SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. BREAUX (for himself, Mr. MURKOWSKI, Mr. MACK, and Mr. JOHNSON):

S. Res. 108. A resolution designating the month of March each year as ''National Colorectal Cancer Awareness Month''; to the Committee on the Judiciary.

By Mr. LOTT:

S. Con. Res. 35. A concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. COLLINS (for herself and Mr. COVERDELL):

S. 1124. A bill to amend the Internal Revenue Code of 1986 to eliminate the 2-percent floor on miscellaneous itemized deductions for qualified professional development expenses of elementary and secondary school teachers; to the Committee on Finance.

TEACHER PROFESSIONAL DEVELOPMENT ACT

By Mr. COVERDELL (for himself and Ms. COLLINS):

S. 1127. A bill to amend the Internal Revenue Code of 1986 to eliminate the 2-percent floor on miscellaneous itemized deductions for reasonable and incidental expenses related to instruction, teaching, or other educational job-related activities; to the Committee on Finance.

TEACHER DEDUCTION FOR INCIDENTAL EXPENSES ACT

Ms. COLLINS. Mr. President, today, Senator COVERDELL and I are introducing two bills that will help teachers who spend their personal funds in order to improve their teaching skills and to provide quality learning materials for their students. I am going to discuss the first of those bills, the Teachers' Professional Development Act.

I am very pleased to be joined by my colleague from Georgia, Senator COVERDELL, in presenting this response to the critical need of our elementary and secondary schoolteachers for more professional development.

Other than involved parents, a well-qualified teacher is the most important element of student success. Educational researchers have repeatedly demonstrated the close relationship between well-qualified teachers and successful students. Moreover, teachers themselves understand how important professional development is to maintaining and expanding their level of competence. When I meet with Maine teachers, they tell me of their need for more professional development and the scarcity of financial support for this worthwhile pursuit.

In Maine, we have seen the results of a strong, sustained professional development program on student achievement in science and math. With support from the National Science Foundation, the U.S. Department of Education, the State of Maine, private foundations, the business community, and colleges in our State, the Maine Mathematics and Science Alliance established a statewide training program for teachers. The results have been outstanding.

While American students, overall, performed at the bottom of the Third International Science and Mathematics Study, Maine students outperformed the students of all but one of the 41 participating nations. The professional development available to Maine's science and math teachers undoubtedly played a critical role in this tremendous success story. Unfortunately, however, this level of support for professional development is the exception and not the rule.

The willingness of Maine's teachers to fund their own professional development activities has impressed me deeply. For example, an English teacher who serves as a member of my Educational Policy Advisory Committee told me of spending her own money to attend a curriculum conference. She then came back to her high school and shared the results of this curriculum conference with all the other teachers in her English department. She is typical of the many teachers throughout the United States who generously reach within their own pockets to pay for their own professional development to make them even better, even more effective at their jobs.

I firmly believe that we should encourage our educators to seek professional training, and that is the purpose of the legislation I am introducing today. The Collins-Coverdell legislation would help teachers to finance professional development by allowing them to deduct from their taxable income such expenses as conference fees, tuitions, books, supplies, and transportation associated with qualifying programs. Under the current law, teachers may only deduct these expenses if they exceed 2 percent of their income. My bill would eliminate this 2 percent floor and allow all of the professional development expenses to be deductible.

I greatly admire the many teachers who have voluntarily financed the additional education they need to improve their skills and to serve their students better. I hope that this legislation will encourage teachers to continue to take courses in the subject areas that they teach, to complete graduate degrees in either their subject area or in education, and to attend conferences to get new ideas for presenting course work in a challenging manner. This bill would reimburse our teachers for a very small part of what they invest in our children's future. This would be money well spent.

Investing in education is the surest way for us to build one of our most important assets for our country's future, and that is a well-educated population. We need to ensure that our nation's elementary and secondary school teachers are the best possible so that they can bring out the best in our students. Adopting this legislation would help us to accomplish this goal.

I urge my colleagues to support these efforts, and I look forward to working with my colleagues in assuring enactment of this legislation.

Thank you, Mr. President.

By Mr. MCCAIN (for himself, Mr. ASHCROFT, Mr. HATCH, and Mr. MACK):

S. 1125. A bill to restrict the authority of the Federal Communications Commission to review mergers and to impose conditions on licenses and other authorizations assigned or transferred in the course of mergers or other transactions subject to review by the Department of Justice or the Federal Trade Commission; to the Committee on Commerce, Science, and Transportation.

TELECOMMUNICATIONS MERGER REVIEW ACT OF 1999

Mr. MCCAIN. Mr. President, I rise this morning to introduce The Telecommunications Merger Review Act of 1999, which will make the government's review of telecommunications industry mergers more coherent and effective.

It seems like hardly a week goes by without the announcement of yet another precedent-setting merger in the telecommunications industry. Consumers are right to be concerned about the possible effects of these mergers, and the Congress is right to be concerned that government review of these mergers is careful and consistent in keeping consumer interests uppermost.

The urgent need for competence and clarity in reviewing telecom industry mergers highlights a glaring problem in the current system. That problem, Mr. President, arises from the fact that different agencies sequentially go over the same issues, and, after considerable delay, can make radically different decisions on the same sets of facts.

Two of these agencies, the Department of Justice and the Federal Trade Commission, have extensive expertise in analyzing the competition-related issues that are involved in mergers, and they approach the merger review process with a great deal of professionalism and efficiency. The third agency, the Federal Communications Commission, has comparatively little expertise in these issues, and only limited authority under the law.

Nevertheless, the FCC has bootstrapped itself into the unintended role of official federal dealbreaker. How? By using its authority to impose conditions on the FCC licenses that are being transferred as part and parcel of the overall merger deal. Because the FCC must pre-approve all license transfers, its ability to pass on the underlying licenses gives it a chokehold on the parties to the merger. And it uses that chokehold to prolong the process and extract concessions from the merging parties that oftentimes

have very little, if anything, to do with the merger itself.

Mr. President, many people might ask, what's so bad about that? Won't the FCC's conditions make sure that consumer interests are served? The short answer is, the FCC is simply duplicating the review and that the Department of Justice performs with much more competence and efficiency. About the best you can say is that the FCC is wasting valuable resources that could more productively be spent elsewhere. But the real harm lies in the fact that the FCC is foisting needless burdens and restrictions on the merging companies that translate into higher costs for consumers.

The FCC tries to defend its efforts by arguing that its job is really different from DOJ's—that DOJ makes sure that a merger won't harm competition, while the FCC makes sure that the same merger will help competition. In other words, according to the FCC, DOJ looks at a merger's effect on business; the FCC looks at its effect on people. For example, last week FCC Chairman Kennard gave a speech in which he proclaimed that, despite the strain these merger reviews were imposing on the agency, ''We will not rest until on each transaction we can articulate to the American public what are the benefits of this merger to average American consumers, because I believe that's what the public-interest review requires.''

If that's true, I have good news for Chairman Kennard—he can take a rest, because DOJ is doing exactly the same thing. In a separate speech last week Assistant Attorney General Joel Klein, DOJ's chief merger review official, said that what most people do not understand (including, evidently, the FCC), is that ''everything we do in antitrust . . . is consumer driven.'' He then went on to say precisely what that means:

> We are a unique federal agency. Our interest is to protect what the economists call consumer welfare. And there is one simple truth that animates everything we do, and that is competition—the more people chasing after the consumer, to serve him or her better, to get lower prices, to get new innovations, to create new opportunities—the more of that juice that goes through the system, the better.

To be accurate, there is one big difference between the way the FCC and the DOJ do merger reviews: DOJ is infinitely better at it. Two weeks ago the FCC's already-faltering merger review process hit rock-bottom when a staff member (an ostensible antitrust expert) heading up the FCC's review of the SBC-Ameritech merger (which DOJ has already approved) publicly proclaimed that, unless the FCC imposed major conditions, the proposed transaction ''flunks the public interest test.'' An ''unnamed agency spokeswoman'' then cheerfully agreed that a majority of the Commissioners shared the same view.

Can you imagine either the FTC or DOJ countenancing such happenings during the course of their merger review processes? I think not. This appallingly unprofessional behavior by the FCC staff drove the value of SBC and Ameritech stock down over $2 billion, and it confirmed that, if this is what passes for FCC merger review ''expertise,'' the FCC has no business being in it.

Mr. President, this bill will restore integrity and professionalism to federal review of telecommunications industry mergers. It does not touch either DOJ's or FTC's broad authority to review all mergers, including all telecommunications industry mergers. It would make sure that any FCC concerns are heard by incorporating the FCC into DOJ and FTC merger review proceedings. Nor does it touch the FCC's broad authority to adopt and enforce rules to govern the behavior of telecommunications companies. What it does do is tell the FCC that, in cases where either DOJ or FTC has reviewed a proposed telecommunications merger and stated in writing no intent to intervene, the FCC must follow the determination of these expert agencies and transfer any FCC licenses without further delay.

Under this bill the FCC may independently review proposed mergers when neither DOJ nor FTC states in writing its intent not to intervene. Nevertheless, because DOJ and FTC review all mergers and have authority to intervene in any merger, their nonintervention is any proposed merger appropriately signifies that they find the transaction at issue is unobjectionable. Therefore, any FCC review in such cases is subject to a strict 60-day deadline, and the FCC is directed to presume approval without attaching further conditions or obligations on any of the parties. Nothing (except extreme unlikelihood) would preclude the FCC from rebutting the presumption with hard facts, nor would the FCC be precluded from subsequently exercising its existing enforcement and rulemaking prerogatives to deal with any unanticipated problems.

Mr. President, we can streamline the way the federal government reviews telecom industry mergers and still safeguard the public interest. That's what this bill is intended to do by eliminating bureaucratic mismanagement while preserving essential federal review and enforcement prerogatives. I urge my colleagues to give it careful consideration and support.

This bill, the Telecom Merger Review Act of 1999, would do nothing to change the authority that the Department of Justice and the Federal Trade Commission currently have to review all telecom industry mergers.

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. 1125

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 ''Telecommunications Merger Review Act of 1999''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) A stated intent of the Congress in enacting the Telecommunications Act of 1996 was to reduce regulation.

(2) Under existing law, the Department of Justice and the Federal Trade Commission exercise primary authority to review all mergers, including telecommunications industry mergers. The Federal Communications Commission has only limited authority under the Clayton Act to review telecommunications industry mergers.

(3) The Department of Justice and the Federal Trade Commission have extensive expertise in analyzing issues of industry concentration and its effects on competition. The Federal Communications Commission has only limited expertise in analyzing such issues.

(4) Notwithstanding the limitations on its Clayton Act jurisdiction and on its substantive expertise, the Federal Communications Commission exercises broad authority over telecommunications industry mergers pursuant to the nonspecific public interest standard and other provisions in the Communications Act of 1934 that allow it to impose terms and conditions on the assignment and transfer of licenses and other authorizations.

(5) The Federal Communications Commission's exercise of broad authority over telecommunications industry mergers overreaches its intended statutory authority and its substantive expertise and produces delay and inconsistency in its decisions.

(6) Under existing law, parties to a proposed telecommunications industry merger are unable to proceed without the prior approval of the Federal Communications Commission, even if the Department of Justice or the Federal Trade Commission have already approved the merger.

(7) The Federal Communications Commission's existing rulemaking and enforcement prerogatives constitute normal and effective means of assuring that all licensees, including parties to a telecommunications industry merger, operate in the public interest.

(8) The primary jurisdiction and preeminent expertise of the Department of Justice and the Federal Trade Commission on all matters involving industry concentration and its effects on competition, combined with the Federal Communications Commission's existing rulemaking and enforcement prerogatives, make the exercise of separate telecommunications industry merger approval authority by the Federal Communications Commission unnecessary.

(9) Because the duplication of effort, inconsistency, and delay resulting from the Federal Communications Commission's review of telecommunications industry mergers is unnecessary, it imposes unwarranted costs on the industry, on the Commission, and on the public, and it fails to serve the public interest.

SEC. 3. REPEAL OF MERGER APPROVAL AUTHORITY.

Section 11(a) of the Clayton Act (15 U.S.C. 21(a)) is amended by striking ''in the Federal Communications Commission where applicable to common carriers engaged in wire or radio communication or radio transmission of energy;''.

SEC. 4. REPEAL OF AUTHORITY TO CONDITION LICENSES, ETC.

(a) BASIC ADMINISTRATIVE AUTHORITY.—Section 4(i) of the Communications Act of 1934 (15 U.S.C. 154(i)) is amended by adding at the end thereof the following: ''The authority of the Commission to impose terms or conditions on the transfer or assignment of

any license or other authorization assigned or transferred in a merger or other transaction subject to review by the Department of Justice or the Federal Trade Commission is subject to section 314.''.

(b) PUBLIC CONVENIENCE AND NECESSITY.—Section 214(c) of the Communications Act of 1934 (47 U.S.C. 214(c)) is amended by inserting after ''require.'' the following: ''The authority of the Commission to impose terms or conditions on the transfer or assignment of any such certificate assigned or transferred in a merger or other transaction subject to review by the Department of Justice or the Federal Trade Commission is subject to section 314.''.

(c) RESTRICTIONS AND CONDITIONS NECESSARY TO CARRY OUT 1934 ACT; TREATIES; INTERNATIONAL CONVENTIONS.—Section 303(r) of the Communications Act of 1934 (47 U.S.C. 303(r)) is amended by adding at the end thereof the following: ''The authority of the Commission under this paragraph to impose terms or conditions on the transfer or assignment of any license or other authority assigned or transferred in a merger or other transaction subject to review by the Department of Justice or the Federal Trade Commission is subject to section 314.''.

(d) ALIEN-OPERATED AMATEUR RADIO STATIONS.—Section 310(d) of the Communications Act of 1934 (47 U.S.C. 310(d)) is amended by adding at the end thereof the following: ''The authority of the Commission to impose terms or conditions on the transfer or assignment of any authorization issued under this section that is assigned or transferred in a merger or other transaction subject to review by the Department of Justice or the Federal Trade Commission is subject to section 314.''.

(e) PRESERVATION OF COMPETITION IN COMMERCE.—Section 314 of the Communications Act of 1934 (47 U.S.C. 314) is amended to read as follows:

''SEC. 314. PRESERVATION OF COMPETITION IN COMMERCE.

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Commission has no authority to review a merger or other transaction, or to impose any term or condition on the assignment or transfer of any license or other authorization issued under this Act that is proposed to be assigned or transferred in the course of a merger or other transaction, while that merger or other transaction is subject to review by either the Department of Justice or the Federal Trade Commission.

''(b) COMMUNICATIONS MERGERS PRIMARILY REVIEWABLE BY DOJ AND FTC.—The Department of Justice, or the Federal Trade Commission, has primary authority under existing law to review mergers and other transactions involving the proposed assignment or transfer of any license or other authorization issued under this Act. The Commission may file comments in any proceeding before the Department of Justice or the Federal Trade Commission to review a merger or other transaction involving the proposed assignment or transfer of any license or other authorization issued under this Act if those comments reflect the views of a majority of the Commission.

''(c) COMMISSION SHALL IMPLEMENT DOJ OR FTC DECISION WITHOUT ADDITIONAL TERMS OR CONDITIONS.—If—

''(1) the Department of Justice or the Federal Trade Commission reviews a merger or other transaction involving the proposed assignment or transfer of any license or other authorization issued under this Act; and

''(2) it issues a written decision of absolute or conditional approval of, or issues a written statement of nonintervention in, the proposed merger or other transaction,

then the Commission shall authorize the assignment or transfer of any license or other authorization involved in the merger or transaction in accordance with the decision, if any, or as proposed, if a written statement of nonintervention is issued. The Commission may not impose any other term or condition on the assignment or transfer of the license or other authorization so assigned or transferred, or impose any other obligation on any party to that merger or transaction.

''(d) COMMISSION REVIEW OF MERGERS ABSENT DOJ OR FTC PRONOUNCEMENT.—

''(1) IN GENERAL.—The Commission may not review any application for assignment or transfer of a license or other authorization issued under this Act in connection with a merger or other transaction unless neither the Department of Justice nor the Federal Trade Commission issues a decision or statement described in subsection (c)(2) in connection with that merger or other transaction.

''(2) 60-DAY TURNAROUND.—The Commission shall conclude any review of a merger or other transaction it may conduct under paragraph (1) within 60 days after the date on which the Department of Justice and the Federal Trade Commission, whichever is appropriate, issues such a decision or statement.

''(3) PRESUMPTION; DEFAULT APPROVAL.—In reviewing an application under paragraph (1), the Commission shall apply a presumption in favor of unconditional approval of the application. If the Commission fails to issue a final decision within the 60-day period described in paragraph (2), the application shall be deemed to have been granted unconditionally by the Commission.''.

By Ms. MIKULSKI (for herself, Mr. KENNEDY, and Mr. DURBIN):

S. 1126. A bill to amend the Federal Food, Drug, and Costmetic Act to improve the safety of imported food, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

IMPORTED FOOD SAFETY IMPROVEMENT ACT OF 1999

Ms. MIKULSKI. Mr. President, I rise today to introduce the ''Imported Food Safety Act of 1999.'' I am proud to be the sponsor of this important legislation which guarantees the improved safety of imported foods.

The health of Americans is not something to take chances with. It is important that we make food safety a top priority. Every person should have the confidence that their food is fit to eat. We should be confident that imported food is as safe as food produced in this country. Cars can't be imported unless they meet U.S. safety requirements. Prescription drugs can't be imported unless they meet FDA standards. You shouldn't be able to import food that isn't up to U.S. standards, either.

We import increasing quantities of fresh fruits and vegetables, seafood, and many other foods. In the past seven years, the amount of food imported into the U.S. has more than doubled. Out of all the produce we eat, 40% of it is imported. Our food supply has gone global, so we need to have global food safety.

The impact of unsafe food is staggering. There have been several frightening examples of food poisoning incidents in the U.S. When Michigan schoolchildren were contaminated with Hepatitis A from imported strawberries in 1997, Americans were put on alert. Thousands of cases of cyclospora infection from imported raspberries—resulting in severe, prolonged diarrhea, weight loss, vomiting, chills and fatigue were also reported that year. Imported cantaloupe eaten in Maryland sickened 25 people. As much as $663 million was spent on food borne illness in Maryland alone. Overall, as many as 33 million people per year become ill and over 9000 die as a result of food borne illness. It is our children and our seniors who suffer the most. Most of the food-related deaths occur in these two populations.

These incidents have scared us and have jump-started the efforts to do more to protect our nation's food supply. Now, I believe in free trade, but I also believe in fair trade. FDA's current system of testing import samples at ports of entry does not protect Americans. It is ineffective and resource-intensive. Less than 2% of imported food is being inspected under the current system. At the same time, the quantity of the imported foods continues to increase.

What this law does is simple: It improves food safety and aims at preventing food borne illness of all imported foods regulated by the FDA. This bill takes a long overdue, big first step.

First, it requires that FDA make equivalence determinations on imported food. This was developed with the FDA by Senator KENNEDY and myself in consultation with the consumer groups.

Today, FDA has no authority to protect Americans against imported food that is unsafe until it is too late. Last year, the GAO found that FDA lacks the authority to require that food coming into the U.S. is produced, prepared, packed or held under conditions that provide the same level of food safety protection as those in the U.S. This means that currently, food offered for import to the U.S., can be imported under any conditions, even if those conditions are unsanitary. The Imported Food Safety Act of 1999, will allow FDA to look at the production at its source. This means that FDA will be able to take preventive measures. FDA will be able to be proactive, rather than just reactive.

That means that when you pack your childrens' lunches for school or sit down at the dinner table, you can rest assured that your food will be safe. Whether your strawberries were grown in a foreign country or on the Eastern Shore, in Maryland, those strawberries will be held to the same standard. You won't have to worry or wonder where your food is coming from. You won't have to worry that your children or families are going to get sick. You will know that the food coming into this country will be subject to equivalent standards.

Secondly, this bill contains strong enforcement measures. Last year, the

Permanent Subcommittee on Investigations, under the leadership of Senator SUE COLLINS, held numerous hearings on the safety of imported food. These enforcement measures are largely a product of those facts uncovered during those hearings. Senator COLLINS developed these enforcement provisions and introduced a bill which focuses on enforcement. I refer those with special interest in enforcement to also consider her bill.

Finally, this bill covers emergency situations by allowing FDA to ban imported food that has been connected to outbreaks of food borne illness. When our children, parents and communities are getting seriously sick, the Secretary of Health and Human Services can immediately issue an emergency ban. We don't have to wait till someone else gets seriously sick or dies. We no longer have to go through the current bureaucratic mechanism that is inefficient and resource intensive. We can stop the food today, to protect our citizens.

My goal is to strengthen the food supply, whatever the source of the food may be. This bill won't create trade barriers. It just calls for free trade of safe food. It calls for international concern and consensus on guaranteeing standards for public health.

This bill is important because it will save lives and makes for a safer world. Everyone should have security in knowing that the food they eat is fit to eat. I'd like to thank FDA for their advice and consultation in developing this legislation. I also want to thank the Consumer Federation of America for their insight and recommendations.

I look forward to working on a bipartisan basis to enact this legislation. I pledge my commitment to fight for ways to make America's food supply safer. This bill is an important step in that direction.

Mr. President, I ask unanimous consent that the statement of Ms. Carol Tucker Foreman, Distinguished Fellow and Director of the Food Policy Institute, be printed in the RECORD.

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

STATEMENT OF CAROL TUCKER FOREMAN, DISTINGUISHED FELLOW AND DIRECTOR OF THE FOOD POLICY INSTITUTE

I am here today on behalf of the Consumer Federation of America and the National Consumers' League to endorse the Imported Food Safety Act of 1999. I thank Senators Mikulski, Kennedy and Durbin and Congresswoman Eshoo for introducing this very important legislation.

It will improve the Food and Drug Administration's capacity to protect American consumers from food-borne illness caused by adulterated imported food.

Food-borne illness is a serious public health problem in the U.S. Food poisoning kills 9,000 Americans each year and causes as many as 33 million illnesses. It costs us at least $5 billion each year in medical costs and time lost from work. The human toll is incalculable.

Americans eat from a global plate. We want a wide variety of foods available on a year round basis. Health experts urge us to eat more fruits and vegetables. Imports make fresh fruits available to us even in the middle of February.

But no one wants imported foods served with a side helping of food poisoning. We want all our food, domestic and imported, to be safe.

We have not had that assurance. In recent years there have been a number of incidents of food-borne illness arising from imported food products. Last year, the Senate Permanent Subcommittee on Investigations revealed serious problems with the Food and Drug Administration's capacity to protect Americans from unsafe food.

The General Accounting Office reported that FDA can't protect us because the agency has no authority to require that foods coming into the United States be produced and packaged under circumstances that provide the same level of health protection required for domestic food producers and processors.

Most American consumers, and frankly most food producers and processors as well, would be shocked to learn that imported food is not required to be produced in a manner that provides the same level of health protection as domestic products and that FDA has no authority to check, in advance, for adequate public health safeguards. FDA can act only after the fact—after adulterated food has been found or someone has gotten sick.

The USDA inspects meat, poultry and egg products. GAO noted that USDA has the necessary power to protect consumers. The Department has the authority to require that meat and poultry produced abroad and imported into the U.S. be produced in a system that provides a level of health protection equivalent to that imposed on U.S. producers. That level of protection may include limits on bacteria that cause human illness. In addition, USDA has federally sworn inspectors who examine the foreign systems and check food at the docks.

The Food and Drug Administration has jurisdiction over all other food products, including the fresh fruits and vegetables that are so susceptible to contamination. FDA has no similar authority, no inspectors who visit foreign plants and virtually no inspectors to check food at the docks. Last year, FDA checked only two percent of the food imported into the U.S. In fact, FDA has established only a limited number of performance standards for domestically produced foods.

That point bears repeating. If you eat meat and poultry produced in another country and imported into the U.S., you can do so knowing they were produced under circumstances at least as clean and sanitary as meat, poultry and eggs produced in the U.S. If you consume fresh fruits and vegetables produced in another country, you have no such assurance, even though you will cook your meat, poultry and eggs but may well eat the fruits and vegetables raw, increasing the chance that you will consume disease causing bacteria.

In a recent study, the Center for Science in the Public Interest surveyed 225 food-borne illness outbreaks that occurred between 1990 and 1998. Foods regulated by the FDA caused over twice as many outbreaks as foods regulated by the USDA. Fruits, vegetables and salads caused 48 outbreaks. Seafood, both finfish and shellfish, caused 32 outbreaks.

USDA's more rigorous system of inspection has certainly not stopped foreign produced meat products from entering the country. We import hundreds of millions of pounds of meat each year from Australia, to Argentina and Denmark and a host of other countries. Neither foreign nor domestic producers have suffered any loss of trade.

The Imported Food Safety Act sets up a system for the Secretary of Health and Human Services to use in establishing equivalency; gives FDA more authority to visit other countries; provides important enforcement authority and controls over imported foods; prohibits port shopping and increases penalties for importing contaminated foods and authorizes new funding for FDA to carry out these functions.

Americans do care about food safety. The Food Marketing Institute, the nation's super market trade association, recently released its annual survey of trends among super market shoppers. Ninety percent of those surveyed said food safety was very important or somewhat important to them in making food selections. The Imported Food Safety Act will increase assurance among consumers that the food supply is safe.

The Imported Food Safety Act is an important part of a package of food safety legislation which Congress should address this year. Other parts of the package include legislation to promote the use of specific microbial standards for both domestic and foreign produce, introduced by Senator Harkin; require registration of importers, introduced by Senator Dorgan. Congress should act now before confidence is diminished.

Mr. KENNEDY. Mr. President, it is a privilege to be a sponsor of this important bill, and I commend Senator MIKULSKI for her leadership on this legislation to close the critical gaps in our imported food safety laws.

Citizens deserve to know that the food they eat is safe and wholesome, regardless of its source. The United States has one of the safest food supplies in the world. Yet every year, millions of Americans become sick, and thousands die, from eating contaminated food. Billions of dollars a year in medical costs and lost productivity are caused by food-borne illnesses. Often, the source of the problem is imported food.

We've heard recently about the thousands of cases of illness from Cyclospora in raspberries from Guatemala. But this high profile case is by no means the only case.

In 1997, school children in five states contracted Hepatitis A from frozen strawberries served in the school cafeterias. Fecal contamination is a potential source of Hepatitis A, and the strawberries the children ate came from a farm in Mexico where workers had little access to sanitary facilities.

Earlier this year, cases of typhoid fever in Florida were linked to a frozen tropical fruit product from Guatemala. Again, poor sanitary conditions appear to be at the root of the problem.

Gastrointestinal illness has been linked to soft cheeses from Europe. Bacterial food poisoning has been attributed to canned mushrooms from the Far East.

The emergence of highly virulent strains of bacteria, and an increase in the number of organisms that are resistant to antibiotics, make microbial contamination of food a major public health challenge.

Ensuring the safety of imported food is a huge task. Americans now enjoy a wide variety of foods from around the world and have access to fresh fruits

and vegetables year round. In 1997, the Food Safety Inspection Service of the Department of Agriculture handled 118,000 entries of imported meat and poultry. The FDA handled far more—2.7 million entries of other imported food. Current FDA procedures and resources allowed for less than two percent of those 2.7 million imports to be physically inspected. Clearly, we need to do better.

The authority of the FDA is not sufficient to prevent contaminated food imports from reaching our shores. The Agency has no legal authority to require that food imported into the United States is prepared, packed and stored under conditions that provide the same level of public health protection as similar food produced in the U.S. Under current procedures, the FDA takes random samples of imports as they arrive at the border. The imports often continue on their way to stores in all parts of the country while testing is being done, and it is often difficult to recall the food if a problem is found. Unscrupulous importers make the most of the loopholes in the law, including substituting cargo, falsifying laboratory results, and attempting to bring a refused shipment in again, at a later date or at a different port.

The legislation we are introducing today will give the Secretary of Health and Human Services the additional authority needed to assure that food imports are as safe as food grown and prepared in this country.

It will give the FDA greater authority to deal with outbreaks of food-borne illness and to bar further imports of dangerous foods until improvements at the source can guarantee the safety of future shipments. This authority covers foods that have repeatedly been associated with food-borne disease, have repeatedly been found to be adulterated, or have been linked to a catastrophic outbreak of food-borne illness.

It will close loopholes in the law and give the FDA better tools to deal with unscrupulous importers.

It will authorize the Centers for Disease Control and Prevention to target resources toward enhanced surveillance and prevention activities to deal with food-borne illnesses, including new diagnostic tests, better training of health professionals, and increased public awareness about food safety.

Too many citizens today are at unnecessary risk of food-borne illness. The measure we are proposing is designed to reduce that risk as much as possible, both immediately and for the long term. We know that there are powerful special interests that put profits ahead of safety, but Americans need and deserve laws that better protect their food supply. This is essential legislation, and I look forward to working with my colleagues to see that it is enacted as soon as possible.

By Mr. KYL (for himself, Mr. KERREY, Mr. NICKLES, Mr. BREAUX, Mr. MACK, Mr. ROBB, and Mr. GRAMM):

S. 1128. A bill to amend the Internal Revenue Code of 1986 to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers, to provide for a carryover basis at death, and to establish a partial capital gains exclusion for inherited assets; to the Committee on Finance.

ESTATE TAX ELIMINATION ACT OF 1999

Mr. KYL. Mr. President, I rise today with my colleagues, Senators BOB KERREY, DON NICKLES, JOHN BREAUX, sCONNIE MACK, CHUCK ROBB, and PHIL GRAMM to introduce a bill that attempts to forge bipartisan consensus with regard to the future of the federal estate tax. The legislation we are offering today is titled the Estate Tax Elimination Act of 1999.

Mr. President, we know that many Americans are troubled by the estate tax's complexity and high rates, and by the mere fact that it is triggered by a person's death rather than the realization of income. For a long time, I have advocated its repeal, because I believe death should not be a taxable event.

Other people agree that the tax is problematic, but are concerned the appreciated value of certain assets might escape taxation forever if the estate tax is repealed while the step-up in basis allowed under Section 1014 of the Internal Revenue Code remains in effect.

The legislation we are introducing today attempts to reconcile these positions by eliminating both the estate tax and the step-up, and attributing a carryover basis to inherited property so that all gains are taxed at the time the property is sold and income is realized. This is an explicit trade-off: estate-tax repeal for implementation of a carryover basis. Both must occur, or this plan will not work.

The concept of a carryover basis is not new. It exists in current law with respect to gifts, Section 1015 of the Internal Revenue Code, and property transferred in cases of divorce, Section 1041, and in connection with involuntary conversions of property relating to theft, destruction, seizure, requisition, or condemnation.

In the latter case, when an owner receives compensation for involuntarily converted property, a taxable gain normally results to the extent that the value of the compensation exceeds the basis of the converted property. However, Section 1033 of the Internal Revenue Code allows the taxpayer to defer the recognition of the gain until the property is sold. The Kyl-Kerrey bill would treat the transfer of property at death—perhaps the most involuntary conversion of all—the same way, deferring recognition of any gain until the inherited property is sold.

Our bill would also establish a limited capital-gains exclusion for inherited property to ensure that small estates, which are currently exempt from tax by virtue of the unified credit and the step-up in basis, do not find themselves with a new tax liability when the proposed law takes effect.

Mr. President, I have asked the Joint Tax Committee to review the proposal and provide an official revenue estimate. We are awaiting the results of that review now.

I hope the members of the Finance Committee will take a serious and careful look at this bipartisan proposal. With it, we ought to be able to finally eliminate the estate tax—and do it this year.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

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

S. ____, THE ESTATE TAX ELIMINATION ACT
SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Designates the bill, the ''Estate Tax Elimination Act of 1999.''

Section 2. Repeal of certain Federal transfer taxes

Repeals Subtitle B of the Internal Revenue Code (IRC), thus eliminating the federal estate, gift, and generation-skipping transfer taxes as of the date of enactment.

Section 3. Termination of a step-up in basis at death

Amends IRC Section 1014 to eliminate the step-up in basis at death with respect to property acquired from a decedent dying after the date of enactment. The basis for such property is to be determined pursuant a new IRC Section 1022 (section 4 of the bill).

Section 4. Carryover basis at death

Establishes a new IRC Section 1022 to provide for carryover basis for certain property acquired from a decedent.

(a) If property is classified as carryover basis property, its new basis in the hands of the acquiring person will be its initial basis, increased by its allowable share of the decedent's exclusion allowance determined under (c) below.

(b) Carryover basis property means property which has been acquired from a decedent who died after the date of enactment, and which is not any of the following:

(1) Property acquired from the decedent and sold, exchanged, or otherwise disposed of by the acquiring person before the decedent's death;

(2) An item of income in respect of a decedent;

(3) Life-insurance proceeds under IRC Section 2042;

(4) Foreign personal holding company stock as described in IRC Section 1014(b)(5); or

(5) Property transferred to a surviving spouse, the value of which would have been deductible from the value of the taxable estate of the decedent under IRC Section 2056.

(6) Tangible personal property (e.g., household effects) valued at $50,000 or less which was a capital asset in the hands of the decedent and for which the executor has made an election on a required information return.

(c) The decedent's general exclusion allowance is equal to the lesser of:

(1) an applicable amount for the year of the decedent's death as follows:

$650,000 in 1999
$675,000 in 2000 and 2001
$700,000 in 2002 and 2003
$850,000 in 2004
$950,000 in 2005
$1 million in 2006 and thereafter.

or the aggregate net appreciation (fair market value, less initial basis) of all carryover basis property.

Except that, if the decedent had a deceased spouse whose own exclusion allowance was less than the applicable amount for that spouse, the decedent's applicable amount will be increased by the unallocated portion of the deceased spouse's applicable amount.

(2) As per current law, family-owned businesses and farms would be eligible for an additional exclusion, which combined with the general exclusion allowance could total up to $1.3 million.

(3) The executor will allocate the exclusion-allowance amount to the carryover basis property on a required information return. Any allocation may be changed at any time up to the 30th day after the initial-basis finality date, which means the last day on which the initial basis of property may be changed in an administrative or judicial proceeding under new IRC Section 7480. The basis adjustment for any property shall not exceed the net appreciation in such property and may not increase the basis of such property above its fair market value.

In the case of any carryover basis property which was a personal or household effect, the basis of such property in the hands of the acquiring person shall not exceed its fair market value for purposes of determining loss.

A nonresident, not a citizen of the United States, is ineligible for a basis adjustment based upon a decedent's exclusion allowance.

(d) Establishes a new IRC Section 7480 to provide procedures for receiving a binding determination of the initial basis of carryover basis property.

(e) Establishes a new IRC Section 6039H to require an executor to file an information return providing all of the necessary information with respect to carryover basis property. An executor is required to furnish, in writing, the adjusted basis of such item to each person acquiring an item or carryover basis property from a decedent.

By Mr. DOMENICI:

S. 1129. A bill to facilitate the acquisition of inholdings in Federal land management units and the disposal of surplus public land, and for other purposes; to the Committee on Energy and Natural Resources.

FEDERAL LAND TRANSACTION FACILITATION ACT

Mr. DOMENICI. Mr. President, today I introduce the Federal Land Transaction Facilitation Act, which addresses longstanding problems encountered by Federal land managers first, in disposing of surplus federal property, and secondly, in acquiring private inholdings within federally designated areas. This legislation builds on existing laws and provides resources dedicated to the consolidation of federal agency land holdings.

I first introduced this bill prior to the end of the 105th Congress, as Title II to the Valles Caldera Preservation Act. This portion of that legislation was independent of the proposed acquisition of land in New Mexico, and perhaps more important. Again this year, Congress will commit large sums of federal taxpayer dollars to purchase new property. Before we do, however, it seems prudent to provide a framework for the orderly disposal of unneeded federal property that also commits resources to meet our current obligations to those who hold land surrounded by federal property.

Currently, one-third of the land area in New Mexico is owned by the Federal government. On average, across the eleven Western States, the Federal government owns approximately one half of the land. I agree that this public land is an important natural resource that requires our most thoughtful consideration in the way it is managed and used by the public.

To best conserve our existing national treasures for future use and enjoyment, we must devise, with the concurrence of other members of Congress and the President, a definite plan and timetable to dispose of surplus land through sale or exchange into private, or State and local government ownership.

The Federal Land Transaction Facilitation Act provides for the orderly disposition of unneeded Federal property on a state by state basis. It also addresses the problem of what are known as ''inholdings'' within federally managed areas. These interrelated problems give rise to an interrelated solution proposed in this legislation.

There are currently more than 45 million acres of privately owned land trapped within the boundaries of Federal land management units, including national parks, national forests, national monuments, national wildlife refuges, and wilderness areas. In many cases, the location of these tracts, referred to as inholdings, makes the exercise of private property rights difficult for the land owner. In addition, management of the public land is made more cumbersome for the Federal managers.

There are also cases where inholders have been waiting generations for the federal government to set aside funding and prioritize the acquisition of their property. With rapidly growing public demand for the use of public land, it is increasingly difficult for federal managers to address problems created by inholdings in many areas.

This legislation directs the Department of the Interior to identify inholdings existing within Federal land management units that landowners that have indicated a desire to sell to the Federal government. Inholdings will only be considered for acquisition by the Secretary of Interior if, after public notice, landowners indicate their willingness to sell. The Secretary will then establish a priority for their acquisition considering, among other factors, those which have existed as inholdings for the longest time.

Additionally, this legislation authorizes the use of the proceeds generated from sale of land no longer needed by the Bureau of Land Management (BLM) to purchase these inholdings from willing sellers. This will enhance the ability of the Federal land management agencies to work cooperatively with private land owners, and with State and local governments, to consolidate the ownership of public and private land in a manner that would allow for better overall resource management.

There is an abundance of public domain land that the BLM has determined it no longer needs to fulfil its mission. Under the Federal Land Policy and Management Act of 1976 (FLPMA), the BLM has identified an estimated four to six million acres of public domain land for disposal, with public input and consultation with State and local governments as required by law.

Let me state this very clearly—the BLM already has authority under an existing law, FLPMA, to exchange or sell land out of Federal ownership. Through its public process for land use planning, when the agency has determined that certain land would be more useful to the public under private or local governmental control, it is already authorized to dispose of this land, either by sale or exchange. This legislation maintains every aspect of existing law. It also provides an orderly process, and sufficient resources, for the BLM to exercise it.

The sale or exchange of land which I have often referred to as ''surplus,'' would be beneficial to local communities, adjoining land owners, and BLM land mangers, alike. First, it would allow for the reconfiguration of land ownership patterns to better facilitate resource management. Second, it would contribute to administrative efficiency within federal land management units, by allowing for better allocation of fiscal and human resources within the agency. Finally, in certain locations, the sale of public land which has been identified for disposal is the best way for the public to realize a fair value for this land.

The problem is that an orderly process for the efficient disposition of lands identified for disposal does not currently exist. This legislation corrects that problem by directing the BLM to fulfil all legal requirements for the transfer of land out of Federal ownership, and providing a dedicated source of funding generated from the sale of this land to continue this process.

I want to make it clear that this program will in no way detract from other programs with similar purposes. The bill clearly states that proceeds generated from the disposal of public land, and dedicated to the acquisition of inholdings, will supplement, and not replace, funds appropriated for that purpose through the Land and Water Conservation Fund. In addition, the bill states that the BLM should rely on non-Federal entities to conduct appraisals and other research required for the sale or exchange of this land, allowing for the least disruption of existing land and resource management programs.

This bill has been a long time in the making. For over a year, now, I have been working with and talking to knowledgeable people, both inside and outside of the current administration, to develop many of the ideas embodied in this bill. Prior to adjournment of the 105th Congress, my staff and I worked closely with the administration on this legislation. I have since received additional comments from the

Interior Department, and have included many of their suggestions into this bill.

I feel comfortable in stating that by working together, we have reached agreement in principle on the best way to proceed with these very important issues involving the management of public land resources, namely, the disposition of surplus public land in combination with a program to address problems associated with inholdings within our Federal land management units.

I look forward to hearings on this matter, and anticipate that most of my fellow Senators will agree that Federal Land Transaction Facilitation Act logically addresses this management issue. I believe that in the end, we will be able to stand together and tell the American people that we truly have accomplished a great and innovative thing with 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. 1129

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Land Transaction Facilitation Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Bureau of Land Management has authority under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) to sell land identified for disposal under its land use planning;

(2) the Bureau of Land Management has authority under that Act to exchange Federal land for non-Federal land if the exchange would be in the public interest;

(3) through land use planning under that Act, the Bureau of Land Management has identified certain tracts of public land for disposal;

(4) the land management agencies of the Department of the Interior have authority under existing law to acquire land consistent with land use plans and the mission of each agency;

(5) the sale or exchange of land identified for disposal and the acquisition of certain non-Federal land from willing landowners would—

(A) allow for the reconfiguration of land ownership patterns to better facilitate resource management;

(B) contribute to administrative efficiency within Federal land management units; and

(C) allow for increased effectiveness of the allocation of fiscal and human resources within the Federal land management agencies;

(6) a more expeditious process for disposal and acquisition of land, established to facilitate a more effective configuration of land ownership patterns, would benefit the public interest;

(7) many private individuals own land within the boundaries of Federal land management units and desire to sell the land to the Federal Government;

(8) such land lies within national parks, national monuments, national wildlife refuges, and other areas designated for special management;

(9) Federal land management agencies are facing increased workloads from rapidly growing public demand for the use of public land, making it difficult for Federal managers to address problems created by the existence of inholdings in many areas;

(10) in many cases, inholders and the Federal Government would mutually benefit from Federal acquisition of the land on a priority basis;

(11) proceeds generated from the disposal of public land may be properly dedicated to the acquisition of inholdings and other land that will improve the resource management ability of the Bureau of Land Management and adjoining landowners;

(12) using proceeds generated from the disposal of public land to purchase inholdings and other such land from willing sellers would enhance the ability of the Federal land management agencies to—

(A) work cooperatively with private landowners and State and local governments; and

(B) promote consolidation of the ownership of public and private land in a manner that would allow for better overall resource management;

(13) in certain locations, the sale of public land that has been identified for disposal is the best way for the public to receive fair market value for the land; and

(14) to allow for the least disruption of existing land and resource management programs, the Bureau of Land Management may use non-Federal entities to prepare appraisal documents for agency review and approval consistent with applicable provisions of the Uniform Standards for Federal Land Acquisition.

SEC. 3. DEFINITIONS.

In this Act:

(1) EXCEPTIONAL RESOURCE.—The term ''exceptional resource'' means a resource of scientific, historic, cultural, or recreational value that has been documented by a Federal, State, or local governmental authority, and for which extraordinary conservation and protection is required to maintain the resource for the benefit of the public.

(2) FEDERALLY DESIGNATED AREA.—The term ''Federally designated area'' means land administered by the Secretary in Alaska and the eleven contiguous Western States (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) that on the date of enactment of this Act was within the boundary of—

(A) a national monument, area of critical environmental concern, national conservation area, national riparian conservation area, national recreation area, national scenic area, research natural area, national outstanding natural area, or a national natural landmark managed by the Bureau of Land Management;

(B) a unit of the National Park System;

(C) a unit of the National Wildlife Refuge System; or

(D) a wilderness area designated under the Wilderness Act (16 U.S.C. 1131 et seq.), the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.), or the National Trails System Act (16 U.S.C. 1241 et seq.).

(3) INHOLDING.—The term ''inholding'' means any right, title, or interest, held by a non-Federal entity, in or to a tract of land that lies within the boundary of a federally designated area.

(4) PUBLIC LAND.—The term ''public land'' means public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)).

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

SEC. 4. IDENTIFICATION OF INHOLDINGS.

(a) IN GENERAL.—The Secretary shall establish a procedure to—

(1) identify, by State, inholdings within federally designated areas for which the landowner has indicated a desire to sell the land or an interest in land to the Federal Government; and

(2) establish the date on which the land or interest in land identified became an inholding.

(b) NOTICE OF POLICY.—The Secretary shall provide, in the Federal Register and through such other means as the Secretary may determine to be appropriate, periodic notice to the public of the policy under subsection (a), including any information required by the Secretary to consider an inholding for acquisition under section 6.

(c) IDENTIFICATION.—An inholding—

(1) shall be considered for identification under this section only if the Secretary receives notification of a desire to sell from the landowner in response to public notice given under subsection (b); and

(2) shall be deemed to have been established as of the later of—

(A) the earlier of—

(i) the date on which the land was withdrawn from the public domain; or

(ii) the date on which the land was established or designated for special management; or

(B) the date on which the inholding was acquired by the current owner.

(d) APPLICATION TO THE SECRETARY OF AGRICULTURE.—If funds become available under section 6(c)(2)(E)—

(1) this section shall apply to the Secretary of Agriculture; and

(2) private land within an area described in that section shall be deemed to be an inholding for the purposes of this Act.

(e) NO OBLIGATION TO CONVEY OR ACQUIRE.—The identification of an inholding under this section creates no obligation on the part of a landowner to convey the inholding or any obligation on the part of the United States to acquire the inholding.

SEC. 5. DISPOSAL OF PUBLIC LAND.

(a) IN GENERAL.—The Secretary shall establish a program, using funds made available under section 6, to complete appraisals and satisfy other legal requirements for the sale or exchange of public land identified for disposal under approved land use plans (as in effect on the date of enactment of this Act) under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(b) SALE OF PUBLIC LAND.—

(1) IN GENERAL.—The sale of public land so identified shall be conducted in accordance with sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713, 1719).

(2) EXCEPTIONS TO COMPETITIVE BIDDING REQUIREMENTS.—The exceptions to competitive bidding requirements under section 203(f) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713(f)) shall apply to this section in cases in which the Secretary determines it to be necessary.

(c) REPORT IN PUBLIC LAND STATISTICS.—The Secretary shall provide in the annual publication of Public Land Statistics, a report of activities under this section.

(d) TERMINATION OF AUTHORITY.—The authority provided under this section shall terminate 10 years after the date of enactment of this Act.

SEC. 6. FEDERAL LAND DISPOSAL ACCOUNT.

(a) DEPOSIT OF PROCEEDS.—Notwithstanding any other law (except a law that specifically provides for a proportion of the proceeds to be distributed to any trust funds of any States), the gross proceeds of the sale or exchange of public land under this Act shall be deposited in a separate account in the Treasury of the United States to be known as the ''Federal Land Disposal Account''.

(b) AVAILABILITY.—Amounts in the Federal Land Disposal Account shall be available to the Secretary, without further Act of appropriation, to carry out this Act.

(c) USE OF THE FEDERAL LAND DISPOSAL ACCOUNT.—

(1) IN GENERAL.—Funds in the Federal Land Disposal Account shall be expended in accordance with this subsection.

(2) FUND ALLOCATION.—

(A) PURCHASE OF LAND.—Except as authorized under subparagraph (C), funds shall be used to purchase—

(i) inholdings; and

(ii) land adjacent to federally designated areas that contains exceptional resources.

(B) INHOLDINGS.—Not less than 80 percent of the funds allocated for the purchase of land within each State shall be used to acquire—

(i) inholdings identified under section 4; and

(ii) National Forest System land as authorized under subparagraph (E).

(C) ADMINISTRATIVE AND OTHER EXPENSES.—An amount not to exceed 20 percent of the funds in the Federal Land Disposal Account shall be used for administrative and other expenses necessary to carry out the land disposal program under section 5.

(D) SAME STATE PURCHASES.—Of the amounts not used under subparagraph (C), not less than 80 percent shall be expended within the State in which the funds were generated. Any remaining funds may be expended in any other State.

(E) PURCHASE OF NATIONAL FOREST SYSTEM LAND.—Beginning 5 years after the date of enactment of this Act, if, for any fiscal year, the Secretary determines that funds allocated for the acquisition of inholdings under this section exceed the availability of inholdings within a State, the Secretary may use the excess funds to purchase land, on behalf of the Secretary of Agriculture, within the boundaries of a national recreation area, national scenic area, national monument, national volcanic area, or any other area designated for special management by an Act of Congress within the National Forest System.

(3) PRIORITY.—The Secretary may develop and use criteria for priority of acquisition that are based on—

(A) the date on which land or interest in land became an inholding;

(B) the existence of exceptional resources on the land; and

(C) management efficiency.

(4) BASIS OF SALE.—Any acquisition of land under this section shall be—

(A) from a willing seller;

(B) contingent on the conveyance of title acceptable to the Secretary (and the Secretary of Agriculture, in the case of an acquisition of National Forest System land) using title standards of the Attorney General; and

(C) at not less than fair market value consistent with applicable provisions of the Uniform Appraisal Standards for Federal Land Acquisitions.

(d) CONTAMINATED SITES AND SITES DIFFICULT AND UNECONOMIC TO MANAGE.—Funds in the Federal Land Disposal Account shall not be used to purchase land or an interest in land that, as determined by the Secretary—

(1) contains a hazardous substances or is otherwise contaminated; or

(2) because of the location or other characteristics of the land, would be difficult or uneconomic to manage as Federal land.

(e) INVESTMENT.—Amounts in the Federal Land Disposal Account shall earn interest at a rate determined by the Secretary of the Treasury based on the current average market yield on outstanding marketable obligations of the United States of comparable maturities.

(f) LAND AND WATER CONSERVATION FUND ACT.—Funds made available under this section shall be supplemental to any funds appropriated under the Land and Water Conservation Fund Act (16 U.S.C. 460*l*–4 et seq.).

(g) TERMINATION.—On termination of activities under section 5—

(1) the Federal Land Disposal Account shall be terminated; and

(2) any remaining balance in the account shall become available for appropriation under section 3 of the Land and Water Conservation Fund Act (16 U.S.C.460*l*–6).

SEC. 7. SPECIAL PROVISIONS.

(a) IN GENERAL.—Nothing in this Act provides an exemption from any limitation on the acquisition of land or interest in land under any Federal Law in effect on the date of enactment of this Act.

(b) OTHER LAW.—This Act shall not apply to land eligible for sale under—

(1) Public Law 96–568 (commonly known as the ''Santini-Burton Act'') (94 Stat. 3381); or

(2) the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2343).

(c) EXCHANGES.—Nothing in this Act precludes, preempts, or limits the authority to exchange land under—

(1) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); or

(2) the Federal Land Exchange Facilitation Act of 1988 (102 Stat. 1086) or the amendments made by that Act.

(d) NO NEW RIGHT OR BENEFIT.—Nothing in this Act creates a right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, its officers, or any other person.

By Mr. MCCAIN (for himself, Mr. ASHCROFT, Mr. BOND, Mr. BURNS, Mr. GORTON, and Mr. INHOFE):

S. 1130. A bill to amend title 49, United States Code, with respect to liability of motor vehicle rental or leasing companies for the negligent operation of rented or leased motor vehicles; to the Committee on Commerce, Science, and Transportation.

MOTOR VEHICLE RENTAL FAIRNESS ACT OF 1999

Mr. MCCAIN. Mr. President, I rise to introduce the Motor Vehicle Rental Fairness Act of 1999. The measure is short, simple and important. It will assure that companies who rent or lease motor vehicles are not held liable for accidents caused by their customers when there is no way the companies could prevent these accidents.

Normally under our system of jurisprudence, defendants in lawsuits are held liable based upon their action or inaction. Unfortunately, a small number of states ignore this general principle. This minority of states subject rental and leasing companies to unlimited liability for accidents caused by their customers that involve the company's vehicles—despite the fact that the company was not at fault. This type of vicarious liability, liability without fault, holds these companies liable even when they have not been negligent in any way and the vehicle operated perfectly.

The measure I am introducing prevents states from holding companies liable for accidents based solely upon their ownership of the vehicles. The bill makes clear that rental companies would still be liable if the vehicle did not operate properly. It makes clear that companies are not excused from meeting state minimum insurance requirements on their motor vehicles. Minimum insurance requirements ensure that people involved in accidents with vehicles owned by rental companies have recourse to recover some damages.

The reason most often cited for imposing vicarious liability is to ensure that an innocent third party can recover damages in an accident. Unfortunately, this quest for a financially responsible defendant has lead to absurd results. If a vehicle is purchased from a bank or finance company, then there is no vicarious liability. However, if that same vehicle is leased, vicarious liability applies.

This problem attracted my attention because of the impact the policies of a small number of states have on interstate commerce. Settlements and judgments from vicarious liability claims against rental companies cost the industry over $100 million annually. And let me be clear, it is the consumer who is paying this cost.

For these reasons, this bill and the reforms it implements are long overdue. Everyone, companies and individuals alike should be held liable only for harm they caused or could have prevented. The only way these companies can prevent this harm would be to go out of business. This is an absurd expectation that will be remedied by this bill.

I look forward to hearings on this matter and working with my colleagues to ensure its passage. I ask unanimous consent that a copy 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. 1130

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 ''Motor Vehicle Rental Fairness Act of 1999''.

SEC. 2. FINDING.

The Congress finds that the vicarious liability laws, the ultimate insurer laws, and the common law in a small minority of States—

(1) impose a disproportionate and undue burden on interstate commerce by increasing rental rates for motor vehicle rental and leasing customers throughout the United States; and

(2) pose a significant competitive barrier to entry for smaller motor vehicle rental and leasing companies attempting to compete in these markets,

in contravention of a fundamental principle of fairness that there should be no liability in the absence of fault.

SEC. 3. LIMITATION ON LIABILITY.

(a) IN GENERAL.—Part C of subtitle VI of title 49, United States Code, is amended by adding at the end thereof the following:

''CHAPTER 333. LIABILITY FOR COMPANIES THAT RENT OR LEASE MOTOR VEHICLES.

''Sec.
''33301. Limitation of liability

''§ 33301. Limitation of liability

''(a) IN GENERAL.—Notwithstanding any State statutory or common law, no State or political subdivision of a State may hold any business entity engaged in the trade or business of renting or leasing motor vehicles liable to others for harm caused by a person to himself or herself, to another person, or to property resulting from that person's operation of a rented or leased motor vehicle solely because that business entity is the owner of the motor vehicle.

''(b) APPLICATION WITH CERTAIN OTHER LAWS.—

''(1) NEGLIGENCE.—Subsection (a) does not apply to liability imposed under a State's statutory or common law based on negligence of a motor vehicle owner.

''(2) FINANCIAL RESPONSIBILITY LAWS.—Nothing in this section supersedes the law of any State or political subdivision thereof—

''(A) imposing financial responsibility or insurance standards on the owner of a motor vehicle for the privilege of registering and operating a motor vehicle; or

''(B) imposing liability on business entities engaged in the trade or business of renting or leasing motor vehicles for failure of such entity to meet financial responsibility or liability insurance requirements under State law.

''(c) DEFINITIONS.—In this section:

''(1) BUSINESS ENTITY.—The term 'business entity' means a sole proprietorship, corporation, trust, limited liability company, company, association, firm, partnership, society, joint stock company, or other legal entity, and includes a department, agency, or instrumentality of the government of the United States, a State, or a political subdivision of a State.

''(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given that term by section 13102(14).

''(3) OWNER.—In this section, the term ''owner'' means—

''(A) a person who is a record or beneficial owner or long-term lessee of a motor vehicle;

''(B) a person entitled to the use and possession of a motor vehicle subject to a security interest in another person;

''(C) a lessee or bailee of a motor vehicle in the trade or business of renting or leasing motor vehicles, having the use or possession thereof, under a lease, bailment, or otherwise.

''(4) PERSON.—The term 'person' has the meaning given to it by section 1 of title 1, but also includes a government entity.

''(5) GOVERNMENT ENTITY.—The term 'government entity' means an agency, instrumentality, or other entity of Federal, State, or local government (including multijurisdictional agencies, instrumentalities, and entities).''.

(b) CONFORMING AMENDMENT.—The analysis for part C of subtitle VII of title 49, United States Code, is amended by inserting after the item relating to chapter 331, the following:

''333. Liability for companies that rent or lease motor vehicles ..... 33301''.

SEC. 4. EFFECTIVE DATE.

Section 33301 of title 49, United States Code, as added by section 3 of this Act, applies to any civil action commenced on or after the date of enactment of this Act.

• Mr. ASHCROFT. Mr. President, I rise today in support of the legislation being introduced by the distinguished Chairman of the Senate Commerce Committee—the senior Senator from Arizona. I strongly support the reforms to state vicarious liability laws contained in the ''Motor Vehicle Rental Fairness Act of 1999'' and urge my colleagues to support this important bill and move it swiftly towards enactment.

I commend the chairman for taking the lead on this important legislation. His bill, of which I am proud to be an original co-sponsor, seeks to put a halt to an absurd aberration in our legal system. Under the vicarious liability laws of a very small number of states, companies that rent or lease motor vehicles are held strictly liable if their renters or lessees are negligent and cause an accident. The company does not have to be negligent in any way. The vehicle may operate perfectly and be maintained properly. These states simply hold the company liable because of their ownership of the vehicle.

The only way for these companies to avoid this liability would be to stop renting or leasing these vehicles. This is not an acceptable resolution to this problem. The American justice system should be based on the general principle that a defendant should be held liable only for harm he or she could prevent—not merely because the defendant has a ''deep pocket.''

Vicarious liability laws undermine competition in these states and have driven smaller rental and leasing companies out of business. In fact, vicarious liability acts as a tax on all rental and leasing companies—and their customers—nationwide because these companies must try to recover their losses from vicarious claims through rental rates nationwide.

It is time to put a stop to this legal disconnect. Hold these companies liable if they are negligent. Hold them liable if they fail to properly maintain one of the vehicles they rent or lease. But do not hold them liable simply for being in business—for fulfilling the needs of our traveling constituents.

Mr. President, I look forward to hearings on the Senator from Arizona's legislation at the earliest possible date and hope to move this legislation through this body as quickly as possible.•

By Mr. EDWARDS (for himself and Mr. HAGEL):

S. 1131. A bill to promote research into, and the development of an ultimate cure for, the disease known as Fragile X; to the Committee on Health, Education, Labor, and Pensions.

FRAGILE X RESEARCH BREAKTHROUGH ACT OF 1999

Mr. EDWARDS. Mr. President, I rise today with my colleague, Senator HAGEL, to introduce the Fragile X Research Breakthrough Act of 1999.

Most of my colleagues have probably never heard of Fragile X. But it is the leading known cause of mental retardation. And the measure we introduce today could help put us on the path to treat and ultimately, we hope, cure the disorder. This measure will launch a concerted and aggressive federal effort to deal with Fragile X.

Fragile X—which is a genetic defect that results in mental retardation—was only recently discovered. Given its prevalence, it's surprising that it took us so long to discover this problem.

One in 2,000 males and one in 4,000 females have the gene defect. One in every 260 women is a carrier. Current studies estimate that as many as 90,000 Americans suffer from Fragile X. Yet up to 80 to 90 percent of them are undiagnosed. It does not affect one racial or ethnic group more than another.

Scientists have only known exactly what causes Fragile X since 1991. Fragile X occurs when a specific gene, which should hold a string of molecules that repeat six to fifty times, over-expands. It causes the gene to hold anywhere from 200 to 1,000 copies of the same sequence, repeating over and over, much like a record skipping out of control. The result of this error is that instructions needed for the creation of a specific protein in the brain are lost. Consequently, the Fragile X protein is either low or absent in the affected person. The lower the level of the protein, the more severe the resulting disabilities.

People with Fragile X have effects ranging from mild learning disabilities to severe mental retardation. Behavioral problems associated with Fragile X include aggression, anxiety, and seizures. The effects on both the victims of the disorder and their families are profound, taking a huge emotional and financial toll. People with Fragile X have a normal life expectancy but usually incur special costs that add up to over $2 million on average over their lifetime. Because it is inherited, many families have more than one child with Fragile X.

But although Fragile X is now known in the scientific community, it is still neither widely studied by scientists nor known by the public at large.

That's shocking, considering its devastating effect. Let me give you an example. In 1989 Katie Clapp gave birth to her first child, Andy. She and her husband, Dr. Michael Tranfaglia were thrilled. There were some concerns initially because Andy was missing one kidney and had some other medical problems. But they were quickly remedied, and Michael knew from his training as a medical doctor that Andy could do fine with one kidney. Testing did not reveal any other problems, so the couple breathed easy.

But soon Andy started showing other signs of problems. He had difficulty feeding and was inconsolable except when held by his mother. He was not as responsive as other children his age, except to scream when put down. Over the first year of life, he began to miss achievement milestones, such as sitting up and walking. Michael was in his residency training at the University of North Carolina hospital, so a

wealth of medical resources were within his reach. Andy was seen by neurologists and geneticists, but there were no answers.

When Andy was two years old, Katie became pregnant with a second child. She wanted to be sure that her next baby would be born free of Andy's problems. So Andy was tested some more for genetics abnormalities, but nothing showed up. Yet Andy's problems were becoming more and more apparent, and causing greater difficulties for the family.

Finally, when he was three and a half years old, Andy went to a new physician, a developmental pediatrician. During the initial visit with the doctor, Michael and Katie got their first indication that there might be a name for the problem they had been living with. The doctor suggested that Andy be tested for something called Fragile X. The test was performed, and came back positive. Katie Clapp and Michael Tranfaglia soon learned that not only did Andy have this inherited genetic disorder, but that their baby daughter Laura was also afflicted.

Recent advances in Fragile X research now make it possible to test definitively for the disorder through DNA analysis. Yet many doctors are still not familiar with Fragile X, and subtle symptoms in early childhood can make it difficult to detect.

But there is good news. Because scientists have identified the missing protein that causes the disorder, there is hope for a cure. And because Fragile X is the only single-gene disease known to directly impact human intelligence, understanding the disease can give us insight into human intelligence and learning and into dealing with other single gene defects. Understanding Fragile X may also unlock some of the mysteries of autism, schizophrenia, and other neurological disorders. But we need to fund research efforts into this devastating disease.

Mr. President, my proposal seeks to capitalize on the good news. It would:

Expand and coordinate research into Fragile X under the direction of the National Institute of Child Health and Human Development—a division of the National Institutes of Health;

Establish at least three Fragile X centers, which would receive grants for research and development aimed at improving the diagnosis and treatment of, and finding a cure for, Fragile X;

Allow patients with Fragile X to participate in clinical trials;

Coordinate activities and exchange of information between the centers for better understanding of the disorder, and

Encourage wide scale research into Fragile X by allowing qualified health professionals who conduct research into the disorder to be repaid for principal and interest on educational loans under the National Health Service Corps Loan Repayment Program.

Today, in our country, thousands of children have Fragile X, but their parent have never heard of the disease. These parents know something is wrong, but they cannot give the problem a name, and neither can any doctor they have consulted. Like Katie and Michael, they may know their child has a disability, but they do not know why. They do not know that if they have more children, those children may also be at risk. They do not know there are treatments for the problem.

They do not know that someone is working on a cure.

The same holds true for many adults in our society. They are living in group homes and in institutions around the country. They have been cared for during entire lifetimes by devoted family members. Yet they have never had a diagnosis beyond ''mental retardation.''

This summer in North Carolina, we are hosting a very special gathering of very special people. The Special Olympics World games will begin with an opening ceremony in Raleigh on June 26th, and the Games will run through July 4th. Among the participants will be many athletes who have Fragile X. Some of them know it, but many others, along with their families, do not even know that their particular disorder has a name. And with a name comes knowledge, and with knowledge comes hope for a better future—even for a cure.

The job of these extraordinary athletes this summer is to make the most of their abilities and to achieve personal goals and triumphs. Our role in the games is to support their efforts, and to cheer them on. But our responsibility does not end there. It is our responsibility to make the most of the knowledge we now have, to expand that knowledge, and to give these folks the best chance possible. I ask all of my colleagues to join me in supporting this important research. Thank you.

Mr. President, I ask unanimous consent 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. 1131

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 ''Fragile X Research Breakthrough Act of 1999''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Fragile X is the most common inherited cause of mental retardation. It affects 1 in every 2,000 boys and 1 in every 4,000 girls. One in 260 women is a carrier.

(2) Most children with Fragile X require a lifetime of special care at a cost of over $2,000,000 per child.

(3) Relatively newly-discovered and relatively unknown, even in the medical profession, Fragile X is caused by the absence of a single protein that can be produced synthetically but that cannot yet be effectively assimilated.

(4) Fragile X research, both basic and applied, is vastly underfunded in view of its prevalence, the potential for the development of a cure, the established benefits of currently available interventions, and the significance that Fragile X research has for related disorders.

(5) Fragile X is a powerful research model for other forms of X-linked mental retardation, as well as neuropsychiatric disorders, including autism, schizophrenia, mood disorders, and pervasive developmental disorder. Individuals with Fragile X are a homogeneous study population for advancing understanding of these disorders.

SEC. 3. NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT; RESEARCH ON FRAGILE X.

Subpart 7 of part C of title IV of the Public Health Service Act (42 U.S.C. 285g et seq.) is amended by adding at the end the following:

''SEC. 452E. FRAGILE X.

''(a) EXPANSION AND COORDINATION OF RESEARCH ACTIVITIES.—The Director of the Institute, after consultation with the advisory council for the Institute, shall expand, intensify, and coordinate the activities of the Institute with respect to research on the disease known as Fragile X.

''(b) RESEARCH CENTERS.—

''(1) IN GENERAL.—The Director of the Institute, after consultation with the advisory council for the Institute, shall make grants to, or enter into contracts with, public or nonprofit private entities for the development and operation of centers to conduct research for the purposes of improving the diagnosis and treatment of, and finding the cure for, Fragile X.

''(2) NUMBER OF CENTERS.—In carrying out paragraph (1), the Director of the Institute shall, to the extent that amounts are appropriated, provide for the establishment of at least 3 Fragile X research centers.

''(3) ACTIVITIES.—

''(A) IN GENERAL.—Each center assisted under paragraph (1) shall, with respect to Fragile X—

''(i) conduct basic and clinical research, which may include clinical trials of—

''(I) new or improved diagnostic methods; and

''(II) drugs or other treatment approaches; and

''(ii) conduct research to find a cure.

''(B) FEES.—A center may use funds provided under paragraph (1) to provide fees to individuals serving as subjects in clinical trials conducted under subparagraph (A).

''(4) COORDINATION AMONG CENTERS.—The Director of the Institute shall, as appropriate, provide for the coordination of the activities of the centers assisted under this section, including providing for the exchange of information among the centers.

''(5) CERTAIN ADMINISTRATIVE REQUIREMENTS.—Each center assisted under paragraph (1) shall use the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such requirements as may be prescribed by the Director of the Institute.

''(6) DURATION OF SUPPORT.—Support may be provided to a center under paragraph (1) for a period of not to exceed 5 years. Such period may be extended for 1 or more additional periods, each of which may not exceed 5 years, if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period be extended.

''(7) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subsection, there are authorized to be appropriated $10,000,000 for fiscal year 2000, and such sums as may be necessary for each subsequent fiscal year.''.

SEC. 4. NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT; LOAN REPAYMENT PROGRAM REGARDING RESEARCH ON FRAGILE X.

Part G of title IV of the Public Health Service Act (42 U.S.C. 288 et seq.) is amended by inserting after section 487E the following:

"SEC. 487F. LOAN REPAYMENT PROGRAM REGARDING RESEARCH ON FRAGILE X.

"(a) IN GENERAL.—The Secretary, in consultation with the Director of the National Institute of Child Health and Human Development, shall establish a program under which the Federal Government enters into contracts with qualified health professionals (including graduate students) who agree to conduct research regarding Fragile X in consideration of the Federal Government's agreement to repay, for each year of such service, not more than $35,000 of the principal and interest of the educational loans owed by such health professionals.

"(b) APPLICABILITY OF CERTAIN PROVISIONS.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart (including section 338B(g)(3)) shall, except as inconsistent with subsection (a) of this section, apply to the program established in such subsection in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established in such subpart.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $2,000,000 for fiscal year 2000, and such sums as may be necessary for each subsequent fiscal year. Amounts appropriated for a fiscal year under the preceding sentence shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.".

Mr. HAGEL. Mr. President, I rise this morning to join my colleague and friend, the distinguished junior Senator from North Carolina, Senator EDWARDS, in introducing the Fragile X Breakthrough Act of 1999.

Although many of you may not have heard of Fragile X, it is the leading cause of inherited mental retardation. It affects tens of thousands of children in this country every year. Fragile X is caused by a defective gene that fails to product specific protein necessary for proper brain function. Those afflicted with this condition often suffer mild to severe mental retardation, anxiety, seizures, and a variety of learning disorders. Most children with Fragile X will require a lifetime of specialized care at a cost of over $2 million each.

For those afflicted and their families—like John and Megan Massey from Scottsbluff, Nebraska, whose two sons Jack and Jacob suffer from this disease—it is a frustrating, life-crippling, and heart-wrenching condition. But there is hope. In 1991, medical researchers were able to identify the specific gene that fails to produce the necessary protein and is responsible for Fragile X. Since then, researchers have been able to develop a synthetic version of this protein, and are now working on a way to deliver it to the brain's flawed cells.

Congress has an unprecedented opportunity to play a key role in solving the mystery of this disease, and encouraging the development of a treatment and eventual cure. The Fragile X Breakthrough Act is a practical, proactive, and cost-effective vehicle by which Congress can accomplish these goals.

The National Institute of Child and Human Development (NICHD) is required by law to establish research centers in order to conduct clinical and scientific research aimed at helping infants and children. In accordance with that charge, the Fragile X Breakthrough Act authorizes $10 million for the NICHD, to make grants or enter into contracts with public or private entities to develop and operate three Fragile X research centers. It also provides $2 million for a program that encourages physicians to conduct Fragile X research, by offering to repay a portion of their educational loans. These proposals closely follow the recommendations that emerged from an international scientific conference held by the NICHD and the Fragile X Foundation (FRAXA) in December of 1998.

We are closing in on one of the principal genetic causes of mental retardation. Let's give the NICHD the authority and funding to accelerate Fragile X research, so that the final, critical breakthroughs can be made. Let's give these children the chance to lead normal, productive lives. If not for Jacob and Jack Massey, then for those children who will inevitably follow.

By Mr. BREAUX (for himself and Mr. HATCH):

S. 1132. A bill to amend the Internal Revenue Code of 1986 to allow the reinvestment of employee stock ownership plan dividends without the loss of any dividend reduction; to the Committee on Finance.

ESOP DIVIDEND REINVESTMENT AND PARTICIPANT SECURITY ACT OF 1999

Mr. BREAUX. Mr. President, I rise today to introduce a measure that will not only promote employee ownership, but also enhance retirement savings. The "ESOP Dividend Reinvestment and Participant Security Act of 1999" will grant many workers their long-sought desire to share in the growth of their company while not sacrificing one nickel of their retirement security. This legislation will permit employees to reinvest dividends paid on employer securities held in an ESOP without going through the administrative complexity that companies currently face in order to encourage workers to keep their dividends in the plan.

Under current law, an employer may deduct the dividends paid on employer securities in an ESOP only if the dividends are used to repay an ESOP loan or they are paid in cash to participants. This runs counter to one of the most important themes expressed by this administration as well as many others since the passage of ERISA—what to do about "leakage" in our retirement programs, or assets coming out of plans prematurely. In short, we need to encourage our nation's workers to keep their money in their retirement plans and not let small amounts drip out over time so that little is left by the time they enter retirement. The bill I am introducing today addresses this issue and would bolster the retirement security of ESOP participants because it would encourage both employees and employers to reinvest their dividends in the company.

Not only does the current approach of denying a deduction for reinvested dividends discourage the accumulation of assets for retirement, it also thwarts one of the primary purposes of an ESOP—providing an efficient means for employees to build an ownership interest in their company. Congress has steadfastly maintained the ESOP dividend deductibility rules for over 15 years in order to encourage employers to establish ESOPs that hold dividend-paying company stock. These rules clearly are intended to provide ESOP participants a broader opportunity to share in the company's growth and to ultimately use such growth to provide retirement assets. Unfortunately, our present rules fall short of the mark.

This bill fulfills the promise inherent in the original ESOP dividend deduction provision. The "ESOP Dividend Reinvestment and Participant Security Act of 1999" would give employees the ability to retain the dividends paid on employer stock in the ESOP and to reinvest these amounts in the employer stock for continuing growth and accumulation. No employee would then be forced to receive dividends that could instead be used to build retirement savings. And, all employees could receive the benefit of participating in their company's growth.

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. 1132

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 "ESOP Dividend Reinvestment and Participant Security Act of 1999".

SEC. 2. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT LOSS OF DIVIDEND DEDUCTION.

(a) IN GENERAL.—Section 404(k)(2)(A) of the Internal Revenue Code of 1986 (defining applicable dividends) is amended by striking "or" at the end of clause (ii), by redesignating clause (iii) as clause (iv), and by inserting after clause (ii) the following new clause:

"(iii) is, at the election of such participants or their beneficiaries—

"(I) payable as provided in clause (i) or (ii), or

"(II) paid to the plan and reinvested in qualifying employee securities, or".

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

By Mr. GRAMS:

S. 1133. A bill to amend the Poultry Products Inspection Act to cover birds

of the order Ratitae that are raised for use as human food; to the Committee on Agriculture, Nutrition, and Forestry.

POULTRY PRODUCTS INSPECTION ACT AMENDMENTS LEGISLATION

• Mr. GRAMS. Mr. President, I rise today to introduce a bill to amend the Poultry Products Inspection Act to include birds of the Ratitae order, such as ostriches, emus, and rheas, in the mandatory USDA meat inspection program. Currently producers of ratitae participate in a voluntary inspection program, but costs are borne by the producers and can add as much as $2 per pound to the price of the product. The USDA currently absorbs the cost of inspection for the more traditional agricultural products, such as turkey, poultry, and beef.

I introduce this legislation to encourage agricultural entrepreneurship and diversification, and to level the economic playing field for those farmers willing to take innovative risks to bring new products to American and global consumers. Ratite meat is reported to be high in protein and low in fat and cholesterol, and byproducts from the animals are being studied by universities and medical labs for their potential uses. I would also note that farmers engaged in producing ratite meat can now be found all over the country, not just in Minnesota.

With the increasing focus in our country on food safety, I believe this bill is a small but important step toward both encouraging development of alternative agricultural products and ensuring the safety of the food our citizens consume.

I ask my colleagues to join with me in support of this bill to help family farms diversify into new products that will provide them with new income sources and give American consumers more variety at the grocery store.•

By Mr. ROTH:

S. 1134. An original bill to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes; from the Committee on Finance; placed on the calendar.

AFFORDABLE EDUCATION ACT OF 1999

Mr. ROTH. 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. 1134

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Affordable Education Act of 1999''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—EDUCATION SAVINGS INCENTIVES

Sec. 101. Modifications to education individual retirement accounts.

Sec. 102. Modifications to qualified tuition programs.

TITLE II—EDUCATIONAL ASSISTANCE

Sec. 201. Extension of exclusion for employer-provided educational assistance.

Sec. 202. Elimination of 60-month limit on student loan interest deduction.

Sec. 203. Exclusion of certain amounts received under the National Public Health Service Corps Scholarship Program and the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program.

TITLE III—LIBERALIZATION OF TAX-EXEMPT FINANCING RULES FOR PUBLIC SCHOOL CONSTRUCTION

Sec. 301. Additional increase in arbitrage rebate exception for governmental bonds used to finance educational facilities.

Sec. 302. Treatment of qualified public educational facility bonds as exempt facility bonds.

Sec. 303. Federal guarantee of school construction bonds by Federal Housing Finance Board.

TITLE IV—REVENUE PROVISIONS

Sec. 401. Modification to foreign tax credit carryback and carryover periods.

Sec. 402. Limitation on use of non-accrual experience method of accounting.

Sec. 403. Returns relating to cancellations of indebtedness by organizations lending money.

Sec. 404. Extension of Internal Revenue Service user fees.

Sec. 405. Property subject to a liability treated in same manner as assumption of liability.

Sec. 406. Charitable split-dollar life insurance, annuity, and endowment contracts.

Sec. 407. Transfer of excess defined benefit plan assets for retiree health benefits.

Sec. 408. Limitations on welfare benefit funds of 10 or more employer plans.

Sec. 409. Modification of installment method and repeal of installment method for accrual method taxpayers.

Sec. 410. Inclusion of certain vaccines against streptococcus pneumoniae to list of taxable vaccines.

TITLE I—EDUCATION SAVINGS INCENTIVES

SEC. 101. MODIFICATIONS TO EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

(a) MAXIMUM ANNUAL CONTRIBUTIONS.—

(1) IN GENERAL.—Section 530(b)(1)(A)(iii) (defining education individual retirement account) is amended by striking ''$500'' and inserting ''the contribution limit for such taxable year''.

(2) CONTRIBUTION LIMIT.—Section 530(b) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(4) CONTRIBUTION LIMIT.—The term 'contribution limit' means $500 ($2,000 in the case of any taxable year beginning after December 31, 1999, and ending before January 1, 2004).''

(3) CONFORMING AMENDMENT.—Section 4973(e)(1)(A) is amended by striking ''$500'' and inserting ''the contribution limit (as defined in section 530(b)(4)) for such taxable year''.

(b) TAX-FREE EXPENDITURES FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.—

(1) IN GENERAL.—Section 530(b)(2) (defining qualified higher education expenses) is amended to read as follows:

''(2) QUALIFIED EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified education expenses' means—

''(i) qualified higher education expenses (as defined in section 529(e)(3)), and

''(ii) qualified elementary and secondary education expenses (as defined in paragraph (5)).

Such expenses shall be reduced as provided in section 25A(g)(2).

''(B) QUALIFIED STATE TUITION PROGRAMS.—Such term shall include any contribution to a qualified State tuition program (as defined in section 529(b)) on behalf of the designated beneficiary (as defined in section 529(e)(1)); but there shall be no increase in the investment in the contract for purposes of applying section 72 by reason of any portion of such contribution which is not includible in gross income by reason of subsection (d)(2).''

(2) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—Section 530(b) (relating to definitions and special rules), as amended by subsection (a)(2), is amended by adding at the end the following new paragraph:

''(5) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means—

''(i) expenses for tuition, fees, academic tutoring, special needs services, books, supplies, computer equipment (including related software and services), and other equipment which are incurred in connection with the enrollment or attendance of the designated beneficiary of the trust as an elementary or secondary school student at a public, private, or religious school, and

''(ii) expenses for room and board, uniforms, transportation, and supplementary items and services (including extended day programs) which are required or provided by a public, private, or religious school in connection with such enrollment or attendance.

''(B) SPECIAL RULE FOR HOMESCHOOLING.—Such term shall include expenses described in subparagraph (A)(i) in connection with education provided by homeschooling if the requirements of any applicable State or local law are met with respect to such education.

''(C) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (kindergarten through grade 12), as determined under State law.''

(3) SPECIAL RULES FOR APPLYING EXCLUSION TO ELEMENTARY AND SECONDARY EXPENSES.—Section 530(d)(2) (relating to distributions for qualified higher education expenses) is amended by adding at the end the following new subparagraph:

''(E) SPECIAL RULES FOR ELEMENTARY AND SECONDARY EXPENSES.—

''(i) IN GENERAL.—The aggregate amount of qualified elementary and secondary education expenses taken into account for purposes of this paragraph with respect to any education individual retirement account for all taxable years shall not exceed the sum of the aggregate contributions to such account for taxable years beginning after December 31, 1999, and before January 1, 2004, and earnings on such contributions.

''(ii) SPECIAL OPERATING RULES.—For purposes of clause (i)—

''(I) the trustee of an education individual retirement account shall keep separate accounts with respect to contributions and earnings described in clause (i), and

''(II) if there are distributions in excess of qualified elementary and secondary education expenses for any taxable year, such excess distributions shall be allocated first to contributions and earnings not described in clause (i).''

(4) CONFORMING AMENDMENTS.—Section 530 is amended—

(A) by striking ''higher'' each place it appears in subsections (b)(1) and (d)(2), and

(B) by striking ''HIGHER'' in the heading for subsection (d)(2).

(c) WAIVER OF AGE LIMITATIONS FOR CHILDREN WITH SPECIAL NEEDS.—Section 530(b)(1) (defining education individual retirement account) is amended by adding at the end the following flush sentence:

''The age limitations in the preceding sentence and paragraphs (5) and (6) of subsection (d) shall not apply to any designated beneficiary with special needs (as determined under regulations prescribed by the Secretary).''

(d) ENTITIES PERMITTED TO CONTRIBUTE TO ACCOUNTS.—Section 530(c)(1) (relating to reduction in permitted contributions based on adjusted gross income) is amended by striking ''The maximum amount which a contributor'' and inserting ''In the case of a contributor who is an individual, the maximum amount the contributor''.

(e) TIME WHEN CONTRIBUTIONS DEEMED MADE.—

(1) IN GENERAL.—Section 530(b) (relating to definitions and special rules), as amended by subsection (b)(2), is amended by adding at the end the following new paragraph:

''(6) TIME WHEN CONTRIBUTIONS DEEMED MADE.—An individual shall be deemed to have made a contribution to an education individual retirement account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).''

(2) EXTENSION OF TIME TO RETURN EXCESS CONTRIBUTIONS.—Subparagraph (C) of section 530(d)(4) (relating to additional tax for distributions not used for educational expenses) is amended—

(A) by striking clause (i) and inserting the following new clause:

''(i) such distribution is made before the 1st day of the 6th month of the taxable year following the taxable year, and'', and

(B) by striking ''DUE DATE OF RETURN'' in the heading and inserting ''JUNE''.

(f) COORDINATION WITH HOPE AND LIFETIME LEARNING CREDITS AND QUALIFIED TUITION PROGRAMS.—

(1) IN GENERAL.—Section 530(d)(2)(C) is amended to read as follows:

''(C) COORDINATION WITH HOPE AND LIFETIME LEARNING CREDITS AND QUALIFIED TUITION PROGRAMS.—

''(i) CREDIT COORDINATION.—

''(I) IN GENERAL.—Except as provided in subclause (II), subparagraph (A) shall not apply for any taxable year to any qualified higher education expenses with respect to any individual if a credit is allowed under section 25A with respect to such expenses for such taxable year.

''(II) SPECIAL COORDINATION RULE.—In the case of any taxable year beginning after December 31, 1999, and before January 1, 2004, subclause (I) shall not apply, but the total amount of qualified higher education expenses otherwise taken into account under subparagraph (A) with respect to an individual for such taxable year shall be reduced (after the application of the reduction provided in section 25A(g)(2)) by the amount of such expenses which were taken into account in determining the credit allowed to the taxpayer or any other person under section 25A with respect to such expenses.

''(ii) COORDINATION WITH QUALIFIED TUITION PROGRAMS.—If the aggregate distributions to which subparagraph (A) and section 529(c)(3)(B) apply exceed the total amount of qualified higher education expenses otherwise taken into account under subparagraph (A) (after the application of clause (i)) with respect to an individual for any taxable year, the taxpayer shall allocate such expenses among such distributions for purposes of determining the amount of the exclusion under subparagraph (A) and section 529(c)(3)(B).''

(2) CONFORMING AMENDMENTS.—

(A) Subsection (e) of section 25A is amended to read as follows:

''(e) ELECTION NOT TO HAVE SECTION APPLY.—A taxpayer may elect not to have this section apply with respect to the qualified tuition and related expenses of an individual for any taxable year.''

(B) Section 135(d)(2)(A) is amended by striking ''allowable'' and inserting ''allowed''.

(C) Section 530(b)(2)(A) is amended by striking '', reduced as provided in section 25A(g)(2)''.

(D) Section 530(d)(2)(D) is amended—

(i) by striking ''or credit'', and

(ii) by striking ''CREDIT OR'' in the heading.

(E) Section 4973(e)(1) is amended by adding ''and'' at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

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

SEC. 102. MODIFICATIONS TO QUALIFIED TUITION PROGRAMS.

(a) ELIGIBLE EDUCATIONAL INSTITUTIONS PERMITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS.—

(1) IN GENERAL.—Section 529(b)(1) (defining qualified State tuition program) is amended by inserting ''or by 1 or more eligible educational institutions'' after ''maintained by a State or agency or instrumentality thereof''.

(2) PRIVATE QUALIFIED TUITION PROGRAMS LIMITED TO BENEFIT PLANS.—Clause (ii) of section 529(b)(1)(A) is amended by inserting ''in the case of a program established and maintained by a State or agency or instrumentality thereof,'' before ''may make''.

(3) CONFORMING AMENDMENTS.—

(A) Sections 72(e)(9), 135(c)(2)(C), 135(d)(1)(D), 529, 530(b)(2)(B), 4973(e), and 6693(a)(2)(C) are each amended by striking ''qualified State tuition'' each place it appears and inserting ''qualified tuition''.

(B) The headings for sections 72(e)(9) and 135(c)(2)(C) are each amended by striking ''QUALIFIED STATE TUITION'' and inserting ''QUALIFIED TUITION''.

(C) The headings for sections 529(b) and 530(b)(2)(B) are each amended by striking ''QUALIFIED STATE TUITION'' and inserting ''QUALIFIED TUITION''.

(D) The heading for section 529 is amended by striking ''state''.

(E) The item relating to section 529 in the table of sections for part VIII of subchapter F of chapter 1 is amended by striking ''State''.

(b) EXCLUSION FROM GROSS INCOME OF EDUCATION DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS.—

(1) IN GENERAL.—Section 529(c)(3)(B) (relating to distributions) is amended to read as follows:

''(B) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES.—

''(i) IN GENERAL.—For purposes of this paragraph—

''(I) no amount shall be includible in gross income under subparagraph (A) by reason of a distribution which consists of providing a benefit to the distributee which, if paid for by the distributee, would constitute payment of a qualified higher education expense, and

''(II) the amount which (determined without regard to subclause (I)) would be includible in gross income under subparagraph (A) by reason of any other distribution shall not be so includible in an amount which bears the same ratio to the amount which would be so includible as the qualified higher education expenses bear to such aggregate distributions.

''(ii) NONAPPLICATION OF CLAUSE.—In the case of any taxable year beginning before January 1, 2004, clause (i) shall not apply with respect to any distribution in such taxable year under a qualified tuition program established and maintained by 1 or more eligible educational institutions.

''(iii) IN-KIND DISTRIBUTIONS.—Any benefit furnished to a designated beneficiary under a qualified tuition program shall be treated as a distribution to the beneficiary for purposes of this paragraph.

''(iv) COORDINATION WITH HOPE AND LIFETIME LEARNING CREDITS.—

''(I) IN GENERAL.—Except as provided in subclause (II), clause (i) shall not apply for any taxable year to any qualified higher education expenses with respect to any individual if a credit is allowed under section 25A with respect to such expenses for such taxable year.

''(II) SPECIAL COORDINATION RULE.—In the case of any taxable year beginning after December 31, 1999, and before January 1, 2004, subclause (I) shall not apply, but the total amount of qualified higher education expenses otherwise taken into account under clause (i) with respect to an individual for such taxable year shall be reduced (after the application of the reduction provided in section 25A(g)(2)) by the amount of such expenses which were taken into account in determining the credit allowed to the taxpayer or any other person under section 25A with respect to such expenses.

''(v) COORDINATION WITH EDUCATION IRAS.—If the aggregate distributions to which clause (i) and section 530(d)(2)(A) apply exceed the total amount of qualified higher education expenses otherwise taken into account under clause (i) (after the application of clause (iv)) with respect to an individual for any taxable year, the taxpayer shall allocate such expenses among such distributions for purposes of determining the amount of the exclusion under clause (i) and section 530(d)(2)(A).''

(2) CONFORMING AMENDMENTS.—

(A) Section 135(d)(2)(B) is amended by striking ''section 530(d)(2)'' and inserting ''sections 529(c)(3)(B)(i) and 530(d)(2)''.

(B) Section 221(e)(2)(A) is amended by inserting ''529,'' after ''135,''.

(c) BENEFICIARY MAY CHANGE PROGRAM.—Section 529(c)(3)(C) (relating to change in beneficiaries) is amended—

(1) by striking ''transferred to the credit'' in clause (i) and inserting ''transferred—

''(I) to another qualified tuition program for the benefit of the designated beneficiary, or

''(II) to the credit'',

(2) by adding at the end the following new clause:

''(iii) LIMITATION ON CERTAIN ROLLOVERS.—Clause (i)(I) shall only apply to the first 3 transfers with respect to a designated beneficiary.'', and

(3) by inserting ''OR PROGRAMS'' after ''BENEFICIARIES'' in the heading.

(d) MEMBER OF FAMILY INCLUDES FIRST COUSIN.—Section 529(e)(2) (defining member of family) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and by inserting ''; and'', and by adding at the end the following new subparagraph:

''(D) any first cousin of such beneficiary.''

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

TITLE II—EDUCATIONAL ASSISTANCE

SEC. 201. EXTENSION OF EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Section 127(d) (relating to termination of exclusion for educational assistance programs) is amended by striking ''May 31, 2000'' and inserting ''June 30, 2004''.

(b) REPEAL OF LIMITATION ON GRADUATE EDUCATION.—

(1) IN GENERAL.—The last sentence of section 127(c)(1) 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''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to expenses relating to courses beginning after December 31, 1999.

SEC. 202. ELIMINATION OF 60-MONTH LIMIT ON STUDENT LOAN INTEREST DEDUCTION.

(a) IN GENERAL.—Section 221 (relating to interest on education loans) is amended by striking subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(b) CONFORMING AMENDMENT.—Section 6050S(e) is amended by striking ''section 221(e)(1)'' and inserting ''section 221(d)(1)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any loan interest paid after December 31, 1999.

SEC. 203. EXCLUSION OF CERTAIN AMOUNTS RECEIVED UNDER THE NATIONAL PUBLIC HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM AND THE F. EDWARD HEBERT ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 117(c) (relating to the exclusion from gross income amounts received as a qualified scholarship) is amended—

(1) by striking ''Subsections (a)'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a)'', and

(2) by adding at the end the following new paragraph:

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any amount received by an individual under—

''(A) the National Public Health Service Corps Scholarship Program under section 338A(g)(1)(A) of the Public Health Service Act, or

''(B) the Armed Forces Health Professions Scholarship and Financial Assistance program under subchapter I of chapter 105 of title 10, United States Code.''

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to amounts received in taxable years beginning after December 31, 1993.

TITLE III—LIBERALIZATION OF TAX-EXEMPT FINANCING RULES FOR PUBLIC SCHOOL CONSTRUCTION

SEC. 301. ADDITIONAL INCREASE IN ARBITRAGE REBATE EXCEPTION FOR GOVERNMENTAL BONDS USED TO FINANCE EDUCATIONAL FACILITIES.

(a) IN GENERAL.—Section 148(f)(4)(D)(vii) (relating to increase in exception for bonds financing public school capital expenditures) is amended by striking ''$5,000,000'' the second place it appears and inserting ''$10,000,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued in calendar years beginning after December 31, 1999.

SEC. 302. TREATMENT OF QUALIFIED PUBLIC EDUCATIONAL FACILITY BONDS AS EXEMPT FACILITY BONDS.

(a) TREATMENT AS EXEMPT FACILITY BOND.—Subsection (a) of section 142 (relating to exempt facility bond) is amended by striking ''or'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', or'', and by adding at the end the following new paragraph:

''(13) qualified public educational facilities.''

(b) QUALIFIED PUBLIC EDUCATIONAL FACILITIES.—Section 142 (relating to exempt facility bond) is amended by adding at the end the following new subsection:

''(k) QUALIFIED PUBLIC EDUCATIONAL FACILITIES.—

''(1) IN GENERAL.—For purposes of subsection (a)(13), the term 'qualified public educational facility' means any school facility which is—

''(A) part of a public elementary school or a public secondary school, and

''(B) owned by a private, for-profit corporation pursuant to a public-private partnership agreement with a State or local educational agency described in paragraph (2).

''(2) PUBLIC-PRIVATE PARTNERSHIP AGREEMENT DESCRIBED.—A public-private partnership agreement is described in this paragraph if it is an agreement—

''(A) under which the corporation agrees—

''(i) to do 1 or more of the following: construct, rehabilitate, refurbish, or equip a school facility, and

''(ii) at the end of the term of the agreement, to transfer the school facility to such agency for no additional consideration, and

''(B) the term of which does not exceed the term of the issue to be used to provide the school facility.

''(3) SCHOOL FACILITY.—For purposes of this subsection, the term 'school facility' means—

''(A) school buildings,

''(B) functionally related and subordinate facilities and land with respect to such buildings, including any stadium or other facility primarily used for school events, and

''(C) any property, to which section 168 applies (or would apply but for section 179), for use in the facility.

''(4) PUBLIC SCHOOLS.—For purposes of this subsection, the terms 'elementary school' and 'secondary school' have the meanings given such terms by section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), as in effect on the date of the enactment of this subsection.

''(5) ANNUAL AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING.—

''(A) IN GENERAL.—An issue shall not be treated as an issue described in subsection (a)(13) if the aggregate face amount of bonds issued by the State pursuant thereto (when added to the aggregate face amount of bonds previously so issued during the calendar year) exceeds an amount equal to the greater of—

''(i) $10 multiplied by the State population, or

''(ii) $5,000,000.

''(B) ALLOCATION RULES.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the State may allocate the amount described in subparagraph (A) for any calendar year in such manner as the State determines appropriate.

''(ii) RULES FOR CARRYFORWARD OF UNUSED LIMITATION.—A State may elect to carry forward an unused limitation for any calendar year for 3 calendar years following the calendar year in which the unused limitation arose under rules similar to the rules of section 146(f), except that the only purpose for which the carryforward may be elected is the issuance of exempt facility bonds described in subsection (a)(13).''

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) (relating to exception for certain bonds) is amended—

(1) by striking ''or (12)'' and inserting ''(12), or (13)'', and

(2) by striking ''and environmental enhancements of hydroelectric generating facilities'' and inserting ''environmental enhancements of hydroelectric generating facilities, and qualified public educational facilities''.

(d) EXEMPTION FROM LIMITATION ON USE FOR LAND ACQUISITION.—Section 147(h) (relating to certain rules not to apply to mortgage revenue bonds, qualified student loan bonds, and qualified 501(c)(3) bonds) is amended by adding at the end the following new paragraph:

''(3) EXEMPT FACILITY BONDS FOR QUALIFIED PUBLIC-PRIVATE SCHOOLS.—Subsection (c) shall not apply to any exempt facility bond issued as part of an issue described in section 142(a)(13) (relating to qualified public educational facilities).''

(e) CONFORMING AMENDMENT.—The heading for section 147(h) is amended by striking ''MORTGAGE REVENUE BONDS, QUALIFIED STUDENT LOAN BONDS, AND QUALIFIED 501(c)(3) BONDS'' and inserting ''CERTAIN BONDS''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1999.

SEC. 303. FEDERAL GUARANTEE OF SCHOOL CONSTRUCTION BONDS BY FEDERAL HOUSING FINANCE BOARD.

(a) IN GENERAL.—Section 149(b)(3) (relating to exceptions) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN GUARANTEED SCHOOL CONSTRUCTION BONDS.—Any bond issued as part of an issue 95 percent or more of the net proceeds of which are used for public school construction shall not be treated as federally guaranteed for any calendar year by reason of any guarantee by the Federal Housing Finance Board (through any Federal Home Loan Bank) under the Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.), as in effect on the date of the enactment of this subparagraph, to the extent the face amount of such bond, when added to the aggregate face amount of such bonds previously so guaranteed for such year, does not exceed $500,000,000.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after December 31, 1999.

TITLE IV—REVENUE PROVISIONS

SEC. 401. MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.

(a) IN GENERAL.—Section 904(c) (relating to limitation on credit) is amended—

(1) by striking ''in the second preceding taxable year,'', and

(2) by striking ''or fifth'' and inserting ''fifth, sixth, or seventh''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to credits arising in taxable years beginning after December 31, 2001.

SEC. 402. LIMITATION ON USE OF NON-ACCRUAL EXPERIENCE METHOD OF ACCOUNTING.

(a) IN GENERAL.—Section 448(d)(5) (relating to special rule for services) is amended—

(1) by inserting ''in fields described in paragraph (2)(A)'' after ''services by such person'', and

(2) by inserting ''CERTAIN PERSONAL'' before ''SERVICES'' in the heading.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendments made by this section to change its method of accounting for its first taxable year ending after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period (not greater than 4 taxable years) beginning with such first taxable year.

SEC. 403. RETURNS RELATING TO CANCELLATIONS OF INDEBTEDNESS BY ORGANIZATIONS LENDING MONEY.

(a) IN GENERAL.—Paragraph (2) of section 6050P(c) (relating to definitions and special rules) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by inserting after subparagraph (C) the following new subparagraph:

''(D) any organization a significant trade or business of which is the lending of money.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges of indebtedness after December 31, 1999.

SEC. 404. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7527. INTERNAL REVENUE SERVICE USER FEES.

''(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

''(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

''(2) other similar requests.

''(b) PROGRAM CRITERIA.—

''(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

''(A) shall vary according to categories (or subcategories) established by the Secretary,

''(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

''(C) shall be payable in advance.

''(2) EXEMPTIONS, ETC.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

''(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

''Category	**Average** Fee
Employee plan ruling and opinion ..	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination.	$275
Chief counsel ruling	$200.

''(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2009.''

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7527. Internal Revenue Service user fees.''

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 405. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) REPEAL OF PROPERTY SUBJECT TO A LIABILITY TEST.—

(1) SECTION 357.—Section 357(a)(2) (relating to assumption of liability) is amended by striking '', or acquires from the taxpayer property subject to a liability''.

(2) SECTION 358.—Section 358(d)(1) (relating to assumption of liability) is amended by striking ''or acquired from the taxpayer property subject to a liability''.

(3) SECTION 368.—

(A) Section 368(a)(1)(C) is amended by striking '', or the fact that property acquired is subject to a liability,''.

(B) The last sentence of section 368(a)(2)(B) is amended by striking '', and the amount of any liability to which any property acquired from the acquiring corporation is subject,''.

(b) CLARIFICATION OF ASSUMPTION OF LIABILITY.—

(1) IN GENERAL.—Section 357 is amended by adding at the end the following new subsection:

''(d) DETERMINATION OF AMOUNT OF LIABILITY ASSUMED.—

''(1) IN GENERAL.—For purposes of this section, section 358(d), section 362(d), section 368(a)(1)(C), and section 368(a)(2)(B), except as provided in regulations—

''(A) a recourse liability (or portion thereof) shall be treated as having been assumed if, as determined on the basis of all facts and circumstances, the transferee has agreed to, and is expected to, satisfy such liability (or portion), whether or not the transferor has been relieved of such liability, and

''(B) except to the extent provided in paragraph (2), a nonrecourse liability shall be treated as having been assumed by the transferee of any asset subject to such liability.

''(2) EXCEPTION FOR NONRECOURSE LIABILITY.—The amount of the nonrecourse liability treated as described in paragraph (1)(B) shall be reduced by the lesser of—

''(A) the amount of such liability which an owner of other assets not transferred to the transferee and also subject to such liability has agreed with the transferee to, and is expected to, satisfy, or

''(B) the fair market value of such other assets (determined without regard to section 7701(g)).

''(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and section 362(d). The Secretary may also prescribe regulations which provide that the manner in which a liability is treated as assumed under this subsection is applied, where appropriate, elsewhere in this title.''

(2) LIMITATION ON BASIS INCREASE ATTRIBUTABLE TO ASSUMPTION OF LIABILITY.—Section 362 is amended by adding at the end the following new subsection:

''(d) LIMITATION ON BASIS INCREASE ATTRIBUTABLE TO ASSUMPTION OF LIABILITY.—

''(1) IN GENERAL.—In no event shall the basis of any property be increased under subsection (a) or (b) above the fair market value of such property (determined without regard to section 7701(g)) by reason of any gain recognized to the transferor as a result of the assumption of a liability.

''(2) TREATMENT OF GAIN NOT SUBJECT TO TAX.—Except as provided in regulations, if—

''(A) gain is recognized to the transferor as a result of an assumption of a nonrecourse liability by a transferee which is also secured by assets not transferred to such transferee, and

''(B) no person is subject to tax under this title on such gain,

then, for purposes of determining basis under subsections (a) and (b), the amount of gain recognized by the transferor as a result of the assumption of the liability shall be determined as if the liability assumed by the transferee equaled such transferee's ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all of the assets subject to such liability.''

(c) APPLICATION TO PROVISIONS OTHER THAN SUBCHAPTER C.—

(1) SECTION 584.—Section 584(h)(3) is amended—

(A) by striking '', and the fact that any property transferred by the common trust fund is subject to a liability,'' in subparagraph (A), and

(B) by striking clause (ii) of subparagraph (B) and inserting:

''(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

''(C) ASSUMPTION.—For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(d) shall apply.''

(2) SECTION 1031.—The last sentence of section 1031(d) is amended—

(A) by striking ''assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability'' and inserting ''assumed (as determined under section 357(d)) a liability of the taxpayer'', and

(B) by striking ''or acquisition (in the amount of the liability)''.

(d) CONFORMING AMENDMENTS.—

(1) Section 351(h)(1) is amended by striking '', or acquires property subject to a liability,''.

(2) Section 357 is amended by striking ''or acquisition'' each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) is amended by striking ''or acquired''.

(4) Section 357(c)(1) is amended by striking '', plus the amount of the liabilities to which the property is subject,''.

(5) Section 357(c)(3) is amended by striking ''or to which the property transferred is subject''.

(6) Section 358(d)(1) is amended by striking ''or acquisition (in the amount of the liability)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after October 19, 1998.

SECTION 406. CHARITABLE SPLIT-DOLLAR LIFE INSURANCE, ANNUITY, AND ENDOWMENT CONTRACTS.

(a) IN GENERAL.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end the following new paragraph:

''(10) SPLIT-DOLLAR LIFE INSURANCE, ANNUITY, AND ENDOWMENT CONTRACTS.—

''(A) IN GENERAL.—Nothing in this section or in section 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 shall be construed to allow a deduction, and no deduction shall be allowed, for any transfer to or for the use of an organization described in subsection (c) if in connection with such transfer—

''(i) the organization directly or indirectly pays, or has previously paid, any premium on any personal benefit contract with respect to the transferor, or

''(ii) there is an understanding or expectation that any person will directly or indirectly pay any premium on any personal benefit contract with respect to the transferor.

''(B) PERSONAL BENEFIT CONTRACT.—For purposes of subparagraph (A), the term 'personal benefit contract' means, with respect to the transferor, any life insurance, annuity, or endowment contract if any direct or indirect beneficiary under such contract is the transferor, any member of the transferor's family, or any other person (other than an organization described in subsection (c)) designated by the transferor.

''(C) APPLICATION TO CHARITABLE REMAINDER TRUSTS.—In the case of a transfer to a trust referred to in subparagraph (E), references in subparagraphs (A) and (F) to an organization described in subsection (c) shall be treated as a reference to such trust.

''(D) EXCEPTION FOR CERTAIN ANNUITY CONTRACTS.—If, in connection with a transfer to or for the use of an organization described in subsection (c), such organization incurs an obligation to pay a charitable gift annuity (as defined in section 501(m)) and such organization purchases any annuity contract to fund such obligation, persons receiving payments under the charitable gift annuity shall not be treated for purposes of subparagraph (B) as indirect beneficiaries under such contract if—

''(i) such organization possesses all of the incidents of ownership under such contract,

''(ii) such organization is entitled to all the payments under such contract, and

''(iii) the timing and amount of payments under such contract are substantially the same as the timing and amount of payments to each such person under such obligation (as such obligation is in effect at the time of such transfer).

''(E) EXCEPTION FOR CERTAIN CONTRACTS HELD BY CHARITABLE REMAINDER TRUSTS.—A person shall not be treated for purposes of subparagraph (B) as an indirect beneficiary under any life insurance, annuity, or endowment contract held by a charitable remainder annuity trust or a charitable remainder unitrust (as defined in section 664(d)) solely by reason of being entitled to any payment referred to in paragraph (1)(A) or (2)(A) of section 664(d) if—

''(i) such trust possesses all of the incidents of ownership under such contract, and

''(ii) such trust is entitled to all the payments under such contract.

''(F) EXCISE TAX ON PREMIUMS PAID.—

''(i) IN GENERAL.—There is hereby imposed on any organization described in subsection (c) an excise tax equal to the premiums paid by such organization on any life insurance, annuity, or endowment contract if the payment of premiums on such contract is in connection with a transfer for which a deduction is not allowable under subparagraph (A), determined without regard to when such transfer is made.

''(ii) PAYMENTS BY OTHER PERSONS.—For purposes of clause (i), payments made by any other person pursuant to an understanding or expectation referred to in subparagraph (A) shall be treated as made by the organization.

''(iii) REPORTING.—Any organization on which tax is imposed by clause (i) with respect to any premium shall file an annual return which includes—

''(I) the amount of such premiums paid during the year and the name and TIN of each beneficiary under the contract to which the premium relates, and

''(II) such other information as the Secretary may require.

The penalties applicable to returns required under section 6033 shall apply to returns required under this clause. Returns required under this clause shall be furnished at such time and in such manner as the Secretary shall by forms or regulations require.

''(iv) CERTAIN RULES TO APPLY.—The tax imposed by this subparagraph shall be treated as imposed by chapter 42 for purposes of this title other than subchapter B of chapter 42.

''(G) SPECIAL RULE WHERE STATE REQUIRES SPECIFICATION OF CHARITABLE GIFT ANNUITANT IN CONTRACT.—In the case of an obligation to pay a charitable gift annuity referred to in subparagraph (D) which is entered into under the laws of a State which requires, in order for the charitable gift annuity to be exempt from insurance regulation by such State, that each beneficiary under the charitable gift annuity be named as a beneficiary under an annuity contract issued by an insurance company authorized to transact business in such State, the requirements of clauses (i) and (ii) of subparagraph (D) shall be treated as met if—

''(i) such State law requirement was in effect on February 8, 1999,

''(ii) each such beneficiary under the charitable gift annuity is a bona fide resident of such State at the time the obligation to pay a charitable gift annuity is entered into, and

''(iii) the only persons entitled to payments under such contract are persons entitled to payments as beneficiaries under such obligation on the date such obligation is entered into.

''(H) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations to prevent the avoidance of such purposes.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendment made by this section shall apply to transfers made after February 8, 1999.

(2) EXCISE TAX.—Except as provided in paragraph (3) of this subsection, section 170(f)(10)(F) of the Internal Revenue Code of 1986 (as added by this section) shall apply to premiums paid after the date of the enactment of this Act.

(3) REPORTING.—Clause (iii) of such section 170(f)(10)(F) shall apply to premiums paid after February 8, 1999 (determined as if the tax imposed by such section applies to premiums paid after such date).

SEC. 407. TRANSFER OF EXCESS DEFINED BENEFIT PLAN ASSETS FOR RETIREE HEALTH BENEFITS.

(a) EXTENSION.—

(1) IN GENERAL.—Section 420(b)(5) (relating to expiration) is amended by striking ''in any taxable year beginning after December 31, 2000'' and inserting ''made after September 30, 2009''.

(2) CONFORMING AMENDMENTS.—

(A) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking ''1995'' and inserting ''2001''.

(B) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking ''1995'' and inserting ''2001''.

(C) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(13)) is amended—

(i) by striking ''in a taxable year beginning before January 1, 2001'' and inserting ''made before October 1, 2009'', and

(ii) by striking ''1995'' and inserting ''2001''.

(b) APPLICATION OF MINIMUM COST REQUIREMENTS.—

(1) IN GENERAL.—Section 420(c)(3) is amended to read as follows:

''(3) MINIMUM COST REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the cost maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

''(B) APPLICABLE EMPLOYER COST.—For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by dividing—

''(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

''(I) without regard to any reduction under subsection (e)(1)(B), and

''(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer at the end of the taxable year, by

''(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

''(C) ELECTION TO COMPUTE COST SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

''(D) COST MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'cost maintenance period' means the period of 5 taxable years beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping cost maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.''

(2) CONFORMING AMENDMENTS.—

(A) Section 420(b)(1)(C)(iii) is amended by striking ''benefits'' and inserting ''cost''.

(B) Section 420(e)(1)(D) is amended by striking ''and shall not be subject to the minimum benefit requirements of subsection (c)(3)'' and inserting ''or in calculating applicable employer cost under subsection (c)(3)(B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified transfers occurring after December 31, 2000, and before October 1, 2009.

SEC. 408. LIMITATIONS ON WELFARE BENEFIT FUNDS OF 10 OR MORE EMPLOYER PLANS.

(a) BENEFITS TO WHICH EXCEPTION APPLIES.—Section 419A(f)(6)(A) (relating to exception for 10 or more employer plans) is amended to read as follows:

''(A) IN GENERAL.—This subpart shall not apply to a welfare benefit fund which is part of a 10 or more employer plan if the only benefits provided through the fund are 1 or more of the following:

''(i) Medical benefits.

''(ii) Disability benefits.

''(iii) Group term life insurance benefits which do not provide for any cash surrender value or other money that can be paid, assigned, borrowed, or pledged for collateral for a loan.

The preceding sentence shall not apply to any plan which maintains experience-rating arrangements with respect to individual employers.''

(b) LIMITATION ON USE OF AMOUNTS FOR OTHER PURPOSES.—Section 4976(b) (defining disqualified benefit) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR 10 OR MORE EMPLOYER PLANS EXEMPTED FROM PREFUNDING LIMITS.—For purposes of paragraph (1)(C), if—

''(A) subpart D of part I of subchapter D of chapter 1 does not apply by reason of section 419A(f)(6) to contributions to provide 1 or more welfare benefits through a welfare benefit fund under a 10 or more employer plan, and

''(B) any portion of the welfare benefit fund attributable to such contributions is used for a purpose other than that for which the contributions were made,

then such portion shall be treated as reverting to the benefit of the employers maintaining the fund.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions paid or accrued after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 409. MODIFICATION OF INSTALLMENT METHOD AND REPEAL OF INSTALLMENT METHOD FOR ACCRUAL METHOD TAXPAYERS.

(a) REPEAL OF INSTALLMENT METHOD FOR ACCRUAL BASIS TAXPAYERS.—

(1) IN GENERAL.—Subsection (a) of section 453 (relating to installment method) is amended to read as follows:

''(a) USE OF INSTALLMENT METHOD.—

''(1) IN GENERAL.—Except as otherwise provided in this section, income from an installment sale shall be taken into account for purposes of this title under the installment method.

''(2) ACCRUAL METHOD TAXPAYER.—The installment method shall not apply to income from an installment sale if such income would be reported under an accrual method of accounting without regard to this section. The preceding sentence shall not apply to a disposition described in subparagraph (A) or (B) of subsection (1)(2).''

(2) CONFORMING AMENDMENTS.—Sections 453(d)(1), 453(i)(1), and 453(k) are each amended by striking ''(a)'' each place it appears and inserting ''(a)(1)''.

(b) MODIFICATION OF PLEDGE RULES.—Paragraph (4) of section 453A(d) (relating to pledges, etc., of installment obligations) is amended by adding at the end the following: ''A payment shall be treated as directly secured by an interest in an installment obligation to the extent an arrangement allows the taxpayer to satisfy all or a portion of the indebtedness with the installment obligation.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or other dispositions occurring on or after the date of the enactment of this Act.

SEC. 410. INCLUSION OF CERTAIN VACCINES AGAINST STREPTOCOCCUS PNEUMONIAE TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

''(L) Any conjugate vaccine against streptococcus pneumoniae.''

(b) EFFECTIVE DATE.—

(1) SALES.—The amendment made by this section shall apply to vaccine sales beginning on the day after the date on which the Centers for Disease Control makes a final recommendation for routine administration to children of any conjugate vaccine against streptococcus pneumoniae.

(2) DELIVERIES.—For purposes of paragraph (1), in the case of sales on or before the date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

By Mr. WYDEN:

S. 1135. A bill to amend the Communications Act of 1934 to provide that the lowest unit rate for campaign advertising shall not be available for communication in which a candidate attacks an opponent of the candidate unless the candidate does so in person; to the Committee on Commerce, Science, and Transportation.

POLITICAL CANDIDATE PERSONAL RESPONSIBILITY ACT

Mr. WYDEN. Mr. President, today I am introducing legislation, along with Congressman WALDEN in the House of Representatives, that would fight the scourge of negative political campaigns with the simple yet powerful tool of accountability. If candidates choose to run for office by disparaging their opponents rather than standing on their own records and beliefs, they should at least be expected to take responsibility for the ad campaigns that they run. Under this legislation, there would be meaningful financial penalty—in the form of higher advertising rates—for those who fail to do so.

For me, this bill arises out of unpleasant personal experience. I was elected to this body in a special election against the man I am now proud to call my friend and colleague, GORDON SMITH. That campaign was the nastiest, most negative, least edifying political season that my state has ever been through. The unabashedly negative ads that both of our campaigns put on the air were a sour departure from Oregon's tradition of responsible, thoughtful politics.

I eventually became so disgusted with what my own campaign had become, that with only a few weeks before the election, I got rid of all my ads, destroyed negative mailings that were about to be sent out, asked others who were airing negative ads on my behalf to desist, and started over with a campaign that was 100 percent positive. I didn't know if it would be a smart campaign strategy or a kind of political suicide, and I didn't much care. Win or lose, I wanted to be proud of the way that I had conducted myself.

What I learned all too well in that campaign is that negative politics corrupts everything that it touches. It harms not only its target, but its sponsor as well. Negative ads are one of the biggest reasons for the cynicism and even disgust that so many Americans feel toward the political process. They cheapen the very institution of democracy.

There's no way, of course, to mandate a sense of shame or legislate an end to negative ads. But in an era when elections are determined more and more by television and radio advertising, it is not too much to ask that candidates be held responsible for the statements they make in their ads.

Under current campaign law, broadcasters are required to give qualified candidates for federal office their lowest price for ads, what is known as the lowest unit broadcast rate. In order to qualify for this rate, candidates must comply with federal campaign finance laws, and include proper disclaimers in the ad, among other regulations. The Political Candidate Personal Responsibility Act would attach two additional requirements to the discounted ad rate. The first requirement is that for both television and radio advertisements, the lowest unit rate will only be available if a candidate, when referring to his or her opponent, makes the reference him or her self. Radio advertisements must also contain a statement by the candidate in which the candidate identifies him or herself and the office for which the person is running. The second requirement is that in any television or radio ad where a candidate makes reference to his or her opponent, the candidate must appear or be heard for at least 75 percent of the broadcast time. If a candidate chooses to air an advertisement that does not comply with these requirements, he or she will be ineligible to receive the lowest unit rate for a period of 45 days in a primary and 60 days in a general election.

In other words, if you want the benefits of discounted broadcast time, you can't make disparaging statements that you aren't willing to say yourself. No more hiding behind grainy photographs, ominous music, and anonymous announcers.

Ultimately, one of our greatest responsibilities as elected officials is to encourage greater public participation in all levels of the political process. Campaign activities should not only represent the views of the candidates, but they should also encourage voters to participate in the democratic process. The growing negative trend of campaign advertisements degrades the process and discourages people from becoming involved.

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. 1135

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 ''Political Candidate Personal Responsibility Act of 1999''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Local broadcasters are currently required to offer the ''lowest unit charge'' for advertising to candidates for all political offices 45 days before a primary election, and 60 days before a general election.

(2) The ''lowest unit charge'' requirement represents a federally mandated subsidy for political candidates.

(3) Campaigns for Federal office are too frequently dominated by negative and attack-oriented television and radio advertising.

(4) The Government should take action to ensure that it does not subsidize negative and attack oriented advertising where the candidate fails to demonstrate personal responsibility for the tenor of the candidate's advertising.

SEC. 3. LIMITATION ON AVAILABILITY OF LOWEST UNIT CHARGE FOR FEDERAL CANDIDATES ATTACKING OPPOSITION.

(a) IN GENERAL.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) by striking ''(b) The charges'' and inserting ''(b)(1) The charges'';

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(3) by adding at the end the following new paragraph:

''(2)(A) In the case of a candidate for Federal office, such candidate shall not be entitled to receive the rate under paragraph (1)(A) for the use of any broadcasting station unless the candidate certifies that the candidate (and any authorized committee of the candidate) shall not make any direct reference to another candidate for the same office, in any broadcast using the rights and conditions of access under this Act, unless—

''(i) such reference meets the requirements of subparagraph (C), and

''(ii) a communication which contains such reference—

''(I) in the case of a television broadcast, contains a clearly identifiable photographic or similar image of the candidate that is prominently displayed during at least 75 percent of the broadcast time, and

''(II) in the case of a radio broadcast, contains the voice of the candidate during at least 75 percent of the broadcast time.

''(B) If a candidate for Federal office (or any authorized committee of such candidate) makes a reference described in subparagraph (A) in any broadcast that does not meet the requirements of subparagraph (C) or makes a communication that does not meet the requirements of subparagraph (A)(ii), such candidate shall not be entitled to receive the rate under paragraph (1)(A) for such broadcast or any other broadcast during any portion of the 45-day and 60-day periods described in paragraph (1)(A), that occur on or after the date of such broadcast, for election to such office.

''(C) A candidate meets the requirements of this subparagraph with respect to any reference to another candidate if—

''(i) in the case of a television broadcast, the reference (and any statement relating to the other candidate) is made by the candidate in a personal appearance on the screen, and

''(ii) in the case of a radio broadcast, the reference (and any statement relating to the other candidate) is made by the candidate in a personal audio statement during which the candidate and the office for which the candidate is running are identified by such candidate.

''(D) For purposes of this paragraph, the terms 'authorized committee' and 'Federal office' have the meanings given such terms by section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).''

(b) CONFORMING AMENDMENT.—Section 315(b)(1)(A) of the Communications Act of 1934 (47 U.S.C. 315(b)(1)(A)), as redesignated by subsection (a)(2), is amended by inserting ''subject to paragraph (2),'' before ''during the forty-five days''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to broadcasts made after the date of enactment of this Act.

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

S. 1136. A bill to amend the Internal Revenue Code of 1986 to provide that an organization shall be exempt from income tax if it is created by a State to provide property and casualty insurance coverage for property for which such coverage is otherwise unavailable; to the Committee on Finance.

EXEMPTION FROM INCOME TAX FOR STATE CREATED ORGANIZATIONS PROVIDING PROPERTY AND CASUALTY INSURANCE

Mr. MACK. Mr. President, today Senator GRAHAM and I introduce legislation that would help protect Florida from economic devastation in the event of a catastrophic windstorm or other peril.

Our legislation would amend Section 501(c) of the Internal Revenue Code to grant tax-exempt status to the Florida Windstorm Underwriting Association (FWUA), the Florida Residential Property and Casualty Joint Underwriting Association (JUA) and similar state-chartered, not-for-profit insurers serving markets in which commercial insurance is not available. The FWUA and JUA are non-profit entities established by the state to provide property and casualty insurance coverage in those markets not adequately served by other insurers.

In most years, Florida is not hit by a major hurricane or natural catastrophe. In those years, the FWUA and JUA take in more premiums than are paid out in claims or expenses. Since these entities are not-for-profit, state law prevents those funds from being distributed—they are instead literally saved for a severely rainy or windy day. Nonetheless, the Internal Revenue Code requires 35% of those funds to be sent to Washington as federal income taxes rather than used to fund reserves. Designating the FWUA and JUA as tax-exempt will help Florida to accumulate the necessary reserves to pay claims brought on by a catastrophe. This bill gives the two Florida catastrophe funds the same tax-exempt status that is already enjoyed by a number of not-for-profit insurance provers.

State law authorizes the FWUA and the JUA to assess property insurance policyholders throughout Florida to pay for losses generated by catastrophic storms or other perils. Thus, the benefits of the tax exemption would reduce the frequency and severity of assessments levied against individual policyholders. Greater funds would be available to cover losses which otherwise would be paid for by higher assessments on Florida policyholders—cutting taxes for the approximately 5,000,000 property owners in the state of Florida.

This legislation has the bipartisan support of the entire Florida Congressional delegation in addition to strong backing from Governor Jeb Bush, the State Insurance Commissioner, the Florida Senate President and Florida's House Speaker. And this change in the tax code would result in only a negligible loss of federal tax revenue, according to Joint Tax.

Our legislation is extremely important to homeowners and businesses throughout the state of Florida, all of whom are subject to assessment if reserves are not sufficient to pay claims in the event of a severe hurricane or other catastrophe. With hundreds of miles of magnificent coastline, Florida remains sensitive to the perils of nature. Enactment of our legislation permits Florida to prepare for the next Hurricane Andrew while alleviating some of the economic hardship exacted on Florida property owners.

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. 1136

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

SECTION 1. EXEMPTION FROM INCOME TAX FOR STATE-CREATED ORGANIZATIONS PROVIDING PROPERTY AND CASUALTY INSURANCE FOR PROPERTY FOR WHICH SUCH COVERAGE IS OTHERWISE UNAVAILABLE.

(a) IN GENERAL.—Subsection (c) of section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by adding at the end the following new paragraph:

''(28)(A) Any association created before January 1, 1999, by State law and organized and operated exclusively to provide property and casualty insurance coverage for property located within the State for which the State has determined that coverage in the authorized insurance market is limited or unavailable at reasonable rates, if—

''(i) no part of the net earnings of which inures to the benefit of any private shareholder or individual,

''(ii) except as provided in clause (v), no part of the assets of which may be used for, or diverted to, any purpose other than—

''(I) to satisfy, in whole or in part, the liability of the association for, or with respect to, claims made on policies written by the association,

''(II) to invest in investments authorized by applicable law, or

''(III) to pay reasonable and necessary administration expenses in connection with the establishment and operation of the association and the processing of claims against the association,

''(iii) the State law governing the association permits the association to levy assessments on property and casualty insurance policyholders with insurable interests in

property located in the State to fund deficits of the association, including the creation of reserves,

''(iv) the plan of operation of the association is subject to approval by the chief executive officer or other executive branch official of the State, by the State legislature, or both, and

''(v) the assets of the association revert upon dissolution to the State, the State's designee, or an entity designated by the State law governing the association, or State law does not permit the dissolution of the association.

''(B) Subparagraph (A) shall not apply to an association for any taxable year if the association's surplus income for such year exceeds 5 percent of the total insured value of properties insured by the association as of the close of the taxable year unless the association pays a tax equal to 35 percent of such excess for such year. Such tax shall be treated as imposed by chapter 42 for purposes of this title.''

(b) TRANSITIONAL RULE.—No income or gain shall be recognized by an association as a result of a change in status to that of an association described by section 501(c)(28) of the Internal Revenue Code of 1986, as amended by subsection (a).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1998.

• Mr. GRAHAM. Mr. President, as we prepare for next week's start of the 1999 Hurricane Season, I am pleased to join my colleague, Senator MACK, in introducing legislation that will help protect Florida from economic devastation in the event of a catastrophic disaster.

Our legislation would amend Section 501(c) of the Internal Revenue Code to grant tax-exempt status to state chartered, not-for-profit insurers serving markets in which commercial insurance is not available. In our state, this legislation will primarily assist the Florida Windstorm Underwriting Association (FWUA) and the Florida Residential Property and Casualty Joint Underwriting Association (JUA).

The Florida Windstorm Association was created in 1970. Twenty-two years later, in 1992, the legislature authorized the Joint Underwriting Association. These organizations operate as residual market mechanisms. They provide residential property and casualty insurance coverage for those residents who need, but are unable to procure through the voluntary market.

The JUA was created in direct response to $16 billion in covered losses during Hurricane Andrew. The destructive force of Andrew rendered a number of property insurance companies insolvent. Other firms recovered from the catastrophe by withdrawing from Florida markets.

During those fortunate years when we are not impacted by major hurricanes or other natural catastrophes, the FWUA and JUA take in more premiums that are paid out in claims and expenses. Florida law prevents those funds from being distributed so that needed reserves will accumulate in preparation for inevitable disasters.

Unfortunately, the Internal Revenue Service penalizes Florida for this responsible, forward thinking practice. It requires that 35% of those funds be sent to Washington as federal income taxes rather than used to fund reserves. Designating state chartered, non profit insurers as tax-exempt will help Florida accumulate the necessary reserves to pay claims brought on by a catastrophe.

State law also authorizes the FWUA and the JUA to assess property insurance policyholders for losses generated by natural disasters. Tax exemptions should reduce the frequency and severity of assessments levied against individual policyholders, because it would make more funds available to cover losses which otherwise would be paid for by higher assessments on policyholders.

Mr. President, even seven years later, Hurricane Andrew is still a nightmarish memory for Floridians. The 1999 Hurricane season will begin on June 1, 1999. The National Weather Service expects this hurricane season—which begins next Tuesday, to be another active storm season. It is imperative that the federal government avoids the comfortable habit of ignoring lessons presented by Andrew and other recent catastrophes.

This legislation has bipartisan support in the state's Congressional delegation. It is backed by our state governor, our insurance Commissioner, our state Senate President and House Speaker.

Also, Mr. President, the Joint Committee on Taxation has ruled that this legislation will have a negligible effect on the federal budget.

Our legislation is extremely important to homeowners and businesses throughout Florida, all whom are subject to assessment if reserves are not sufficient to pay claims in the event of a catastrophe. Florida remains sensitive to the perils of nature. Enactment of this legislation will permit our state to prepare for the next Hurricane Andrew while alleviating some of the economic hardship exacted on Florida property owners.•

By Mr. REID (for himself and Mr. FRIST):

S. 1139. A bill to amend title 49, United States Code, relating to civil penalties for unruly passengers of air carriers and to provide for the protection of employees providing air safety information, and for other purposes; to the Committee on Commerce, Science, and Transportation.

INCREASE OF CIVIL PENALTIES ON UNRULY AIRLINE PASSENGERS LEGISLATION

Mr. REID. Mr. President, years ago, when air travel was in its infancy, the greatest threat to passenger safety was mechanical failure.

Over the last half-century, the dedication of the men and women who service our airlines, coupled with advances in technology and know-how, have made air travel the safest method of transportation we have.

But it's not always the most convenient way to travel. As air travel has become safer, it has also become more popular—and more crowded.

As all of my colleagues in this chamber well know, air travel is an increasingly stressful and chaotic experience, at times trying even the most patient among us.

I commend my colleagues for introducing the passenger's bill of rights earlier this Congress, which hopefully will alleviate some of the stress of air travel.

I rise today to address a different aspect of that stress, and that is the safety hazard created to all passengers when a passenger who can't control his behavior or emotions, or simply refuses to do so, acts in a way that jeopardizes the safety of the flight.

Over the last few years, the number of reported incidents in which unruly airline passengers have interfered with flight crews, or even physically assaulted them, has increased dramatically and dangerously.

One airline alone reports that the number of incidents caused by violent or unruly passengers more than tripled in only three years—from 296 cases in 1994 to 921 cases in 1997.

In 1996, the Federal Aviation Administration imposed civil penalties against 121 unruly passengers. In 1997, that number jumped to 195—a sixty percent increase in only one year.

These incidents represent a serious threat to the safety of both flight crews and passengers alike.

Today I, along with my colleague Senator FRIST, am introducing a bill that addresses this problem.

Briefly, my bill will allow the Secretary of Transportation to increase the civil penalty from its current level of $1,100, up to $25,000, on any airline passenger who interferes with the duties or responsibilities of the flight crew or cabin crew or takes any action that poses an imminent threat to the safety of the aircraft or other individuals on the aircraft.

We need not only to punish passengers who threaten the safety of their passengers. We also need to give airlines the power to prevent particularly violent or disruptive passengers from committing similar acts in the future.

When someone drives in an unsafe manner on our roads, local police have the power to fine them. When that someone commits the same offenses repeatedly, or drives in a way that is especially dangerous, local authorities have the power to revoke or suspend their driver's licenses—to take those drivers off the road.

I think we need to do something similar with air travelers who commit particularly dangerous acts, or who insist on repeatedly disrupting airline flight crews. We need them off of our airlines, so that they do not have the opportunity to jeopardize the lives of other passengers in the future.

The bill I am introducing today gives the Secretary of Transportation the authority to raise the civil penalty up to $25,000.

Second, and most important, my bill would also give the Secretary of Transportation the authority to impose a ban of up to one year on all commercial air travel on passengers guilty of such incidents.

The bill enforces this ban by making airlines which provides air transportation to a banned traveler liable to the Government for a civil penalty of up to $25,000.

Third, this bill would give whistleblower protection to flight attendants who report unsafe behavior by co-workers.

Fourth, this bill will make the investigation of in-flight incidents easier by giving the Attorney General the authority to deputize local law enforcement officials to investigate incidents when the plane lands, wherever it lands.

Mr. President, everyone in this body travels extensively by air. Every time we get into an airline, we put our lives in the hands of the hardworking men and women who staff our airlines.

When we, or any other American, gets on an airplane, we should be able to sit back and relax, confident in the knowledge that those men and women can perform the jobs they were trained to do without interference by unreasonable or violent passengers.

We should also be able to board an airline secure in the knowledge that the man or woman sitting in the seat next to us, doesn't have an extensive history of violent or disruptive behavior on airplanes.

We should also have the security of knowing that if a passenger does choose to commit a particularly unruly or violent act that threatens the safety of other passengers or the flight crew, that passenger won't be able to get on another airplane tomorrow and do the same thing to another unsuspecting planeload of passengers.

I urge my colleagues to join me in supporting this important bill.

Mr. President, 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:

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

SECTION 1. PENALTIES FOR UNRULY PASSENGERS.

(a) IN GENERAL.—Chapter 463 of title 49, United States Code, is amended by adding at the end the following:

"§ 46317. Interference with cabin or flight crew

''(a) GENERAL RULE.—

''(1) IN GENERAL.—An individual who interferes with the duties or responsibilities of the flight crew or cabin crew of a civil aircraft or takes any action that poses an imminent threat to the safety of the aircraft or other individuals on the aircraft is liable to the United States Government for a civil penalty of not more than $25,000.

''(2) ADDITIONAL PENALTIES.—In addition or as an alternative to the penalty under paragraph (1), the Secretary of Transportation (referred to in this section as the 'Secretary') may prohibit the individual from flying as a passenger on an aircraft used to provide air transportation for a period of not more than 1 year.

''(b) NOTIFICATION OF AIR CARRIERS.—Not later than 10 days after issuing an order prohibiting an individual from flying under subsection (a)(2), the Secretary shall notify all air carriers of—

''(1) the prohibition; and

''(2) the period of the prohibition.

''(c) RESPONSIBILITY OF AIR CARRIERS.—After a notification of an order issued under subsection (a)(2), an air carrier who provides air transportation for the individual prohibited from flying during the period of the prohibition under that subsection is liable to the United States Government for a civil penalty of not more than $25,000.

''(d) COMPROMISE AND SETOFF.—

''(1) COMPROMISE.—The Secretary may compromise the amount of a civil penalty imposed under this section.

''(2) SETOFF.—The United States Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts the Government owes the person liable for the penalty.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 463 of title 49, United States Code, is amended by adding at the end the following:

''46317. Interference with cabin or flight crew.''.

SEC. 2. PROTECTION OF EMPLOYEES PROVIDING AIR SAFETY INFORMATION.

(a) IN GENERAL.—Chapter 421 of title 49, United States Code, is amended by adding at the end the following:

''SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

"§ 42121. Protection of employees providing air safety information

''(a) DISCRIMINATION AGAINST AIRLINE EMPLOYEES.—No air carrier or contractor or subcontractor of an air carrier may discharge an employee of the air carrier or the contractor or subcontractor of an air carrier or otherwise discriminate against any such employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

''(1) provided, caused to be provided, or is about to provide or cause to be provided, to the Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;

''(2) has filed, caused to be filed, or is about to file or cause to be filed, a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;

''(3) testified or will testify in such a proceeding; or

''(4) assisted or participated or is about to assist or participate in such a proceeding.

''(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

''(1) FILING AND NOTIFICATION.—

''(A) IN GENERAL.—In accordance with this paragraph, a person may file (or have a person file on behalf of that person) a complaint with the Secretary of Labor if that person believes that an air carrier or contractor or subcontractor of an air carrier discharged or otherwise discriminated against that person in violation of subsection (a).

''(B) REQUIREMENTS FOR FILING COMPLAINTS.—A complaint referred to in subparagraph (A) may be filed not later than 90 days after an alleged violation occurs. The complaint shall state the alleged violation.

''(C) NOTIFICATION.—Upon receipt of a complaint submitted under subparagraph (A), the Secretary of Labor shall notify the air carrier, contractor, or subcontractor named in the complaint and the Administrator of the Federal Aviation Administration of the—

''(i) filing of the complaint;

''(ii) allegations contained in the complaint;

''(iii) substance of evidence supporting the complaint; and

''(iv) opportunities that are afforded to the air carrier, contractor, or subcontractor under paragraph (2).

''(2) INVESTIGATION; PRELIMINARY ORDER.—

''(A) IN GENERAL.—

''(i) INVESTIGATION.—Not later than 60 days after receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings.

''(ii) ORDER.—Except as provided in subparagraph (B), if the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the findings referred to in clause (i) with a preliminary order providing the relief prescribed under paragraph (3)(B).

''(iii) OBJECTIONS.—Not later than 30 days after the date of notification of findings under this paragraph, the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order and request a hearing on the record.

''(iv) EFFECT OF FILING.—The filing of objections under clause (iii) shall not operate to stay any reinstatement remedy contained in the preliminary order.

''(v) HEARINGS.—Hearings conducted pursuant to a request made under clause (iii) shall be conducted expeditiously and governed by the Federal Rules of Civil Procedure. If a hearing is not requested during the 30-day period prescribed in clause (iii), the preliminary order shall be deemed a final order that is not subject to judicial review.

''(B) REQUIREMENTS.—

''(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1)

through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(3) FINAL ORDER.—

''(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—

''(i) IN GENERAL.—Not later than 120 days after conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order that—

''(I) provides relief in accordance with this paragraph; or

''(II) denies the complaint.

''(ii) SETTLEMENT AGREEMENT.—At any time before issuance of a final order under this paragraph, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the air carrier, contractor, or subcontractor alleged to have committed the violation.

''(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the air carrier, contractor, or subcontractor that the Secretary of Labor determines to have committed the violation to—

''(i) take action to abate the violation;

''(ii) reinstate the complainant to the former position of the complainant and ensure the payment of compensation (including back pay) and the restoration of terms, conditions, and privileges associated with the employment; and

''(iii) provide compensatory damages to the complainant.

''(C) COSTS OF COMPLAINT.—If the Secretary of Labor issues a final order that provides for relief in accordance with this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the air carrier, contractor, or subcontractor named in the order an amount equal to the aggregate amount of all costs and expenses (including attorney and expert witness fees) reasonably incurred by the complainant (as determined by the Secretary of Labor) for, or in connection with, the bringing of the complaint that resulted in the issuance of the order.

''(4) FRIVOLOUS COMPLAINTS.—A complaint brought under this section that is found to be frivolous or to have been brought in bad faith shall be governed by Rule 11 of the Federal Rules of Civil Procedure.

''(5) REVIEW.—

''(A) APPEAL TO COURT OF APPEALS.—

''(i) IN GENERAL.—Not later than 60 days after a final order is issued under paragraph (3), a person adversely affected or aggrieved by that order may obtain review of the order in the United States court of appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of that violation.

''(ii) REQUIREMENTS FOR JUDICIAL REVIEW.—A review conducted under this paragraph shall be conducted in accordance with chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order that is the subject of the review.

''(B) LIMITATION ON COLLATERAL ATTACK.—An order referred to in subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

''(6) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—

''(A) IN GENERAL.—If an air carrier, contractor, or subcontractor named in an order issued under paragraph (3) fails to comply with the order, the Secretary of Labor may file a civil action in the United States district court for the district in which the violation occurred to enforce that order.

''(B) RELIEF.—In any action brought under this paragraph, the district court shall have jurisdiction to grant any appropriate form of relief, including injunctive relief and compensatory damages.

''(7) ENFORCEMENT OF ORDER BY PARTIES.—

''(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order is issued under paragraph (3) may commence a civil action against the air carrier, contractor, or subcontractor named in the order to require compliance with the order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the order.

''(B) ATTORNEY FEES.—In issuing any final order under this paragraph, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any party if the court determines that the awarding of those costs is appropriate.

''(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

''(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of an air carrier, or contractor or subcontractor of an air carrier who, acting without direction from the air carrier (or an agent, contractor, or subcontractor of the air carrier), deliberately causes a violation of any requirement relating to air carrier safety under this subtitle or any other law of the United States.

''(e) CONTRACTOR DEFINED.—In this section, the term 'contractor' means a company that performs safety-sensitive functions by contract for an air carrier.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 421 of title 49, United States Code, is amended by adding at the end the following:

''SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

''42121. Protection of employees providing air safety information.

(c) CIVIL PENALTY.—Section 46301(a)(1)(A) of title 49, United States Code, is amended by striking ''subchapter II of chapter 421,'' and inserting ''subchapter II or III of chapter 421,''.

SEC. 3. DEPUTIZING OF STATE AND LOCAL LAW ENFORCEMENT OFFICERS.

(a) DEFINITIONS.—In this section:

(1) AIRCRAFT.—The term ''aircraft'' has the meaning given that term in section 40102 of title 49, United States Code.

(2) AIR TRANSPORTATION.—The term ''air transportation'' has the meaning given that term in section 40102 of title 49, United States Code.

(3) ATTORNEY GENERAL.—The term ''Attorney General'' means the Attorney General of the United States.

(b) ESTABLISHMENT OF A PROGRAM TO DEPUTIZED LOCAL LAW ENFORCEMENT OFFICERS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall—

(A) establish a program under which the Attorney General may deputize State and local law enforcement officers as Deputy United States Marshals for the limited purpose of enforcing Federal laws that regulate security on board aircraft, including laws relating to violent, abusive, or disruptive behavior by passengers of air transportation; and

(B) encourage the participation of law enforcement officers of State and local governments in the program established under subparagraph (A).

(2) CONSULTATION.—In establishing the program under paragraph (1), the Attorney General shall consult with appropriate officials of—

(A) the Federal Government (including the Administrator of the Federal Aviation Administration or a designated representative of the Administrator); and

(B) State and local governments in any geographic area in which the program may operate.

(3) TRAINING AND BACKGROUND OF LAW ENFORCEMENT OFFICERS.—

(A) IN GENERAL.—Under the program established under this subsection, to qualify to serve as a Deputy United States Marshal under the program, a State or local law enforcement officer shall—

(i) meet the minimum background and training requirements for a law enforcement officer under part 107 of title 14, Code of Federal Regulations (or equivalent requirements established by the Attorney General); and

(ii) receive approval to participate in the program from the State or local law enforcement agency that is the employer of that law enforcement officer.

(B) TRAINING NOT FEDERAL RESPONSIBILITY.—The Federal Government shall not be responsible for providing to a State or local law enforcement officer the training required to meet the training requirements under subparagraph (A)(i). Nothing in this subsection may be construed to grant any such law enforcement officer the right to attend any institution of the Federal Government established to provide training to law enforcement officers of the Federal Government.

(c) POWERS AND STATUS OF DEPUTIZED LAW ENFORCEMENT OFFICERS.—

(1) IN GENERAL.—Subject to paragraph (2), a State or local law enforcement officer that is deputized as a Deputy United States Marshal under the program established under subsection (b) may arrest and apprehend an individual suspected of violating any Federal law described in subsection (b)(1)(A), including any individual who violates a provision subject to a civil penalty under section 46301 of title 49, United States Code, or section 46302, 46303, 46504, 46505, or 46507 of that title, or who commits an act described in section 46506 of that title.

(2) LIMITATION.—The powers granted to a State or local law enforcement officer deputized under the program established under subsection (b) shall be limited to enforcing Federal laws relating to security on board aircraft in flight.

(3) STATUS.—A State or local law enforcement officer that is deputized as a Deputy United States Marshal under the program established under subsection (b) shall not—

(A) be considered to be an employee of the Federal Government; or

(B) receive compensation from the Federal Government by reason of service as a Deputy United States Marshal in the program.

(d) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to—

(1) grant a State or local law enforcement officer that is deputized under the program under subsection (b) the power to enforce any Federal law that is not described in subsection (c); or

(2) limit the authority that a State or local law enforcement officer may otherwise exercise in the capacity under any other applicable State or Federal law.

(e) REGULATIONS.—The Attorney General may promulgate such regulations as may be necessary to carry out this section.

ADDITIONAL COSPONSORS

S. 135

At the request of Mr. DURBIN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 135, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for the health insurance costs of self-employed individuals, and for other purposes.

S. 285

At the request of Mr. MCCAIN, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 285, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 309

At the request of Mr. MCCAIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 309, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 341

At the request of Mr. CRAIG, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 341, a bill to amend the Internal Revenue Code of 1986 to increase the amount allowable for qualified adoption expenses, to permanently extend the credit for adoption expenses, and to adjust the limitations on such credit for inflation, and for other purposes.

S. 343

At the request of Mr. BOND, the names of the Senator from Florida (Mr. MACK), the Senator from Idaho (Mr. CRAPO), and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 343, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 414

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 414, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind, and for other purposes.

S. 434

At the request of Mr. BREAUX, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 434, a bill to amend the Internal Revenue Code of 1986 to simplify the method of payment of taxes on distilled spirits.

S. 445

At the request of Mr. JEFFORDS, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 445, a bill to amend title XVIII of the Social Security Act to require the Secretary of Veterans Affairs and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Veterans Affairs with medicare reimbursement for medicare healthcare services provided to certain medicare-eligible veterans.

S. 459

At the request of Mr. HATCH, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 459, a bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on private activity bonds.

S. 472

At the request of Mr. GRASSLEY, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 472, a bill to amend title XVIII of the Social Security Act to provide certain medicare beneficiaries with an exemption to the financial limitations imposed on physical, speech-language pathology, and occupational therapy services under part B of the medicare program, and for other purposes.

S. 661

At the request of Mr. ABRAHAM, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 661, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 662

At the request of Mr. CHAFEE, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 662, a bill to amend title XIX of the Social Security Act to provide medical assistance for certain women screened and found to have breast or cervical cancer under a federally funded screening program.

S. 680

At the request of Mr. HATCH, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 680, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, and for other purposes.

S. 757

At the request of Mr. LUGAR, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 757, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions in order to ensure coordination of United States policy with respect to trade, security, and human rights.

S. 774

At the request of Mr. BREAUX, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 774, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for meal and entertainment expenses of small businesses.

S. 796

At the request of Mr. WELLSTONE, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 796, a bill to provide for full parity with respect to health insurance coverage for certain severe biologically-based mental illnesses and to prohibit limits on the number of mental illness-related hospital days and outpatient visits that are covered for all mental illnesses.

S. 805

At the request of Mr. DURBIN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 805, a bill to amend title V of the Social Security Act to provide for the establishment and operation of asthma treatment services for children, and for other purposes.

S. 868

At the request of Mr. GRAHAM, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 868, a bill to make forestry insurance plans available to owners and operators of private forest land, to encourage the use of prescribed burning and fuel treatment methods on private forest land, and for other purposes.

S. 880

At the request of Mr. INHOFE, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of S. 880, a bill to amend the Clean Air Act to remove flammable fuels from the list of substances with respect to which reporting and other activities are required under the risk management plan program.

S. 902

At the request of Mr. TORRICELLI, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 902, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low-income individuals infected with HIV.

S. 918

At the request of Mr. KERRY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 918, a bill to authorize the Small Business Administration to provide financial and business development assistance to military reservists' small business, and for other purposes.

S. 922

At the request of Mr. ABRAHAM, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from South Carolina (Mr. THURMOND), and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 922, a bill to prohibit the use of the ''Made in the USA'' label on products of the Commonwealth of the Northern Mariana Islands and to deny such products duty-free and quota-free treatment.

S. 965

At the request of Mr. JEFFORDS, the name of the Senator from Nevada (Mr.