(b) Activities.—The activities described in this subsection are the following:

"(1) Development.—The acquisition, construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include—

"(A) site improvement; 

"(B) the development of utilities and utility services; and

"(C) the development of infrastructure.

"(2) Housing services.—The provision of housing-related services for affordable housing, including—

"(A) ecosystem services; 

"(B) management and maintenance; 

"(C) security services; 

"(D) the provision of safety, security, and self-sufficiency for low-income Native Hawaiian families; and

"(E) the provision of safety, security, and self-sufficiency for low-income Native Hawaiian families.

"(3) Housing management services.—The provision of management services for affordable housing, including—

"(A) the preparation of work specifications; 

"(B) the provision of safety, security, and self-sufficiency for low-income Native Hawaiian families; and

"(C) the provision of safety, security, and self-sufficiency for low-income Native Hawaiian families.

"(D) Tenant selection. 

"(1) Tenant selection.—

"(2) Tenant selection.—

"(E) management of tenant-related safety, security, and self-sufficiency; 

"(F) crime prevention; 

"(G) the provision of safety, security, and self-sufficiency for low-income Native Hawaiian families; and

"(H) the provision of safety, security, and self-sufficiency for low-income Native Hawaiian families.

"(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—
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"(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 written policies concerning the management of housing assisted with grant amounts provided under this title.

(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 purpose of carrying out affordable housing activities in investment securities and other obligations, as approved by the Secretary.

SEC. 813. LOW-INCOME REQUIREMENT AND INCOME TARGETING.

(a) In General.—Housing shall qualify for affordable housing for purposes of this title only if

(1) each dwelling unit in the housing—

(A) is in the case of rental housing, 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, 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 time 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 of the mortgage or, upon other transfer in lieu of foreclosure if that action—

(1) recognizes any contractual or legal rights of any public agency, nonprofit sponsor, or other assignee 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

(2) is not for the purpose of avoiding low-income affordability restrictions, as determined by the Secretary.

(b) Leases.—Except to the extent otherwise provided with respect to other Federal 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 agree to give a 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 the Director, owner, or manager not to 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 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;

(7) provide that the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; and

(C) is criminal activity (including drug-related criminal activity) 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 procedures that—

(1) are reasonably related to program eligibility and the ability of the applicant to perform the obligations of the lease; and

(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 817; and

(B) the prompt notification in writing of any rejected applicant of the grounds for that rejection.

SEC. 814. LEASE REQUIREMENTS AND TENANT SELECTION.

(a) Leases.—Except to the extent otherwise provided with respect to other Federal 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) are consistent with the purposes 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 817; and

(B) the prompt notification in writing of any rejected applicant of the grounds for that rejection.

SEC. 815. REPAYMENT.

"(a) Application.—If the Department of Hawaiian Home Lands uses grant amounts to provide affordable housing activities under this title at any time during the use of the housing, the housing does not comply with the requirements under section 813(a)(2), the Secretary shall—

(1) reduce future grants payments on behalf of the Department by an amount equal to the grant amounts used for that housing under the authority of section 813(a)(2); or

(2) require repayment to the Secretary of any amount equal to those grant amounts.

SEC. 816. ANNUAL ALLOCATION.

"(a) In General.—For each fiscal year the Secretary shall allocate any housing funds for the purpose of providing affordable housing for purposes of this title, except that if the Department of Hawaiian Home Lands if the Department complies with the requirements under this title, the Secretary shall—

(1) reduce future grants payments on behalf of the Department by an amount equal to the grant amounts used for that housing under the authority of section 813(a)(2); or

(2) require repayment to the Secretary of any amount equal to those grant amounts.

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 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

(2) ineligibility 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 Department complies with the provision.

(b) NONCOMPLIANCE BECAUSE OF A TECHNICAL INCAPACITY.—The Secretary will make the report publicly available to the beneficiaries of the Hawaiian Homes Commission Act, 2020 (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 Secretary may determine). After the Secretary has received comments on that report, the Secretary shall prepare and submit to the Congress a report on the procedures used to determine compliance with this title.

(c) SUBMISSIONS.—The Secretary shall submit a report under this section in accordance with the requirements and the primary objectives of this title and with other applicable laws, and in a manner that is as timely, clear, and complete as possible.

(d) PUBLIC AVAILABILITY.—(1) COMMENTS BY BENEFICIARIES.—In preparing a report under this section, the Secretary shall make the report publicly available to the beneficiaries of the Hawaiian Homes Commission Act, 2020 (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 Secretary may determine).

(2) SUMMARY OF COMMENTS.—The report shall include a summary of any comments received by the Secretary 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, and in a manner that is as timely, clear, and complete as possible, include on-site 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 section. After taking into consideration the comments of the Department, the Secretary may revise the report and make the comments of the Department and the report 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, and shall consider grant amounts already expended on affordable housing activities.
duplicated from future assistance provided to the Department of Hawaiian Home Lands.

SEC. 822. GENERAL ACCOUNTING OFFICE AUDITS.

To the extent that the financial transactions of the Department of Hawaiian Home Lands involving grant amounts under this title relate to amounts provided under this title, the Comptroller General of the United States shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the Department of Hawaiian Home Lands pertinent 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. ESTABLISHMENT 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.

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.

(1) DEFINITIONS.—In this section:

(A) 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 Native Hawaiian Home Lands.

(B) 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.

(C) FAMILY.—The term 'family' means 1 or more persons maintaining a household, as defined in the Native Hawaiian Housing Loan Guarantee Fund Act of 2019 (42 Stat. 108 et seq.).

(D) HAWAIIAN HOME LANDS.—The term 'Hawaiian Home Lands' means land that—

(i) has the status of Hawaiian Home Lands under section 204 of the Hawaiian Homelands Act of 1920 (42 Stat. 110); or

(ii) is acquired pursuant to that Act.

(E) 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.).

(F) 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.

(G) AUTHORIZED.—To provide access to sources of private financing to Native Hawaiian families who otherwise could not acquire housing, the Secretary may guarantee the full amount, or an amount not exceeding 97.75 percent, of the unpaid principal and interest that is due on an eligible loan under subsection (b).

(H) ELIGIBLE LOANS.—For purposes of this section, a loan is an eligible loan if that loan meets the following requirements:

(1) ELIGIBLE BORROWERS.—The loans are made only to—

(A) a Native Hawaiian family;

(B) the Department of Hawaiian Home Lands;

(C) the Office of Hawaiian Affairs; or

(D) a private nonprofit organization experienced in the planning and development of affordable housing for Native Hawaiians.

(2) ELIGIBLE HOUSING.—

(A) IN GENERAL.—The loan will be used to construct, acquire, or rehabilitate not more than 4-family dwellings that are standard single-family housing 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.

(I) 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 incontestable in the hands of the bearer.

(B) APPROVAL.—The following lenders shall be considered to be lenders that have been approved by the Secretary:

(i) Any lender that makes housing loans under chapter 37 of title 12, United States Code, that are automatically guaranteed under section 3702(d) of title 38, United States Code.

(ii) Any lender that makes housing loans under section 184 of the National Housing Act of 1934 (12 U.S.C. 1716 et seq.).

(iii) Any lender that makes housing loans under chapter 37 of title 12, United States Code, that are automatically guaranteed under section 3702(d) of title 12, United States Code.

(iv) Any other lender that is supervised, approved, regulated, or insured by any agency of the Federal Government.

(2) STANDARDS FOR APPLICA-

TIONS.—The Secretary shall establish standards for applications for loan guarantees under this section under which assistance under this title is made available.

(J) ELIGIBILITY.—The Secretary shall establish the eligibility requirements for the issuance of a guarantee under this section.

(K) IN GENERAL.—A certificate of guaran-

tee issued under this subsection by the Secretary shall be incontestable in the hands of the borrower.

(L) GUARANTEE FEE.—

(A) IN GENERAL.—The guarantee fee charged for the guarantee issued under this subsection shall be—

(i) the fee that would be charged under an equivalent Federal loan guarantee program at the time of the issuance of the guarantee; and

(ii) to the Secretary for examination, the lender shall submit the application to the Secretary under this section.

(B) EVIDENCE.—The evidence referred to in subparagraph (A) shall be incontestable in the hands of the borrower.

(C) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for the obligations made by the Secretary under this section.

(D) FRAUD AND MISREPRESENTATION.—This subsection may not be construed—

(i) to preclude the Secretary from establishing defenses against the original lender based on fraud or material misrepresentation; or

(ii) to bar the Secretary from denying an application if an application is improperly submitted.

(E) GUARANTEE FEE.—

(A) 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.

(B) PAYMENT.—The fee under this subsection shall—

(i) be paid by the lender at time of issuance of the guarantee; and

(ii) be adequate, in the determination of the Secretary, to cover expenses and probable losses.

(F) DEPOSIT.—The Secretary shall deposit any fees collected under this subsection in the Native Hawaiian Loan Guarantee Fund established under subsection (i).

(G) 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.

(H) 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 the agency of the Federal Government or of any State or the District of Columbia.

(9) DISQUALIFICATION OF GUARANTORS.—(A) In general.—The Secretary may reject an application for a guarantee under subparagraph (B) if the Secretary determines that any guarantor or holder of a guarantee certificate under subsection (c) or (k) 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.

(B) LENDER OPTIONS.—(A) In general.—If a guarantor under a guarantee certificate under subsection (c) or (k) has failed—

(i) the Secretary shall provide written notice of the default to the Secretary, or

(ii) the Secretary shall provide written notice of the default to the Secretary.

(C) DEFENSES.—The rights of the Secretary shall be subrogated to the rights of the holder of the guarantee. The Secretary shall assign the obligation and security interest to the Secretary in return for payment of the claim under the guarantee.

(D) any interest or earnings on amounts invested 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 loan guarantees.

(E) reasonable and necessary costs of rehabilitation and repair to properties that the Secretary holds or owns pursuant to this section.
Mr. FEINGOLD. A bill to promote democracy and good governance in Nigeria, and for other purposes; to the Committee on Foreign Relations.

THE NIGERIA DEMOCRACY AND CIVIL SOCIETY EMPOWERMENT ACT OF 1999

Mr. FEINGOLD. Mr. President, I rise to introduce a bill regarding Nigeria, a country that stands today 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 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, protection of 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 has considerable discretion in formulating 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 intimidated 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, indoctrinated, and media blackmailed; 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 of espionage. During the time of that barbaric spectacle and his death, Abacha appeared to be working even harder to tighten its grip on the country, wasting no opportunity to subjugate the people of Nigeria.

But with the replacement of Abacha by the current military ruler, Gen. Abdulsalami Abubakar, there has been reason to be optimistic about Nigeria's future. Although he has not yet moved to repeal the repressive decrees that place severe restrictions on the basic freedoms of Nigerians, including the aforementioned Decree No. 2, Gen. Abubakar has made significant progress in enacting political reforms,
including the establishment of a realistic time line for the transition to civilian rule and guidelines for political participation. According to his transition plan, power will be handed over to a civilian government of May 29, 1999, after a 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 all political dissenters, as state leaders 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 were not 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.

This is not to say that 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, as it has done in the past, has ordered the military to take over the situation 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 Abubakar's military regime needs repressing statements about political reform, when he continues to use the instruments of repression learned under the Abacha regime?

Nigeria's political transition is taking place in the context of economic and political collapse. Nigeria has the potential to be the economic powerhouse on the African continent, a key regional political leader, and an important American trading partner, but it is not all these things. Despite its wealth, economic activity in the country 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 kickback and consumer fraud schemes that have originated in Nigeria and reached into the United States, including my home state of Wisconsin.

The last time Nigeria appeared poised finally to make a democratic transition, during the 1993 presidential election, the military quickly annulled the results, and promptly put into prison the presumed winner of that election Chief Moshood Abiola.

Despite numerous domestic and international pleads 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 his death the military regime in Nigeria was replaced by President Olusegun Obasanjo.

It is unfortunate, but Nigeria suffers greatly from the weight of its tortured history. I truly hope that the transition proceeds so that we 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 Indonisia, 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 Nigerian regime must know that anything less than a transparent transition to civilian rule will be met with severe consequences, including new sanctions as mandated in this bill.

Mr. President, the legislation I introduce today represents another 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 fairly 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. Abubakar to implement as soon as possible these important changes to the repression 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 ordered to 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 the political 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. Abdusali Abubakar, has made significant progress in liberalizing the political environment in Nigeria, including the release of political prisoners,

(3) Previous military regimes allowed Nigeria to become a haven for international drug trafficking rings and other criminal organizations, although the current government has taken some steps to cooperate with the United States Government in halting such trafficking.

(4) Since 1993, the United States and other members of the international community have imposed limited sanctions against Nigeria in response to human rights violations and the political repression, 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 revere the jurisdiction of civilian courts over executive actions.

(6) As a party to the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights, and a signatory to the Harare Commonwealth Declaration, Nigeria is obligated to fairly conduct elections that guarantee the free expression of the will of the electorate.

(7) As the leading military force within the Economic Community of West African States (ECOWAS) peacekeeping force, Nigeria has played a major role in attempting to secure peace in Liberia and Sierra Leone.

(8) Despite the optimism expressed by many observers about the progress that has been made in Nigeria, the country's recent history raises serious questions about the potential for 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 its intention to: (A) support the United States to oppose any assistance to the Government of Nigeria; (B) support the United States to waive the prohibition in section 612b of the Foreign Assistance Act of 1961 (22 U.S.C. 2394±1).

(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, and 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 OF 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 the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.); or

(ii) any assistance under part II of such Act (22 U.S.C. 2346 et seq.) (relating to economic support fund); 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 the Government of 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); and

(b) assistance under 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); and

(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.), a military assistance or arms transfers, 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 missions at 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 Financial Corporation, the Multilateral Investment Guarantee Agency, and the International Monetary Fund.

SEC. 6. SENSE OF CONGRESS REGARDING ADMISSION INTO THE UNITED STATES OF CERTAIN NIGERIAN NATIONALS.

It is the sense of Congress that 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 command 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—

(A) government of Nigeria, including the promotion of greater awareness among Nigerians of constitutional democracy, the rule of law, and respect for human rights;

(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 (UNHCHR) and the United States at the annual meeting of the Commission—

(1) to condemn human rights abuses in Nigeria, 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) 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.

(b) ASSISTANCE DESCRIBED.—

(A) in general.—The assistance described in this paragraph is assistance provided to nongovernmental organizations for the purpose of promoting democracy, good government, 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 are providing a broad cross-section of society in Nigeria and seek to promote democracy, human rights, and accountable government.

(C) GRANTS FOR PROMOTION OF HUMAN RIGHTS.—Of the amounts made available for fiscal years 2000, 2001, and 2002 under paragraph (1), not less than $50,000 for each such fiscal year shall 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 individual or nongovernmental organizations that seek to promote, directly or indirectly, the advancement of human rights in Nigeria.

(d) USAID 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 shall be available for assistance to independent and nongovernmental organizations that seek to promote, directly or indirectly, the advancement of human rights in Nigeria.

(e) USAID 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 shall be available for assistance to independent and nongovernmental organizations that seek to promote, directly or indirectly, the advancement of human rights in Nigeria.

(f) USAID 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 shall be available for assistance to independent and nongovernmental organizations that seek to promote, directly or indirectly, the advancement of human rights in Nigeria.

(g) USAID 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 shall be available for assistance to independent and nongovernmental organizations that seek to promote, directly or indirectly, the advancement of human rights in Nigeria.

(h) USAID 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 shall be available for assistance to independent and nongovernmental organizations that seek to promote, directly or indirectly, the advancement of human rights in Nigeria.

(i) USAID 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 shall be available for assistance to independent and nongovernmental organizations that seek to promote, directly or indirectly, the advancement of human rights 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.

SECTION 1. SHORT TITLE.

SEC. 2. EXAMINATIONS BY CLINICAL SOCIAL WORKERS FOR FEDERAL WORKER COMPENSATION CLAIMS.

Mr. INOUYE. Mr. President, today I am introducing legislation to amend Title XVIII of the Social Security Act to provide improved reimbursement for clinical social worker services, 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 provide improved reimbursement for clinical social worker services, and for other purposes; to the Committee on Finance.

This legislation clarifies the current payment methodology for clinical social workers and establishes 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 clinical social workers are 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:

SEC. 2. EXAMINATIONS BY CLINICAL SOCIAL WORKERS FOR FEDERAL WORKER COMPENSATION CLAIMS.

Mr. INOUYE. Mr. President, today I am introducing legislation to amend Title XVIII of the Social Security Act to provide improved reimbursement for clinical social worker services, 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 provide improved reimbursement for clinical social worker services, and for other purposes; to the Committee on Finance.

This legislation clarifies the current pay-
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 a recognition 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 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 739(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 739(d)(1) of the Public Health Service Act, as amended by Public Law 105-392, is amended by striking "offering graduate programs in behavioral 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 739(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 clinical psychology, graduate programs in clinical social work, or programs in social work".

SEC. 2. GERIATRICS TRAINING PROJECTS.

Section 739(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. 770A. SOCIAL WORK TRAINING PROGRAM.

(a) TRAINING GENERALLY.—The Secretary may make grants to, or enter into contracts with, any public or nonprofit private hospital, school offering programs in social work, or to or with a public or private nonprofit entity (which the Secretary has determined is capable of carrying out such grant or contract)—

(1) to plan, develop, and operate, or participate in, an approved social work training program (including an approved residency or internship program for interns, residents, or practicing physicians);

(2) to provide financial assistance (in the form of traineeships and fellowships) to students, interns, resident physicians, other individuals, or other entities, who are in need thereof, who are participating in any such program, and who plan to specialize or work in the practice of social work;

(3) to plan, develop, and operate a program for the training of individuals who plan to teach in a social work training program; 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, contracts, or awards of grants to or with institutions offering programs in social work to meet the costs of projects to establish, maintain, or improve academic administrative units (which may be departments, divisions, programs, or other units) to provide clinical instruction in social work.

(2) PREFERENCE IN MAKING AWARDS.—In making awards of grants or 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 purposes specified in such grant, contract, or award.

(3) 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 provisions 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 90 percent for awards of grants and contracts under subsection (b); and

(3) in such purpose, as so designated by inserting “other than section 770,” after “carrying out this subpart.”

SEC. 4. CLINICAL SOCIAL WORKER SERVICES.

Section 1302 of the Public Health Service Act (42 U.S.C. 300e-1) is amended—

(1) by striking section 1302(b)(1) of the code, and

(2) by inserting after paragraph (1) for a fiscal year, the Secretary shall make available not less than 80 percent for awards of grants and contracts under subsection (b); and

(3) in such purpose, as so designated by inserting “other than section 770,” after “carrying out this subpart.”

By Mr. INOUYE:

S. 234. A bill to recognize the organization known as the National Academies of Practice; to the Committee on the Judiciary.
SEC. 7. OFFICERS OF THE CORPORATION.

The officers of the corporation and the election of such officers shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 8. RESTRICTIONS.

(a) Use of Income and Assets.—No part of the income 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 a 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 engage in any 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, any director of the corporation, claim of 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 for 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 subsection (a) of this Act. The report shall not be printed in the Record.

SEC. 12. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 13. DEFINITION.

In this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 14. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986 or any corresponding similar provision.
to them. The death rate from drugs jumped from 18 a year in 1988 to 150 in 1992. In addition, higher drug use followed implementation of the program.

Dr. James L. Curtis of New York, who has studied needle exchange programs, 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 drugs, 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 abet 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 throwing 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, addition, mental illness, adolescent and child abuse and neglect, drug and alcohol abuse, 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 sectors with the underserved populations which they have been trained to work.

While the doctorate in psychology provides broad based knowledge and mastery in a wide variety of clinical skills, the specialized post-doctoral fellowships 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 withdrawn 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 health problems 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 sequela 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.

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.

I. 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.

II. Eligible Entities—In order to receive a grant under this section an individual shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such individual—

(A) has received a doctoral degree through a program in psychology provided by an accredited institution at the time such grant is awarded;

(B) will provide services in a medically underserved population during the period of such grant;

(C) will comply with the provisions of subsection (c); and

(D) will provide any other information or assurances as the Secretary determines appropriate.

SEC. 2. ELIGIBLE ENTITIES—In order to receive a grant 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 the administrative costs of any fellowship programs established with such funds; and

(D) will provide any other information or assurances as the Secretary determines appropriate.

SEC. 3. CONTINUING 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.

SEC. 4. REGULATIONS—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that define the terms ‘medically underserved areas’ or ‘medically underserved populations’.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 2000 through 2002.

By Mr. INOUYE:

S. 237. A bill to allow the psychiatric or psychological examinations required under chapter 313 of title 18, United States Code, relating to offenders with mental disease or defect, to be conducted by a clinical social worker, to the Committee on the Judiciary.

THE PSYCHIATRIC AND PSYCHOLOGICAL EXAMINATIONS ACT OF 1999

Mr. INOUYE. Mr. President, I introduce legislation today 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
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 designations and grades for the Chief Nurses of the United States Army, the United States Navy, and the United States Air Force. Currently, the Chief Nurses of the three branches of the military are one-star general 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 amazing responsibility. In 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 for the grade for the Chief Nurses as this 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 unique expertise and contributions to the leadership. I believe it is time to ensure that military health care organizations utilize the expertise and unique contributions of the military Chief Nurses.

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

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

S. 239

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

SECTION 1. 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"—the second sentence and inserting in lieu thereof "major general".

(b) NAVY.—The first sentence of section 5150c of title 10, United States Code, as 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 8060(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 delivery project 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 providing over $1 million in 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 hope 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 to the members of the Perkins County Rural Water System. The water supplies that are available do not meet 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 South Dakota–North Dakota connection to the Southwest Pipeline Project.

A feasibility study conducted 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 ensure 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.

SEC. 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; and

(2) in 1977, the North Dakota State Legislature authorized and directed the State Water Commission to conduct a Southwest Area Water Supply Study, which included water service to a portion of Perkins County, South 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 Supply System, Inc.

SEC. 3. DEFINITIONS. In this Act—

(F) FEASIBILITY STUDY.—The term "feasibility study" means the study entitled "Feasibility Study for Rural Water Supply for Perkins County Rural Water System, Inc.", as amended in March 1995.

This Act may be cited as the "Perkins County Rural Water System Act of 1999."
SEC. 6. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available under the new water supply system contracts under paragraph (2); the power supplier with which the water supply system contracts under paragraph (2); the power supplier of the entity described in subparagraph (B); and (D) the Perkins County Rural Water System, Inc., to each entity that distributes water at retail to individual users.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate water supplies, mitigation of wetlands areas, repairs to existing public water distribution systems, and water conservation in Perkins County, North Dakota. The rate schedule applicable to 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 entity shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the usual and customary charges of the supplier.

SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATES.

This Act does not limit the authority 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.

(a) IN GENERAL.—The Secretary shall make grants to the water supply system for the Federal share of the costs of—

(1) the planning, design, and construction of the water supply system; and

(2) such sums as are necessary to defray incidental operational requirements of the water supply system until March 1, 1995.

SEC. 9. FEDERAL SHARE.

The Federal share under this Act 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 water supply system contracts under section 4.

Mr. INOUYE. Mr. President, I introduce legislation today, under Chapter 74 of Title 38, United States Code, to revise certain provisions relating to the appointment of 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 retention of psychologists in the VHA has come to my attention. In particular, the recruiting and retention of psychologists in the VHA 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 over-all patient care.

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 post-doctoral 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 or appropriately compensated for excellence or for taking on additional responsibilities such as running treatment programs.

In effect, the current system for hiring psychologists in the VHA supports mediocrity, not excellence and recruitment. 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 to the Senate Committee 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 certified by the Office of Personnel Management. This would also encourage the recruitment of applicants who are not recent VHA interns by reducing the amount of time between identifying a desirable applicant and being able to offer that applicant a position.

It is expected that problems in retention will be greatly alleviated with the implementation of a Title 38 system that offers financial incentives for psychologists to pursue professional development. Achievements that would merit salary increases include such activities as assuming supervisory responsibilities for clinical programs, implementing innovative clinical treatments that improve effectiveness and/or efficiency of patient care, earning the ABPP diplomate state, and becoming a Fellow of the American Psychological Association.

The conversion of psychologists to Title 38, as proposed by this amendment, would provide relief for the retention and recruitment issues and enhance the quality of care for our Nation’s veterans and their families. Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 244

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 diplomats in psychology from an accrediting authority approved by the Secretary”.

(b) certain other appointments.—Section 7401(a) of title 38 is amended—

(1) in paragraph (1)(B), by striking out “Certified or” and inserting in lieu thereof “Professional psychologists, certified or”;

(2) in paragraph (2)(B), by striking out “Certified or” and inserting in lieu thereof “Professional psychologists, certified or”;

(c) effective amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act.

(d) 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(a) 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

S. 244

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 that bill. But, there are four key issues:

1. Energy and Natural Resources.
3. The States of South Dakota, Iowa, and Minnesota have all authorized the development of this 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 protection and improvement of the natural resources and 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,”
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SEC. 4. 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 serve 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 southeastern 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 available under paragraph (2). The amount of funds available under subparagraph (A) shall be the firm power rate schedule of the Pick-Sloan Missouri Basin program, the Western Area Power Administration, or the Southwestern Power Administration. The amount of funds available under subparagraph (B) shall be the firm power rate schedule of the Pick-Sloan Missouri Basin program, the Western Area Power Administration, or the Southwestern Power Administration. The amount of funds available under subparagraph (C) shall be the firm power rate schedule of the Pick-Sloan Missouri Basin program, the Western Area Power Administration, or the Southwestern Power Administration.

(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. 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 schedule 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 for water supply system 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 of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the feasibility study.

SEC. 7. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—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 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); and

(C) the power supplier of the entity described in subparagraph (B) and (D), and the water supply system; that the supply 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 relieved from including, in the charges to the water supply system for the electric service provided, all and any custom charges of the supplier.

(a) IN GENERAL.—The water supply system shall not be preempted or subjected to any limitation on water projects for States.

(b) PROTECTION OF WATER PROJECTS IN STATES.

(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) EXEMPTIONS.—The non-Federal cost-share for the city of Sioux Falls, South Dakota, shall be 90 percent of the incremental cost to the city of participation in the project.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $233,200,000, of which not less than $649,000 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

(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.
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 Lincolnville 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, working closely 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, Lewis and Clark development, and 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 is a 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.

VIOLANCE 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 enhanced the efforts of law enforcement in combatting violence against women and improved the services available to victims of domestic violence in my home state of Utah and across the nation.

But five years later, it is time to advance the process in three major respects: (1) It is time to review and evaluate the effectiveness of programs created by the 1994 Act and to reexamine the adequacy of the funding levels for these programs; (2) it is time to review law enforcement's efforts and successes as a result of the 1994 Act; and (3) it is time to survey and consider the need for new programs and further changes in the law.

Thus, while I am today introducing a bill that reauthorizes the majority of current programs, many at increased funding levels, I think that these programs need to be reevaluated 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 seriousness in response by persons in charge. This situation, if inaccurately portrayed, is not acceptable, and this Administration needs to act swiftly and effectively to change what is reportedly happening. To that end, my bill includes a provision requiring a prompt review and report by the Secretary of Defense on the incidence of and response to domestic violence on our military bases.

In sum, Mr. President, I hope that enacting effective legislation to combat violence against women will be a priority in the 106th Congress. I intend to do my best, working in a bipartisan fashion, to ensure that it is.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. MCCAIN, Mr. DEWINE, Mr. KOHL, and Mr. LOTT):

S. 247. A bill to amend title 17, United States Code, to reflect the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes; to the Committee on the Judiciary.

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 Improvement Act." In introducing me in this bill are the Majority Leader, Senator LOTT, the distinguished Ranking Member of the Judiciary Committee, Senator LEAHY, the distinguished chairperson of the Committee on Commerce, Senator DAIN, 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 vertically to form images. In 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. By the year 2000, entertainment was 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 resolved. The market for the satellite business is attempting to move from the predomi-
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. The diversity of television 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 television programming 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 channeling of news, weather, sports, and entertainment, with digital quality picture and sound. This will mean that viewers in the remote areas of my large home state of Utah will be able to watch television programming 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 carriers and my constituents will 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 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 you 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 my intention that the Judiciary Committee, and the Commerce Committee, continue to work forward with consideration of the copyright legislation I am introducing today, which, as I indicated, is co-sponsored by the Chairman of the Commerce Committee.

The Commerce Committee has already proceeded 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 network signals. With both of these 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 the Copyright Act. swinger the section 122 license. First, satellite carriers may not in any way 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 violated the restriction 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 network. If the willful or repeated violation of the restriction is not on a nationwide basis, then network stations on a local or regional basis, statutory damages are available.

The 122 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 the rules and regulations of the Federal Communications Commission, including any must-carry obligations imposed upon the satellite carrier by the Commission or by law.

Because the copyrighted programming contained on local broadcast programming is already licensed with the expectation that all viewers in the local market will be able to view the programming, the new section 122 license is a royalty-free license. Satellite carriers must, however, provide local broadcast stations with lists of those 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 provide programming of each committee, but combine them into the seamless whole necessary to make the licenses work for consumers and the affected industries.

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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 processes conducted under section 102 of the Copyright Act, the Public Broadcasting Service may act as agent for all public television copyright claimants and all Public Broadcasting Service member stations.

SEC. 5. DEFINITIONS.

Section 5 of the bill adds two new definitions to the current section 119 satellite license. The “unserved household” definition is modified to eliminate the 90 day waiting period for satellite subscribers to wait after termination of their cable service until they are eligible for satellite service of network signals. The section 119 definition of a “local-into-local” service 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 provides 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 and Senator McCaIN on 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 terminated. I am still hearing from Vermonters from all over the state. They are steaming mad and so am I.

This is an outrageous situation—the law must be changed and the Federal Communications Commission has to do its job.

I have worked to change the law over the last two years to try to avoid the situation we now face. I have also insisted that the FCC change its unrealistic rules that will result in needless terminations of service to Vermont families.

Unfortunately, we are on a collision course because of the Court orders affecting CBS and Fox stations. The bill goes beyond the “home dish owners, an inability to pass through 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 services. The bill will allow households who want to subscribe to this new satellite TV service, called “local-into-local”— to receive all local Vermont TV stations over the satellite.

The goal is to offer Vermonters more choices, more TV selections, but at lower rates. In areas of the country where there is this full competition with cable providers, rates to customers are considerably lower.

Thus, over this initiative will permit satellite TV providers to offer a full selection of all local TV channels to viewers throughout most of Vermont. This initiative complements the Superstation rules for satellite, 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 service.

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 view without any regular outdoor antenna. This means that thousands of Vermonters living in or near Burlington cannot receive local signals over their satellite dishes.

In addition, under current law many families must get their local TV signals over an antenna which often does not provide a clear picture. This bill will remove that legal limitation and allow satellite carriers to offer local TV signals to viewers no matter where they live in Vermont.

To take advantage of this, satellite carriers over time will have to follow the rules that cable providers have to follow. This will mean that they must carry all local Vermont stations and not carry distant 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 providers will be competing with satellite carriers.

All the members of the Judiciary Committee have worked on this matter and I appreciate their efforts. On November 12, 1997, Chairman HATCH and I introduced the Hatch-Leahy 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. This 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.

To avoid immediate cutoffs of satellite service in Vermont and other states, the parties requested an extension of the October 8, 1998, termination date which was granted until February 28, 1999. This extension was also designed to give the FCC time to address these problems faced by satellite home dish owners in Vermont and other states.

The FCC solicited comments on whether the current definition of grade B intensity was adequate.

I was very concerned about the FCC proceeding in the works. We 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 inappropriate, insulating the FCC from the issue a final rule that permits “a smooth transition to ‘local-into-local’ satellite TV service.” I said in my comment to the proposal that: “The Commission’s proposal fails to address 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 not able 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 Fox or CBS, and the concern of 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 the cost of an expensive testing that is done. I have heard from Vermonters who are justifiably furious that they are being asked to pay for these costs. The burden of proof and the burden of any additional expenses should be assessed upon the families owning the satellite dishes.”

I said: “While the hills and mountains of Vermont are a natural wonder, they are barriers to receiving clear TV signals on their rooftops when they are unable 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 who 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 and local informational programming, local emergency advisories, candidate forums, local public affairs programming, and high quality programs. Local broadcast stations and all families 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 co-sponsor this effort.

By Mr. HATCH (for himself, Mr. Ashcroft, Mr. Thurmond, Mr. Sessions, and Mr. Breaux): 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 re-introducing it because the sameills that were plaguing our judicial system continue to exist and I believe this legislation can remedy theseills. 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, and I want to state that on the whole, our federal judges respect their constitutional roles and the Senate is aware of these judges’ dedication to administering their oath of office. Yet, unfortunately, this dedication is not universal and a degree of over-reaching by some judges dictates that Congress must move more clearly delineate the proper role of federal judges.

In our constitutional system, judges can not conveniently forget or blantly avoid that their role is that of an umpire and to determine the law as established by Congress. In the case of questions of statutory interpretation, judges do not have the power to rewrite statutes, nor can they rewrite the law to fit their own ideas. Judges’ role is not to rewrite the law of Congress; it is to interpret the law of Congress as written. Thus, this legislation does not alter the interpretation of the law as established by Congress; in fact, the legislation is designed to ensure that judges’ work is limited to interpreting the law and not to rewrite the law, as may happen today.

The Judicial Improvements Act of 1999 has two important components: first, it strengthens the constitutional responsibilities of federal judges by making clear that judges are under the Constitution and the law. Second, it strengthens the constitutional responsibilities of federal judges by making clear that judges are under the Constitution and the law. Second, it strengthens the constitutional responsibilities of federal judges by making clear that judges are under the power of Congress to legislate and limited their power to the interpretation of the law. Third, it strengthens the constitutional responsibilities of federal judges by making clear that judges are under the power of Congress to legislate and limited their power to the interpretation of the law. Third, it strengthens the constitutional responsibilities of federal judges by making clear that judges are under the power of Congress to legislate and limited their power to the interpretation of the law.

This careful, 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, and in the future, our federal judges must be accountable for their actions. If they believe otherwise, they are derelict in their duties and should be held accountable for their actions. If they believe otherwise, they are derelict in their duties and should be held accountable for their actions.

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, 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 a dialogue about judicial activism and 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, insulate 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 boundaries within which judicial power may be exercised. A good example of this is the 10th 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 order to accomplish these goals, I have chosen to re-introduce, along with my colleagues, the Judicial Improvement Act. It is a small, albeit meaningful, step in the right direction. Notably, this legislation will change the way federal courts review constitutional challenges to state and federal laws. The existing process allows a single federal judge to hear and grant applications regarding the constitutionality of state and federal laws as well as state ballot initiatives. In other words, a single federal judge can impede the will of a majority of the voters merely by issuing an order halting the implementation of a state referendum.

This proposed reform will accomplish the twin goals of fighting judicial activism and preserving the democratic process. In essence, this bill modestly proposes to respond to the problem of judicial activism in part by: (1) Requiring a three judge district court panel to hear and grant interlocutory or permanent injunctions based on the constitutionality of a state law or referendum; (2) placing time limitations on remedial authority in any civil action in which prospective relief or a consent judgment binds State or local officials; (3) prohibiting a federal court from having the authority to order state or local governments to increase taxes as part of a judicial remedy; (4) preventing a federal court from prohibiting state or local officials from re-prosecuting a defendant; and (5) preventing a federal court from ordering the release of violent offenders under unwarranted circumstances.

As I said last session and still believe to be the case, this bill is a long overdue effort to minimize the potential for judicial activism in the federal court system. Americans are understandably frustrated when they exercise their right to vote and the will of their elected representatives is frustrated by judges who enjoy life tenure. It is no wonder that millions of Americans do not think their vote matters when they enact a referendum only to have it enjoined by a single district court judge. Moreover, the way federal courts review constitutional challenges to laws and initiatives, Congress will protect the rights of parties to challenge unconstitutionality 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 an interlocutory and permanent injunction regarding challenged laws at the district court level. The current system allows a single federal judge to restrain the enforcement, operation and execution of challenged federal or state laws, including initiatives. There have been many instances where an activist judge has used this power to overturn a ballot initiative or postpone an order to be overturned by a higher court. The result of such a court order would require a three judge panel to overturn the will of the people if it is not wrongfully thwarted. The injunction was subsequently overturned by the Ninth Circuit Court of Appeals which ruled that the law was constitutional. A three judge panel perhaps may have ruled correctly initially, allowing the democratic process to work properly while also saving taxpayer dollars.

Obviously, I have no problem with a court declaring a law unconstitutional when it violates the written text of the Constitution. It is, however, inappropriate for an activist judge to engage in a sham of his own in an attempt to act as part of a judicial remedy. 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 order 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 time 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 allowing the Ninth Circuit Court of Appeals to 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 intervenor: (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 of the order or consent judgment binding state and local officials would automatically terminate. However, prospective relief would not terminate if the federal court declares a particular method or structure of 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 as part of a judicial remedy. When an elected federal judge has the power to increase property tax assessments in an attempt to curtail illegal acts, 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 as part of a judicial remedy. When an elected federal judge has the power to increase property tax assessments in an attempt to curtail illegal acts, 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.
Another important provision of the bill would prevent a federal court from prohibiting State or local officials from re-prosecuting a defendant. This legislation is designed to clarify that federal habeas courts lack the authority to provide a remedy. This part of the legislation was co-sponsored 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 is corrected, the 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 court pay the filing fees 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 results in a prisoner’s wrongful release 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 is an important step to ensure that 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 has been going on 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. (Passed, 1998)

Mr. HATCH: The bill I am introducing today is a step in the right 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 revising the outstanding 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 Center for Missing and Exploited Children. Under the authority of the Missing children’s Assistance Act, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) has selected and given grants to the Center for the last fourteen years to operate a national resource center located in Arlington, Virginia and a national 24-hour toll-free telephone line. The Center provides invaluable assistance and training to law enforcement agencies in cases of missing and exploited children. The Center’s record is quite impressive, and its efforts have led directly to a significant increase in the percentage of missing children who are recovered safely.

In fiscal year 1999, the Center received an earmark of $8.12 million in the Departments of Commerce, Justice, and State Appropriations conference 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 federal government. By directing OJJDP to make an annual grant to the Center, and authorizing annual appropriations of $10 million for fiscal years 1999 through 2004.

Mr. HATCH: The 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 Federal grants. The Center, under the 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 national and state law enforcement authorities in the effort to find missing children and prevent child victimization.

The trust the federal government has placed in NCMEC, a private, non-profit corporation, is evidenced by its unique access to the National Child Abuse Clearinghouse mandated by the Missing Children's Assistance Act. The Center has developed 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 serves as the U.S. State Department's representative at child abduction cases under the Hague Convention.

The record of NCMEC is demonstrated by the 1,203,974 calls received at its 24-hour toll-free hotline, 1-800-THE LOST, the 146,284 law enforcement, criminal/juvenile justice, and healthcare professionals trained, the 15,491,344 free publications distributed, and, most importantly, by its work in locating and tracing the 162,793 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. The Runaway and Homeless Youth Act provides assistance for temporary shelter and counseling for children under age 18. My home state of Utah received over $378,000 in grants in Fiscal Year 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 receive funds 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. The amendment makes several technical corrections to fix prior drafting errors in the Runaway and Homeless Youth Act.

The provisions of this bill will strengthen our commitment to our youth. I urge my colleagues to support this legislation, which will strengthen the Missing Children's Assistance Act, the National Center for Missing and Exploited Children, and the Runaway and Homeless Youth Act, and thus improve the safety of our Nation's children.

By Mr. HATCH (for himself, Mr. DeWINE, and Mr. NICKLES):

S. 250. A bill to establish ethical standards for Federal prosecutors, and for other purposes.

FEDERAL PROSECUTOR ETHICS ACT

Mr. HATCH. Mr. President, I am pleased today to introduce an important piece of corrective legislation—the Federal Prosecutor Ethics Act. This bill will address in a responsible manner the critical issue of ethical standards for federal prosecutors, while ensuring that the public servants are permitted to perform their important function of upholding federal law.

The bill I am introducing today is a careful solution to a troubling problem—the application of state ethics rules in federal court, and particularly in the U.S. attorney's office. In short, the 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 application of federal policy or investigation. 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 the rules of conduct 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 officers, and some federal prosecutors, have gone overboard. Unethical conduct by any attorney is a matter of concern. But when engaged in by a federal prosecutor, unethical conduct cannot be tolerated.

The Justice Department, in 1993, 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 means 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, and the legislative deadline was 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 likely form, it states that the Attorney for the government shall be subject to State laws and rules. Governor attorneys in every state where such attorney engages in that attorney's duties, including the 15,491,344 free publications distributed, and, most importantly, by its work in locating and tracing the 162,793 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.
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, if it has not been adopted by all states, or at least sufficient states, to become the law of the land. The most recent example is the use of Section 530B, as the law of the land.

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 even more federal 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 authorities in each of those states. The effect will be that 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 grand jury, perfectly legal and acceptable in federal court, will be subject to state bar rules. For instance, in many states, federal attorneys will not be permitted to speak with represented witnesses, especially witnesses to corporate misconduct, and the use of undercover investigations will at a minimum be hindered. In other states, Section 530B might require—or, as a long-established federal grand jury practice—lרת prosecute the trial of the exculpatory evidence to the grand jury. Moreover, these rules won't have to be in effect in the district where the object 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 handicap federal law enforcement.

In short, Section 530B will affect every attorney in every department and agency of the federal government. It will effect enforcement of our anti-trust laws, our environmental laws prohibiting the dumping of hazardous waste, our labor laws, our civil rights laws, and as I said before, the integrity of every federal funding program.

Section 530B is also an open invitation to clever defense attorneys to stymie federal criminal or civil investigations by raising bogus defenses or bringing frivolous state bar claims. Indeed, this is likely to be an increasing problem if Section 530B is not made uniform by all states.

The most recent example is the use of a State rule to bar 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 on federal law enforcement?

What will the impact 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 subjects of legal malpractice 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 is not 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 "the Supreme Court and in such inferior courts as the Congress shall, 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, if the federal courts are to be independent, 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 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, under the rules or the ABA Model, or 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 disparity 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 no potential conflict with the ABA Model. Second, the provision of 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, 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 each state 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. An Alabama statute unconstitutionally infringes on the rights of those children and their parents who wish to observe a moment of silence for religious purposes.

Until the Supreme Court ruled in the Engel and Abington School District decisions, the Establishment Clause of the First Amendment was generally understood to prohibit the Federal Government from officially 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 reject this country as 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.

As Supreme Court Justice William Douglas once stated: "We are a religious people whose institutions presuppose the 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 prayer. I believe 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 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 prayer policies. 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, that the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution, when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress:

"ARTICLE —

"Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any State to participate in prayer. Neither the United States nor any State shall compose the words of any prayer to be said in public schools."

By Mr. KYL (for himself, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. BROWNBACK, Mr. COVERT, Mr. CRAPO, Mr. Frist, Mr. GRAMM, Mr. GRAMM, Mr. INHOFE, Mr. McK, 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, COVERDILL, CRAPO, FRIST, GRAMM, GRAMM, 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 increase any tax. It would allow Congress to waive the supermajority 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.

Two years ago, 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 defeated by similar constraints on existing 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 majority 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.

I am introducing today would impose similar constraints on federal tax-raising authority. It would require a two-thirds majority vote of each house of Congress to pass any bill levying a new tax or increasing the rate or base of any existing tax. In short, any measure that would take money out of the taxpayers' pockets would require a super-majority vote to pass.

I would note that the proposed amendment includes provisions that would allow Congress to override 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.
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 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 approached the 20 percent mark, the economy tipped into recession.

Already, economists are beginning to project slower economic growth in coming years and any further shocks from abroad, growth for 1999 to 2003 is estimated at about two percent. In fact, growth during the high-tax Clinton years has averaged only about 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 inefficient 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 further threat to our ability to grow 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 no way do 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]

SEC. 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.

SEC. 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 in a military conflict when causes an imminent and serious threat to national security and is declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law. Any provision of law which would, standing alone, be subject to section 1 but which becomes law pursuant to such a waiver shall be effective for not longer than 2 years.

SEC. 3. All votes taken by the House of Representatives under this article shall be determined by yeas and nays and the names of persons voting for and against shall be entered on the Journal of each House respectively.

By Mr. KYL (for himself, Mrs. FEINSTEIN, Mr. BIDEN, Mr. GRASSLEY, Mr. INOUEY, Mr. DEWINE, Ms. LANDRIEU, Mr. STEWARD, Mr. GERRITSEN, 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 version 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 Butler. 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.

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 judicial system that failed 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 consider 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 adopted measures with 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 for victims and services that "the U.S. Constitution should be amended to recognize fundamental rights for victims of crime." The report continued: "A victims' rights constitutional amendment is the only legal measure strong enough to rectify the current inconsistencies in victims' rights laws that vary significantly from jurisdiction to jurisdiction on the State and Federal levels." Further, "Granting victims of crime the ability to participate in the justice system is exactly the type of participatory right the Constitution is designed to protect and has been amendment to permanently ensure. Such rights include the right to vote on an equal basis and the right to be heard when the government deprives one of life, liberty, or property.

Until crime victims are protected by the United States Constitution, the rights of victims will be subordinate to the rights of the defendant. Indeed, the National Governors Association—by a vote of 40-1—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 as the rights of the accruing. 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 fundamental change to 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 reestablish balance and fairness for victims. The history of our country teaches us that fundamental protections are needed to protect the basic rights of the people. Our criminal justice system needs the kind of fundamental reform that can only be accomplished through changes in our fundamental law—the Constitution.

Attorney General Reno has confirmed the point, noting that, "unless the Constitution is amended to ensure basic rights to crime victims, as will never correct the existing imbalance in this country between defendants' constitutional rights and the haphazard patchwork of victims' rights." Attempts to establish rights by federal or state statute, or even state constitutional amendment, have proven inadequate, after more than twenty years of trying.

On behalf of the Department of Justice, Ray Fisher, the Associate Attorney General, recently testified that "the state legislative route to change has been far from adequate in accordance with 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. The Rights that the State 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 need of crime victims." Federal statutes are also inadequate. Professor Cassel'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 1996 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, Thad, Mack, Coverdell, Craig, Breaux, Reid, Torricelli, and Frist (who recently 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 too long, the criminal justice system has ignored crime victims who deserve to be treated with fairness, dignity, and respect. Our criminal justice system will never be truly just as long as criminals have rights and victims do not.

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 the sentence to be imposed;
- to reasonable notice of a release or escape of an offender;
- to a proceeding or invalidate any ruling, except a sentence on which the victim's safety is the basis for its imposition, if the victim is granted a right to participate in the proceedings;
- to consider the application for a release of an offender;
- to reasonable notice of 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 victims' 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 the victim's or continuing criminal. 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. The right to an speedy trial and the right to an impartial jury of one’s peers;

SECTION 4. This article shall take effect on the 180th day after the ratification of this article. The right to confront witnesses;

SECTION 5. The rights and immunities established by this article shall apply to crimes committed before the effective date of this article. The right to counsel;

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 J ustice Department, 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 J udiciary 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, 108th 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 particular 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 family home on fire—cowardly retreating 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 only by saying to 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 strength 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 Victims’ 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 that do have state amendments, criminals can assert rights guaranteed 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 to 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 consider 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 were fewer victims of crime each year in this country 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 wealthy 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 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 increased. The engineer’s ability to determine the course of a case and its deprived of his ability to gain restitution from the proceedings. Under such conditions the incense of a crime and to continue with the prosecutor 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.

The 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 respecting these rights is 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—indeed, including those in the other 18 states that 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 robbed at gunpoint, her beer mug by her husband, her mother was not notified of this killer’s early release only two and a half years into his ten year sentence, and was not given the opportunity to be heard about this violation 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 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 strongest protection states, did not receive notice of the sentencing hearing—notice that is essential if they are to exercise their right to make a statement.

A substantial number of victims reported that they were not given an opportunity to make a victim impact statement at sentencing or parole.

State amendments simply are not enough—they provide different rights in different states, they do not exist at all in others, and they are too often ignored when they do exist.

We implore members of this body to examine this amendment, and to help secure passage of this monumental piece of legislation.

Mr. KYL. Mr. President, I rise today to introduce the Balanced Budget Spending Limitation Amendment—a joint resolution proposing to amend the Constitution of the United States to establish both a federal spending limit and a requirement that the federal government maintain a balanced budget.

Mr. President, it seems to me that although we may have succeeded in balancing the unified budget, we still have two very different visions of where we should be headed. Is a balanced budget the paramount goal, even if it comes with substantially higher taxes and more spending? Or is the real goal of a balanced budget to be more responsible with people’s hard-earned tax dollars—to limit government’s size and give people more choices and more control over their lives? Before we try to answer those questions, let us try to give them some context.

When we balanced the unified budget last year, we did so by taxing and spending at a level of about $1.72 trillion. That is a level of spending that is 25 percent higher than when President Clinton took office just six years ago. Our government now spends the equivalent of $6,700 for every man, woman, and child in the country every year. That is the equivalent of nearly $27,000 for every average family of four. All of that spending comes at a tremendous cost to hard-working taxpayers.

The Tax Foundation estimates that the median income family in America
saw its combined federal, state, and local tax bill climb to 37.6 percent of income in 1997—up from 37.3 percent the year before. That is more than the average family spends on food, clothing, shelter, and transportation combined. It pays for things like houses, day care for children, and new clothes for the kids. One parent working to put food on the table, while the other is working almost full time just to pay the bill for the government bureaucracy.

Perhaps a different measure of how heavy a tax burden the federal government imposes would be helpful. Consider that federal revenues hit a peacetime high of 19.8 percent of Gross Domestic Product (GDP) in 1997 and, according to the Congressional Budget Office, will continue to climb—20.5 percent in 1998 and 20.6 percent in 1999.

That will be higher than any year since 1945, and it would be only the third and fourth years in our nation’s entire history that revenues have exceeded 20 percent of GDP. The first time was in 1945, the first two times revenues broke the 20 percent mark, the economy tipped into recession.

For me, it is not enough to balance the budget if it means that hard-working taxpayers' earnings and their desire to do right by themselves and their families. That is where our paramount concern should be—with the taxpayer.

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.

Mr. President, we cannot fail to 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 tax relief, or repay Social Security, tax relief, or repayment of the national debt.

That was just the first in what is expected to be a series of efforts by President Clinton to send 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 us to maintain a balanced federal budget. Second, consistent with the vision of balanced fiscal years, it would limit federal spending to 19 percent of the national income, as measured by the Gross Domestic Product. That is roughly the level of revenue collected by the government over the last 40 years.

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—the 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 at a rate 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.

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 from all sources for that fiscal year.

SECTION 2. Except as provided in this article, the outlays of the United States Government for any fiscal year must 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 pass, by a roll call vote, for a specific excess of outlays over receipts 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 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 has a 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

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 has a budget surplus of $70 billion, and an on-budget deficit of $29 billion when the $99 billion surplus in Social Security is not counted. This on-budget deficit is
projected to disappear by 2002 under current budget policies.

The Balanced Budget Constitutional Amendment I am introducing today is identical to S.J. Res. 1 of the 105th Congress, which received 66 votes in the Senate. It is expected 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, after 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 framework and enforcement mechanism to allow us to achieve this bipartisan goal.

By Mr. HOLLINGS (for himself, Mr. SPECKER, 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 an election, 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, the costs can be counted not only in millions of dollars but also in lost credibility. Each election year, our political system and we as representatives lose the invaluable and irreplaceable trust of the American people.

The amount of money required to wage a political campaign today has given rise to the pervasive belief that our elections—indeed, even we ourselves—are up for sale to the highest bidder. Though this is not the reality, the fact is that it is the perception of many voters.

It is time to strike a blow against the anything-goes fundraising and spending encouraged by both political parties. The need to limit campaign expenditures is more urgent than ever: the total cost of Congressional campaigns skyrocketed from $446 million in 1990 to over $620 million in 1996. This represents a 71-percent increase in just six years. Although fundraising slowed in the election cycle just ended, candidates for general election in 1998 still spent over $10 million more than their counterparts in 1996.

Make no mistake: this lull is a temporary one. Experts attribute the slowed spending last year to the unusually large number of uncontested elections. I know this is true because in my state, which was the setting for 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 over $20 million in March and April alone, the most expensive election cycle in South Carolina history. In fact, although the total cost of all Congressional elections increased only slightly this year, candidates for Senate office spent over 15 percent more than their counterparts in 1996.

We can be sure that in 2000, election spending will skyrocket to new, astounding levels. And we can be equally sure that the public's overwhelming cynicism about its representatives and to the problem of corruption, or at least its appearance in our political system.

At best, the obsession with money distracts our electorate from the people's business. At worst, it corrupts and degrades the entire political process. Fundraisers used to be arranged so they didn't conflict with the Senate schedule; nowadays, the Senate schedule is regularly shifted to accommodate fundraisers. 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 before the Supreme Court's 1996 decision in its infamous Buckley versus Valeo decision, the Court committed a grave error by striking down spending limits as a threat to free speech. The fact is, limitations on campaign expenditures, 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 that came to light from the 1972 Presidential election. 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 SPECKER and I have introduced a constitutional amendment allowing Congress to set reasonable campaign contributions and expenditures. This, the Court ruled, constitutes a governmental interest in preventing corruption and its appearance outweighs considerations of free speech. In the face of spirited discussion, the Court declared: "The 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 dicta that is still confusing, 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 could have done it up by striking down spending limits as a threat to free speech. The fact is, imposing spending limits in federal campaign contributions would help restore the free
speech that has been eroded by the Buckley decision.

As Professor Gerald G. Ashton wrote in the New England Law Review, amending the Constitution to allow Congress to regulate campaign expenditures and political speech would not only make the system more attractive to the public but also help level the playing field by giving the voter an equal opportunity to voice his or her concerns. In my view, however, this is the ideal time to reform the campaign system and to prevent the appearance of corruption. It is a political reality, of course, that political speeches are not free. A political candidate's ability to communicate his or her message is limited by the candidates' personal wealth. J ustice 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. J ustice 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 communicate his or her message is limited by the candidates' personal wealth.

The Buckley decision created a double bind. It upheld restrictions on campaign contributions but struck down restrictions on candidate spending. As a result, 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. J ustice 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."

To a distressing degree today, elections are determined not in the political arena but in the financial marketplace. Our elections are supposed to be contests of ideas, but too often they degenerate into megadollar derbies, paper chases through the board rooms of corporations and special interests. Mr. President, campaign spending must be brought under control. The constitutional amendment I have proposed would permit Congress to impose fair, responsible, workable limits on Federal campaign expenditures.

Such a reform would have four important effects. It would end the mindless pursuits of enormous campaign war chests. Also, it would free candidates from their current obsession with raising money and force 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. First, 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 coinci dent 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.

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 demonstrated 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,
where I 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 to record my 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, and that our legislative initiatives in this town to spend now and pay later remain. Thus, it is as true now as it always was 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.

The joint resolution, as ordered to be printed in the RECORD, as follows:

S. J. Res. 7

Be it enacted by the Senate and House of Represented 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-fifths 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 for a 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 of 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 Government is involved in a military conflict which causes an imminent and serious military threat to national security and is declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

``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 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 Franklin D. Roosevelt and Secretary of State Cordell Hull launched the Reciprocal Trade Agreement 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 reaffirming 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 setting 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. 111 on Discrimination (1957), Convention No. 138 on Minimum Age (1973), Convention No. 143 on Discrimination in Employment and Occupation (1958), and Convention No. 182 on Minimum Age (1973);

Whereas in June 1998, at the conclusion of the 86th International Conference of the ILO, 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:

Resolved in 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, which has been adopted by the ILO as the "Declaration on Fundamental Principles and Rights at Work", that may help advance core labor standards in a competitive global economy; and

(2) the President should use all means at his 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 so with the means to improve labor standards with a means of so doing—international conventions—that would not compromise their competitive advantages. I worked with the Administration to incorporate into the President's 1997 fast track proposal a dual nods to the ILO and its core labor standards. The Administration then had an ILO provision in his own fast track bill. In July 1998, the Finance Committee updated the bill to reflect its approval of, and hopes for, the new Declaration on Fundamental Principles and Rights at Work and its monitoring mechanism.

In essence, the ILO has bundled together, in a single declaration, four sets of fundamental rights—the core labor standards embodying the broad principles that are essential to membership in the ILO. Having declared that these rights are the "fundamental" rights, 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 I, the fundamental principles of the ILO, including freedom of expression and association and the importance of equal opportunity and economic security. Adopted