S. 1176. A bill to provide for greater access to child care services for Federal employees; to the Committee on Governmental Affairs.

By Mr. ERICKSON (for himself, Mr. KERREY, and Mr. GRASSLEY):

S. 1177. A bill to amend the Food Security Act of 1985 to permit the harvesting of crops on land held in conservation reserve contracts for recovery of biomass used in energy production; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DASCHLE:

S. 1178. A bill to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canals Project in the Oahe Irrigation Project, South Dakota, to the Commission of School and Public Lands of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. BOXER:

S. 1179. A bill to amend title 18, United States Code, to prohibit the sale, distribution, or other transfer of any type of firearm to a juvenile, with certain exceptions; to the Committee on the Judiciary.

By Mr. DODD, Mr. DASCHLE, Mrs. MURRAY, Mr. SCHUMER, Mr. LEVIN, and Mr. DORGAN:

S. 1180. A bill to amend the Elementary and Secondary Education Act of 1965, to reauthorize and make improvements to that Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LEAHY:

S. 1181. A bill to appropriate funds to carry out the commodity supplemental food program during fiscal year 2000; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOMENICI:

S. 1182. A bill to authorize the use of flat grave markers to extend the useful life of the Santa Fe National Cemetery, New Mexico, and to preserve the honor and choice of being buried in the cemetery; to the Committee on Veterans Affairs.

By Mr. NICKLES:

S. 1183. A bill to direct the Secretary of Energy to convey to the city of Bartlesville, Oklahoma, the former site of the NIPER facility of the Department of Energy; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself and Mr. KYL):

S. 1184. A bill to authorize the Secretary of Agriculture to dispose of land for recreation or other public purposes; to the Committee on Energy and Natural Resources.

By Mr. ABRAHAM (for himself, Mr. LIEBERMAN, Mr. HATCH, Mr. McCAIN, Mr. MCCONNELL, Mr. LOTT, Mr. BOND, Mr. ASHCROFT, Mr. COVERDALL, Mr. NICKLES, Mr. BROWNBACK, Mr. GORDON, Mr. GRASSLEY, Mr. SESSIONS, Mr. BURNS, Mr. INHOEFEN, Mr. HELMS, Mr. ALLARD, Mr. HAGEL, Mr. MACK, Mr. BURNING, Mr. JEFFORDS, Mr. DINEANE, Mr. DEGRAAF, MR. HUTCHINSON, and Mr. ENZI):

S. 1185. A bill to provide small business certain protections from litigation excesses and to limit the product liability of non-manufacturer product sellers; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. BROWNBACK (for himself, Mr. FRIST, Mr. HUTCHINSON, Mr. LIEBERMAN, and Mr. SESSIONS):

S. Res. 109. A resolution relating to the activities of the National Islamic Front government in Sudan; to the Committee on Foreign Relations.

By Mrs. HUTCHISON (for herself, Mrs. FEINSTEIN, Mr. LOTT, Mr. DASCHLE, Mr. MACK, Mr. DOMENICI, Mr. ABRAHAM, Mr. BAYH, Mr. BINGHAM, Mr. BOXER, Mr. BREAUX, Mr. BRYAN, Mr. BUNNING, Mr. BURNS, Mr. CAMPBELL, Ms. COLLINS, Mr. DEWINE, Mr. ENZI, Mr. GORTON, Mr. GRAMM, Mr. GRASSLEY, Mr. HELMS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. LANDRIEU, Mr. LAUTENBERG, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICHOLS, Mr. ROBB, Mr. SARBANES, Mr. SCHUMER, Mr. SMITH of Oregon, Ms. SNEW, Mr. STEVENS, Mr. THOMPSON, Mr. TORRICELLI, Mr. VANCE, Mr. BAUCUS, Mr. BROWNBACK, Mr. DURBIN, Mr. ROTH, Mr. LIEBERMAN, Mr. WELLSTONE, Mr. ALLARD, Mr. BIDEN, and Mr. EDWARDS):

S. Res. 110. A resolution designating June 5, 1999, as "National Race for the Cure Day"; considered and agreed to.

By Mr. GHAH (for himself, Mr. BURNS, Mr. SARBANES, Mr. SMITH of Oregon, Mrs. MURRAY, Mr. BOND, Mr. DASCHLE, Mr. DEWINE, Mr. ROBERTS, Mr. SIKULSKI, Mr. MACK, Mr. THURMOND, Mr. EDWARDS, Mr. Voinovich, Mr. Torricelli, Mr. Craig, Mr. Johnson, Mr. Grassley, Ms. Landrieu, Ms. Snowe, Mr. Levin, Mr. WARNER, Mr. ROBB, Mr. ENZI, Mr. LAUTENBERG, Mr. CRAPQ, Mr. Akaka, Mr. Gorton, Mr. DODD, Mr. DOMENICI, Mr. BREAUX, Mr. STEVENS, Mr. CLELAND, Mr. HAGEL, Mr. KENNEDY, Mr. ABRAHAM, Mr. DORGAN, Mrs. FEINSTEIN, Mr. KERRY, Mrs. BOXER, Mr. RICHARDSON, Mr. BYRD, Mr. INOUYE, Mr. BAYH, Mr. BINGHAM, Mr. BRYAN, Mr. LIEBERMAN, Mr. WYDEN, Mr. HOLLINGS, and Mr. GRASSLEY):

S. Res. 111. A resolution designating June 6, 1999, as "National Child's Day"; considered and agreed to.

By Mr. FEINGOLD:

S. Res. 112; considered and agreed to.

By Mr. SCHUMER (for himself, Mr. MOYNIHAN, Mr. MACK, and Mr. LIEBERMAN):

S. Con. Res. 36. A concurrent resolution concerning laws adverse to the original Palestine partition plan of November 29, 1947, and condemning the United Nations Commission on Human Rights for its April 27, 1999, resolution endorsing Palestinian self-determination on the basis of the original Palestine partition plan; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MIKULSKI (for herself, Mr. DODD, Mr. HOLLINGS, Mr. JEFFORDS, Mr. BAYH, Mr. BINGHAM, Mr. BURTON, Mr. MURRAY, and Mr. WELLSTONE):

S. 1142. A bill to protect the right of a member of a health maintenance organization to receive continuing care at a facility selected by that member, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SENATORS' ACCESS TO CONTINUING CARE ACT OF 1999

Ms. MIKULSKI. Mr. President, I rise today to introduce the "Seniors' Access to Continuing Care Act of 1999", a bill to protect seniors' access to treatment in the setting of their choice and to ensure that seniors who reside in continuing care communities and nursing and other facilities have the right to return to that facility after a hospitalization.

As our population ages, more and more elderly will become residents of various long term care facilities. These include independent living, assisted living and nursing facilities, as well as continuing care retirement communities (CCRCs), which provide the entire continuum of care. In Maryland alone there are 122 CCRCs and 32 978 residents in over 200 licenced nursing facilities.

More and more individuals and couples are choosing to enter continuing care communities because of the community environment they provide. CCRC's provide independent living, assisted living and nursing care, usually on the same campus—the Continuum of Care. Residents find safety, security and peace of mind. They often prepare for the continuum of care, and if one spouse needs additional care, it can be provided right there, where the other spouse can remain close by.

Most individuals entering a nursing facility do so because it is medically necessary, because they need a high level of care that they can no longer receive in their homes or in a more independent setting, such as assisted living. But residents are still able to form relationships with other residents and staff and consider the facility their "home". I have visited many of these facilities and have heard from both residents and operators. They have told me about a serious and unexpected problem encountered with returning to their facility after a hospitalization.

Hospitalization is traumatic for anyone, but particularly for our vulnerable seniors. We know that having comfortable surroundings and familiar faces can aid dramatically in the recovery process. So, we should do everything we can to make sure that recovery process is not hindered.

Today, more and more seniors are joining managed care plans. This trend is likely to accelerate given the expansion of managed care choices under the 1997 Balanced Budget Act. As more and more decisions are made based on financial considerations, choice often gets lost. Currently, a resident of a continuing care facility who needs additional care, for example, can stay together, and if one spouse needs additional care, it can be provided right there, where the other spouse can remain close by. More and more seniors are joining managed care plans. This trend is likely to accelerate given the expansion of managed care choices under the 1997 Balanced Budget Act. As more and more decisions are made based on financial considerations, choice often gets lost. Currently, a resident of a continuing care facility who needs additional care, for example, can stay together, and if one spouse needs additional care, it can be provided right there, where the other spouse can remain close by.
the CCRC or nursing facility for post acute follow up care. The MCO can dictate that the resident go to a different facility that is in the MCO network for that follow up care, even if the home facility is qualified and able to provide the needed care.

Let me give you a few examples:

In the fall of 1996, a resident of Applewood Estates in Freehold, New Jersey was admitted to the hospital. Upon discharge, her HMO would not permit her to return to Applewood and sent her to another facility in Jackson. The following year, the same thing happened, but after strong protest, the HMO finally relented and permitted her to return to Applewood. She should not have had to protest, and many seniors are unable to assert themselves.

A Florida couple in their mid-80's were separated by a distance of 20 miles after the wife was discharged from a hospital to an HMO-participating nursing home located on the opposite side of the county. This was a hardship for the husband who had difficulty driving and for the wife who longed to return to her home, a CCRC. The CCRC had room in its skilled nursing facility on campus. Despite pleas from the HMO, the husband was not permitted to return to his home, a CCRC. The couple would not allow the wife to recuperate in a familiar setting, close to her husband and friends. She later died at the HMO nursing facility, without the benefit of frequent visits by her husband and friends.

Collington Episcopal Life Care Community, in my home state of Maryland, reports ongoing problems with its frail elderly having to obtain psychiatric services, including medication monitoring, off campus, even though the services are available at Collington—how disruptive to good patient care!

On a brighter note, an Ohio woman's husband was in a nursing facility. When she was hospitalized, and then discharged, she was not permitted to return to that same nursing facility because of the Ohio law that protected that right.

Seniors coming out of the hospital should not be passed around like a baton. Their care should be decided based on what is clinically appropriate, not what is financially mandated. Why is that important? What are the consequences?

Residents consider their retirement community or long term care facility as their home. And being away from home for any reason can be very difficult. The trauma of being in unfamiliar surroundings can increase recovery time. The staff of the resident's 'home' facility often knows best about the person's chronic care and service needs. Being away from 'home' separates the resident from his or her emotional support system. Refusal to allow a resident to return to his or her home takes away the person's choice. All of this leads to greater recovery time and unnecessary trauma for the patient.

And should a woman's husband have to hitch a ride or catch a cab in order to see his recovering spouse if the facility where they live can provide the care? NO. Retirement communities and other long term care facilities are not just health care facilities. They provide an entire living environment for their residents. As their home. We need to protect the choice of our seniors to return to their "home" after a hospitalization. And that is what my bill does.

It protects residents of CCRC's and nursing facilities by: enabling them to return to their facility after a hospitalization; and requiring the resident's insurer or MCO to cover the cost of the care, even if the insurer does not have a contract with the resident's facility.

In order for the resident to return to the facility and have the services covered by the insurer or MCO: 1. The service to be provided must be a service that the insurer covers; 2. The resident must have resided at the facility before hospitalization, have a right to return, and choose to return; 3. The facility must have the capacity to provide the necessary service and meet applicable licensing and certification requirements of the state; 4. The facility must be willing to accept substantially similar payment as a facility under contract with the insurer or MCO.

My bill also requires an insurer or MCO to pay to one of its beneficiaries, without a prior hospital stay, if the service is necessary to prevent a hospitalization of the beneficiary and the service is provided as an additional benefit. Lastly, the bill requires an insurer or MCO to provide coverage to a beneficiary for services provided at a facility in which the beneficiary's spouse already resides, even if the facility is not under contract with the MCO, provided the other requirements are met.

In conclusion, Mr. President, I am committed to providing a safety net for our seniors—this bill is part of that safety net. Seniors deserve quality, affordable and accessible long term care. This bill offers those residing in retirement communities and long term care facilities assurance to have their choices respected, to have where they reside recognized as their 'home', and to be permitted to return to that 'home' after a hospitalization. It ensures that spouses can be together as long as possible. And it ensures access to care in order to PREVENT a hospitalization. I want to thank my co-sponsors--Dodd, Holingsworth, Jeffords, Kennedy, Murray and Wellstone for their support. I urge my colleagues to join me in passing this important measure to protect the rights of seniors and their access to continuing care.

By Mr. VOINOVICh (for himself, Mr. Chafee, Mr. Jeffords, Mr. Moynihan, Mr. Warner, Mrs. Hutchison, Mr. Reid, Mr. Lautenberg, and Mr. Leahy):

S. 1144. A bill to provide increased flexibility in use of highway funding, and for other purposes; to the Committee on Environment and Public Works.

SURFACE TRANSPORTATION ACT OF 1999

Mr. VOINOVICh. Mr. President, I am pleased today to introduce the Surface Transportation Act of 1999 along with my colleagues, Chairman Chafee of the Senate Environment and Public Works Committee, Senators Moynihan, Jeffords, Reid, Warner, Hutchison, Reid, Lautenberg and Leahy. The purpose of this bill is to provide additional flexibility to the States and localities in implementing the Federal transportation program.

Let me briefly describe the three most significant provisions of the bill. (1) State infrastructure banks—the bill authorizes all 50 states to participate in the State Infrastructure Bank (SIB) program. SIBs are revolving funds, capitalized with Federal and State contributions. According to the U.S. Department of Transportation, 39 states have made loans and signed agreements for an additional $2.3 billion—resulting in a leverage ratio of about 5.6 to 1 (total project amount to investment of SIB investment).

(2) High priority project flexibility—the bill includes a provision that allows States the flexibility to advance a "high priority" project faster than is allowed by TEA-21, which provides the funding for high priority projects spread over the six-year life of TEA-21. The provision would allow States to accelerate the construction of their "high priority" projects by borrowing funds from other highway funding categories (e.g., NHS, STP, CMAQ). The flexibility is particularly important for states who are ready to construct some of the high priority projects in the first few years of TEA-21, and without this provision, may need to defer completion until the later years of TEA-21.

(3) Funding flexibility for intercity passenger rail—the bill also gives States the option to use their National Highway System, Congestion Mitigation...
and Air Quality funds, and Surface Transportation Program funds to fund capital expenses associated with intercity passenger rail service, including high-speed rail service. The National Governors' Association, has passed a resolution requesting this additional flexibility for states to meet their transportation needs. In testimony before the committee, the U.S. Conference of Mayors and the National Council of State Legislatures also requested this additional flexibility.

In closing, I would like to encourage my colleagues to support this bill, especially for members whose states who are supportive of the State Infrastructure Bank program, have high priority projects that are ready-to-go, or would like the option of using available Federal transportation funding to support intercity passenger rail needs in their state.

I encourage my colleagues to support this important legislation. I ask that a section of the bill be printed into the RECORD.

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

**Summary of the Surface Transportation Act of 1999**

The purpose of this bill is to provide additional flexibility to States and localities in implementing the Federal transportation program. The bill will not affect the funding formula agreed to in TEA 21 or modify the overall level of funding for any program.

**Section by Section**

Section 1—Short Title

Section 2—State Infrastructure Banks

This section authorizes all 50 states to participate in the State Infrastructure Bank (SIB) program. SIBs are revolving funds, capitalized with Federal and State contributions, which are empowered to make loans and provide other forms of non-grant assistance to transportation projects. Before the Transportation Equity Act for the 21st Century (TEA 21) was enacted, transferring Federal highway funding to a State Infrastructure Bank was an option available to all 50 states, but not all states participated. Regrettably, TEA 21 took the program back.

Section 3—High Priority Project Flexibility

Subsection (a) allows States the flexibility to advance a "high priority" project faster than is allowed by TEA 21, which provides the funding for high priority projects spending over the six-year life of TEA 21. This provision would allow States to accelerate the construction of their "high priority" projects and borrow funds from other highway funding categories (e.g., NHS, STP, CMAQ). This flexibility is particularly important for states that are ready to construct some of the highest priority projects for the first time in recent years.

Subsection (b) provides States the option to use their National Highway System, Congestion Mitigation and Air Quality funds, and Surface Transportation Program funds to fund capital expenses associated with intercity passenger rail service, including high-speed rail service. The National Governors' Association has passed a resolution requesting this additional flexibility for States to meet their transportation needs. In testimony before the committee, the U.S. Conference of Mayors and the National Council of State Legislatures also requested this additional flexibility.

Subsection (c) specifies how funds transferred for intercity passenger rail service are to be administered.

Section 5—Historic Bridges

This section eliminates a restriction that caps the amount of Federal-aid highway funds that can be spent on a historic bridge to an amount equal to the cost of demolition. The restriction unnecessarily limits States' flexibility to preserve historic bridges, and we should eliminate these historic bridges for the enhancements program for alternative transportation uses. A similar provision was included in the Senate's version of the Transportation Reauthorization, but was not considered by the conference due to time constraints.

Section 6—Accounting Simplification

This section makes a minor change to the distribution of Federal-aid highway funds that can be spent on a historic bridge to an amount equal to the cost of demolition. The restriction unnecessarily limits States' flexibility to preserve historic bridges, and we should eliminate these historic bridges for the enhancements program for alternative transportation uses. A similar provision was included in the Senate's version of the Transportation Reauthorization, but was not considered by the conference due to time constraints.

By Mr. LEAHY (for himself, Mr. INOUYE, Mr. SARBANES, Mr. REED, Mr. ROBB, Mr. AKAKA, Mr. SCHUMER, and Mrs. FEINSTEIN):

S. 1145. A bill to provide for the appointment of additional Federal circuit and district judges, and for other purposes; to the Committee on the Judiciary.

The Federal Judgeship Act of 1999

Mr. LEAHY. Mr. President, today I am introducing the Federal Judgeship Act of 1999. I am pleased that Senators INOUYE, SARBANES, REED, ROBB, AKAKA, and SCHUMER are joining me as original cosponsors of this measure.

Our bill creates 69 new judgeships across the country to address the increased caseloads of the federal judiciary. Specifically, our legislation would:

- Create 7 additional permanent judgeships and 4 temporary judgeships for the U.S. Courts of Appeal; create 33 additional permanent judgeships and 25 temporary judgeships for the U.S. District Courts; and convert 10 existing temporary federal judgeships to permanent positions.

This bill is based on the recommendations of the Judicial Conference of the United States, the non-partisan policy-making arm of the judicial branch. Federal judges across the nation believe that the continuing heavy caseload of our courts of appeals and district courts merit these additional judges. Indeed, the Chief Justice of the United States in his 1998 year-end report of the U.S. Judiciary declared: "The number of cases brought to federal courts is one of the most serious problems facing them today."

Chief Justice Rehnquist is right. The filings of cases in our Federal courts have increased since 1990. For instance, criminal case filings in Federal courts rose 15 percent in 1998—nearly tripling the 5.2 percent increase in 1997. The number of criminal cases filed since 1990 increased 25 percent with the number of federal judges increasing 10 percent. In fact, the filings of criminal cases and defendants reached their highest levels since the Prohibition Amendment was repealed in 1933.

Federal civil caseloads have similarly increased. For the eight-year period, total civil case filings have increased 22 percent in Federal courts. This increase includes jumps of 145 percent in personal injury product liability cases, 112 percent in civil rights filings, 71 percent in social security cases, 49 percent in copyright, patent and trademark filings, and 29 percent prisoner petitions from 1991 to 1998. But despite these dramatic increases in case filings, Congress has failed to authorize new judgeships since 1990, thus endangering the administration of justice in our nation's Federal courts.

Historically, every six years Congress has reviewed the need for new judgeships. In 1984, Congress passed legislation to address the need for additional judgeships. Six years later, in 1990, Congress again fulfilled its constitutional responsibility and enacted the Federal Judgeship Act of 1990 because of the dramatic increase in caseloads. In the last two Congresses, the Republican majorities failed to follow this tradition.

Two years ago the Judicial Conference requested an additional 55 judgeships to address the growing backlog. My legislation, based on the Judicial Conference's 1997 recommendations, S. 678, the Judicial Judgeship Act of 1997, languished in the Judicial Committee without action during both sessions of the last Congress.

It is now nine years since Congress last seriously reexamined the caseload of the federal judiciary and the need...
for more federal judges. Congress ignores the needs of the Federal judiciary at the peril of the American people. Overworked judges and heavy caseloads slow down the judicial process and delay justice. In some cases, justice is in danger of being denied because witness and evidence are lost due to long delays in citizens having their day in court.

We have the greatest judicial system in the world, the envy of people around the globe who are struggling for freedom. Our independence of our third, co-equal branch of government gives it the ability to act fairly and impartially. It is our judiciary that has for so long protected our fundamental rights and freedoms and served as a necessary check on overreaching by the other two branches, those more susceptible to the gusts of the political winds of the moment.

We are fortunate to have dedicated women and men throughout the Federal judiciary who are doing a tremendous job under difficult circumstances. They are examples of the hard-working public servants that make up the federal government. They deserve our respect and our support.

Let us act now to ensure that justice is not delayed or denied for anyone. I urge the Senate to enact the Federal Judgeship Act of 1999 without further delay.

By Mr. DASCHLE (for himself and Mr. ROCKEFELLER):

S. 1146. A bill to amend title 38, United States Code, to improve access of veterans to emergency medical care in non-VA facilities when there is a serious problem. It would authorize the VA to reimburse veterans enrolled in health maintenance organizations. I am disappointed that the Administration recommended ap-

proximately $18 billion for VA health care in FY 2000—almost the same amount it requested last year. They fear that if this flat-lined budget is enacted, the VA would be forced to make significant reductions in personnel, health care services and facilities. I share their concerns and agree that we simply cannot allow that to happen. On the con- 
mandatory, Congress and the Administration need to work together to provide the funds necessary to improve the health care that veterans receive.

Toward that end, and as we prepare to celebrate Memorial Day, I am reintroducing the Veterans’ Access to Emergency Care Act of 1999. I am pleased that Senator ROCKEFELLER, the distinguished Ranking Member of the Senate Veterans’ Affairs Committee, is joining me in this effort. This legislation, which was S. 2639 last year, calls for veterans to be reimbursed for emer-
gency care they receive at non-VA facilities. 

The problem addressed in the bill stems from the fact that veterans who rely on the VA for health care often do not have health care insurance. The emergen-

cy medical care they receive at non-VA facilities. According to the VA, veterans may only be reimbursed by the VA for emergency care at a non-VA facility that was not pre-authorized if all of the following criteria are met:

First, care must have been rendered for a medical emergency of such nature that any delay would have been life-threatening; second, the VA or other federal facilities were not feasibly available; and, third, the treatment must have been rendered for a service-connected disability, a condition associated with a service-connected disability, or for any disability of a veteran who has a 100-percent service-connected disability.

Many veterans who receive emer-
gency health care at non-VA facilities are able to meet the first two criteria. Unless they are 100-percent disabled, however, they generally fail to meet the third. Many have suffered heart attacks or other medical emergencies that were unrelated to their service-connected disabilities. Considering the enormous costs associated with emergency health care, current law has been financially and emo-
tionally devastating to countless vet-
ers with limited income and no other health insurance. The bottom line is that veterans are forced to pay for emergency care out of their own pocket-

ness because they can be stabilized and trans-
ferred to VA facilities.

During medical emergencies, vet-
ers often do not have a say about whether they should be taken to a VA or non-VA medical center. Even when they specifically ask to be taken to a VA facility, emergency medical person-
nel often transport them to a nearby hospital instead because it is the closest facility. In many emergencies, that is the only sound medical decision to make. It is simply unfair to penalize veterans who receive medical care at non-VA facilities. Veterans were asked to make enormous sac-
rifices for this country, and we should not turn our backs on them during their time of need.

There should be no misunder-
standing. This is a widespread problem that affects countless veterans in South Dakota and throughout the country. I would like to cite three examples of veterans being denied reim-
bursement for emergency care at non-VA facilities in western South Da-

kota.

The first involves Edward Sanders, who is a World War II veteran from Custer, South Dakota. On March 6, 1994, Edward was taken to the hospital in Custer because he was suffering chest pains. He was monitored for several hours before a doctor at the hospital called the VA Medical Center in Hot Springs and indicated that Edward was in need of emergency services. Al-

though Edward asked to be taken to a VA facility, VA officials advised him to seek care elsewhere. He was then transported by ambulance to the Rapid City Regional Hospital, where he underwent a cardiac catheterization and coronary artery bypass grafting. Because the emergency did not meet the criteria I mentioned previously, the VA did not reimburse Edward for the care he re-
ceived at Rapid City Regional. His medical bills totaled more than $50,000.

On May 17, 1997, John Lind suffered a heart attack while he was at work. John is a Vietnam veteran exposed to Agent Orange who served his country for 14 years until he was discharged in 1981. John lives in Rapid City, South Dakota, and he points out that he would have asked to be taken to the VA Medical Center in Fort Meade for care, but he was semi-conscious, and emergency medical personnel transported him to Rapid City Regional. After 4 days in the non-VA facility, John incurred nearly $20,000 in medical bills. Although he filed a claim with the VA for reimbursement, he was turned down because the case was not related to his service-connected disability.

Just over one month later, Delmer Paulson, a veteran from Quinn, South Dakota, suffered a heart attack on June 26, 1997. Since he had no other health care insurance, he asked to be taken to the VA Medical Center in Fort Meade. Again, despite his request, the emergency medical personnel transported him to Rapid City Regional. Even though Delmer was there for just over a day before being trans-
ferred to Fort Meade, he was charged with almost a $20,000 medical bill. Again, the VA refused to reimburse Delmer for the unauthorized medical care because the emergency did not meet VA criteria.

The Veterans’ Access to Emergency Care Act of 1999 would address this se-
rious problem. It would authorize the VA to reimburse veterans enrolled in the VA health care system for the cost of emergency care or services received in non-VA facilities when there is “a serious threat to the life or health of a veteran.” Rep. LANE EVANS introduced
similar legislation in the House of Representatives earlier this year. I am encouraged that the Administration's FY'90 budget request includes a proposal to allow veterans with service-connected disabilities to be reimbursed by the VA for emergency care they receive at non-VA facilities. This is a step in the right direction, but I think that all veterans enrolled in the VA's health care system—whether or not they have a service-connected disability—should be able to receive emergency care at non-VA facilities. I look forward to continuing to work with Senator ROCKEFELLER and my colleagues on both sides of the aisle to ensure that veterans receive the health care they deserve.

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. 1146

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 "Veterans' Access to Emergency Care Act of 1999." SEC. 2. EMERGENCY HEALTH CARE IN NON-DEPARTMENT OF VETERANS AFFAIRS FACILITIES FOR ENROLLED VETERANS.

(a) Definitions.—Section 1703 of title 38, United States Code, is amended—

(1) by striking "or part."' and inserting "or part.'';

(b) Contract Care.—Section 1703(a)(3) of such title is amended by striking "medical emergencies" and all that follows through "and inserting "an emergency medical condition of a veteran who is enrolled under section 1705 of this title or who is";

(c) Reimbursement for Expenses for Emergency Care.—Section 1728(a)(2) of such title is amended—

(1) by striking "or" before "(D)"; and

(2) by inserting after the semicolon at the end of the following: "(C) serious impairment to bodily functions; or"

(d) Pay—Section 1705 of such title is amended by adding at the end the following new subsection:

"(d) The Secretary shall require in a contract under section 1703(a)(3) of this title, and as a condition of payment under section 1728(a)(2) of this title, that payment by the Secretary for each such contract, or under such section, of a veteran enrolled under such section shall be made only after any payment that may be made with respect to such veteran under part B of the Medicare program and after any payment that may be made with respect to such treatment by a third-party insurance provider;".

(e) Effective Date.—The amendments made by this section shall apply with respect to care or services furnished on or after the date of the enactment of this Act.

Mr. ROCKEFELLER. Mr. President, I am pleased to offer my support to the Veterans' Access to Emergency Care Act of 1999. This bill will authorize VA to cover emergency care at non-Department of Veterans Affairs (VA) facilities for those veterans who have enrolled with VA for their health care. I join my colleague, Senator DASCHLE, in cosponsoring this valuable initiative and thank him for his leadership.

Currently, VA is restricted by law from authorizing payment of comprehensive emergency care services in non-VA facilities except to veterans with special eligibility. Most veterans who must rely on VA or pay out of pocket for emergency services.

I remind my colleagues that VA provides a standard benefits package for all veterans who are enrolled with the VA for their health care. In many ways, this is a generous benefits package, which includes such things as pharmaceuticals. Enrolled veterans are, however, missing out on one essential part of health care coverage: the standard benefits package does not allow for comprehensive emergency care. So, in effect, we are asking veterans to choose VA health care, but leaving them out in the cold when it comes to emergency care.

Mr. President, we have left too many veterans out in the cold already. When veterans call their VA health care provider in the middle of the night, many reach a telephone recording. This recording likely urges that veterans who have emergencies dial "911." Veterans who call for help are then transported to non-VA facilities. After the emergency is over, veterans are presented with huge bills. These bills which VA cannot, in most cases, pay and which are, therefore, potentially financially crushing. We cannot abandon these veterans in their time of need.

Let me tell my colleagues about some of the problems that veterans face because of the restriction on emergency care. In January of this year, a cent service-connected veterans, they then was billed for the care—$900, almost $800 at the private hospital, the net amount due after Medicare paid its portion. This is an incredible burden for a veteran and his wife whose sole income are their small Social Security checks.

An example from my state, in February 1998, a 100 percent service-connected veteran with post-traumatic stress disorder suffered an acute onset of mid-sternal chest pain, and an ambulance was called. The ambulance took him to a non-VA hospital, a non-VA facility. Staff at the private facility contacted the Clarksburg VA Medical Center and was told there were no ICU beds available and advised transferring the patient to the Pittsburgh VA Medical Center.

When contacted, Pittsburgh refused the patient because of the length of necessary transport. A call to the Beckley VAMC was also fruitless. The doctor was advised by VA staff that the trip to Beckley would be "too risky for the three hour ambulance travel."

The veteran was kept overnight at the private hospital for observation, and then was billed for the care—$900, after Medicare paid its share.

Two more West Virginia cases quickly come to mind involving 100 percent service-connected combat veterans, both of whom had to turn to the private sector in emergency situations.

One veteran had a heart attack and as I recall, his heart stopped twice before the ambulance got him to the closest non-VA hospital. The Huntington VA Medical Center was his health care provider and it was more than an hour away from the veteran's home. This veteran had Medicare but he was still left with a sizeable medical bill for the emergency services that saved his life.

The other veteran suffered a fall that rendered him unconscious and caused considerable physical damage. He also was taken to the closest non-VA hospital—and was left with a $4,000 bill after Medicare paid its share.

Both contacted me to complain about the unfairness of these bills. As 100 percent service-connected veterans, they represent a truly unique health care population. I can assure you that neither of them, nor the other two West Virginia veterans I referred to, expected to be in the situation in which they all
By Mr. GRAHAM (for himself, Mr. JEFFORDS, Mr. KOHL, and Mr. HUTCHISON).

S. 1147, bill to amend the Internal Revenue Code of 1986 to provide a credit against tax employers who provide child care assistance for dependents of their employees, and for other purposes; to the Committee on Finance.

WORKSITE CHILD CARE DEVELOPMENT ACT OF 1999

Mr. GRAHAM. Mr. President, I am extremely proud to introduce the “Worksite Child Care Development Act of 1999” with Senators HUTCHISON, KOHL, and JEFFORDS. This measure will make child care more accessible and affordable to the many millions of Americans who find it not only important, but necessary, to work.

This legislation would grant tax credits to employers who assist their employees with child care expenses by providing:

A one-time 50 percent tax credit not to exceed $100,000 for startup expenses, including expansion and renovations of an employer-sponsored child care facility;

A 50 percent tax credit for employers not to exceed $25,000 annually for the operating costs to maintain a child care facility; and

A 50 percent tax credit yearly not to exceed $50,000 for this employers who provide payments or reimbursements for their employees' child care costs.

Why is this legislation important?

First, the work place has changed over the years. In 1947, just over one-quarter of all mothers will children between 6 and 17 years of age were in the labor force. By 1996, their labor force participation rate had tripled.

Indeed, the Bureau of Labor Statistics reports that 65 percent of all women with children under 18 years of age are now working and that the growth in the number of working women will continue into the next century.

Second, child care is one of the most pressing social issues of the day. It impacts every family, including the poor, the working poor, middle class families, and stay-at-home parents.

Last June, I hosted a Florida statewide summit on child care where over 500 residents of my State shared with me their concerns and frustration on child care issues.

They told me that quality child care, when available, is often not affordable.

Those who qualify told me there are often long waiting lists for subsidized child care.

They told me that working parents struggle to find ways to cope with the often conflicting time demands of both work and child care.

They told me that their school-age children are at risk because before and after-school supervised care programs are not readily available.

Mr. President, quality child care should be a concern to all Americans. The care and nurturing that children receive early in life has a profound influence on their future—and their future is our future.

In the 21st century, women will comprise more than 60 percent of all new entrants into the labor market. A large proportion of these women are expected to be mothers of children under the age of 6.

The implications for employers are clear. They understand that our Nation's work force is changing rapidly and that those employers who can help their employees with child care will have a competitive advantage. In Florida, for instance, Ryder System's Kids' Corner in Miami has enrolled approximately 100 children in a top-notch day care program.

I commend the many corporations in Florida and across the nation that have taken the important step of providing child care for its employees. Many smaller businesses would like to join them, but do not have the resources to offer child care to employees. Our legislation would help to lower the obstacle to on-site child care.

Mr. President, we believe that this legislation will assist businesses in providing attractive, cost-effective tools for recruiting and retaining employees in a tight labor market.

We believe that encouraging businesses to help employees care for children will make it easier for parents to be more involved in their children's education.

Most of all, Mr. President, we believe that this bill is good for employers and families and will go far in addressing the issue of child care for working families of America. I urge all of my colleagues to support this important piece of legislation.

Mr. President, I ask unanimous consent that letters of support from the Chief Executive Officers of the Ryder Corporation and Bright Horizons Corporation be included in the RECORD.

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

BRIGHT HORIZONS, FAMILY SOLUTIONS, May 6, 1999.

Mr. President, I commend the many corporations in Florida and across the nation that have taken the important step of providing child care for its employees. Many smaller businesses would like to join them, but do not have the resources to offer child care to employees. Our legislation would help to lower the obstacle to on-site child care.

Mr. President, we believe that this legislation will assist businesses in providing attractive, cost-effective tools for recruiting and retaining employees in a tight labor market.

We believe that encouraging businesses to help employees care for children will make it easier for parents to be more involved in their children's education.

Most of all, Mr. President, we believe that this bill is good for employers and families and will go far in addressing the issue of child care for working families of America. I urge all of my colleagues to support this important piece of legislation.

Mr. President, I ask unanimous consent that letters of support from the Chief Executive Officers of the Ryder Corporation and Bright Horizons Corporation be included in the RECORD.

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

BRIGHT HORIZONS, FAMILY SOLUTIONS, May 6, 1999.

Hon. ROBERT GRAHAM, U.S. Senator, Hart Senate Office Building, Washington, DC.

Dear Senator GRAHAM: Thank you for allowing our company the opportunity to review your comments on the Worksite Child Care Development Act of 1999. We strongly support this bill and want to do all that we can to support you as the primary sponsor.

We applaud your strategy of targeting tax credits for small businesses. You approach makes perfect sense. Experience has shown that employer-supported child care is not as financially feasible for many small businesses. Since the majority of working parents work for small businesses, their needs have not been adequately addressed. We believe that your bill will have far reaching impact by making it possible for a greater number of working parents to benefit from support offered by their employers.

For your consideration, we respectfully submit comments and suggestions, which we think will strengthen the impact of your bill. We welcome the opportunity to share our experience with you and to discuss these or any other ideas you may have, so please feel free to call me.

Thank you for your willingness to champion the cause for more and better child care for today's working families. Our company shares this important mission with you. We look forward to supporting you in your efforts to pass this historic legislation.

ROGER H. BROWN, President.
By Mr. DASCHLE (for himself and Mr. KERREY):

S. 1148.

A bill to provide for the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska development trust fund act.

Mr. DASCHLE. Mr. President, today I am introducing legislation to compensate the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for losses the tribes suffered when the Fort Randall and Gavins Point dams were constructed on the Missouri River over four decades ago.

As a result of the construction of these dams, more than 3,259 acres of land owned by the Yankton Sioux Tribe was flooded or subsequently lost to erosion. Approximately 600 acres of land located near the Santee village and 400 acres on the Niobrara Island of the Santee Sioux Tribe Indian Reservation also was flooded. The flooding of these fertile lands struck a significant blow to the economies of these tribes, and the tribes have never adequately been compensated for that loss.

Passage of this legislation will help compensate the tribes for their losses by providing the resources necessary to rebuild their infrastructure and their economy.

To appreciate fully the need for this legislation, it is important to understand the historic events that preceded its development. The Fort Randall and Gavins Point dams were constructed in South Dakota pursuant to the Flood Control Act (58 Stat. 887) of 1944. That legislation authorized implementation of the Missouri River Basin Pick-Sloan Plan for water development and flood control for downstream states.

The Fort Randall dam, which was an integral part of the Pick-Sloan project, initially flooded 2,851 acres of tribal land, forcing the relocation and resettlement of at least 20 families, including the traditional and self-sustaining community of White Swan, one of the four major settlement areas on the reservation. On other reservations, such as Crow Creek, Lower Brule, Cheyenne River, Standing Rock, and Fort Berthold, communities affected by the Pick-Sloan dams were relocated to higher ground. In contrast, the White Swan community was completely displaced and its residents dispersed to whatever areas they could settle and stay again.

The bill I am introducing today is the latest in a series of laws that have been enacted in the 1990s to address similar claims by other tribes in South Dakota for losses caused by the Pick-Sloan dams. Congress has granted the Three Affiliated Tribes of Fort Berthold Reservation and the Standing Rock Sioux Tribe compensation for direct damages, including lost reservation infrastructure, relocation and resettlement expenses, the general re habilitation of the tribes, and for unfulfilled government commitments regarding replacement facilities.

In 1996 Congress enacted legislation compensating the Crow Creek tribe for its losses, while in 1997, legislation was enacted to compensate the Lower Brule tribe. The Yankton Sioux Tribe and Santee Sioux Tribe have not yet received fair compensation for their losses. Their time has come.

Mr. President, the flooding caused by the Pick-Sloan dams touched every aspect of life on the Yankton and Santee Sioux reservations, as large portions of their communities were forced to relocate wherever they could find shelter. Never were these effects fully considered by the federal government when acquiring these lands or designing the Pick-Sloan projects.

The Yankton Sioux Tribe and Santee Sioux Tribe of Nebraska Development Trust Fund Act represents an important step in our continuing effort to compensate fairly the tribes of the Missouri River Basin for the sacrifices they made decades ago for the construction of the dams. Passage of this legislation not only will right a historic wrong, but it will improve the lives of Native Americans living on these reservations.

It has taken decades for us to recognize the unfulfilled federal obligation to compensate the tribes for the effects of the dams. We cannot, of course, recreate the lost lands that are now covered with water and return them to the tribes. We can, however, help provide the resources necessary to the tribe to improve the infrastructure on their reservation land, enhance opportunities for economic development that will benefit all members of the tribe. Now that we have reached this stage, the importance of passing this legislation as soon as possible cannot be stated too strongly.

I strongly urge my colleagues to approve this legislation this year. Providing compensation to the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska for past harm inflicted by the federal government is a long-overdue and long-delayed remedy for the harm that I ask unanimous consent that the text of the bill be printed in the RECORD.

Sincerely, 

Tony.
(A) The Yankton Sioux Tribe should receive an aggregate amount equal to $34,323,743 for—

(1) the loss value of 2,851.40 acres of Indian land located near the Fort Randall Dam and Reservoir of the Pick-Sloan program; and

(2) the use value of 408.40 acres of Indian land on the reservation of that Indian tribe that was lost as a result of stream bank erosion that has occurred since 1953 and

(B) the Santee Sioux Tribe should receive an aggregate amount equal to $8,132,838 for the loss value of—

(i) 593.10 acres of Indian land located near the Santee village; and

(ii) 484.12 acres on Niobrara Island of the Santee Reservation that was used for the Gavins Point Dam and Reservoir.

SEC. 3. DEFINITIONS.

In this Act:

(1) INDIAN TRIBE.—The term ‘‘Indian tribe’’ has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(e)).

(2) PROGRAM.—The term ‘‘Program’’ means the power program of the Pick-Sloan Missouri River Basin program, administered by the Western Area Power Administration.

(3) SIOUX TRIBE.—The term ‘‘Santee Sioux Tribe’’ means the Santee Sioux Tribe of Nebraska.

SEC. 4. YANKTON SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ‘‘Yankton Sioux Tribe Development Trust Fund’’ (referred to in this section as the ‘‘Fund’’). The Fund shall consist of any amounts deposited in the Fund under this Act.

(b) FUNDING.—Out of any money in the Treasury not otherwise appropriated, the Secretary of the Treasury shall deposit in the Fund not later than 60 days after the date of enactment of this Act.

(c) INVESTMENTS.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO YANKTON SIOUX TRIBE.—(1) WITHDRAWAL OF INTEREST.—Beginning at the end of the first fiscal year in which interest is deposited into the Fund, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO SIOUX TRIBE.—From the amount stated in paragraph (1), the Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Santee Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 5. SANTÉE SIOUX TRIBE OF NEBRASKA DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ‘‘Santee Sioux Tribe of Nebraska Development Trust Fund’’ (referred to in this section as the ‘‘Fund’’). The Fund shall consist of any amounts deposited in the Fund under this Act.

(b) FUNDING.—Out of any money in the Treasury not otherwise appropriated, the Secretary of the Treasury shall deposit in the Fund not later than 60 days after the date of enactment of this Act.

(c) INVESTMENTS.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO SANTÉE SIOUX TRIBE.—(1) WITHDRAWAL OF INTEREST.—Beginning at the end of the first fiscal year in which interest is deposited into the Fund, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO SANTÉE SIOUX TRIBE.—From the amount stated in paragraph (1), the Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Santee Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

SEC. 6. STATUTORY CONSTRUCTION.

Nothing in this Act may be construed as diminishing or affecting any water right of an Indian tribe, except as specifically provided in another provision of this Act, any treaty right that is in effect on the date of enactment of this Act, any authority of the Secretary of the Interior or the head of any other Federal agency under a law in effect on the date of enactment of this Act.

SEC. 7. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.

(a) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the Santee Sioux Tribe may enter into agreements with the Secretary of the Interior or the head of any other Federal agency under a law in effect on the date of enactment of this Act, granting to any such tribe eligibility for grants or services specified in this Act.

(b) CONTENTS OF TRIBAL PLAN.—Each tribal plan referred to in subsection (a) may, on an annual basis, specify grants or services provided by that tribal council to update the tribal plan. In revising the tribal plan under this paragraph, the tribal council shall provide the members of the tribe opportunity to review and comment on any proposed revision to the tribal plan.

SEC. 8. STATUTORY CONSTRUCTION.

Nothing in this Act may be construed as diminishing or affecting any water right of an Indian tribe, except as specifically provided in another provision of this Act, any treaty right that is in effect on the date of enactment of this Act, any authority of the Secretary of the Interior or the head of any other Federal agency under a law in effect on the date of enactment of this Act.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for the administration of the Yankton Sioux Tribe Development Trust Fund under section 4 and the Santee Sioux Tribe of Nebraska Development Trust Fund under section 5.

Mr. KERREY. Mr. President, today, I join with my colleagues to introduce the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska Development Trust Fund Act. This legislation will provide compensation to the Yankton and Santee Sioux Tribes for
damages incurred by the development of the Pick-Sloan Missouri River Basin program.

As a result of the construction of Pick-Sloan development projects on tribally-held land adjacent to the Mis-
souri, the Yankton and Santee Sioux Tribes from a portion of the revenues from the sale of hydropower generated by the Pick-Sloan dams to re-
dress tribal claims for land takings. Congress has endorsed this approach on three separate occasions by enacting legislation which established compensation for many other Tribes adversely impacted by the Pick-Sloan projects.

We propose to establish trust funds for the Yankton and Santee Sioux Tribes from a portion of the revenues of hydropower sales made by the Western Areas Power Administration. More specifically, the Santee Sioux Tribe of Nebraska would received a yearly payment of interest earned on the principal in the trust fund. Our legislation values the import-
ance of our drinking water and America's confidence in its safety. While the bill did not require that states perform every measure necessary to protect public health, it provided tremendous flexibility and discretion to allow the states to do so.

I was especially hopeful that in my state—the most densely-populated state in the country, a state with an unfortunate legacy of industrial pollution, a state in which newspaper articles describing threats to drinking water seem to appear every few days—that our state agencies would exercise their discretion to be more protective of public health than the minimum requirements under our 1996 bill.

Mr. President, I am sad to say I have been disappointed. I am sad to say that in my state, and probably in some of my colleagues' as well, the state agency has clung too closely to the bare minimum requirements. A good exam-
ple of this is in the "Source Water Assessment Plan," proposed by the state of New Jersey last November, as re-
quired by the 1996 law.

Under the law, the state is required to perform Source Water Assessments to identify geographic areas that are sources of public drinking water, assess the water systems' susceptibility to contamination, and inform the public of the results. The state's Source Water Assessment Plan describes the program for carrying out the assess-
ments.

An aggressive Source Water Assessment program is essential if a state is going to comply with its obligations under the 1996 Safe Drinking Water Act. Source Water Assessment is the key-
stone of the program by which the state will prevent—not just remediate and treat, but prevent—contamination of our drinking water resources. Source Water Assessment also underpins what I believe will be the most far-reaching provisions of the law—those giving the public the Right to Know about poten-
tial threats to its drinking water.

Mr. Chairman, there are serious defi-
ciencies by amending the Safe Drink-
ning Water Act to improve Source Water Assessments and Consumer Confidence Reports. First, under my bill the state performs Source Water Assess-
ments, it will assess the threat posed, not just by regulated contaminants, but by certain unregulated contami-
nants believed by EPA and U.S. Geo-
logical Survey to cause health prob-
lems, and contaminants known to be released from local pollution sites, such as Superfund sites, other waste sites, and factories. The bill will also require the state to identify potential contamination of groundwater, even outside the immediate area of the well, perform the assessments with full in-
volvement from the public, and update the assessments every five years.

Second, the Drinking Water Right-
To-Know Act of 1999 will make several improvements to the "Consumer Confidence Reports" required under the 1996 law to notify the public of water contamination. The bill will require monitoring and public notification, not only of regulated contaminants, but of significant unregulated contaminants identified through the Source Water Assessments, and of sources of con-
tamination. The bill will not require local water purveyors to monitor for every conceivable contaminant—only those identified by the state as posing a threat and having been released by a potentially significant source. In addi-
tion, the bill will require notification of new or sharply-increased contamina-
tion within 30 days. The bill will also require reporting not just to "cus-
tomers," but to "consumers," such as apartment-dwellers, who do not receive water company bills. Finally, the bill will require that consumers be provided information on how they can pro-
tect themselves from contamination in their drinking water.

Third, the bill will require that test-

ing for the presence of radium 224 take place within 48 hours of sampling the
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May 27, 1999

Mr. President, the public has the Right-to-Know about the full range of contaminants they might find in their tap water. The Drinking Water Right-To-Know Act of 1999 will guarantee them that right. I urge my colleagues to co-sponsor this legislation.

Thank you, Mr. President. I ask unanimous consent that the text of the bill be printed into the RECORD, as follows:

S. 1149

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 “Drinking Water Right-to-Know Act of 1999.”

SEC. 2. RADIUM 224 IN DRINKING WATER.

Section 1412(b)(13) of the Safe Drinking Water Act (42 U.S.C. 300g-3(b)(13)) is amended—

(1) in subparagraph (A), by striking “and”;

(2) in subparagraph (B), by inserting after the end the following:

“(H) RADIUM 224 IN DRINKING WATER.—A national primary drinking water regulation for radionuclides promulgated under this paragraph shall require testing drinking water for the presence of radium 224 not later than 48 hours after taking a sample of the drinking water.”;

SEC. 3. CONSUMER CONFIDENCE REPORTS BY COMMUNITY WATER SYSTEMS.

Section 1453(a)(4) of the Safe Drinking Water Act (42 U.S.C. 300g-3(a)(4)) is amended—

(1) in subparagraph (A), by striking “The Administrator” and inserting the following:

“(i) IN GENERAL.—The Administrator;”;

(2) in the first sentence, by striking “(i) a customer of a public water system;” and inserting “(i) a customer of a public water system;”;

(3) in subparagraph (C), by striking “consumer of its drinking water provided by;” and inserting “consumer of its drinking water provided by;”;

(4) by inserting before the end the following:

“(ii) REGULATIONS.—The regulations shall—

“(I) provide;—

“(ii) by striking ‘contaminant.’”;

“(b) PUBLICATION.

Section 1453(a) of the Safe Drinking Water Act (42 U.S.C. 300g-3(a)) is amended—

(1) in subparagraph (A), by striking “and”;

(2) in subparagraph (B), by striking “water.”;

(3) in subparagraph (C), by striking “(i) a nonpoint source;” and inserting “(i) a nonpoint source;”;


Mr. Hatch (for himself, Mr. Baucus, Mrs. Feinstein, Mr. Kennedy, Mr. Robb, and Mr. Bingaman) said:

S. 1150. A bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of semiconductor manufacturing equipment to the Committee on Finance.

THE SEMICONDUCTOR EQUIPMENT INVESTMENT ACT OF 1999

Mr. HATCH. Mr. President, I rise today to introduce the Semiconductor Equipment Investment Act of 1999, which I am joined by Senators Baucus, Feinstein, Kyl, Robb, and Bingaman. This bill is designed to help the American semiconductor industry compete globally by shortening the depreciable life of semiconductor manufacturing equipment from 5 years to 3.

The U.S. semiconductor industry employs more than 275,000 Americans,
sells over $67 billion of products annually, and currently controls 55 percent of the $122 billion world market. Its products form the foundation of practically every electronic device used today. Growth in this industry translates directly into new employment opportunities for American workers and to economic growth for the nation as a whole.

The American semiconductor industry is a success story because it has invested heavily in the most productive, cutting-edge technology available, and currently spends 14% of its revenues on research and development and 19% on capital investment. Unfortunately, Mr. President, our semiconductor industry is threatened.

While the equipment used to manufacture semiconductors has a useful life of only about 3 years, current tax depreciation rules require that cost of the equipment be written off over a full 5 years. The Semiconductor Investment Act would correct this flaw, Mr. President, by allowing equipment used in the manufacture of semiconductors to be depreciated over a more appropriate 3-year period. Given the massive level of investment in the semiconductor industry, accurate depreciation is critical to industry success.

The key reason for this 3-year depreciation period is that the equipment used to make semiconductors grows technologically obsolete more quickly than other manufacturing equipment. Research indicates that semiconductor manufacturing equipment almost completely loses its ability to produce sellable products after less than 3 years. Today's 5-year period simply doesn't reflect reality. A quicker write-off period would help semiconductor manufacturers finance the large investment in equipment they need for the next generation of products.

The National Advisory Committee on Semiconductors enforced this conclusion. Congress founded the committee in 1988, and it consisted of Presidential appointees from both the public and private sectors. In 1992, the committee recommended a 3-year schedule would increase the industry's annual capital investment rate by a full 11 percent.

By comparison, Japan, Taiwan, and Korea employ much more generous depreciation schedules for similar equipment, and all three nations provide stiff export incentives for America's semiconductor manufacturers. For example, under Japanese law, a company can depreciate up to 88 percent of its semiconductor equipment cost in the first year, while United States law permits a mere 20 percent depreciation over the same period. While multinational semiconductor firms are deciding where to invest, a depreciation gap this large can be decisive.

This legislation will help ensure that America's most productive industry retains its hard-earned preeminence, a preeminence that yields abundant opportunities for high-wage, high-skill employment. Mr. President, my home State of Utah, provides an outstanding example of the industry's job-creating capacity. Thousands of Utahns earn their living in the State's flourishing semiconductor industry. Firms such as Micron Technology, National Semiconductor, Intel, and Varian have reinforced Utah's position in high-technology industries. With the fair tax treatment this bill brings, all Utahns can look forward to a more secure and prosperous future.

Mr. President, the Semiconductor Investment Act would help level the playing field between U.S. and foreign semiconductor manufacturers, and provides fair tax treatment to an industry that is one of the Nation's greatest success stories of recent years. I hope that my fellow Senators will join me in supporting this legislation. Mr. President, I ask unanimous consent that the bill be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1150

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 "Semiconductor Equipment Investment Act of 1999".

SEC. 2. 3-YEAR DEPRECIABLE LIFE FOR SEMICONDUCTOR MANUFACTURING EQUIPMENT

(a) IN GENERAL.-(A) Subparagraph (A) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of property) is amended by striking the period at the end of clause (i), by striking the period at the end of clause (ii), by striking the period at the end of clause (iii) and inserting "", and", and by striking clause (iv) and substituting "(v) " for the period at the end of clause (iv).

(b) CONFORMING AMENDMENTS.-(1) Subparagraph (b) of section 168(e)(3) of such Code is amended—

(A) by striking clause (ii),

(B) by redesignating clauses (iii) through (vi) as clauses (ii) through (v), respectively, and

(C) by striking "(v)" ("(v)") in the last sentence and inserting "clause (vi)"

(2) Subparagraph (b) of section 168(g)(3) of such Code is amended—

(A) by redesignating clauses (i) through (iv) as clauses (ii) through (v), respectively, and

(B) in subparagraph (A) (B) of section 168(g)(3) of such Code, by striking the item relating to subparagraph (B) and inserting the following:

"(A) 3.5%  

(B) 95%"

(c) EFFECTIVE DATE. The amendments made by this section shall apply to equipment placed in service after the date of the enactment of this Act.

By Mr. THOMPSON (for himself, Mr. LIEBERMAN, Mr. WARNER, and Mr. LEVIN):

S. 1151. A bill to amend the Office of Federal Procuring Policy Act to streamline the application of cost accounting standards; to the Committee on Governmental Affairs.

COST ACCOUNTING STANDARDS AMENDMENTS OF 1999

Mr. THOMPSON. Mr. President, I rise today to introduce the bill on behalf of myself as chairman of the Governmental Affairs Committee and Senator LIEBERMAN, the Committee's ranking minority member, and Senators WAR-
modify the CAS standards to streamline their applicability, while maintaining the applicability of the standards to the vast majority of contract dollars that are currently covered. In particular, the bill would raise the threshold under which CAS standards from $25 million to $50 million; exempt contractors from coverage if they do not have a contract in excess of $5 million; and exclude coverage based on firm, fixed price contracts awarded on the basis of adequate price competition when the submission of certified cost or pricing data is required.

The bill also would provide for waivers of the CAS standards by Federal agencies in limited circumstances. This would allow contracting agencies to handle their contract administration function, in limited circumstances, as part of their traditional role in administering contracts. Our intent is that waivers would be available for contracts in excess of $10 million only in "exceptional circumstances." The "exceptional circumstances" waiver may be used only when a waiver is necessary to meet the needs of an agency, and i.e., the agency determines that it would not be able to obtain the products or services in the absence of a waiver.

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. 1151

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 "Cost Accounting Standards Amendments of 1999".

SEC. 2. STREAMLINED APPLICABILITY OF COST ACCOUNTING STANDARDS.

(a) APPLICABILITY. Paragraph (2) of section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D);

(2) by striking subparagraph (B) and inserting the following:

"(B) The cost accounting standards shall apply to contracts for the acquisition of commercial items if the total value of all of the contracts and subcontracts covered by the cost accounting standards that were entered into by the contractor or subcontractor, regardless of the previous fiscal year (or other one-year cost accounting period) was less than $5,000,000.";

(c) CONSTRUCTION REGARDING CERTAIN NOT-FOR-PROFIT ENTITIES. The amendments made by this section shall not be construed as modifying or superseding, as intended to impair, the applicability of the cost accounting standards—

(1) any educational institution or federally funded research and development center that is associated with an educational institution in accordance with Office of Management and Budget Circular A-21, as in effect on January 1, 1999; or

(2) any contract with a nonprofit entity that provides research and development and related products or services to the Department of Defense.

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

By Ms. SNOWE:

S. 1152. A bill to amend title 5, United States Code, to ensure that coverage of bone mass measurements is provided under the health benefits program for Federal employees; to the Committee on Governmental Affairs.

OSTEOPOROSIS FEDERAL EMPLOYEE HEALTH BENEFITS STANDARDIZATION ACT

Ms. SNOWE. Mr. President, I rise today to reintroduce legislation that will standardize coverage for bone mass measurement for people at risk for osteoporosis under the Federal Employee Health Benefits Program. This legislation is similar to my bill which was enacted as part of the Balanced Budget Act to standardize coverage of bone mass measurement under Medicare. The bill reinforced today guarantees the same standard of coverage to Federal employees and retirees as Congress provided to Medicare beneficiaries two years ago.

Osteoporosis is a major public health problem affecting 26 million Americans, who either have the disease or are at risk due to low bone mass; 80 percent of its victims are women. This devastating disease causes 1.5 million fractures annually at a cost of $13.8 billion—$8 billion in Medicare and $5.8 billion in direct medical expenses. In their lifetime, one in two women and one in eight men over the age of 50 will fracture a bone due to osteoporosis. Amazingly, a woman's risk of a hip fracture is equal to her risk of combined risk of contracting breast, uterine, and ovarian cancer.

Osteoporosis is largely preventable and thousands of fractures could be avoided if low bone mass were detected early and treated. Though we now have drugs that promise to reduce fractures by 50 percent and new drugs have been proven to actually rebuild bone mass, a bone mass measurement is the only way to diagnose osteoporosis and determine one's risk for future fractures. And we have learned that there are some prominent risk factors: age, gender, race, a family history of bone fractures, early menopause, risky health behaviors such as smoking and excessive alcohol consumption, and some medications all have been identified as contributing factors to bone loss. But identification of risk factors alone cannot predict how much bone a person has and how strong bone is—estimates that without bone density tests, up to 40 percent of women with low bone mass could be missed.

Unfortunately, coverage of bone density tests under the Federal Employee Health Benefits Program (FEHBP) is inconsistent. Instead of a comprehensive national coverage policy, FEHBP leaves it to each of the nearly 350 participating plans to decide who is eligible to receive a bone mass measurement and what constitutes medical necessity. Many plans have no specific rules to guide reimbursement and other tests on a bone basis. Some plans refuse to provide consumers with information indicating when the plan covers the test and when it does not and some plans cover the test only for people who already have osteoporosis.

Mr. President, we owe the people who serve our Government more than that. We know that osteoporosis is highly preventable, but only if it is discovered in time. There is simply no substitute for early detection. My legislation standardizes coverage for bone mass measurement under the FEHBP and I urge my colleagues to support this legislation.

By Mr. HARKIN (for himself, Mr. DASCHLE, Mr. DORGAN, Mr. BAUCUS, Mr. CONRAD, Mr. WELLSTONE, Mr. JOHNSON, Mr. WYDEN, Mr. REID, Mr. KERRY, Mr. ROCKEFELLER, and Mrs. MURRAY):

S. 1153, A bill to establish the Office of Rural Advocacy in the Federal Communications Commission, and for other
Mr. HARKIN. Mr. President, today I am introducing important legislation to affect rural America, the Rural Telecommunications Improvement Act of 1999. I am pleased to be joined in this effort by our distinguished Democratic leader, Senator DASCHLE, as well as Senators DORGAN, BAUCUS, CONRAD, WELLSTONE, WYDEN, REINER, KERRY, ROCKEFELLER and MURRAY. I would like to thank each of them for joining me in this effort to promote the interests of rural America within the Federal Communications Commission (FCC).

Our legislation will establish an Office of Rural Advocacy within the FCC to promote access to advanced telecommunications in rural areas. The Rural Advocate will be responsible for focusing the Commission's attention on the importance of rural areas to the future of American prosperity, as well as on ensuring that Universal Service provisions mandated by the Communications Act and the Telecommunications Act are being met and implemented.

Our proposal is modeled on the Small Business Administration's Office of Advocacy, which has been very successful in promoting the interests of small business within the U.S. government.

Under our bill, the Office of Rural Advocacy will have 9 chief responsibilities:

1. To promote access to advanced telecommunications services for populations in the rural United States;
2. To develop proposals to better fulfill the commitment of the Federal Government to universal service and access to advanced telecommunications services in rural areas;
3. To assess the effectiveness of existing Federal programs for providers of telecommunications services in rural areas;
4. To measure the costs and other effects of Federal regulations on telecommunication carriers in rural areas;
5. To determine the effect of Federal tax laws on providers of telecommunications services in rural areas;
6. To serve as a focal point for the receipt of complaints, criticisms and suggestions concerning policies and activities of any department or agency of the Federal Government which affect the receipt of telecommunications services in rural areas;
7. To counsel providers of telecommunications services in rural areas;
8. To represent the views and interests of rural populations and providers of telecommunications services in rural areas; and
9. To enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in providing information about the Rural Communications programs and services of the Federal Government which benefit rural areas and telecommunications companies.

Mr. President, such an office within the FCC is needed for one very important reason, no bureau or Commissioner at the FCC has as an institutional role with the responsibility to promote the interests of rural telecommunications. The FCC has a great number of issues arising due to the ever changing role of communications.

Our legislation will ensure the FCC has the resources necessary to focus the Commission's attention on rural issues and will help establish an agenda at the FCC to address rural America's telecommunications needs. Nothing of this magnitude has been in the Commission has not done in the recent past. For example, the FCC's report on Advanced Telecommunications Services stated "deployment of advanced telecommunications generally appear, at present, reasonable and timely."

I can tell you Mr. President, this is not the case in Iowa where, according to the Iowa Utilities Board (IUB), approximately 8% of our exchanges have no access to the Internet. Additionally, access in many rural areas is of a lower quality. This doesn't even include access to broadband, or high-speed Internet access, which is not available in numerous rural areas and small towns in Iowa and across the country.

Other examples of the FCC's lack of focus on rural issues include a failure to understand how rural telephone cooperatives interact with their members, such as preventing rural telephone cooperatives from calling members to check on long distance preference changes, and an FCC definition that establishes a 3000 hertz level of basic voice grade service, when such a low level prevents Internet access on longer loops in rural areas.

In order to effectively influence policy on rural telecommunications, this legislation gives the Rural Advocate the role of an advisor within the FCC. The Rural Advocate will also have the authority to file comments or reports on any matter before the Federal Government affecting rural telecommunications without having to clear the testimony with the OMB or the FCC. Additionally, the Rural Advocate can file reports with the Administration, Congress and the FCC to recommend legislation or changes in policy. Finally, the Rural Advocate will be appointed directly by the President and confirmed by the Senate.

Mr. President, in short, this legislation would allow rural America to enter the fast lane of the Information Superhighway. Again, thank you to my colleagues who have joined me in sponsoring this proposal. I urge all Senators to consider joining us in moving this initiative forward.

I ask unanimous consent that a copy of our proposal be printed in the Record. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

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S. 1153

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Telecommunications Improvement Act of 1999".

SEC. 2. ESTABLISHMENT OF OFFICE OF RURAL ADVOCACY IN THE FEDERAL COMMUNICATIONS COMMISSION.

(a) ESTABLISHMENT. Ð Title I of the Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding at the end the following:

"SEC. 12. OFFICE OF RURAL ADVOCACY.

(a) ESTABLISHMENT. Ð There shall be in the Commission an office of "Office of Rural Advocacy". The office shall not be a bureau of the Commission.

(b) HEAD OF OFFICE. Ð (1) The Office shall be headed by the Rural Advocate of the Federal Communications Commission. The Rural Advocate shall be appointed by the President, by and with the advice and consent of the Senate, from among citizens of the United States.

(2) The Rural Advocate shall have a status and rank in the Commission commensurate with the status and rank in the Commission of the heads of the bureaus of the Commission.

(c) RESPONSIBILITIES OF OFFICE. Ð The responsibilities of the Office of Rural Advocacy shall be:

(1) To promote access to advanced telecommunications service for populations in the rural United States;

(2) To develop proposals for the modification of policies and activities of the departments and agencies of the Federal Government in order to better fulfill the commitment of the Federal Government to universal service and access to advanced telecommunications services in rural areas, and submit such proposals to the departments and agencies;

(3) To assess the effectiveness of existing Federal programs for providers of telecommunications services in rural areas, and make recommendations for legislative and non-legislative actions to improve such programs;

(4) To measure the costs and other effects of Federal regulations on telecommunication carriers in rural areas to provide adequate telecommunications services (including advanced telecommunications services) in such areas, and make recommendations for legislative and non-legislative actions to modify such regulations so as to minimize the interference of such regulations with that capability;

(5) To determine the effect of Federal tax laws on providers of telecommunications services in rural areas, and make recommendations for legislative and non-legislative actions to modify Federal tax laws so as to enhance the availability of telecommunications services in rural areas;

(6) To serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning policies and activities of any department or agency of the Federal Government which affect the receipt of telecommunications services in rural areas.

(7) To counsel providers of telecommunications services in rural areas;

(8) To represent the views and interests of rural populations and providers of telecommunications services in rural areas; and

(9) To promote advanced telecommunications services in rural areas before any department or agency of the Federal Government whose policies and activities affect the receipt of telecommunications services in rural areas.

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S. 1153

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
"(9) To enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the telecommunications programs and services of the Federal Government which benefit rural populations and providers of telecommunications services in rural areas.

(b) STAFF AND POWERS OF OFFICE.—

"(I) STAFF.—

"(A) IN GENERAL.—For purposes of carrying out the responsibilities of the Office under this section, the Rural Advocate may employ and fix the compensation of such personnel for the Office as the Rural Advocate considers appropriate.

"(B) PAY.—

"(i) IN GENERAL.—The annual salary of the Rural Advocate may not exceed the rate payable for GS-15 of the General Schedule.

"(ii) MAXIMUM RATE OF PAY.—The rate of pay of personnel employed under this paragraph may not exceed the rate payable for GS-15 of the General Schedule.

"(C) LIMITATION.—The total number of personnel employed under this paragraph may not exceed the number authorized for the Rural Advocate under chapter 53 of title 5, United States Code.

(2) TEMPORARY AND INTERMITTENT SERVICES.—The Rural Advocate may procure temporary and intermittent services of the kind authorized under chapter 68A of title 5, United States Code, for purposes of the activities of the Office under this section.

(3) CONSULTATION WITH EXPERTS.—The Rural Advocate may consult with individuals and entities possessing such expertise as the Rural Advocate considers appropriate for purposes of the activities of the Office under this section.

(4) HEARING.—The Rural Advocate may hold hearings and sit and act as such times and places as the Rural Advocate considers appropriate to consider the responsibilities of the Office under this section.

(e) ASSISTANCE OF OTHER FEDERAL AGENCIES.—

"(I) IN GENERAL.—Any department or agency of the Federal Government may, upon the request of the Rural Advocate, provide the Office with such information or other assistance as the Rural Advocate considers appropriate for purposes of the activities of the Office under this section.

"(II) REIMBURSEMENT.—Assistance may be provided under this subsection on a reimbursable basis.

(f) REPORT ON INITIAL ACTIVITIES.—Not later than 180 days after the date of the appointment of the Rural Advocate of the Federal Communications Commission, the Rural Advocate shall submit to Congress a report on the actions taken by the Rural Advocate to commence carrying out the responsibilities of the Office of the Federal Communications Commission under section 12 of the Communications Act of 1934, as added by subsection (a).

By Mr. VOINOVICH (for himself, Mr. GRAHAM, Mr. BAYH, and Mr. LEVIN).

S. 1154. A bill to enable States to use Federal funds more effectively on behalf of young children, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PREDNATAL, INFANT AND CHILD DEVELOPMENT ACT OF 1999

Mr. VOINOVICH. Mr. President, I rise today to introduce legislation with product of my Senate colleagues Senator GRAHAM and I believe it is within the most important years of a child's life—prenatal to three—that the most beneficial influence can be provided by parents, grandparents and caregivers.

Every field of endeavor has peak moments of discovery, when past knowledge converges with new information, new insights and new technologies to create new opportunities for advancement. For the healthy development of young children—we are faced with such a moment today. Thanks to decades of research on brain chemistry, and sophisticated new technologies, we have the data that tells us the experiences that fill a baby's first days, months, and years have a decisive impact on the architecture of the brain and on the nature and extent of one's adult capabilities. Is it the education, the love and the nurturing that our children receive during the years prenatal to three that will help determine who they become 10, 20 and 30 years down the road.

Consequently, a tremendous opportunity exists to assist those individuals and families most at risk in the area of prenatal care through age three. We must work to create systems that support and educate families expecting a baby and those already with young children. We must present a message that is perfectly clear—education does not stop at kindergarten, or even in a quality preschool.

Mr. President, in 1997, I served as Chairman of the National Governors' Association (NGA). My focus during my tenure there was on the National Education Goal One, that by the year 2000, all children in America will start school ready to learn.

We developed goals, model indicators, and measures of performance of child and family well-being in order to impact school readiness. The results-oriented goals focused states on the improved conditions of young children and their families and encouraged state and local governments to look across a variety of delivery systems—health care, child care, family support, and education—to make sure these systems would work together effectively for young children and their families.

Based on that effort, between 1997 and 1998, 42 governors made early childhood development a keynote as they outlined their state agendas.

Moving education really about the process of "lifelong learning," which includes efforts based on what doctors and researchers have said about the importance of positive early childhood learning experiences. The traditional primary and secondary education community needs to recognize that investments in early childhood aid their ultimate goal—that is, a classroom that can continue to move the process forward. To achieve that goal, a significant tenet of our education agenda must be to ensure that our children enter school ready to learn. Thus, we must support parents and caregivers, to help them understand that day-to-day interaction with young children helps children develop cognitively, socially and emotionally.

To ensure that children have the best possible start in life, supports must exist to help parents and other adults who care for young children. Supports that are critical for young children from prenatal through age three include health care, nutrition programs, childcare, early development services adoption assistance, education programs, and other support services.

There are three ways we can enhance these supports and create new ones. The first is to build on early childhood programs well underway in the states and the local communities by protecting and increasing federal commitments to worthwhile programs such as WIC (Women, Infants, and Children), CCDBG (Child Care and Development Block Grant), and S-CHIP (State Children's Health Insurance Program).

The second is to improve coordination among federal agencies in the administration of early childhood programs. As Chairman of the Senate Government Affairs Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia, I am taking steps to ensures, for example, that the Department of Education and the Department of Health and Human Services communicate with each other about the early childhood programs for which they are responsible in order to determine which are duplicative and which are most successful.

The Results Act contemplates that agencies should be using their performance-based management strategies to improve daily activities, including coordination, contribute to the achievement of strategic goals. GAO evaluated the
Departments of Education and Health and Human Services Synergy Strategic Plans, and FY 1999 and FY 2000 Annual Performance Plans with regard to their coordination efforts. GAO found that both departments' plans are not living up to their potential. While they address the issue of coordination, the plans provide little detail about their intentions to implement such coordination efforts. I met with both departments and asked that they submit an amended Performance Plan that provided a more detailed compilation of coordination activities and examples. We should emerge from this exercise with a consensus on the most promising services dedicated to meeting the needs of young children.

Most child advocacy groups rank collaboration on the local level as fundamental and essential to successful programs for young children. The bill would ensure that new child care, child development, pediatric literacy, parent education, home visits, or health services. States will lay out plans that identify ways to further promote the importance of early childhood education in their communities. Plans should also identify existing supports available for these children and ways that state and local councils can work with already established early development programs.

In addition, the bill focuses on three particular areas to increase public awareness and enhance training opportunities for parents and other adults caring for young children.

The first would provide funding to expand a satellite television network nationally. In order to help parents and caregivers do a better job of creating an environment in which kids can learn, the legislation provides funds to support satellite television network services directly connected to child care centers, preschools, colleges, Early Head Start sites and the Internet. These connections provide high-quality training, news, jobs and medical information dedicated to the specific needs of the Head Start staff and others in the early childhood community. In my state of Ohio, we already have networks in place at 1,500 sites.

The bill provides for a partnership between at least one non-profit organization and other public or private entities to produce a high-quality, broadcast program, for parents and professionals in the early childhood field. The goal is to blend the latest in satellite technology with sound "prenatal to three" information and training principles, potentially reaching more than 140,000 caregivers and parents each month.

The second would provide financial incentives for child-care workers to pursue credentialing or accreditation in early childhood even though many states do not have formal credentialing standards, there are several national organizations with accreditation curricula. The legislation encourages caregivers to pursue skills-based training (including via satellite or on the Internet) that leads to credentialing or accreditation by the state or national organization. Whatever qualified incentive program is initiated, employers would be required to match each dollar of the Federal contribution.

The third would reauthorize and expand the multimedia parenting resources program to reinforce PBS' "Ready to Learn" initiative. These resources include:

- Expanded Internet offerings that enable parents to reinforce PBS' "Ready to Learn" curriculum at home. "Ready to Learn" material would be directly accessible from the web for parents to utilize in reinforcing their child's appreciation of public television programs.

- Expanded national programming, such as Mr. Rogers and Sesame Street. Formalized and expanded "Ready to Learn" certification programs using "The Whole Child" video coursework, collateral print materials and the development of new video and print coursework.

- Expanded parent training which would include workshops, distribution of material, and broadcasting of educational video vignettes regarding developmentally appropriate activities for young children.

- Deployment of a channel of Ready to Learn-based children's programming and parenting training through digital technology.

Our bill would also allow the Temporary Assistance for Needy Families (TANF) program to serve young children in a more effective manner by allowing states the ability to transfer up to 10 percent of a state's TANF grant to the Social Services Block Grant (SSBG). Originally, the 1996 welfare reform bill allowed states this flexibility. However, this was restricted in 1998 to allow states to transfer just 4.25 percent of their TANF grant as an offset to Medicaid health care program investments in TEA-21. Social Services Block Grants (Title XX of the Social Security Act) are a flexible source of funds that states may use to support a wide variety of social services for children and families, including child care, supportive services for children, foster care, and home-based services.

A second provision would add an additional 15 percent transfer of TANF money to the Child Care and Development Block Grant (CCDBG) for expenditures under a state early childhood collaboration program. Currently, the permitted transfer is up to 30 percent of TANF to a combination of the CCDBG and SSBG. The Welfare Reform Act restructured federal childcare programs, repealed three welfare-related childcare programs and amended the Child Care and Development Block Grant (CCDBG). Under current law, states receive a combination of mandatory and discretionary grants, part of which is subject to a state match. These funds would allow states to create or expand local early childhood development coordination councils (10 percent of the transfer authority), or to enhance child care quality in existing programs (5 percent of the transfer authority).

Using these new resources, states can implement coordinated programs at the local level, such as "one-stop shopping" for parents with young children. Under this particular program, parents could have a well-baby care visit, meet with a counselor to discuss questions and concerns about the baby's development or receive referrals for help in enrollment in childcare.

Further, the legislation would alter the high performance bonus fund within TANF to include criteria related to child welfare. The current criteria are based upon the recommendations of the National Governors' Association (NGA) high performance bonus fund work group. The bonus fund currently provides $200 million annually to states for meeting certain work-related performance targets, a component of long-term self-sufficiency rates by current and former TANF recipients. The performance targets should be expanded to include family- and child-related criteria, such as increases in immunization and literacy and pre-kindergarten participation.

Finally, our bill encourages States to use their Maternal and Child Health Services Block Grant to target activities that address the needs of children from prenatal to three. The Maternal and Child Health Services Block Grant funds a broad range of health services to mothers and children, particularly those with low income or limited access to health services. Its goals are to reduce infant mortality, prevent disease and handicapping conditions among children and increase the availability of prenatal, delivery and postpartum care to mothers. States are required to use 30 percent of their block grant for preventive and primary care services for children, 30 percent for services to children with special health care needs, and 40 percent for services to children with special health care needs, and 40 percent at the states' discretion for either of these groups or for other appropriate maternal and child health activities.
May 27, 1999

CONGRESSIONAL RECORD – SENATE

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Using this existing funding, this legislation encourages states to design programs to address the social and emotional development needs of children under the age of five. It encourages states to provide coordinated early childhood services, parent education, and strategies to meet the needs of state and local populations. It does not mandate any specific model, nor does it require that states set aside a specific amount of money from this block grant. Rather, it is intended to give states flexibility in finding money to devote more resources to existing or new healthy early childhood development systems.

Mr. President, the pace at which children grow and learn during the first three years of life makes that period the most critical in their overall development. Children who lack proper nutrition, health care and nurturing during their early years tend to also lack adequate social, motor and language skills needed to perform well in school. It behooves us, children, parents, and caregivers to have access to coordinated information and support services appropriate for healthy early childhood development in the first three years of life. The changing structure of the family requires that states streamline and coordinate healthy early childhood development systems of care to meet the needs of parents and children in the 21st century.

The Federal Government’s role in the development of these systems of care is minimal; it must give states the flexibility to implement programs that respond to local needs and conditions. Although it’s just a modest step, that’s exactly what our bill does.

Our children are our most precious natural resource. They are our hope and they are our future. Therefore, I encourage my colleagues to co-sponsor our legislation, and I urge the Senate during the 106th Congress to make prenatal to three a priority for the sake of our children.

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

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

S. 1154

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Prenatal, Infant, and Child Development Act of 1999.”

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

TITLE I—FUNDS PROVIDED UNDER THE TEMPORARY ASSISTANCE TO NEOBESES PROGRAM

Sec. 101. Authority to transfer funds for other purposes.

Sec. 102. Bonus to reward high performance States.

TITLE II—EXPANSION OF THE MATER- 

NAL AND CHILD HEALTH SERVICES 

BLOCK GRANT

Sec. 201. Authority to provide State programs for the development of early intervention.

TITLE III—SATELLITE TRAINING

Sec. 301. Short title.


Sec. 303. Satellite television network.

TITLE IV—HEALTHY EARLY CHILDHOOD DEVELOPMENT SYSTEMS OF CARE

Sec. 401. Block grants to States for healthy early childhood development systems of care.

TITLE V—CREDENTIALING AND ACCREDITATION

Sec. 501. Definitions.

Sec. 502. Authorization of appropriation.

Sec. 503. State allotments.

Sec. 504. Application.

Sec. 505. State child care credentialing and accreditation incentive program.

Sec. 506. Administration.

Sec. 507. Credentialing, accreditation, and retention of qualified child care workers.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Babies are born with all of the 100,000,000,000 brain cells, or neurons, that the babies will need as adults.

(2) By age 3, children have nearly all of the necessary connections, or synapses, between brain cells that cause the brain to function properly.

(3) The pace at which children grow and learn during the first years of life that period the most critical in their overall development.

(4) Children who lack proper nutrition, health care, and nurturing during their first years tend to also lack adequate social, motor, and language skills needed to perform well in school.

(5) All young children, and parents and caregivers of these children, should have access to information and support services appropriate for promoting healthy early childhood development in the first years of life, including health, intervention services, child care, parenting education, and other child development services.

(6) The changing structure of the family requires that states streamline and coordinate healthy early childhood development systems of care to meet the needs of parents and children in the 21st century.

(7) The Federal Government’s role in the development of these systems of care should be minimal. The Federal Government must give States the flexibility to implement systems of care that respond to local needs and conditions.

TITLE I—FUNDS PROVIDED UNDER THE TEMPORARY ASSISTANCE TO NEEDY FAMILIES PROGRAM

Sec. 101. Authority to transfer funds for other purposes.

(a) TRANSFER OF FUNDS FOR BLOCK GRANTS FOR SOCIAL SERVICES.—

(1) ELIMINATION OF REDUCTION IN AMOUNT TRANSFERABLE FOR FISCAL YEAR 2001 AND THEREAFTER.—Section 404(d)(2) of the Social Security Act (42 U.S.C. 604(d)(2)) is amended to read as follows:

(2) LIMITATION ON AMOUNT TRANSFERABLE TO TITLE XX PROGRAM.—A State may use not more than 10 percent of the amount of any grant made under this title for such purposes for fiscal year 2001 and thereafter.

(b) TRANSFER OF FUNDS TO ENHANCE CHILD CARE QUALITY UNDER THE CCBG.

(1) IN GENERAL.—Section 404(d)(4) of the Social Security Act (42 U.S.C. 640(d)), as amended by subsection (b), is amended—

(A) in paragraph (1), by striking “(and)” and inserting “(3), and (4);”;

(B) by redesigning paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2), the following:

“(4) ADDITIONAL AMOUNTS TRANSFERABLE FOR THE ENHANCEMENT OF CHILD CARE QUALITY.—The percentage described in paragraph (1) may be increased by up to 10 percentage points if the additional funds resulting from that increase are provided to local early childhood development coordinating councils described in section 6594 of the Child Care and Development Block Grant Act of 1990 to carry out activities described in section 6598 of that Act.”;

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 1999.

(3) TRANSFER OF FUNDS TO ENHANCE CHILD CARE QUALITY UNDER THE CCBG.

(1) IN GENERAL.—Section 404(d)(4) of the Social Security Act (42 U.S.C. 640(d)), as amended by subsection (b), is amended—

(A) in paragraph (1), by striking “(and)” and inserting “(3),” and (4)”; and

(B) by redesigning paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3), the following:

“(4) ADDITIONAL AMOUNTS TRANSFERABLE FOR THE ENHANCEMENT OF CHILD CARE QUALITY.—The percentage described in paragraph (1) may be increased by up to 5 percentage points if the additional funds resulting from that increase are used to enhance child care quality under a State program pursuant to the Child Care and Development Block Grant Act of 1990.”;

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 1999.

(3) OTHER PURPOSES.

(a) ADDED.—Section 403(a)(4)(C) of the Social Security Act (42 U.S.C. 603(a)(4)(C)) is amended—

(1) by striking “Not later” and inserting the following:

“(i) IN GENERAL.—Not later;”;

(2) by inserting “The formula shall provide for the awarding of grants under this paragraph based on core national and State-selected measures in accordance with clauses (ii) and (iii).” after the period; and

(3) by adding at the end the following:

“(ii) CORE NATIONAL MEASURES.—The majority of grants awarded under this paragraph shall be based on employment-related national measures using data that are consistently available in all States.

“(iii) STATE-SELECTED MEASURES.—Not less than $20,000,000 of the amount appropriated for a fiscal year under subparagraph (F) shall be used to award grants to States under this paragraph for that fiscal year based on optional State-selected measures that are related to the status of families and children. States may choose to compete from among such measures according to the policy priorities of the State and use the funds for such purposes. Such State-selected measures may include—
"(I) successful diversion of applicants from a need for cash assistance under the State program under this title;

(ii) school attendance records of children in families receiving assistance under the State program under this title;

(iii) the degree of participation in the State in the head start program established under

(iv) improvement of long-term self-sufficiency rates by current and former recipients of assistance under the State program funded under this title;

(VI) increased collection rates under the child support and paternity establishment program established under part D;

(VII) increases in household income of current and former recipients of assistance under the State program funded under this title; and

(VIII) improvement of child immunization rates."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to each of fiscal years 2000 through 2002.

TITLE III—SATELLITE TRAINING

SEC. 301. SHORT TITLE.

This title may be cited as the "Digital Education Act of 1999."
"(3) enable eligible entities to contract with entities (such as public telecommunications entities and those funded under the Star Schools Act) so that programs developed under this section are disseminated and distributed—

(A) to the widest possible audience appropriate to be served by the programming; and

(B) by the most appropriate distribution technologies.

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a), an entity shall be—

(1) a public telecommunications entity that is able to demonstrate a capacity for the development and national distribution of educational and instructional television programming of high quality for preschool and elementary school children and their parents and caregivers; and

(2) able to demonstrate a capacity to contract with the producers of children’s television programs and to incorporate into the programming disseminated the experiences and the needs and experiences of both boys and girls in engaging and preparing young children for schooling.

SEC. 3306. DUTIES OF SECRETARY.

The Secretary is authorized—

(1) to award grants, contracts, or cooperative agreements to eligible entities described in section 3303(b) to develop television programming, or such public television stations that are part of a consortium with 1 or more State educational agencies, local educational agencies, local schools, institutions of higher education, or community-based organizations of demonstrated effectiveness, for the purposes of—

(A) addressing the learning needs of young children in limited English proficient households, and developing appropriate educational materials to facilitate learning new languages among parents to assist parents in teaching their children and utilizing educational television programming to promote school readiness; and

(B) developing programming and support materials that have been developed under paragraph (A) to provide early literacy skills for young children in limited English proficient households and support materials to increase family literacy skills; and

(C) evaluating the effectiveness and outreach of innovative programs that promote school readiness and appropriate educational materials.

(2) to develop and disseminate training materials, including—

(i) interactive programs and programs adapted to distance learning technologies that are designed to enhance knowledge of children’s social and cognitive skill development and positive adult-child interactions; and

(ii) support materials to promote the effective use of materials developed under subparagraph (B) among parents, Head Start providers, in-home and center-based day care providers, early childhood development personnel, elementary school teachers, public libraries, and after-school programs; and

(3) to coordinate activities assisted under this part with the Secretary of Health and Human Services in order to—

(A) maximize the utilization of quality educational and developmental courses and programs, including preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

(B) provide information to recipients of funds under Federal programs that have major training components for early childhood development, including programs under the Head Start Act and Early Start, and State training activities funded under the Child Care Development Block Grant Act of 1990, regarding and utilizing information, referrals, and model program materials to increase family literacy skills among such children; and

(C) to develop and disseminate training materials to increase family literacy skills among children in limited English proficient households.

SEC. 3307. ADMINISTRATIVE COSTS.

With respect to the implementation of section 3303, eligible entities that provide services and carry out programs under this part shall prepare an annual report which contains such information as the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

SEC. 3308. DEFINITIONS.

For the purposes of this part, the term ‘‘distance learning’’ means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications (including through the Internet).

SEC. 3309. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, $50,000,000 for fiscal year 2000, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) FUNDING RULE.—Not less than 60 percent of the amounts appropriated under subsection (a) for each fiscal year shall be used to carry out the programs, activities, and projects authorized by this part.

SEC. 3310. SATELLITE TELEVISION NETWORK.

Title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6801 et seq.) is amended by adding at the end the following:

PART G—SATELLITE TELEVISION NETWORK

SEC. 3701. NETWORK.

(a) IN GENERAL.—The Secretary of Education and the Secretary of Health and Human Services shall award a grant to or enter into a contract with an eligible organization to establish and operate a satellite television network to provide training for personnel of Head Start, Title I, and Title V programs, and to fund programs serving such populations; and

(b) ELIGIBLE ORGANIZATION.—To be eligible to receive a grant or enter into a contract under subsection (a), an eligible organization shall—

(1) administer a centralized child development and national assessment program leading to recognized credentials for personnel working in early childhood development and child care programs, within the meaning of section 648(e) of the Head Start Act (42 U.S.C. 9842(e)); and

(2) demonstrate that the organization has entered into a partnership, to establish and operate the training network, that includes—

(A) a nonprofit organization; and

(B) a public or private entity that specializes in providing broadcast programs for parents and professionals in fields relating to early childhood.

(3) APPLICATION.—To be eligible to receive a grant or contract under subsection (a), an organization shall submit to the Secretary an annual report which contains such information as the Secretary may reasonably require.

(4) ADMINISTRATIVE AGREEMENT.—The Secretary of Education and the Secretary of Health and Human Services shall enter into a cooperative agreement to carry out this section.

SEC. 3303. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—For the purposes of this part, there is authorized to be appropriated—

(1) $20,000,000 for fiscal year 1999; and

(2) $20,000,000 for each of the 4 succeeding fiscal years.

TITLe IV—HEALTHy EARLY CHILDHOOD DEVELOpMENT SYstems OF CARE

SEC. 401. BLOCK GRANTS TO STATES FOR HEALThy EARLY CHILDHOOD DEVELOPMENT SYSTEMS OF CARE.

(a) Block Grant.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended—

(1) by inserting after the subchapter heading the following:

PART 1—CHILD CARE ACTIVITIES; and

(2) by adding at the end the following:

PART 2—HEALTHY EARLY CHILDHOOD DEVELOPMENT SYSTEMS OF CARE

SEC. 659. PURPOSE.

The purposes of this part are—
"(1) to help families seeking government assistance for their children, in a manner that does not usurp the role of parents, and streamlines and coordinates government services for the families;

"(2) to establish a framework of support for local early childhood development coordinating councils that—

(A) provide, through public and private means, high-quality early childhood education, development, and support services; and

(B) provide, through public and private means, high-quality early childhood education, development, and support services for children and families; and

(3) to develop family environments conducive to the growth and healthy development of children; and

(4) to ensure that children under age 5 have proper medical care and early intervention services when necessary.

SEC. 659A. DEFINITIONS.

"In this part:

"(1) child in poverty.—The term 'child in poverty' means a young child who is an eligible child described in section 659P(4)(B).

"(2) healthy early childhood development system of care.—The term 'healthy early childhood development system of care' means a system of programs that provides coordinated early childhood development services.

"(3) early childhood development services.—The term 'early childhood development services' means education, development, and support services, such as all-day kindergarten, parenting education and home visits, child care and other child development services, and health services (including prenatal care) for young children.

"(4) eligible state.—The term 'eligible State' means a State that has submitted a State plan described in section 659E to the Secretary and obtained the certification of the Secretary for the plan.

"(5) governor.—The term 'governor' means the chief executive officer of a State.

"(6) Indian tribe; tribal organization.—The terms 'Indian tribe' and 'tribal organization' have the meanings given the terms in section 659F.

"(7) local council.—The term 'local council' means a local early childhood development coordinating council established or designated under section 659F.

"(8) secretary.—The term 'Secretary' means the Secretary of Health and Human Services.

"(9) State.—The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(10) state council.—The term 'State council' means a State early childhood development coordinating council established or designated under section 659F.

"(11) young child.—The term 'young child' means an individual under age 5.

SEC. 659B. AUTHORIZATION OF APPROPRIATIONS.

"(a) in general.—There is authorized to be appropriated out this part $200,000,000 for each of fiscal years 2002 through 2004.

"(b) availability of funds.—Funds appropriated for a fiscal year under subsection (a) shall remain available for the succeeding 2 fiscal years.

SEC. 659C. ALLOTMENT TO STATES.

"(a) reservation.—The Secretary shall reserve not less than 1 percent, and not more than 5 percent, of the funds appropriated under section 659B for each fiscal year for payments to Indian tribes and tribal organizations to assist the tribes and organizations in supporting healthy early childhood development systems of care under this part. The Secretary shall by regulation issue requirements concerning the eligibility of Indian tribes and tribal organizations to receive funds under this subsection, and the use of funds made available under this subsection.

"(b) allotment.—From the funds appropriated under section 659B for a fiscal year, the Secretary shall allot to each eligible State, to pay for the Federal share of the costs of providing healthy early childhood development systems of care under this part, the sum of—

"(1) an amount that bears the same ratio to 50 percent of such funds as the number of young children in the State bears to the number of such children in all eligible States; and

"(2) an amount that bears the same ratio to 50 percent of such funds as the number of children in poverty in the State bears to the number of such children in all eligible States.

"(c) federal share.—The Federal share of the cost described in subsection (b) shall be 75 percent. The non-Federal share of the cost described in subsection (b) shall be determined by the Governor, or the designee of the governor, of the State, in accordance with the requirements of section 659F and how political subdivisions of the State have provided funds or other assistance for their children, in a manner that does not usurp the role of parents, and streamlines and coordinates government services for the families.

"(3) state goals for the activities described in section 659J; and

"(4) state goals for the activities described in section 659J.

"(b) apportioned state council.—The Governor shall apportion the members of a State council to the State council, as described in subsection (c). The Governor may include—

"(1) a State superintendent of schools, or the designee of the superintendent;

"(2) the chief State budget officer or the designee of the officer;

"(3) the head of the State health department or that head;

"(4) the heads of the State agencies with primary responsibility for child welfare, child care, and the medicare program carried out under the social security Act (42 U.S.C. 1396 et seq.), or the designees of the heads;

"(5) the heads of other State agencies with primary responsibility for the health of young children or pregnant women, which may be agencies with primary responsibility for alcohol and drug abuse services, mental health services, mental retardation services, food assistance services, and juvenile justice services, or the designees of the heads;

"(6) a representative of providers of early childhood development services; and

"(7) representatives of early childhood development agencies; and

"(8) the Governor; and

"(9) the designee of the Governor, if the Governor designates the designee of the Governor; and

"(10) local councils.—The State council may establish and appoint the members of the local councils.

"(c) state council.—The Governor shall, in the discretion of the Governor, establish and appoint the members of the State council in the manner that promotes the delivery of healthy early childhood development services under this part, the goals of this part.

"(d) chairperson.—The Governor shall designate an entity to serve as the State council if the entity—

"(1) includes members that are substantially similar to the members described in subsection (c); and

"(2) provides integrated and coordinated early childhood development services.

"(e) chairperson.—The Governor shall designate an entity to serve as the State council if the entity—

"(1) in the case of a State in which the Governor elects to establish or designate a State council, sufficient information about the entity established or designated under section 659D to enable the Secretary to determine whether the entity complies with the requirements of such section; and

"(2) a description of the political subdivisions designated by the State to receive funds under section 659F and carry out activities under section 659F;

"(3) a description of the political subdivisions designated by the State to receive funds under section 659F and carry out activities under section 659F;

"(4) a description of the political subdivisions designated by the State to receive funds under section 659F and carry out activities under section 659F;

"(5) a description of the political subdivisions designated by the State to receive funds under section 659F and carry out activities under section 659F;

"(6) a description of the political subdivisions designated by the State to receive funds under section 659F and carry out activities under section 659F.

"(b) state council.—The Governor shall by regulation require the amount and source of State and local public funds, and donations, in the State to provide the non-Federal share of the cost of supporting healthy early childhood development systems of care under this part; and

"(c) certification.—The Governor shall certify any State plan that meets the broad goals of this part.

"(d) state activities.—The Governor shall certify any State plan that meets the broad goals of this part.

"(e) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(f) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(g) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(h) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(i) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(j) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(k) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(l) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(m) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(n) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(o) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(p) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(q) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(r) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(s) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(t) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(u) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(v) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(w) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(x) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(y) state council.—The Governor shall certify any State plan that meets the broad goals of this part.

"(z) state council.—The Governor shall certify any State plan that meets the broad goals of this part.
improve the State delivery system for early childhood development services;

"(4) providing technical support for local councils and development of educational materials needed;

"(5) providing education and training for child care providers; and

"(6) supporting research and development of best practices and healthy early childhood development systems of care, establishing standards for such systems, and carrying out program evaluations for such systems.

"(d) MAKING ALLOCATIONS—A State that receives an allotment under section 659G may use not more than 5 percent of the funds made available through the allotment to pay for the costs of administering the activities carried out under this part.

"(e) REPORT.—The State shall annually prepare and submit to the Secretary a report on the activities carried out under this part in the State, which shall include details of the use of Federal funds to carry out the activities and the extent to which the States and political subdivisions are making progress on State or local goals in carrying out the activities. In preparing the report, a State may require political subdivisions in the State to submit information to the State, and may compile the information.

"SEC. 659G. ALLOCATION TO POLITICAL SUBDIVISIONS.

From the funds reserved by a State under section 659F(b) for a fiscal year, the State shall make allocations to each political subdivision in the State the sum of—

"(1) an amount that bears the same ratio to 50 percent of such funds as the number of young children in the political subdivision bears to the number of such children in all eligible political subdivisions in the State; and

"(2) an amount that bears the same ratio to 50 percent of such funds as the number of children in poverty in the political subdivision bears to the number of such children in all eligible political subdivisions in the State.

"SEC. 659H. LOCAL COUNCILS.

(a) IN GENERAL.—The chief executive officer of a political subdivision that is located in a State with a State council and that seeks an allocation under section 659G may, at the election of the officer—

"(1) appoint the members of a local early childhood development coordinating council, as described in subsection (b); or

"(2) designate an entity to serve as such a council, as described in subsection (c).

(b) APPOINTED LOCAL COUNCIL.—The officer may establish and appoint the members of a local council that may include—

"(1) representatives of any public or private agency that funds, advocates the provision of, or provides services to children and families;

"(2) representatives of schools;

"(3) members of families that have received services from an agency represented on the council;

"(4) representatives of courts; and

"(5) private providers of social services for families and children.

(c) DESIGNATED LOCAL COUNCIL.—The officer may designate an entity to serve as the local council if the entity—

"(1) is recognized by a State child care accreditation or credentialing entity;

"(2) is an entity that analyzes and reports to the council on the activities carried out by the council;

"(3) shall carry out activities described in section 659(a); and

"(3) may carry out activities described in section 659(b); and

"(4) shall submit such information as a State council may require under section 659F(e).

"SEC. 659H. LOCAL PLAN.

"(a) IN GENERAL.—A political subdivision that receives an allocation under section 659G shall use the funds made available through the allocation to—

"(1) to provide assistance to entities carrying out early childhood development services through a healthy early childhood development system of care, in order to meet assessed needs for the services, expand the number of children receiving the services, and improve the quality of the services, both for young children who remain in the home and young children that require services in addition to services offered in child care settings; and

"(2) to establish and maintain an accountability system to monitor the progress of the political subdivision in achieving results for families and children through services provided by the healthy early childhood development system of care for the political subdivision; and

"(3) to improve the healthy early childhood development system of care by enhancing efforts and building new opportunities for—

"(A) innovation in early childhood development services;

"(B) formation of partnerships with businesses, associations, churches or other religious institutions, and charitable or philanthropic organizations to provide early childhood development services on behalf of young children; and

"(4) to develop and implement a process that annually prioritizes early childhood development services provided through the healthy early childhood development system of care, fills service gaps in that system where possible, and invests resources to achieve better results for families and children through that system.

(b) PERMISSIBLE ACTIVITIES.—A political subdivision that receives an allocation under section 659G may establish and use the funds made available through the allocation to—

"(1) to improve the healthy early childhood development system of care by enhancing efforts and building new opportunities for—

"(A) innovation in early childhood development services;

"(B) formation of partnerships with businesses, associations, churches or other religious institutions, and charitable or philanthropic organizations to provide early childhood development services on behalf of young children; and

"(2) to develop and implement a process that annually prioritizes early childhood development services provided through the healthy early childhood development system of care, fills service gaps in that system where possible, and invests resources to achieve better results for families and children through that system.

(c) CONFORMING AMENDMENTS.—Part 1 of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is amended—

"(1) in section 658(a) (42 U.S.C. 9858a note), by striking "This subchapter" and inserting "This part"; and

"(2) except as provided in the last sentence of section 658a(c)(2)(F) and in section 658a(a)(3)(C) (42 U.S.C. 9858c(a)(3)(C)), by striking "this subchapter" and inserting "this part"; and

"(3) in subsection (b)(3)(A), by striking "under this subchapter" and inserting "under this part".

TITLE V—CREDENTIALING AND ACCREDITATION

SEC. 501. DEFINITIONS.

In this title—

"(1) ACCREDITED CHILD CARE FACILITY.—The term "accredited child care facility" means—

"(A) a facility that is accredited, by a child care credentialing or accreditation agency recognized by a State or national organization described in paragraph (2)(A), to provide child care (except children who are a tribal organization to elects to serve through an individual described in subparagraph (B)); or

"(B) a facility that is accredited, by a child care credentialing or accreditation agency recognized by a tribal organization, to provide child care for children served by the tribal organization;

"(2) a facility that is used as a Head Start center under the Head Start Act (42 U.S.C. 9801 et seq.) and is in compliance with applicable performance standards established by regulation under such Act for Head Start programs; or

"(3) a military child development center (as defined in section 179B of title 10, United States Code) that is in a facility owned or leased by the Department of Defense or the Coast Guard.

"(2) CHILD CARE CREDENTIALING OR ACCREDITATION ENTITY.—The term "child care credentialing or accreditation entity" means a nonprofit private organization or public agency that—

"(A) is recognized by a State agency, a tribal organization, or a national organization that serves as a peer review panel on the standards and procedures for private child care or school accrediting bodies; and

"(B) accredits a facility or credentials an individual to provide child care on the basis of—

"(i) an accreditation or credentialing instrument based on peer-reviewed research;

"(ii) compliance with applicable State and local licensing requirements, or standards described in section 658c(c)(2)(E)(ii) of the Child Care and Development Block Grant Act (42 U.S.C. 9858c(c)(2)(E)(ii)), as appropriate, for the facility or individual; and

"(iii) criteria that provide assurances of—

"(I) compliance with age-appropriate health and safety standards at the facility or by the individual; and

"(2) USE OF APPROPRIATE DEVELOPMENTAL AND EDUCATIONAL ACTIVITIES.—An integral part of the child care program carried out at the facility or by the individual includes—

"(i) use of age-appropriate developmental and educational activities, as an integral part of the child care program carried out at the facility or by the individual; and

"(ii) use of ongoing staff development or training activities for the staff of the facility or the individual, including skill-based testing.

"(3) CREDENTIALED CHILD CARE PROFESSIONAL.—The term "credentialled child care professional" means—

"(A) an individual who—

"(i) is credentialled, by a child care credentialing or accreditation entity recognized by a State or a national organization described in paragraph (2)(A), to provide child care (except children who are a tribal organization to elects to serve through an individual described in subparagraph (B)); or

"(ii) has successfully completed a 4-year or graduate degree in a relevant academic field (such as early childhood education, education, or recreation services); and

"(iii) is an individual certified by the Armed Forces of the United States to provide child care as a family child care provider (as defined in section 658a(b) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858a)) in military family housing.

"(4) CHILD IN POVERTY.—The term "child in poverty" means a child that is a member of a family with an income that does not exceed 200 percent of the poverty line.
State shall make payments to child care providers who serve children in poverty under age 5 in the State at such time, in such manner, and containing such information as the Secretary may require.

SEC. 503. STATE ALLOTMENTS.

From the funds appropriated under section 502 for a fiscal year, the Secretary shall allot to each eligible State, to pay for the cost of establishing and carrying out State child care credentialing and accreditation incentive programs, an amount that bears the same ratio to such funds as the number of children in poverty under age 5 in the State bears to the number of such children in all States.

SEC. 504. APPLICATION.

To be eligible to receive an allotment under section 503, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

SEC. 505. STATE CHILD CARE CREDENTIALING AND ACCREDITATION INCENTIVE PROGRAM.

(a) In General.—A State that receives an allotment under section 503 shall use funds made available through the allotment to establish and carry out a State child care credentialing and accreditation incentive program. In carrying out the program, the State shall make payments to child care providers who serve children under age 5 to assist the providers in obtaining financial assistance available for employees of the providers who are pursuing skills-based training to—

(1) enable the employees to obtain credentialing as credentialing child care professionals; or

(2) enable the facility involved to obtain accreditation as an accredited child care facility.

(b) Application.—To be eligible to receive a payment under subsection (a), a child care provider shall submit an application to the State at such time, in such manner, and containing such information as the Secretary may require including, at a minimum—

(1) information demonstrating that an employee of the provider is pursuing skills-based training that will enable the employee or the facility involved to obtain credentialing or accreditation as described in subsection (a); and

(2) an assurance that the provider will make available contributions toward the costs of obtaining financial assistance described in subsection (a), in an amount that is not less than $1 for every $1 of Federal funds provided to the provider.

SEC. 506. ADMINISTRATION.

A State that receives an allotment under section 503 may use not more than 5 percent of the funds made available through the allotment to pay the costs of administering the program described in section 505.

SEC. 507. CREDENTIALING, ACCREDITATION, AND RETENTION OF QUALIFIED CHILD CARE WORKERS.

Section 658O of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9856a) is amended—

(1) by inserting “and payments to encourage child care providers who serve children under age 5 to obtain credentialing as credentialing child care providers or accreditation for their facilities as accredited child care facilities or to encourage retention of trained child care providers and have obtained that credentialing or accreditation, in areas that the State determines are underserved” after “referral services”; and

(2) by adding at the end the following: “In this section, the terms ‘credentialled child care provider’ and ‘accredited child care facility’ have the meaning given the terms in section 501 of the Prenatal, Infant, and Child Development Act of 1999.”.

Mr. BAYH. Mr. President, today I rise as an original co-sponsor of the Prenatal Child and Infant Development Block Grant Act, and a bipartisan bill to provide States with the flexibility they need to address the needs of children during their formative years.

Children are born into this world with all the potential they need to make their dreams come true. The ages of birth to 3 are the most critical for a child’s development both mentally and socially. They have all the 100 billion brain cells they will need as adults. By age three, children have nearly all the necessary connections between the brain cells needed for the brain to function fully and properly. It is up to us, families, teachers, child care providers, and communities to help our children live up to their potential. It is important that our children are ready to learn and willing to take the opportunity to maximize their potential.

What income bracket a child is born into should not determine that child’s future. If a child is not provided with proper health care, nutritional food, and a nurturing environment to grow up in, we are leading down a very dark path.

Sadly, it has been confirmed that children who lack proper nutrition, health care, and nurturing during their first years, are destined to suffer socially, motor, and language skills needed to perform well in school and in life. That is why I have joined efforts with Senator Voinovich and Senator Graham and support the Prenatal Child and Infant Development Act. This initiative has bipartisan support because it is important legislation that addresses something we should all have in common, helping our children prepare for the future. A child birth to 3 years old that is in need of assistance can not do it on her own.

Specifically, this bill will allow States to transfer up to 45% of the money they receive for Temporary Assistance for Needy Families to the Child Care Development Block Grant or the Social Services Block Grant. The 15% increase in transferability will go towards increasing local early childhood development coordination councils and to enhance child care quality under the existing Child Care Development Block Grant. This new flexibility will allow States to use the money needed to ensure our children are not sentenced to unfulfillment of their dreams just because they were denied child care services during their most vital developmental stages.

In Indiana, there are over 488,000 children under the age of six. 70% of those children are in child care. Indiana is one of those states that has transferred the entire amount allowed from Temporary Assistance for Needy Families funds to the Child Care Development Block Grant for child care services and quality initiatives. Even with all of the flexibilities, there are still 63,185 children in Indiana that need help. There is a need in my State to have the flexibility to transfer and utilize funds that otherwise are not being spent so these children can be served.

One of the programs this new flexibility will allow to expand is the Building Bright Beginnings Coalition. This coalition is focused on assisting children that are prenatal to four years old. They have helped over 150,000 parents of newborns through their publication “A Parent’s Guide to Raising Healthy Babies”. The coalition has implemented the “Call to Demand Quality Child Care” campaign consisting of public service announcements, billboards, pamphlets, and a toll-free telephone line for parent information in cooperation with local resources and referral agencies. It also makes loans available to child care providers who are considered non-traditional borrowers, and it has formed an institute that creates a public private partnership with higher education as well as the health, education, and early childhood communities. In the short time this program has been in place, it has helped over 100,000 parents of newborns be better informed, over 10,000 new public private partnerships have been formed, and it has directly impacted the lives of over 25,000 children. We need more programs like this and in order for them to exist States need more flexibility with their funding streams.

Early childhood initiatives are administered by Indiana’s Step Ahead Councils. Step Ahead Councils are the types of councils this bill hopes to promote. Indiana has had a council in each of its 92 counties since 1991. These councils are now for locally focused initiatives and initiatives to locally based challenges with child care, parent information, early intervention, child nutrition and health screening. Local responses to local problems can create better solutions. This bill encourages such local involvement.

In addition, there are several other important goals this bill helps to accomplish. It will allow more programs to tap into the Federal to three year olds, it will increase satellite training for Head Start and other early childhood program staff, it will increase direct child care and health services, and will encourage States to implement targeted programs for childcare providers.

As a Senator and a father of two 3½ year old boys, I am proud to support
this bill and publically voice the need to invest in all children. There is no better way to utilize a dollar than to invest it in our future. Thank you Senator Voinovich and Senator Graham for initiating this legislation, I urge my colleagues, when the time comes, to support this bill and the message behind it.

By Mr. BOND (for himself and Senator Kerry): S. 1156. A bill to amend provisions of law enacted by the Small Business Regulatory Enforcement Fairness Act of 1996 to ensure full analysis of potential impacts on small entities of rules proposed by certain agencies, and for other purposes; to the Committee on Small Business. SMALL BUSINESS ADVOCACY REVIEW PANEL TECHNICAL AMENDMENTS ACT OF 1999

Mr. BOND. Mr. President, I rise today to introduce "The Small Business Advocacy Review Panel Technical Amendments Act of 1999." I am pleased to be joined by Senator Kerry, the Ranking Member on the Small Business Committee, which I chair. Our bill is simple and straightforward. It clarifies and expands provisions of law enacted as part of my "Red Tape Reduction Act," the Small Business Regulatory Enforcement Fairness Act of 1996. In 1996, this body led the way toward enactment of this important law. With a unanimous vote, we took a major step to ensure that small businesses are treated fairly by federal agencies.

Like the Regulatory Flexibility Act, which it amended, the Red Tape Reduction Act is a remedial statute, designed to redress the fact that uniform federal regulations impose disproportionate impacts on small entities, including small business, small not-for-profits and small governments. A recent study conducted for the Office of Advocacy of the Small Business Administration documented, yet again, that small businesses continue to face higher regulatory compliance costs than their big-business counterparts. With the vast majority of businesses in this nation being small enterprises, it only makes sense for the rulemaking process to ensure that the concerns of such small entities get a fair airing early in the development of a federal regulation.

The bill Senator Kerry and I are introducing focuses on Section 244 of the Small Business Regulatory Enforcement Fairness Act of 1996, which amended chapter 6 of title 5, United States Code (commonly known as the Regulatory Flexibility Act). As a result, each "covered agency" is required to convene a Small Business Advocacy Review Panel (Panel) to receive advice and comments from small entities. Specifically, under section 609(b), each covered agency is to convene a Panel of federal employees, representing the Office of Information and Regulatory Affairs within the Office of Management and Budget, the Chief Counsel of Advocacy of the Small Business Administration, and the covered agency promulgating the regulation, to receive input from small entities prior to publishing an initial Regulatory Flexibility analysis for a proposed rule with a significant economic impact on a substantial number of small entities. The Panel, which convenes for 60 days, produces a report containing comments from the small entities and the Panel's own recommendations. The report is provided to the head of the agency who reviews the report and, where appropriate, modifies the proposed rule, initial regulatory analysis or the decision on whether the rule significantly impacts small entities. The Panel report becomes a part of the rulemaking record.

Consistent with the overall purpose of the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act of 1996, the Red Tape Reduction Act, the objective of the Panel process is to minimize the adverse impacts and increase the benefits to small entities affected by the agency's actions. Consequently, the true proof of each Panel's effectiveness in reducing the regulatory burden on small entities is not known until the agency issues the proposed and final rules. So far, the results are encouraging.

Under current law, the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA) are the only agencies currently covered by the Panel process. Our bill adds the Internal Revenue Service (IRS) as a covered agency. In 1996, the Red Tape Reduction Act expressly included the IRS under the Regulatory Flexibility Act; however, the Treasury Department has interpreted the language in the law in a manner that essentially writes them out of the law. The Small Business Advocacy Review Panel Technical Amendments Act of 1999 clarifies which agencies are subject to the Panel process. Under current law, the Internal Revenue Code are to be subject to compliance with the Regulatory Flexibility Act, for those rules with a significant economic impact on a substantial number of small entities, the IRS should be required to convene a Small Business Advocacy Review Panel.

If the Treasury Department and the IRS have implemented the Red Tape Reduction Act as Congress originally intended, the regulatory burdens on small businesses and small entities have been reduced, and small businesses could have been saved considerable trouble in fighting unwarranted rulemaking actions. For instance, with input from the small business community early in the process (EPA) at the temporary regulations on the uniform capitalization rules could have been taken into consideration the adverse effects that inventory accounting would have on farming businesses, and especially thrift is and other community banks. Senator Ewing and I have come to understand that the IRS had considered the initial Regulatory Flexibility, it would have learned of the enormous problems surrounding its limited partner regulations prior to issuing the proposal in January 1997. These regulations, which became known as the "stealth tax regulations," would have raised self-employment taxes on countless small businesses operated as limited partnerships and limited liability companies. The IRS also would have imposed burdensome new recordkeeping and collection of information requirements.

Specifically, the bill strikes the language in section 603 of title 5 that included IRS interpretative rules under the Regulatory Flexibility Act, "but only to the extent that such interpretative rules impose on small entities a collection of information requirements." The Treasury Department has misconstrued this language in two ways. First, unless the IRS imposes a requirement on small businesses to complete a new OMB-approved form, the Treasury says Reg Flex does not apply. Second, in the limited circumstances where the IRS has acknowledged imposing a new reporting requirement, the Treasury has limited its analysis of the impact on small businesses to the number imposed by the form. As a result, the Treasury Department and the IRS have turned Reg Flex compliance into an unnecessary, second Paperwork Reduction Act.

To address this problem, our bill revises the critical sentence in Section 603 to read as follows: In the case of an interpretative rule involving the internal revenue laws of the United States, the occupational safety and health standards set forth in this chapter and interpretative rules (including proposed, temporary and final regulations) published in the Federal Register for codification in the Code of Federal Regulations.

Coverage of the IRS under the Panel process and the technical changes I have just described are strongly supported by the Small Business Legislative Council, the National Association for the Self-Employed, and other organizations representing small businesses. Even more significantly, these changes have the support of the Chief Counsel for Advocacy. I ask unanimous consent to include in the RECORD following this statement letters and statements from these small business advocates.

The remaining provisions of our bill address the mechanics of convening a Panel and the selection of the small entity representatives invited to submit advice and recommendations to the Panel. While these provisions are very similar to the legislation introduced in the other body (H.R. 1882) by our colleagues Representatives Talent, Velazquez, Kelly, Bartlett, and Ewing, Senator Kerry has expressed some specific concerns regarding the potential for certain provisions to be misconstrued. I have agreed to work with him to address his concerns in report language and, if necessary, with minor revisions to the bill text.

Our mutual goal is to ensure that the views of small businesses are brought forth through the Panel process and taken to heart by the "covered agency" and other federal agencies represented on the Panel—in short, to
continue the success that EPA and OSHA have shown this process has for small businesses. I thank the Senator from Massachusetts for his support, and ask unanimous consent that the Small Business Advocacy Review Panel Technical Amendments Act of 1999 be printed, following this statement.

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

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

S. 1156

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 "Small Business Advocacy Review Panel Technical Amendments Act of 1999''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) A vibrant and growing small business sector is critical to creating jobs in a dynamic economy.

(2) Small businesses bear a disproportionate share of regulatory costs and burdens.

(3) Federal agencies must consider the impact of their regulations on small businesses early in the rulemaking process.

(4) The Small Business Advocacy Review Panel process that was established by the Small Business Regulatory Enforcement Fairness Act of 1996 and its amendments has been effective in allowing small businesses to participate in rules that are being developed by the Environmental Protection Agency and the Occupational Safety and Health Administration.

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

(1) To provide a forum for the effective participation of small businesses in the Federal regulatory process.

(2) To clarify and strengthen the Small Business Advocacy Review Panel process.

(3) To expand the number of Federal agencies that are required to convene Small Business Advocacy Review Panels.

SEC. 3. ENSURING FULL ANALYSIS OF POTENTIAL IMPACT ON SMALL ENTITIES OF RULES PROPOSED BY CERTAIN AGENCIES.

Section 603(b) of title 5, United States Code, is amended to read as follows:

"(b)(1) Before the publication of an initial regulatory flexibility analysis that a covered agency is required to conduct under this chapter, the head of the covered agency shall—

(A) notify the Chief Counsel for Advocacy of the Small Business Administration (in this subsection referred to as the 'Chief Counsel') in writing;

(B) ensure that the Chief Counsel with information on the potential impacts of the proposed rule on small entities and the type of small entities that might be affected; and

(C) not later than 30 days after complying with subparagraphs (A) and (B)—

(i) with the concurrence of the Chief Counsel, identify affected small entity representatives; and

(ii) transmit to the identified small entity representatives a detailed summary of the information referred to in subparagraph (B) or the information in full, if so requested by the small entity representative, for the purposes of obtaining advice and recommendations about the potential impacts of the draft proposed rule.

(2) Not earlier than 30 days after the covered agency transmits information pursuant to paragraph (1)(C)(i), the head of the covered agency shall convene a review panel for the draft proposed rule. The panel shall consist solely of full-time Federal employees of the office of the covered agency that will be responsible for carrying out the proposed rule, the Office of Information and Regulatory Affairs of the Office of Management and Budget, and the Chief Counsel.

(B) The review panel shall—

(i) review any material the covered agency has prepared in connection with this chapter, including any draft proposed rule;

(ii) collect advice and recommendations from the small entity representatives identified under paragraph (1)(C)(i) on issues related to paragraphs 3, 4, and 5 of section 603(b) and section 603(c); and

(iii) allow any small entity representative identified under paragraph (1)(C)(i) to make an oral presentation to the panel, if requested.

(3) Not later than 60 days after the date a covered agency convenes a review panel pursuant to this paragraph, the review panel shall report to the head of the covered agency on—

(A) the comments received from the small entity representatives identified under paragraph (1)(C)(i); and

(B) its findings regarding issues related to paragraphs 3, 4, and 5 of section 603(b) and section 603(c).

(3)(A) Except as provided in subparagraph (B), the head of the covered agency shall—

(i) collect advice and recommendations from the review panel under paragraph (2)(C), including any written comments submitted by the small entity representatives and any appendices and appendices to the report, as soon as practicable, but not later than—

(ii) 90 days after the date the head of the covered agency receives the report; or

(iii) the date of the publication of the notice of proposed rulemaking for the proposed rule.

(B) The report of the review panel printed in the Federal Register shall not include any confidential business information submitted by any small entity representative.

(4) Where appropriate, the covered agency shall modify the draft proposed rule, the initial regulatory flexibility analysis for the draft proposed rule, or the decision on whether an initial regulatory flexibility analysis is required for the draft proposed rule.

SEC. 4. DEFINITIONS.

Section 609(d) of title 5, United States Code, is amended to read as follows:

"(d) For the purposes of this section—

(1) the term 'covered agency' means the Environmental Protection Agency, the Occupational Safety and Health Administration of the Department of Labor, and the Internal Revenue Service of the Department of the Treasury; and

(2) the term 'small entity representative' means a small entity, or an individual or organization that represents the interests of 1 or more small entities.

SEC. 5. COLLECTION OF INFORMATION REQUIREMENTS.

(a) DEFINITION. —Section 601 of title 5, United States Code, is amended to read as follows:

"(d) For the purposes of this section—

(1) the term 'covered agency' means the Environmental Protection Agency, the Occupational Safety and Health Administration of the Department of Labor, and the Internal Revenue Service of the Department of the Treasury; and

(2) the term 'small entity representative' means a small entity, or an individual or organization that represents the interests of 1 or more small entities.

SEC. 6. EFFECTIVE DATE.

This Act shall take effect upon the expiration of the 90-day period beginning on the date of the enactment of this Act.
May 27, 1999

Mr. KERRY. Mr. President, as Ranking Democrat on Small Business, I join Committee Chairman Bond in introducing the Small Business Advocacy Review Panel Technical Amendments Act of 1999. While there are a few minor points that Chairman Bond and I have agreed to work out before the Committee considers the bill, both agree that this is an important piece of legislation which should be enacted promptly to facilitate the Small Business Enforcement Fairness Act process. This process enables small entity representatives to participate in rulemakings by the Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA), and, under this bill, the Internal Revenue Service (IRS) of the Department of Treasury.

This bill improves and enhances the Small Business Regulatory Enforcement Fairness Act of 1996, which has not only reduced regulatory burdens that otherwise would have been placed on small businesses, but also has begun to institute a fundamental change in the way Federal agencies promulgate rules that could have "a substantial economic impact on a substantial number of small businesses." Federal agencies are required under existing law to form so-called SBREFA panels in conjunction with the Office of Information and Regulatory Affairs in the Office of Management and Budget, and with small entities, or their representatives. These SBREFA panels are charged with creating flexible regulatory options that would allow small businesses to continue to operate without sacrificing the environmental, or health and safety goals of the proposed rule. These panels have worked effectively in saving small businesses regulatory compliance costs. To date, seventeen (17) Small Business Regulatory Enforcement Fairness Act panels have been convened by the EPA, and three (3) by the OSHA. According to SBA's Office of Advocacy, since the law's enactment in 1996, the EPA SBREFA panels have saved small businesses almost $1 billion, and the OSHA SBREFA panels have saved small businesses about $2 billion.

While the process has obviously worked well to date, there are a few technical changes that we are proposing to help the process work even better. These changes were recommended by selected small entity representatives who have experience with the SBREFA panel process, and who testified at a joint hearing held by the House Small Business Committee's Subcommittees on Regulatory Reform and Paperwork Reduction, and Government Programs and Oversight on March 11, 1999.

Let me take a minute to describe the provisions of the bill.

Thank you for soliciting my views.

Sincerely,

JERE W. GLOVER,
Chief Counsel for Advocacy.

Chairman KERRY and I have agreed to this bill which is the Technical Amendments Act of 1999. The proposed amendments to SBREFA are constructive. In particular, applying the requirement that IRS convene Small Business Advocacy Review Panels to consider the impact of proposed rules involving the Internal Revenue law that certain would give small businesses a stronger voice in a process that affects them so dramatically.

The panel process established since 1996 to the Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA). A panel, comprising the administrator of EPA or OSHA, the Chief Counsel for Advocacy of the Small Business Administration, and the director of the Office of Information and Regulatory Affairs, collects comments from representatives of small entities. Then the panel issues a report on the comments and the panel's findings within 60 days. This process has been extremely helpful in identifying the likely impact of major rules on small entities, yet its tight timetable has assured that needed rules are not delayed unduly.

Tax regulations impose the most widespread burdens on small business. Therefore, it is important to have small business input at the earliest possible stage of rulemaking. This amendment builds on an existing panel process that is working well. The panel process would bring a new level of scrutiny to tax regulations, some of which have added immensely to burdens in the past. At the same time, I am mindful that this expansion will add significantly to the workload of both the Office of Advocacy and the IRS, and I hope suitable staffing adjustments to accommodate this important added work will be made.
This bill would lengthen by thirty (30) days the time that small entity representatives have to review the usually technical and voluminous materials to be considered during panel deliberations. For those small businesses who would like to participate but do not have a great deal of time to review technical data, the bill requires OSHA, EPA and IRS to prepare detailed summaries of background data and information.

The bill would also allow a small entity to demonstrate, if he or she so chooses to, make an oral presentation to the panel.

Many small entities have expressed their interest in reviewing the panel report before the rule is proposed, and this bill would require the panel report to be printed in the Federal Register either as soon as practicable or with the proposed rule, but in no case, later than six (6) months after the rule is proposed.

Moreover, the bill would add certain rules issued by Internal Revenue Service to the panel requirements of SBREFA. Many small businesses complain that they are overwhelmed with the large burdens that the IRS places on them. It is the goal of this bill to hold the IRS accountable for the interpretative rules they issue that have a major impact on small business concerns, and to open up the rulemaking process so small entities can participate.

This new authority would significantly increase the workload of SBA’s Office of Advocacy, the Federal office charged with monitoring agency compliance with the Regulatory Flexibility Act, including SBREFA. Chairman Bond and I agree that it is important that the Office of Advocacy have adequate resources to fulfill the new responsibilities mandated by this bill. Therefore, we plan to send a letter jointly to Appropriations Subcommittee on Commerce, Justice and State Chairman and Ranking Member Senators Gregg and Hollings requesting them to approve additional funding for the Office of Advocacy to handle these additional responsibilities under the law.

I am proud to support this legislation. I believe it will result in significant savings for small businesses and will improve the mechanism for their voices to be heard.

Finally, I would like to thank Chairman Bond and his staff for their efforts working with me and my staff to produce this important bill.

By Mr. SMITH of New Hampshire (for himself, Mr. Inhofe, Mr. Thurmond, Mr. Nickles, Mr. Helms, and Mr. Cochran):

S. 1157. A bill to repeal the Davis-Bacon Act and the Copeland Act; to the Committee on Health, Education, Labor, and Pensions.

DAVIS-BACON REPEAL ACT OF 1999

SMITH of New Hampshire. Mr. President, I rise today to introduce the Davis-Bacon Repeal Act of 1999. This legislation would repeal the Davis-Bacon Act of 1931, which guarantees high wages for workers on Federal construction projects, and the Copeland Act, which imposes weekly payroll reporting requirements.

Davis-Bacon requires contractors on Federal construction projects costing over $2,000 to pay their workers no less than the “prevailing wage” for comparable work in their local area. The U.S. Department of Labor has the final say on what the “prevailing wage’ means, but the prevailing wage usually is based on union-negotiated wages.

My bill would allow free market forces, rather than bureaucrats at the Labor Department in Washington, D.C., to determine the amount of construction wages. There is simply no need to have the Labor Department dictating wage rates for workers on Federal construction projects in every locality in the United States.

The Department of Labor’s Office of the Inspector General recently issues a devastating report showing that inaccurate information had been used in Davis-Bacon wage determinations in some cases. Davis-Bacon wage determinations caused workers to lose wages or fringe benefits to be overstated by as much as $1.00 per hour, in some cases. Davis-Bacon was repealed, American taxpayers would save more than $3 billion over a 5-year period, according to the Congressional Budget Office.

Davis-Bacon also stifles competition in Federal bidding for construction projects, especially with respect to small businesses. Small construction companies are not knowledgeable about Federal contracting procedures; and they simply cannot afford to hire the staff needed to comply with Davis-Bacon’s complex work rules and reporting requirements.

The Congressional Budget Office predicted Davis-Bacon during the Great Depression, a period in which work was scarce. In those days, construction workers were willing to take any work that they could find, regardless of the wage rate; most construction was publicly financed; and there were no other Federal worker protections on the books.

Conditions in the construction industry have changed a lot since then, however. Today, unemployment rates are low, and public works construction makes up only about 20 percent of the construction industry’s activity. Also, we now have many Federal laws on the books to protect workers. Such laws include the Fair Labor Standards Act of 1938, which imposes a general minimum wage, the Occupational Safety and Health Act of 1970, the Miller Act of 1935, the Contract Work House and Safety Standards Act of 1962, and the Social Security Act.

Yet the construction industry still has to operate under Davis-Bacon’s inflexible 1930s work requirements and play by its payroll reporting rules. Under the law’s craft-by-craft requirement, for example, contractors must pay Davis-Bacon wages for individuals who perform a given craft’s work. In many cases, that means a contractor either must pay a high wage to an unskilled worker for performing menial tasks, or he must pay a high wage to an experienced worker for these menial tasks. These requirements reduce productivity.

A related problem with Davis-Bacon is that it reduces entry-level jobs and training opportunities for the disadvantaged. Because the law makes it costly for contractors to hire lower-skilled workers on construction projects, the statute creates a disincentive to hire entry-level workers and provide on-the-job training.

The Congressional Budget Office raised this issue in its analysis, “Modifying the Davis-Bacon Act: Implications for the Labor Market and the Federal Budget.” As stated in that 1983 study:

“Although the effect of Davis-Bacon on wages receives the most attention, the Act’s largest potential cost impact may derive from its effect on the use of labor. For one thing, the DOL wage determinations require that, if an employee does the work of a particular craft, the wage paid should be for the craft.”

For example, carpentry work must be paid for at carpenters’ wages, even if performed by a general laborer, helper or member of another craft.

Moreover, the General Accounting Office has maintained that the Davis-Bacon Act is no longer needed. GAO began to openly question Davis-Bacon in the 1960s; and in 1979, it issued a report calling for the Act’s repeal. Titled “The Davis-Bacon Act Should Be Repealed,” the report states: “[A]lthough the law existed in the 1930’s, it is no longer needed in the 1970’s.”

Unfortunately, Davis-Bacon still has the effect of keeping minority-owned construction firms from competing for Federal construction contracts, because many such firms are small businesses.

Early supporters of Davis-Bacon also believed that the law would prevent outside contractors from undermining the prevailing wage for the industry. In practice, however, Davis-Bacon wages hurt local businesses and make it more likely that outside contractors will win bids for Federal projects.
Mr. President, for all of the above reasons, I believe that the Davis-Bacon Act should be repealed. I urge my colleagues to support the Davis-Bacon Repeal Act of 1999.

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

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

S. 1157

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

SECTION 1. Davis-Bacon Act.

(a) Repeal.—The Act of March 3, 1931 (40 U.S.C. 276a et seq.) (commonly referred to as the Davis-Bacon Act) is repealed.

(b) References.—Any reference in any law to a wage requirement of the Act of March 3, 1931, shall after the date of the enactment of this Act be null and void.

SEC. 2. Copeland Act.

Section 2 of the Act of June 13, 1934 (40 U.S.C. 276c) (commonly referred to as the "Copeland Act") is repealed.

SEC. 3. Effective date.

The amendments made by sections 1 and 2 shall take effect 30 days after the date of the enactment of this Act but shall not affect any contract in existence on such date of enactment, or any contract bid on or before such date of enactment, or any contract in existence on such date of enactment but which is not effective until after such date of enactment.

Mr. NICKLES. Mr. President, I am happy to join Senator Bob Smith as a cosponsor of the Davis-Bacon Repeal Act of 1999.

I believe Davis-Bacon repeal is long overdue. This 68-year-old legislation requires contractors to pay workers on federally-subsidized projects what the Labor Department determines is the local prevailing wage. What Davis-Bacon actually does is cost the Federal Government billions of dollars, divert funds out of vitally important projects, and limit opportunities for employment.

In my own State of Oklahoma, it has been proven that many "prevailing wages" have been calculated using fictitious projects, ghost workers, and companies established to pay artificially high wages. Oklahoma officials have reported that many of the wage survey forms submitted to the U.S. Department of Labor to calculate Federal wage rates in Oklahoma were wrong or fraudulent.

Records showed that an underground storage tank was built using 20 plumbers and pipefitters paid $21.65 an hour but no such tank was ever built. In another case, several asphalt machine operators were reported to have been employed at $15 an hour to build a parking lot but the lot was made of concrete by union officials, and the actual Davis-Bacon wage should have been $8 an hour. Ultimately, the Oklahoma Secretary of Labor established that at least two of the inflated Oklahoma reports were filed by union officials.

The Davis-Bacon Act also diverts urgently needed Federal funds. After the 1995 bombing of the Murrah Federal building in Oklahoma City, Mayor Ron Norick of Oklahoma City estimated that the city could have saved $15 million in construction costs had the President waived the Davis-Bacon Act.

This money could have been used to provide additional assistance to those impacted by the bombing and to fund the efforts to rebuild the area around the Murrah site. The Federal role in disaster situations should be to empower communities and foster flexibility so that rebuilding efforts can proceed in the best manner possible.

The Davis-Bacon Act has failed to provide a law that discourages, rather than encourages, the employment of lower skilled or non-skilled workers.

Davis-Bacon began as a way to keep small and minority businesses out of the government pie, and today it still does, reaching even further. Repeal of the act will take wage setting out of the hands of bureaucrats and return the determination of labor costs on construction projects to the efficiency and competitiveness of the open market place. This would result in a more sound fiscal policy through payment of actual market-based local wage rates; more entry-level jobs in construction industry for youth, minorities, and women and minorities; and more bids from businesses bidding on Federal contracts.

The Davis-Bacon Repeal Act will provide increased job opportunities for those who might not ordinarily have the chance to enter the workforce, the opportunity to increase their earnings, and the opportunity to climb the economic ladder.

I applaud Senator Smith for his efforts and appreciate the chance to cosponsor this bill.

By Mr. HUTCHINSON: S. 1158. A bill to allow the recovery of attorney's fees and costs by certain employers and labor organizations who are prevailing parties in proceedings brought against them by the National Labor Relations Board or by the Occupational Safety and Health Administration; to the Committee on Health, Education, Labor, and Pensions.

Mr. HUTCHINSON. Mr. President, it is my honor today to introduce the "Fair Access to Indemnity and Reimbursement Act" (the "FAIR Act"), which will amend the National Labor Relations Act and the Occupational Safety and Health Act to provide that a small employer prevailing against either agency will be automatically entitled to recover the attorney's fees and expenses it incurred to defend itself.

The FAIR Act is necessary because the National Labor Relations Board ("NLRB") and Occupational Safety and Health Agency ("OSHA") are two aggressive, well-funded agencies which share a "find and fine" philosophy. The destructive consequences that small businesses suffer as a result of these agencies' "find and fine" approach are magnified by the abuse of "salting" or the placement of paid union organizers and their agents in non-union workplaces for the sole purpose of disrupting the workforce. "Salting abuse" occurs when "salts" create labor law violations or workplace hazards and then file frivolous claims with the NLRB or OSHA. Businesses are then forced to spend thousands and sometimes hundreds of thousands of dollars to defend themselves against NLRB or OSHA as these agencies vigorously prosecute these frivolous claims. Accordingly, many businesses, when faced with the successful defense, make a bottom-line decision to settle these frivolous claims rather than going out of business or laying off employees in order to finance costly litigation.

The FAIR Act will allow these employers to defend themselves rather than settling, and, more importantly, it will force the NLRB or OSHA to ensure that the claims they pursue are worthy of their efforts. The FAIR Act will accomplish this by allowing employers with up to 100 employees and a net worth of up to $7,000,000 to recover their attorneys fees and litigation expense directly from the NLRB or OSHA, regardless of whether those agencies' claims are kept or settled and the case was "substantially justified" or "special circumstances" make an award of attorneys fees unjust. Thus, the Congressional intent behind the broadly supported, bipartisan "Equal Access to Usual and Accrual (EAU) Act" to "level the playing field" for small businesses will finally be realized.

The FAIR Act is solid legislation; it is a common sense attempt to give small businesses the means to defend themselves against unfair actions. Accordingly, I ask my colleagues for their cooperation and assistance as I work to ensure that the FAIR Act is enacted into law.

By Mr. STEVENS (for himself, Mr. COCHRAN, Mr. INOUE, Mr. HAGEL, Mr. BINGAMAN, Mr. SHELBY, Mr. LEVIN, Mr. DODD, and Mr. THURMOND).

S. 1159. A bill to provide grants and contracts to local educational agencies to initiate, expand, and improve physical education programs for all kindergarten through 12th grade students; to the Committee on Health, Education, Labor, and Pensions.

Mr. STEVENS. Mr. President, today I send to the desk and introduce the Physical Education for Progress—or "PEP"—Act. My bill would provide incentive grants for local school districts to develop minimum weekly requirements for physical education, and daily physical education if possible.

Every student in our Nation's schools, from kindergarten through grade 12, should have the opportunity to participate in quality physical education. Children need to know that physical activity can help them feel good, be successful in school and work, and stay healthy.
Engaging in sports activities provides lessons about teamwork and dealing with defeat. In my judgment, physical activity and sports are an important educational tool, and the lessons of sports may help resolve some of the problems that lead to violence in schools.

Regular physical activity produces short-term health benefits and reduces long-term risks for chronic disease, disability and premature death. Despite proven benefits of being physically active, more than 60 percent of American adults do not engage in levels of physical activity necessary to provide health benefits.

Moreover, that a third of young people in our country aged 12 to 21 years do not regularly engage in vigorous physical activity, and the percentage of overweight young Americans has more than doubled in the past 30 years. Daily participation in high school physical education classes dropped from 22 percent in 1991 to 27 percent in 1997. Right now, only one state in our union—Illinois—currently requires daily physical education for grades K through 12. I think the Taxing Statistic. Only one State requires daily physical education for our children.

The impact of our poor health habits is staggering: obesity-related diseases now cost the Nation more than $100 billion a year. Inactivity, and poor diet cause more than 300,000 deaths per year in the United States.

We know from the Centers for Disease Control and others that lifelong health behaviors that include physical activity and eating patterns, are often established in childhood. Because ingrained behaviors are difficult to change as people grow older, we need to reach out to young people early, before health-damaging behaviors are adopted.

To me, schools provide an ideal opportunity to make an enormous, positive impact on the health of our Nation. The PEP Act, to me, is an important step toward improving the health of our Nation. The PEP Act would help our youth establish solid educational curricula, and to train and educate for emphasizing the importance of physical education equipment and support of our children.

The future cost savings in health care for emphasizing the importance of physical activity to a long and healthy life, to me, are immense.

By Mr. GRASSLEY (for himself and Mrs. FEINSTEIN):

S. 1160. A bill to amend the Internal Revenue Code of 1986 to provide marriage penalty relief, incentives to encourage savings, child care assistance, to extend certain expiring tax provisions, and for other purposes; to the Committee on Finance.
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S6313

May 27, 1999

is the backbone of our new technology-driven economy. It is creating millions of high wage, high skilled jobs. The R&D credit has been extended 9 times since 1981, but it has been allowed to expire 4 times during that period. Now is the time to make it permanent.

I believe that this tax plan is one which can, and will, receive broad bipartisan support. It is a tax plan which Congress can pass and the President can sign. I urge my colleagues to work with the Senator from Iowa and myself, and to pass the Tax Relief for Working Americans Act.

By Mr. BENNETT (for himself, Mrs. MURRAY, Mr. SCHUMER, and Mr. TORRICELLI):

S. 1163. A bill to amend the Public Health Service Act to provide for research and services with respect to lupus; to the Committee on Health, Education, Labor, and Pensions.

LUPUS RESEARCH AND CARE AMENDMENTS OF 1999

- Mr. BENNETT. Mr. President, I rise today to introduce the Lupus Research and Care Amendments of 1999. This legislation would authorize additional funds for lupus research and grants for state and local governments to support the delivery of essential services to low-income individuals with lupus and their families. The National Institute of Health (NIH) spent about $42 million less than one half of one percent of its budget on lupus research last year. I believe that we need to increase the funds that are available for research of this debilitating disease.

Lupus is not a well-known disease, nor is it well understood. Yet, at least 1,400,000 Americans have been diagnosed with lupus and many more are either misdiagnosed or not diagnosed at all. More Americans have lupus than AIDS, cerebral palsy, multiple sclerosis, sickle-cell anemia or cystic fibrosis. Lupus is a disease that attacks and weakens the immune system and is often life-threatening. Lupus is nine times more likely to affect women than men. African-American women are diagnosed with lupus two to three times more often than Caucasian women, and lupus is also more prevalent among certain minority groups including Latinos, Native Americans and Asians.

Because lupus is not well understood, it is difficult to diagnose, leading to uncertainty on the actual number of patients suffering from lupus. The symptoms of lupus make diagnosis difficult because they are sporadic and imitate the symptoms of many other illnesses. If diagnosed early and with proper treatment, the majority of lupus cases can be controlled. Unfortunately, because of the difficulties in diagnosing lupus and inadequate research, many lupus patients suffer debilitating pain and fatigue. The resulting effects make it difficult, if not impossible, for individuals suffering from lupus to carry on normal everyday activities including the demands of a job. Thousands of these debilitating cases needlessly end in death each year.

Title I of the Lupus Research and Care Amendments of 1999 authorizes $75 million in grants starting in fiscal year 2000 to be earmarked for lupus research at NIH. This new authorization would be one percent of NIH’s total budget but would greatly enhance NIH’s research. Title II of the Lupus Research and Care Amendments of 1999 authorizes $40 million in grants to state and local governments as well as to nonprofit organizations starting in fiscal year 2000. These funds would support the delivery of essential services to low-income individuals with lupus and their families. I would urge all my colleagues, Mr. President, to join Senator MURRAY, Senator TORRICELLI, Senator SCHUMER, and myself in sponsoring this legislation to increase funding to fight lupus.

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

S. 1164. A bill to amend the Internal Revenue Code of 1986 to simplify certain rules relating to the taxation of United States business operating abroad, and for other purposes; to the Committee on Finance.

INTERNATIONAL TAX SIMPLIFICATION FOR AMERICAN COMPETITIVENESS ACT OF 1999

- Mr. HATCH. Mr. President, I rise today with my friend and colleagues Senators BAUCUS and MACK to introduce the International Tax Simplification for American Competitiveness Act of 1999. This bill will provide much-needed tax relief from complex and inconsistent tax laws that burden our American-owned companies attempting to compete in the world marketplace.

Our foreign tax code is in desperate need of reform and simplification. The rules in this arena are way too complex and, often, their results are perverse.

Mr. President, the American economy has experienced significant growth and prosperity. That success, however, is becoming more and more intertwined with the success of our business in the global marketplace. This has become even more obvious during the recent financial distress in East Asia. Most Americans still do not realize the important contributions to our economy from U.S. companies with global operations. We have seen the share of U.S. corporate profits attributed to foreign operations increase from 12.2 percent in the 1960’s to 17.7 percent in the 1990’s.

As technology blurs traditional boundaries, and as competition continues to increase from previously lesser-developed nations, it is imperative that America-owned businesses be able to compete effectively.

It seems to me that any rule, regulation, requirement, or tax that we can alleviate to enhance competitiveness will inure to the benefit of American companies, their employees, and shareholders.

There are many barriers that the U.S. economy must overcome in order to remain competitive. Congress cannot hurdle by itself. For example, we have international trade negotiators working hard to remove the barriers to foreign markets that discriminate and hamper American exports. It is ironic, therefore, that one of the largest trade barriers is imposed by our own tax code on American companies operating abroad. Make no mistake: the complexities and inconsistencies in this section of the Tax Code have an appreciable adverse effect on our domestic economy.

The failure to deal with the barriers in our own backyard will serve only to drive more American companies to other countries with simple, more favorable tax treatment. We just saw this occur with the merger of Daimler Benz and Chrysler. The new corporation will be headquartered in Germany due to the complex international laws of the United States.

The business world is changing at an increasingly rapid pace. Tax laws have failed to keep pace with the rapid changes in the world technology and economy. Too many of the international provisions in the Internal Revenue Code have not been substantially debated and revised in over a decade. Since that time, existing international markets have changed significantly and we have seen new markets created. The U.S. Tax Code needs to adapt to the changing times as well. Our current confusing and archaic tax code is woefully out of step with commercial realities as we approach the 21st century.

U.S. businesses frequently find themselves at a competitive disadvantage to their foreign competitors due to the high taxes and stiff regulations they often face. A U.S. company selling products abroad is often charged a higher tax rate by our own government, than a foreign company is. For example, when Kodak sells film in the U.K. or Germany, they pay higher taxes than their foreign competitors due to the favorable tax treatment. We just saw this occur with the merger of Daimler Benz and Chrysler. The new corporation will be headquartered in Germany due to the complex international laws of the United States.

If we close American companies out of the international arena due to complex and burdensome tax rules on exports and foreign production, then we are eliminating them the ability to compete. Doing them, and ourselves, to anemic economic growth and all its adverse subsidiary effects.

The bill we are introducing today is not a comprehensive solution, neither is it a set of bold new initiatives. Instead, this bill contains a set of important intermediate steps which will take us a long way toward simplifying the rules and making some sense of the international tax regime. The bill contains provisions to simplify and update the tax treatment of controlled foreign corporations, fix some of the rules relating to the foreign tax credit, and
make other changes to international tax law.

Some of these changes are in areas that are in dire need of repair, and others are changes that take into consideration the changes we have seen in international business practices and environments during the last decade.

One example of the need for updating our laws is the financial services industry. This industry has seen rapid technological and global changes that have transformed the very nature of the way these corporations do business both here and abroad. This bill contains several provisions to help adapt the foreign tax regime to keep up with these changes.

In the debate about the globalization of our economy, we absolutely cannot forget the taxation of foreign companies with U.S. operations and subsidiaries. These companies are an important part of our growing economy. They employ 49 million American workers. In my home state of Utah, employees at U.S. subsidiaries constitute 3.6 percent of the workforce. We must ensure that U.S. tax law is written and fairly enforced for all companies in the United States.

This bill is not the end of the international tax debate. If we were to pass every provision it contains, we would still not have a simple Tax Code. We would need to make more reforms yet. We cannot limit this debate to only the intermediate changes such as those in this bill. We must not lose sight of the long term. I intend to urge broader debate about other areas in need of reform such as interest allocation, issues raised by the European Union, and subpart F itself. I believe that we must address these concerns in the next five years if we are to put U.S. corporations and the U.S. economy in a position to maintain economic position in the global economy of tomorrow.

This bill is important to the future of every American citizen. Without these changes, American businesses will see their ability to compete diminished, and the United States will have an uphill battle to remain the preeminent economic force in a changing world. This modest, but important package of international tax reforms will help to keep our businesses and our economy competitive and a driving force in the world economic picture. I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent to print the text of the bill in the RECORD.

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

S. 1164

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

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

(a) SHORT TITLE.—This Act may be cited as the ‘‘International Tax Simplification for American Competitiveness 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:

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TITLE I—TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

Sec. 301. Permanent subpart F exemption for interest allocation.

Sec. 302. Study of proper treatment of European Union under same country exceptions.

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Sec. 305. Clarification of treatment of pipeline transportation income.

Sec. 306. Subpart F income from transmission of high voltage electricity.

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TITLE II—PROVISIONS RELATING TO FOREIGN TAX CREDITS

Sec. 309. Study of interest allocation.

Sec. 310. Recharacterization of overall domestic loss.

Sec. 311. Modifications of reporting requirement.

Sec. 312. Look-thru rules to apply to dividends from noncontrolled foreign corporations.

Sec. 313. Application of look-thru rules to foreign tax credit.

Sec. 314. Order of applying foreign tax credits.

Sec. 315. Repeal of limitation of foreign tax credit.

Sec. 316. Repeal of special rules for applying foreign tax credits in case of foreign oil or gas income.

TITLe III—OTHER PROVISIONS

Sec. 317. Deduction for dividends received from certain foreign corporations.

Sec. 318. Application of uniform capitalization rules to foreign persons.

Sec. 319. Treatment of military property of controlled foreign corporations.

Sec. 320. United States property not included in certain assets acquired by dealers in ordinary course of trade or business.

Sec. 321. Treatment of certain dividends of regulated investment companies.

Sec. 322. Regulatory authority to exclude certain preliminary agreements from definition of intangible property.

Sec. 323. Airline mileage awards to certain foreign personnel.

Sec. 324. Repeal of reduction of subpart F income attributable to export trade corporations.

Sec. 325. Study of interest allocation.

Sec. 326. Interest payments deductible where disqualification guarantee has economic effect.

Sec. 327. Modifications of reporting requirements for certain foreign owned corporations.

Section 954(h) (defining exempt foreign income) is amended by striking paragraph (9) and by redesignating paragraph (10) as paragraph (9).
SEC. 201. EXTENSION OF PERIOD TO WHICH EXTINGUISHING OF CONTROLLED FOREIGN CORPORATIONS APPLIES.
(a) GENERAL RULE.—Section 904(c) (relating to carryback and carryover of excess tax credits) shall apply for purposes of this subsection and section 936—

(1) G ENERAL RULE .—For purposes of this paragraph, the term ‘10-percent owner’ means a controlled foreign corporation which owns 10 percent or more of the capital or profits interest in the partnership. The constructive ownership rules of section 958(b) shall apply for purposes of the preceding sentence.

(b) CONFORMING AMENDMENT.—Section 958(c)(1)(B)(iii) is amended by inserting “except as provided in paragraph (4),” before “which”.

SEC. 202. RECHARACTERIZATION OF DOMESTIC LOSS.
(a) GENERAL RULE.—Section 911 is amended by redesignating subsections (g), (h), (i), (l), and (k) as subsections (h), (i), (j), (k), and (l), respectively, and by inserting after subsection (f) the following new subsection:

(r) RECHARACTERIZATION OF DOMESTIC LOSS.—

(1) GENERAL RULE.—For purposes of this part, in the case of any foreign personal holding company income, ‘foreign personal holding company income’ does not include income derived in connection with the performance of services which are related to the transmission of high voltage electricity.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

(2) DECLARED PAID CREDITS.—In the case of any credit under section 911 of the Internal Revenue Code of 1986 by reason of section 902 or 960 of such Code, the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1999.

SEC. 203. SPECIAL RULES RELATING TO FINANCIAL SERVICES INCOME.
(1) G ENERAL RULE .—Section 904(c)(2)(B) (relating to financial services income) is amended by redesignating clause (ii) as clause (i) and by redesignating subclause (III) as subclause (II).

(b) CONFORMING AMENDMENT.—Section 904(c)(2)(B)(iii) is amended by redesignating clause (iii) as clause (ii) and by inserting after clause (ii) the following new clause:

(iv) INCOME FROM SOURCES WITHIN THE UNITED STATES THAT EXCEEDS 80 PERCENT OF GROSS INCOME.—Section 904(c)(2)(B) (relating to financial services income) is amended by adding at the end the following new clause:

(iv) INCOME FROM SOURCES WITHIN THE UNITED STATES THAT EXCEEDS 80 PERCENT OF GROSS INCOME.—If the financial services income in excess of 80 percent of gross income exceeds 80 percent of gross income, the entire gross income for the taxable year shall be treated as financial services income.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.
(A) In General.—For purposes of this subsection, a carryforward or carryback to a taxable year, plus

(1) any applicable dividend shall be treated as income in a separate category in proportion to the ratio of—

(ii) the total amount of earnings and profits attributable to income in such category, to

(ii) the interest, rent, or royalty which is received or accrued from a controlled foreign corporation with respect to the taxpayer and which is being carried (whether or not the taxpayer chooses to have the benefits of this subpart apply with respect to such earlier taxable year).

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 206. ORDERING RULES FOR FOREIGN TAX CREDIT CARRYOVERS.

(a) In General.—Section 904(d)(3) (relating to carryback and carryover of excess tax paid), as amended by section 201, is amended to read as follows:

"(C) Carryback and Carryover of Excess Tax Paid.—

"(I) In General.—If the sum of—

(A) the foreign tax credit carryovers under section 904(b) (relating to a taxable year, plus

(B) the amount of all taxes paid to foreign countries or possessions of the United States for the taxable year and for which the taxpayer elects to have the benefits of this subpart apply,

exceeds the limitation under subsection (a), such excess (to the extent attributable to the taxes described in paragraph (B)) shall be a foreign tax credit carryback to each of the 2 preceding taxable years and a foreign tax credit carryforward to each of the 10 following taxable years.

(2) Ordering Rules.—For purposes of any provision of the title where it is necessary to ascertain the extent to which the credits to which this subpart applies are used in a taxable year or as a carryback or carryforward, such taxes shall be treated as used—

(A) first from carryovers to such taxable year,

(B) then from credits arising in such taxable year, and

(C) finally from carrybacks to such taxable year.

(3) Limitations on Carryovers.—

(A) Credit Only.—A credit may be carried to a taxable year under this subsection only if the taxpayer chooses for such taxable year to have the benefits of this subpart apply to taxes paid or accrued to foreign countries or any possessions of the United States. Any amount so carried may be availed of only as a credit and not a deduction.

(B) Limitation to Apply.—The amount of the credits described in this subsection shall be treated as income in a taxable year under this subsection which is being carried (whether or not the taxpayer chooses to have the benefits of this subpart apply with respect to such earlier taxable year).

(iii) the sum of—

(i) the credits arising in the carryover year, plus

(ii) carryforwards and carrybacks to the carryover year from taxable years earlier than the carryover year to which such credit is being carried (whether or not the taxpayer chooses to have the benefits of this subpart apply with respect to such earlier taxable year).

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 207. REPEAL OF FOREIGN TAX CREDIT UNDER ALTERNATIVE MINIMUM TAX.

(a) In General.—Section 962(d) (relating to alternative minimum tax foreign tax credit) is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) Conforming Amendment.—Section 963(d)(1)(B)(i)(I) is amended by striking ‘‘and’’ and if section 963(d)(2) did not apply’’.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 208. REPEAL OF SPECIAL RULES FOR APPLYING FOREIGN TAX CREDIT IN CASE OF FOREIGN OIL AND GAS INCOME.

(a) In General.—Section 961(g)(1) (relating to special rules in case of foreign oil and gas income) is repealed.

(b) Conforming Amendments.—

(1) Each of the following provisions are amended by striking ‘‘907’’:

(A) Section 245(a)(10).

(B) Section 956(a)(10).

(C) Section 906(d)(1).

(D) Section 904(g)(10)(A).

(E) Section 904(f)(5)(E)(iii) is amended by inserting ‘‘, as in effect before its repeal by the International Tax Simplification for American Competitiveness Act of 1999’’ after section 907(c)(4)(B).

(3) Section 245(a)(10)(L) is amended by striking ‘‘, as in effect before its repeal by the International Tax Simplification for American Competitiveness Act of 1999’’ after section 907(c)(4)(B).

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

SEC. 209. REPEAL OF SPECIAL RULES FOR APPLYING FOREIGN TAX CREDIT TO FOREIGN SHAREHOLDINGS OF UNITED STATES PERSONS.

(a) In General.—Section 956(a)(10) (relating to the foreign tax credit on dividends from foreign corporations) is amended by inserting ‘‘, as in effect before its repeal by the American Competitiveness Act of 1999’’ after section 956(a)(10).

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 210. UNITED STATES PROPERTY NOT TO INCLUDE CERTAIN ASSETS ACQUIRED BY DEALERS IN ORDINARY COURSE OF TRADE OR BUSINESS.

(a) In General.—Section 956(c)(2) (relating to exceptions from property treated as United States property) is amended by striking ‘‘and’’ at the end of subparagraph (i), by striking the period at the end of subparagraph (j) and inserting ‘‘; and’’; and by adding at the end the following new subparagraph:

"(L) securities acquired and held by a controlled foreign corporation in the ordinary course of business as a dealer in securities if (i) the dealer accounts for the securities as securities held primarily for sale to customers in the ordinary course of business, and (ii) the dealer disposes of the securities (or such securities mature while held by the dealer) within a period consistent with the holding of securities for sale to customers in the ordinary course of business.”

(b) Conforming Amendment.—Section 956(c)(2) is amended by striking ‘‘(and’’ in the last sentence and inserting ‘‘, (K), (L); ’’.

(c) Effective Date.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1999, and to taxable years of United States shareholders or with or within which such taxable years of foreign corporations end.

SEC. 211. TREATMENT OF CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

(a) Treatment of Certain Dividends.—

(1) Nonresident Alien Individuals.—Section 871 (relating to tax on nonresident alien individuals) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) Exception for Certain Dividends of Regulated Investment Companies.—

"(A) In General.—Except as provided in subparagraph (B), no tax shall be imposed under paragraph (1)(A) of subsection (a) on any interest-related dividend received from a regulated investment company.

(B) Exclusions.—Subparagraph (A) shall not apply—

(i) to any interest-related dividend received from a regulated investment company to which the Secretary determines that the dividend is not distributable to interest (other than interest described in subparagraph (E) or (ii) or (iii)) received by such company on indebtedness issued by such person in connection with a factoring or partnership with respect to which such person is a 10-percent shareholder,
(ii) to any interest-related dividend with respect to stock of a regulated investment company unless the person who would otherwise be required to deduct and withhold tax from any amount exempt from tax under paragraph (1)(A) of section 1441(c)知道自己 that such dividend is a dividend referred to in section 871(k)(2) (as defined in section 871(k)(2)(B)),

(iii) to any interest-related dividend paid to any person within a foreign country (or any interest-related dividend payment address and any account or person within such foreign country) during any period described in subsection (h)(6) with respect to such country,

Clause (iii) shall not apply to any dividend with respect to any stock which was acquired on or before the date of the publication of the Secretary's determination under subsection (h)(6).

(C) INTEREST-RELATED DIVIDEND.—For purposes of this paragraph, an interest-related dividend is any dividend (or part thereof) which is designated by the regulated investment company as an interest-related dividend in a written notice mailed to its shareholders at least 50 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the company (including amounts so designated which dividends paid after the close of the taxable year described in section 855) is greater than the qualified net interest income of the regulated investment company for the taxable year over the net long-term capital loss (if any) of such company for such taxable year.

For purposes of paragraph (1)(A) of this section, any dividend so designated shall be treated as arising on the 1st day of the next taxable year.

(D) QUALIFIED SHORT-TERM GAIN.—For purposes of subparagraph (C), the term "qualified short-term gain" means the qualified short-term gain of the regulated investment company reduced by the deduction properly allocable to such income.

(E) QUALIFIED INTEREST INCOME.—For purposes of subparagraph (C), the term "qualified interest income" means the sum of the following amounts derived by the regulated investment company from sources within the United States:

(i) any amount includible in gross income as original issue discount (within the meaning of section 1273) on an obligation payable 183 days or less from the date of original issue (regardless of the period held by the company).

(ii) Any interest includible in gross income (including amounts recognized as ordinary income in respect of original issue discount or market discount or acquisition discount under part V of subchapter P and such other amounts as regulations may provide) on an obligation which is in registered form, except that this clause shall not apply to—

(I) any interest on an obligation issued by a corporation or partnership if the regulated investment company is a 10-percent shareholder in such corporation or partnership and

(ii) any interest which is treated as not being portfolio interest under the rules of subsection (h)(4).

(iii) Any interest referred to in subsection (h)(2)(A) (without regard to the trade or business of the regulated investment company). (iv) Any interest-related dividend includable in gross income with respect to stock of another regulated investment company.

(F) EXCEPTED SHORT-TERM CAPITAL GAIN DIVIDENDS.—(A) In general.—Except as provided in subparagraph (B), no tax shall be imposed under paragraph (1)(A) of subsection (a) on any short-term capital gain dividends received from a regulated investment company.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any nonresident alien individual subject to tax under subsection (a) of such section.

(C) SHORT-TERM CAPITAL GAIN DIVIDEND.—For purposes of this paragraph, a short-term capital gain dividend is any dividend (or part thereof) which is designated by the regulated investment company as a short-term capital gain dividend in a written notice mailed to its shareholders not later than 60 days after the close of the taxable year described in section 855 and with respect to stock of another regulated investment company.

(D) QUALIFIED SHORT-TERM GAIN.—For purposes of subparagraph (C), the term "qualified short-term gain" means the excess of the net short-term capital gain attributable to the regulated investment company over the net long-term capital loss (if any) of such company for such taxable year.

For purposes of paragraph (1)(A) of this section, any dividend so designated shall be treated as arising on the 1st day of the next taxable year.

To the extent provided in regulations, clause (i) shall be applied by treating any short-term capital gain as treated as arising on the 1st day of the next taxable year.

(E) TAX NOT TO APPLY TO CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.—(A) IN GENERAL.—Except as provided in subsection (B), no tax shall be imposed under section 871(k)(1)(B) with respect to such controlled foreign corporation.

(B) QUALIFYING ASSETS.—For purposes of this subsection, qualifying assets with respect to a decedent bore to the total assets of the investment company that were qualifying assets with respect to the decedent at any time as the Secretary may designate for purposes of applying subparagraph (A) of section 871(k)(2).

(C) TREATMENT OF DIVIDENDS RECEIVED BY CONTROLLED FOREIGN CORPORATIONS.—The treatment of any dividend received by a controlled foreign corporation (within the meaning of section 957(a)) to the extent such dividend is attributable to interest-related dividends received by the regulated investment company which is described in clause (ii) of section 871(k)(1)(E) and not described in clause (i) or (ii) of such section.

(2) SHORT-TERM CAPITAL GAIN DIVIDENDS.—No tax shall be imposed under paragraph (1) of subsection (a) on any short-term capital gain dividends received from a regulated investment company.

(3) WITHHOLDING TAXES.—(A) Section 1441(c)(1) (relating to exceptions) is amended by adding at the end the following new paragraph:

(12) CERTAIN DIVIDENDS RECEIVED FROM REGULATED INVESTMENT COMPANIES.—(A) IN GENERAL.—No tax shall be required to be deducted and withheld under subsection (a) from any amount exempt from tax imposed by section 871(a)(1)(A) by reason of section 871(k).

(B) SPECIAL RULE.—For purposes of subparagraph (A), clause (i) of section 871(k)(1)(C) shall not apply to any dividend unless the regulated investment company knows that such dividend is a dividend referred to in such clause. A similar rule shall apply with respect to the exception contained in section 871(k)(2)(B).

(B) Section 1442(a) (relating to withholding of tax on foreign corporations) is amended—

(i) by striking "and the reference in section 1441(c)(10)" and inserting "and the reference in section 1441(c)(10)" and (ii) by inserting before the period at the end of the foregoing the following:

"(3) WITHHOLDING TAXES.—(A) Section 1441(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

(12) CERTAIN DIVIDENDS RECEIVED FROM REGULATED INVESTMENT COMPANIES.—(A) IN GENERAL.—No tax shall be required to be deducted and withheld under subsection (a) from any amount exempt from tax imposed by section 871(a)(1)(A) by reason of section 871(k).

(B) SPECIAL RULE.—For purposes of subparagraph (A), clause (i) of section 871(k)(1)(C) shall not apply to any dividend unless the regulated investment company knows that such dividend is a dividend referred to in such clause.

(2) FOREIGN CORPORATIONS.—Section 881 (relating to dividends paid by foreign corporations) is amended—

(i) by striking "and the reference in section 1441(c)(10)" and inserting "the reference in section 1441(c)(10)", and (ii) by inserting before the period at the end of the foregoing the following:

"(8) CERTAIN DIVIDENDS RECEIVED FROM REGULATED INVESTMENT COMPANIES.—"(A) IN GENERAL.—For purposes of this subchapter, stock in a regulated investment company (as defined in section 855) owned by a nonresident not a citizen of the United States shall not be deemed property within the United States for tax purposes and the references in section 851(c)(12) to sections 871(a) and 871(k) shall be treated as referring to sections 881(a) and 881(e) (except that for purposes of this paragraph, clauses (i) and (ii) of section 1441(c)(12), as so modified, clause (ii) of section 881(e)(1)(B) shall not apply to any dividend unless the regulated investment company knows that such dividend is a dividend referred to in such clause).

(b) ESTATE TAX TREATMENT OF INTEREST IN CERTAIN REGULATED INVESTMENT COMPANIES.—Section 2105 (relating to property without the United States for estate tax purposes) is amended by adding at the end the following new subsection:

"(3) IN GENERAL.—For purposes of this subchapter, stock in a regulated investment company (as defined in section 855) owned by a nonresident not a citizen of the United States shall not be deemed property within the United States in the proportion that, at the end of the quarter of such investment company's taxable year immediately preceding a decedent's date of death (or at such other time as the Secretary may designate in regulations), the assets of the investment company that were qualifying assets with respect to the decedent bore to the total assets of the investment company.

(2) QUALIFYING ASSETS.—For purposes of this subsection, qualifying assets with respect to a decedent are assets that, if owned directly by the decedent, would have been—

(A) amounts, deposits, or debt obligations described in section 1441(c)(12), and (B) debt obligations described in the last sentence of section 2104(c), or (C) other property not within the United States.
(1) Paragraph (1) of section 897(h) is amended by striking "REIT" each place it appears and inserting "qualified investment entity".

(2) Paragraphs (2) and (3) of section 897(h) are amended to read as follows:

"(2) SALE OF STOCK IN DOMESTICALLY CONTROLLED ENTITY NOT TAXED.—The term 'United States real property interest' does not include in a domestically controlled qualified investment entity.

(3) Subparagraphs (A) and (B) of section 897(h)(4) are amended to read as follows:

"(A) QUALIFIED INVESTMENT ENTITY.—The term 'qualified investment entity' means any real estate investment trust and any regulated investment company.

"(B) DOMESTICALLY CONTROLLED.—The term 'domestically controlled qualified investment entity' means any qualified investment entity in which at all times during the testing period less than 50 percent in value of the stock was held directly or indirectly by foreign persons.

(4) Subparagraphs (C) and (D) of section 897(h)(4) are each amended by striking "REIT" and inserting "qualified investment entity".

(5) The subsection heading for subsection (h) of section 897 is amended by striking "REIT" and inserting "CERTAIN INVESTMENT ENTITIES".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dividends with respect to taxable years of regulated investment companies beginning after the date of the enactment of this Act.

(2) ESTATE TAX TREATMENT.—The amendments made by subsection (b) shall apply to estates of decedents dying after the date of the enactment of this Act.

(3) CERTAIN OTHER PROVISIONS.—The amendments made by subsection (c) (other than paragraph (1) thereof) shall take effect as provided in section 971 (as so amended).

(a) STUDY.—The Secretary of the Treasury shall conduct a study of the rules under section 856(e) of the Internal Revenue Code of 1986 for allocating export trade income among members of an affiliated group. Such study shall include an analysis of the effect of such rules, including the effect on various industries.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Treasury shall report to the Congress on issues raised by the study conducted under subsection (a), including any recommendations for legislation.

(c) EFFECTIVE DATES.—

(1) GENERAL.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1999.

(2) TRANSITIONS.—Subsection (b) shall apply to requests made by the Internal Revenue Service after December 31, 1999.

By Mr. MACK (for himself, Mrs. FEINSTEIN, Mr. MURkowski, Mr. BREAUX, Mr. GRAMM, Mr. ROB, Mr. CHAFFEE, Mr. BRYAN, Mr. TORRiccIelli, Mr. WARNer, Mr. THurmOND, Mr. GrAMS, Mr. Kyl, Mr. HELMs, Mr. HutchINson, Mr. LGur, and Mr. CoCHRAN):

S. 1165. A bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the amount of receipts attributable to military property which may be treated as exempt foreign trade income; to the Committee on Finance.

DEFENSE JOBS AND TRADE PROMOTION ACT OF 1999

SEC. 310. STUDY OF INTEREST ALLOCATION.

(1) IN GENERAL.—For purposes of applying sections 959 and 960 of the Internal Revenue Code of 1986, in the case of any actual distribution of export trade income made after the enactment of this Act, the earnings and profits attributable to amounts which have been included in the gross income of a United States shareholder under section 953(a) of such Code shall be treated as including an amount equal to the amount of export trade income that was included in gross income as a dividend. If a distribution is excluded from the earnings and profits attributable to amounts which have been included in the gross income for application of the distribution rules of this section, the amount of such distribution shall be treated as an amount described in section 953(a)(2)(B) of such Code and included in the gross income of such Code for the taxable year.

(2) DEFINITIONS.—For purposes of this subsection—

(A) EXPORT TRADE CORPORATION.—The term "export trade corporation" has the meaning given such term by section 971(a) of the Internal Revenue Code of 1986 (as so amended).

(B) EXPORT TRADE INCOME.—The term "export trade income" has the meaning given such term by section 971(b) of the Internal Revenue Code (as so amended).

(c) CONFORMING AMENDMENTS.—

(1) Section 956(e)(2)(A) is amended by striking the last sentence.

(2) Section 956(e)(2)(D) is amended by striking "or export trade income of an export trade corporation" (as defined in section 971)

(3) The table of parts for part III of subchapter N of chapter 1 is amended by striking the item relating to subpart G.

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

SEC. 311. MODIFICATIONS OF REPORTING REQUIREMENTS FOR CERTAIN FOREIGN OWNED CORPORATIONS.

(a) DE MINIMIS EXCEPTION.—Section 6038A(b) (relating to required information) is amended by adding at the end the following new flush sentence:

"The Secretary shall not require the reporting corporation to report any information with respect to any foreign person which is a related person if the aggregate value of the transactions between such related person and the related person (and any person related to such person) during the taxable year does not exceed $5,000,000.

(b) TIME FOR PROVIDING TRANSLATIONS OF SPECIFIC DOCUMENTS.—Notwithstanding Internal Revenue Service Regulation §1.6038A-3(t), a taxpayer shall have at least 60 days to provide translations of specific documents it is requested to translate. Nothing in this subsection shall limit the right of a taxpayer to file a written request for an extension of time to comply with the request.

(c) EFFECTIVE DATES.—

(1) EXCEPTION.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1999.

(2) TRANSITIONS.—Subsection (b) shall apply to requests made by the Internal Revenue Service after December 31, 1999.

SEC. 312. MODIFICATIONS OF REPORTING REQUIREMENTS FOR CERTAIN FOREIGN OWNED CORPORATIONS.

(a) DE MINIMIS PROVISIONS.—Section 6038A(b) (relating to required information) is amended by adding at the end the following new flush sentence:

"The Secretary shall not require the reporting corporation to report any information with respect to any foreign person which is a related person if the aggregate value of the transactions between such related person and the related person (and any person related to such person) during the taxable year does not exceed $5,000,000.

(b) TIME FOR PROVIDING TRANSLATIONS OF SPECIFIC DOCUMENTS.—Notwithstanding Internal Revenue Service Regulation §1.6038A-3(t), a taxpayer shall have at least 60 days to provide translations of specific documents it is requested to translate. Nothing in this subsection shall limit the right of a taxpayer to file a written request for an extension of time to comply with the request.

(c) EFFECTIVE DATES.—

(1) EXCEPTION.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1999.

(2) TRANSITIONS.—Subsection (b) shall apply to requests made by the Internal Revenue Service after December 31, 1999.

By Mr. MACK (for himself, Mrs. FEINSTEIN, Mr. MURkowski, Mr. BREAUX, Mr. GRAMM, Mr. ROB, Mr. CHAFFEE, Mr. BRYAN, Mr. TORRiccIelli, Mr. WARNer, Mr. THurmOND, Mr. GrAMS, Mr. Kyl, Mr. HELMs, Mr. HutchINson, Mr. LGur, and Mr. CoCHRAN):

S. 1165. A bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the amount of receipts attributable to military property which may be treated as exempt foreign trade income; to the Committee on Finance.

DEFENSE JOBS AND TRADE PROMOTION ACT OF 1999

Mr. MACK. Mr. President, I rise to introduce the Defense Jobs and Trade Promotion Act of 1999. This bill, co-sponsored by Senator Feinstein and 36 of my colleagues, will provide a strong economic incentive for companies to create jobs that reduce the costs of corporate defense taxpayers. By the value-added taxes on products that are exported, these nations lower the costs of their imports and provide their companies a competitive advantage that is not based on quality, ingenuity, or resources but rather on a provision of tax law which discriminates against United States exporters of defense products.

Other nations have systems of taxation which rely on corporate income taxes and more on value-added taxes. By rebating the value-added taxes on products that are exported, these nations lower the costs of their imports and provide their companies a competitive advantage that is not based on quality, ingenuity, or resources but rather on a provision of tax law which discriminates against United States taxpayers of defense products.

In an attempt to level the playing field, our tax code allows U.S. companies to establish foreign sales corporations (FSCs) through which U.S.-manufactured products may be exported. A portion of the profits from FSC sales are exempted from corporate income taxes, to mitigate the advantage that other countries give their exporters through value-added tax rebates.

But the tax benefits of a FSC are cut in half for defense exporters. This 50% limitation is the result of a compromise enacted 23 years ago as part of
SEC. 2. REPEAL OF LIMITATION ON RECEIPTS ATTRIBUTABLE TO MILITARY PROPERTY WHICH MAY BE TREATED AS EXEMPT INCOME.

(a) IN GENERAL.—Subsection (a) of section 923 of the Internal Revenue Code of 1986 (defining exempt foreign trade income) is amended by striking paragraph (3) and by redesignating paragraph (6) as paragraph (5).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. Nickles:

S. 1166. A bill to amend the Internal Revenue Code of 1986 to clarify that natural gas gathering lines are 7-year property for purposes of depreciation; to the Committee on Finance.

NATURAL GAS CLASSIFICATION LEGISLATION

Mr. Nickles. Mr. President, today I have introduced legislation to clarify the proper depreciation of natural gas gathering lines. While depreciation is an arcane and technical area of the tax code, I am concerned regarding the proper depreciation of these assets is having real and adverse impacts on members of the natural gas industry.

The purpose of this bill is quite simple—to clarify that natural gas gathering lines are properly depreciated over seven years. The legislation would codify the seven-year treatment of these assets as well as providing a sufficient definition for the term “natural gas gathering line” to distinguish these lines from transmission pipelines for depreciation purposes.

I believe that these assets should currently be depreciated over seven years under existing law, and that this is the long standing practice of members of the industry. However, it has come to my attention that the Internal Revenue Service has been asserting both on audits and in litigation that seven-year depreciation is available only for gathering assets owned by producers. The IRS has asserted that all other gathering equipment is to be depreciated as transmission pipelines over a fifteen-year period. This confounding position ignores not only the plain language of the asset class guidelines governing depreciation, but would result in disparate treatment of the same assets based upon ownership for no discernible policy reason. Moreover, this position ignores the fundamental distinction between gathering and transmission. The IRS has consistently held that the proper depreciation of these assets throughout the country.

With extensive gathering systems totaling many thousands of miles, we cannot afford to allow the proper depreciation of these substantial investments to remain subjects of dispute. I urge my fellow Senators to join me in securing the adoption of this important legislation.

By Mr. McCain:

S. 1168. A bill to eliminate the social security earnings test for individuals who have attained retirement age, to protect and preserve the social security trust funds, and for other purposes; to the Committee on Finance.

PROTECT SOCIAL SECURITY NOW LEGISLATION

Mr. McCain: Mr. President, today I rise to introduce legislation which will give older Americans the freedom to work and protect the Social Security system by taking it off budget, putting it in the black, and keeping it out of the hands of politicians. Our seniors and the working Americans deserve nothing less.

The promise of Social Security is sacred and must not be broken. Millions of Americans count on Social Security to provide the bulk of their retirement income, because that is what the system has promised them. Allowing the federal government to continue spending the tax dollars in the Social Security Trust Fund on more government threaten the financial security of our nation’s retirement system.

The legislation I am introducing today will finally stop the government from stealing money from Social Security. It will lock up the Trust Fund and shore it up with the excess taxes collected by the federal government. It will guarantee that today’s seniors who have worked and invested in the Social Security system will receive the benefits they were promised, without placing an unfair burden on today’s workers.

The legislation does three simple, but very important things.

First, it repeals the burdensome and unfair Social Security earnings test that penalizes Americans between the ages of 65 and 70 for working and remaining productive after retirement.

Under the current law, a senior citizen loses $1 of Social Security benefits for every $3 earned over the established limit, which is $15,500 in 1999.

Because of this cap on earnings, our seniors are being taxed with a 33 percent tax on their Social Security benefits. When this is combined with Federal, State, local and other Social Security taxes on earned income, it amounts to an outrageous 55 to 65 percent tax bite on their total income, and sometimes it can be even higher. An individual who is struggling to make ends meet by holding a job where they earn just $15,500 a year should not be faced with an effective marginal tax rate which exceeds 100 percent.

What is most disturbing about the earnings test is the tremendous burden it places upon low-income senior citizens. Many older Americans need to
work in order to cover their basic expenses: food, housing and health care. These lower-income seniors are hit hardest by the earnings test, while most wealthy seniors escape unscathed. This is because supplemental "lock box" proposals, which prevent Social Security funds from being invested in the stock market, are often being used for work. Repealing the unfair earnings test, as proposed in this legislation, is the right thing to do. Second, the bill protects the money in the Social Security Trust Funds by locking up Social Security funds for Social Security purposes only. I support and applaud the efforts of my Republican colleagues to move forward on the Social Security Lock Box legislation that has been delayed by members of the other party. However, I am concerned that it contains loopholes which would allow Social Security funds to be spent on items other than retirement benefits for seniors. It includes exceptions for emergencies, including economic recession, and allows the surpluses to be used to reduce the public debt. While I understand the intent of these provisions, I believe that we must stop making exceptions and lock up Social Security funds for Social Security purposes only.

For too long, Social Security funds have been used to pay for existing federal programs, create new government programs, and to mask our nation's deficit. We must stop using Social Security funds to pay for non-Social Security programs in order to pay retirement benefits to hard-working Americans, as promised in the law.

The legislation I am introducing puts the Social Security trust fund surpluses safely away in a "lock box" without holes, so that neither we nor our successors can spend the people's retirement money on anything other than their retirement.

Finally, the legislation requires that 62 percent of Social Security retirement benefits and 50 percent of Social Security retirement benefits be exempt from the earnings test. This means that Social Security beneficiaries will not be penalized for working. The Social Security Trust Fund and shoring up the fund with the Social Security surplus, which would shore up the system and ensure the availability of benefits for today's seniors and those working and paying into the system today. Locking up the Social Security Trust Fund and using the money to reduce the Social Security surpluses to be used to reduce the solvency of the system until about 2057, more than 20 years beyond the date when the system is currently expected to begin running out of money, will provide senior citizens with the peace of mind that their Social Security checks will continue arriving each and every month. It will provide time for the Administration, the Congress, and the American people to develop and agree upon a structural reform plan which will save Social Security for future generations.

Mr. President, I would like to note that the National Committee to Preserve Social Security and Medicare has reviewed this legislation and has provided a letter in support of it that I would like to insert in the Record at this point.

Mr. President, this is legislation that will truly protect Social Security for the future, and it will remove the unfair tax on working seniors. I urge my colleagues to support the bill and I intend to work for its passage this Congress.

Mr. President, I would like to note that the National Committee to Preserve Social Security and Medicare has reviewed this legislation and has provided a letter in support of it that I would like to insert in the Record at this point.

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

S. 1168

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

TITLe I—EIMINATION OF SOCIAL SECURITY EARNINGS TEST

SEC. 101. SHORT TITLE.

This title may be cited as the "Older Americans Freedom to Work Act'.

SEC. 102. ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) In general.—Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(1) in subsection (c)(1), by striking "the age of seventy" and inserting "retirement age" (as defined in section 216(1));

(2) in paragraphs (1)(A) and (2) of subsection (d), by striking "the age of seventy" and inserting "retirement age" (as defined in section 216(1));

(3) in subsection (f)(1)(B), by striking "was age seventy or over" and inserting "was at or above retirement age" (as defined in section 216(1));

(4) in subsection (f)(3)—

(A) by striking "33 1/3 percent" and all that follows through "any other individual," and inserting "50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraphs (1) and (2) of subsection (d) and the non-working individual's";

(B) by striking "age 70 and inserting "retirement age" (as defined in section 216(1));

(5) in subsection (h)(2)(A), by striking "age 70" and inserting "retirement age" (as defined in section 216(1)) and

SEC. 203. SHORT TITLE.

This title may be cited as the "Protecting and Preserving the Social Security Trust Funds Act'.

SEC. 204. CONFORMING AMENDMENTS.

SEC. 205. CONFORMING AMENDMENTS ELIMINATING THE EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) Uniform exempt amount.—Section 403(f)(8)(A) of the Social Security Act (42 U.S.C. 403(f)(8)(A)) is amended by striking "the new exempt amounts (separately stated for individuals described in subparagraph (D) and each individual's exempt amount to be applicable" and inserting "a new exempt amount which shall be applicable".

(b) Conforming amendments.—Section 403(f)(8)(B) of the Social Security Act (42 U.S.C. 403(f)(8)(B)) is amended—

(A) in the matter preceding clause (i), by striking "Except" and all that follows that phrase; and

(B) in clauses (i) and (ii), by striking "corresponding" each place it appears; and

(c) Additional conforming amendments.—

(1) Elimination of redundant references to retirement age.—Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(A) in subsection (c), in the last sentence, by striking "nor shall any deduction or" and all that follows and inserting "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60";

(B) in subsection (f)(1), by striking clause (D) and inserting the following: "(D) for which such individual is entitled to widow's or widower's insurance benefit if individual became so entitled prior to attaining age 60";

(2) Conforming amendment to provisions for determining amount in account of delayed retirement.—Section 202(w)(2)(B)(ii) of the Social Security Act (42 U.S.C. 402(w)(2)(B)(ii)) is amended—

(A) by striking "retirement age" and

(B) by striking "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit".

(3) Determining amounts taken into account in determining substantial gainful activity of blind individuals.—The second sentence of subsection 202(w)(2)(B)(ii) of the Social Security Act (42 U.S.C. 423(d)(4)(A)) is amended by striking "if section 102 of the Senior Citizens' Right to Work Act of 1996 had not been enacted" and inserting the following: "if the amendments to section 203 made by section 102 of the Senior Citizens' Right to Work Act of 1996 and by the Senior Citizens' Freedom to Work Act of 1999 had not been enacted".

(d) Effective date.—The amendments and the provisions related to earnings taken into account in determining substantial gainful activity of blind individuals. This title may be cited as the "Protecting and Preserving the Social Security Trust Funds Act'.

SEC. 206. SHORT TITLE.

This title may be cited as the "Protecting and Preserving the Social Security Trust Funds Act'.

SEC. 207. CONFORMING AMENDMENTS.

This title may be cited as the "Protecting and Preserving the Social Security Trust Funds Act'.
SEC. 202. FINDINGS.

Congress finds that—
(1) the $692,460,000,000 unified budget surplus achieved in fiscal year 1998 was entirely due to surpluses generated by the social security trust funds and the cumulative unified budget surpluses projected for subsequent fiscal years are primarily due to surpluses generated by the social security trust funds;
(2) Congress and the President should not use the social security trust funds surpluses to balance the budget or fund existing or new off-budget programs;
(3) all surpluses generated by the social security trust funds must go towards saving and strengthening the social security system; and
(4) at least 62 percent of the on-budget (non-social security) surplus should be reserved and applied to the social security trust funds.

SEC. 203. PROTECTION OF THE SOCIAL SECURITY TRUST FUNDS.

(a) PROTECTION BY CONGRESS.—
(1) REAFFIRMATION OF SUPPORT.—Congress reaffirms its support for the provisions of section 13301 of the Budget Enforcement Act of 1990 that provides that the receipts and disbursements of the social security trust funds shall not be counted for the purposes of the budget submitted to the President, the congressional budget, or the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) PROTECTION OF SOCIAL SECURITY BENEFITS.—Balances in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall be used solely for paying social security benefits as promised to be paid by law.

(c) SEPARATE BUDGET.—The outlays and receipts of the social security program under title II of the Social Security Act, including the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund and the related provisions of the Internal Revenue Code of 1986, shall be submitted as a separate budget.

SEC. 205. PRESIDENT'S BUDGET.

Section 1105(f) of title 31, United States Code, is amended by striking ``305(b)(2),'' and inserting ``in compliance''.

TITLE III—SAVING SOCIAL SECURITY FIRST

SEC. 301. DESIGNATION OF ON-BUDGET SURPLUS.

(a) IN GENERAL.—In determining an on-budget or off-budget provision of law, not less than the amount referred to in subsection (b) for a fiscal year shall be reserved for and applied to the social security trust funds for that fiscal year in addition to the Social Security Trust Fund surpluses.

(b) AMOUNT RESERVED.—The amount referred to in this subsection is—
(1) for fiscal year 2001, $6,820,000,000;
(2) for fiscal year 2002, $36,580,000,000;
(3) for fiscal year 2003, $31,620,000,000;
(4) for fiscal year 2004, $31,620,000,000;
(5) for fiscal year 2005, $48,980,000,000;
(6) for fiscal year 2006, $71,920,000,000;
(7) for fiscal year 2007, $83,980,000,000;
(8) for fiscal year 2008, $96,920,000,000; and
(9) for fiscal year 2009, $102,300,000,000.

SEC. 302. SENSE OF THE SENATE ON DEDICATING ADDITIONAL SURPLUS AMOUNTS.

It is the sense of the Senate that the budget surplus in future years is greater than the currently projected surplus, serious consideration should be given to directing more of the surplus to strengthening the social security trust funds.

NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE

WASHINGTON, D.C., MAY 26, 1999

Hon. John McCain, Russell Building, U.S. Senate, Washington, DC.

Dear Senator McCain: On behalf of the approximately five million members and supporters of the National Committee, I commend your leadership on the issue of protecting the Social Security trust funds and eliminating the Social Security earnings test. The National Committee’s members earnestly believe in the future of the Social Security system and its critical importance to America’s hard working families.

Your legislation would not only save-guard the Social Security surplus and reaffirm Social Security’s off-budget status, but would also strengthen the program’s solvency by committing 62 percent of projected off-budget surpluses to Social Security. Using the off-budget surpluses to fortify Social Security’s financial stability and will help our nation better meet the challenge of the baby-boom generation’s retirement.

We also commend you for your long commitment to extending the earnings test for individuals who have reached normal retirement age. Encouraging seniors to remain in the work force as long as they are willing and able to work strengthens their ability to remain financially independent throughout their retirement years.

Sincerely, Max Richtman, Executive Vice President.

By Mr. McCain (for himself, Mr. Cochran, and Mr. Burns): S. 1169. A bill to require that certain multilateral development banks and other lending institutions implement independent third-party procurement monitoring, and for other purposes; to the Committee on Foreign Relations.

COMPETITION IN FOREIGN COMMERCE ACT OF 1999

Mr. McCain. Mr. President, I along with Senators Cochran and Burns are proud to introduce the Fair Competition in Foreign Commerce Act of 1999, to address the serious problem of waste, fraud and abuse resulting from bribery and corruption in international development projects. This legislation will set conditions for U.S. funding of multilateral development banks. These conditions will require the country receiving aid to adopt substantive procurement reforms and independent third-party procurement monitoring of their international development projects.

During the cold war, banks and governments often looked the other way as pro-western leaders in developing countries treated national treasuries as their personal loans. Today, we cannot afford to look the other way when we see bribery and corruption running rampant in other countries because these practices undermine our goals of promoting democracy and accountability, fostering economic development and trade liberalization, and achieving a level playing field throughout the world for American businesses.

The United States is increasingly called upon to lead multilateral efforts to provide much-needed assistance to developing nations. The American taxpayers make substantial contributions to the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, and the African Development Fund.

However, it is critical that we take steps to ensure that Americans’ hard-earned tax dollars are being used appropriately. The Fair Competition in Foreign Commerce Act of 1999 is designed to decrease the stifling effects of bribery and corruption in international development contracts. By doing so, we will (1) enable U.S. businesses to become more competitive worldwide by bidding against foreign firms which secure government contracts through bribery and corruption; (2) encourage additional direct investment to developing nations, thus increasing...
their economic growth, and (3) increase opportunities for U.S. businesses to export to these nations as their economies expand and mature.

Multilateral lending efforts are only effective in spurring economic development if the funds are used to further the intended development projects, not to line the pockets of foreign bureaucrats and their well-connected political allies. While used for its intended purpose, foreign aid yields both short- and long-term benefits to U.S. businesses. Direct foreign aid assists developing nations to develop their infrastructure. A developed infrastructure is vital to creating and sustaining a modern dynamic economy. Robust new economies create new markets to which U.S. businesses can export their goods and services. Exports are key to the U.S. role in the constantly expanding and increasingly competitive global economy.

The current laws and procedures designed to detect and deter corruption after the fact are inadequate and meaningless. This bill seeks to ensure that U.S. aid contributes to international projects that are used appropriately, by detecting and eliminating bribery and corruption before they can taint the integrity of international projects. Past experience illustrates that it is ineffective to attempt to reverse waste, fraud, and abuse in large-scale foreign infrastructure projects, once the abuse has already begun. Therefore, it is vital to detect the abuses before they occur.

Independent third-party procurement monitoring is a system where an uninvolved entity conducts a program to eliminate bias, to promote transparency and open competition, and to minimize fraud and corruption, waste and abuse of funds in international procurements. The system does this through an independent evaluation of the technical, financial, economic and legal aspects of each stage of a procurement, from the development and issuance of technical specifications, bidding documents, evaluation reports and contract preparation, to the delivery of goods and services. This monitoring takes place throughout the entire term of the international development project.

Mr. President, this system has worked for other governments. Procurement reforms and third-party procurement monitoring resulted in the governments of Kenya, Uganda, Colombia, and Guatemala experiencing significant cost savings in recent procurements. For instance, the Government of Guatemala experienced an overall savings of 48% when it adopted a third-party procurement monitoring system and other procurement reform measures in a recent contract for pharmaceuticals.

Mr. President, bribery and corruption have many victims. Bribery and corruption hamper vital U.S. interests. Both harm U.S. companies, and honest traders who lose contracts, production, and profits because they refuse to offer bribes to secure foreign contracts. Bribery and corruption have become a serious problem. A World Bank survey of 3,600 firms in 69 countries showed 40% of businesses paying bribes. More startling is that Germany still permits its companies to take a tax deduction for bribes. Commerce Secretary Daley pointed out the serious impact of bribery and corruption upon American businesses ability to compete for foreign contracts in 1997:

Since mid-1994, foreign firms have used bribery to win approximately 100 commercial contracts valued at nearly $50 billion. We estimate that over the past year, American companies have lost at least 50 of these contracts, valued at $15 billion. And since many of these contracts were for groundbreaking projects—the kind that produce exports for years to come—the ultimate cost could be much higher.

Since then American companies have continued to lose international development contracts because of unfair competition from businesses paying bribes. This terrible trend must be brought to a halt.

Exports will continue to play an increasing role in our economic expansion. We can ill afford to allow any artificial impediments to our ability to export. Bribery and corruption significantly hinder American businesses' ability to compete. According to the Organization for Economic Cooperation and Development, American businesses are simply not competitive when bidding against foreign firms that have bribed government officials to secure overseas government contracts. Openness and fairness in government contracts will greatly enhance opportunities to compete in the rapidly expanding global economy. Exports equate to jobs. Jobs equate to more money in hard-working Americans' pockets. More money in Americans' pockets means more money for Americans to save and invest in their futures.

Bribery and corruption also harm the country receiving the aid because bribery and corruption often inflate the cost of international development projects. For example, state sponsorship of massive infrastructure projects that are deliberately built beyond the required specification needed to meet the objective is a common example of the waste, fraud, and abuse inherent in corrupt procurement practices. Here, the cost of corruption is not the amount of bribe paid but the inefficent use of resources that the bribes encourage.

Bribery and corruption drive up costs. Companies are forced to increase prices to cover the cost of bribes they pay to win a contract. The contract can raise costs by 15%. Over time, tax revenues will have to be raised or diverted from other more deserving projects to fund these excesses. Higher taxes and the inefficient use of resources both hinder growth.

The World Bank and the IMF both recognize the link between bribery and corruption, and decreased economic growth. Recent studies also indicate that high levels of corruption are associated with low development and growth. Furthermore, corruption lessens the effectiveness of industrial policies and encourages businesses to operate in the unofficial sector in violation of tax and regulatory laws. More importantly, it corrupts the investing public by diverting resources both home and abroad. The U.S. continues to combat foreign corruption, waste, and abuse on many fronts—from prohibiting U.S. firms from bribing foreign officials, to leading the anti-corruption efforts in the United Nations, the Organization of American States, and the Organization for Economic Cooperation and Development. ("OECD"). The U.S. was the first country to enact legislation (the Foreign Corrupt Practices Act) to prohibit its nationals and corporations from bribing foreign public officials in international and business transactions.

However, we must do more. The Foreign Corrupt Practices Act prevents U.S. nationals and corporations from bribing foreign officials, but does nothing to prevent foreign nationals and corporations from bribing foreign officials to obtain foreign contracts. Valuable resources are often diverted or squandered because of corrupt officials or the use of non-transparent specifications, contract requirements and the

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like in international procurements for goods and services. Such corrupt prac-
tices also minimize competition and prevent the recipient nation or agency
from receiving the full value of the goods and services for which it bar-
gains. In addition, despite the increas-
tance of international markets to U.S.
goods and service providers, many U.S.
companies refuse to participate in
international procurements that may be
corrupt.

This legislation is designed to pro-
vide a mechanism to ensure, to the ex-
tent possible, the integrity of U.S. con-
tributions to multilateral lending in-
stitutions and other non-humanitarian
U.S. foreign aid. Corrupt international
procurements, often funded by these
multilateral banks, weaken democratic
institutions and undermine the very
opportunities that multilateral lending
institutions were founded to promote.
This will encourage and support the
development of transparent government
procurement systems, which are vital
for emerging democracies constructing
the infrastructure that can sustain
market economies.

Mr. President, on behalf of the mil-
lions of Americans who will benefit
from the opportunities for U.S.
businesses to participate in the global
economy, and the billions of people in
developing nations throughout the
world who are desperate for economic
assistance, I urge my colleagues to sup-
port this legislation and demonstrate
their continued commitment to the or-
derly evolution of the global economy
and the efficient use of American eco-
nomic assistance.

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

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

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SEC. 3. IMPLEMENTATION DATES.

(a) APPLICABILITY.ÐThe term "each stage of
procurement" means thebidding, contract pre-
paration, and the delivery of
contractual obligations.
(b) TERMINATION.ÐThe term "independent third-
party procurement monitoring" means a program to—
(A) identify fraud, corruption, waste, ineffi-
ciency, and other misuse of funds,
in international procurements through inde-
pendent evaluation of the technical, finan-
cial, economic, and legal aspects of the
procurement process.

(c) ANNUAL REPORTS.ÐNot later than June
30 of each year, the Secretary of the Treas-
ury shall report to Congress on the progress
in implementing procurement reforms made
by each multilateral development bank
and lending institution and each country that
received assistance from a multilateral devel-
opment bank or lending institution during the
preceeding year.

(d) RESTRICTIONS ON ASSISTANCE.ÑNotwith-
standing any other provision of law, no funds
appropriated or made available for non-
humanitarian foreign assistance programs,
including the activities of the Agency for In-
ternational Development, shall be
expended for those projects unless the recipi-
ent country, multilateral development bank
or lending institution has demonstrated that
procurement practices are open, trans-
parent, and free of corruption, fraud, ineffi-
ciency, and other misuse, and that
independent third-party procurement monitor-
ing has been adopted and is being used by the recipient.

SEC. 5. EXCEPTIONS.

(a) NATIONAL SECURITY INTEREST.ÑSection
4 shall not apply with respect to a country if the President determines with such respect to
such country that making funds available is important to the national security inter-
rest of the United States. Any such deter-
mination shall cease to be effective 6 months
after being made unless the President deter-
moves that its continuation is important to
the national security interest of the United
States.

(b) OTHER EXCEPTIONS.ÑSection 4 shall not
apply with respect to assistance to meet urgent human needs (in-
cluding providing food, medicine, disaster,
and refugee relief);
facilitate democratic political reform and
rule of law activities;
create private sector and nongovern-
mental organizations that are independent
of government control; and
facilitate development of a free market
economic system.

By Mr. TORRICELLI:
S. 1170. A bill to provide demonstration
grants to local educational agen-
cies to enable the agencies to extend
the length of the school year; to the
Committee on Health, Education,
Labor, and Pensions.

LEGISLATION TO PROVIDE DEMONSTRATION
GRANTS TO LOCAL AGENCIES

Mr. TORRICELLI. Mr. President, I
rise today to introduce legislation au-
thorizing funding for extended school
day and extended school year programs
across the country. The continuing gap
between American students and those
in other countries, combined with the
growing needs of working and the
growing popularity of extending both
the school day and the school year, have made this educational option a valuable one for many school districts. Students in the United States currently attend school an average of only 180 days per year, compared to 220 days in Japan. Schools in both Korea and Taiwan. American students also receive fewer hours of formal instruction per year compared to their counterparts in Taiwan, France, and Germany. We cannot expect our students to remain competitive with those in other industrialized countries if they must learn the same amount of information in less time.

Our school calendar is based on a no longer relevant agricultural cycle that existed when most American families lived in rural areas and depended on their farms for survival. The long summer vacation allowed children to help their parents work in the fields. Today, summer is a time for vacations, summer camps, and part-time jobs. Young people usually learn a great deal at summer camp, and a job gives them maturity and confidence. However, more time in school would provide the same opportunities while helping students remain competitive with those in other countries. As we debate the need to bring in skilled workers from other countries, the need to improve our system of education has become increasingly important.

In 1994, the Commission on Time and Learning recommended keeping schools open longer in order to meet the needs of both children and communities, and the growing popularity of extended-day programs is significant. Between 1987 and 1993, the availability of extended-day programs in public elementary schools has almost doubled. While school systems have begun to respond to the demand for lengthening the school day, the need for more widespread implementation still exists. Extended-day programs are much more common in private schools than public schools. In the United States, the need for more wide-spread implementation still exists. Extended-day programs are much more common in private schools than public schools. In the United States.

In the case of the Cali cartel in Colombia, this tool was remarkably effective in weakening the drug kingpins. The United States sustained over 150 individuals in the ownership and management of the Colombian drug cartels' non-narcotics business empire, everything from drugstores to poultry farms. Once labeled as drug-linked businesses, these companies found themselves financially isolated. Banks and legitimate companies chose not to conduct business with the United States. The bill freezes the assets of the identified drug traffickers and their associates and prohibits these individuals and organizations from conducting any financial or commercial dealings with the United States.

In the current year, LEAs will use $15 million per year over the next five years for the Department of Education to award grants to local educational agencies (LEAs) for the purpose of attracting highly qualified individuals to teaching. These grants will enable LEAs in high poverty and rural areas to award new teachers a $15,000 tax free salary bonus spread over two years of employment, over and above their regular starting salary. These bonuses will attract teachers to districts where they are most needed. On an annual basis, LEAs will use competitive criteria to select the best and brightest teaching candidates based on objective measures, including test scores, grade point average or class rank and such other criteria as each LEA may determine. The number of bonuses awarded depends upon the number of students enrolled in the LEA.

Teachers who receive the bonus will be required to teach in low income or rural areas for a minimum of four years. If they fail to work the four year minimum, they will be required to repay the bonus they received.

By making this funding available, America's schools will better be able to compete with businesses for the most capable college graduates. These new teachers will, in turn, produce better students and lower the risk of a possible teacher shortage. With arguably the most successful economy of...
any nation in history, we should be doing more to make teaching an attractive career alternative for qualified and motivated individuals. The Teacher Quality Enhancement and Incentive Act will be an excellent first step.

By Ms. COLLINS:

S. 1175. A bill to amend title 49, United States Code, to require that fuel economy labels for new automobiles include air pollution information that consumers can use to help communities meet Federal air quality standards; to the Committee on Commerce, Science, and Transportation.

AUTOMOBILE EMISSIONS CONSUMER INFORMATION ACT OF 1999

Ms. COLLINS. Mr. President, I rise today to introduce a bill that will give consumers important information many will want to factor into their decisions when they shop for a new vehicle. My legislation will ensure that consumers have the information they need to compare the pollution emissions of new vehicles. The Automobile Emissions Consumer Information Act of 1999 simply takes data already collected by the Environmental Protection Agency and requires that this information be presented to consumers in an understandable format as they purchase cars. This proposal, if enacted into law, will benefit both the consumer and the environment.

This measure is modeled after existing requirements for gas mileage information. It ensures that emissions information will be on the window stickers of new cars just as fuel efficiency information is currently displayed. Additionally, emissions information for all new vehicles will be published by the EPA in an easy-to-understand booklet for consumers.

This information is already collected by the EPA, but is disseminated in an extremely burdensome way. First, consumers must pro-actively request emissions information. Then, after securing the relevant EPA documents, the consumer is presented with an overload of complicated data in spreadsheet form. Furthermore, the EPA organizes emissions data by engine type and not by the more commonly compared model and make categories.

Let me refer to a page from the EPA’s 1999 Annual Certification Test Results of emission standards. As my colleagues can see, it is an extraordinarily difficult document to read and interpret. The complicated nature of this document becomes increasingly apparent when this table is compared with the simplified information currently provided to consumers about fuel mileage. The federal government should be aiding consumers who want to consider emissions in choosing which vehicle to purchase. This bill will do just that.

Mr. President, this is not a new idea. The Clean Air Act Amendments of 1970 mandated that the EPA make available to the public the data collected from manufacturers on emissions. The 1970 Amendments further required, “Such results shall be described in such non-technical manner as will responsibly disclose to prospective ultimate purchasers of new motor vehicles and new motor vehicle engines the comparative performance of the vehicles and engines tested.” Mr. President, clearly, the EPA is not abiding by the letter and spirit of the 1970 law.

It is important to note that the Automobile Emissions Consumer Information Act of 1999 does not require either motor vehicle manufacturers or the EPA to conduct new tests. Manufacturers must already test emissions of all new vehicles and submit the test results to the EPA. Unfortunately, the gathering of this information does not translate into useful information for consumers.

While all vehicles must meet the Federal standards, some vehicles exceed the standards. Consumers who are concerned about vehicle emissions deserve to be able to exercise their right to buy from manufacturers who take extra steps in reducing emissions, if they so choose.

Representative BRIAN BILRAY of California is introducing this bill in the House of Representatives today. I greatly appreciate his leadership on this issue and his bringing this common-sense proposal to my attention. He is clearly committed to protecting both consumers and the environment.

Mr. President, I urge my colleagues to join me in enacting the Automobile Emissions Consumer Information Act, and I ask unanimous consent that one page from the EPA’s 1999 Annual Certification Test Results of emission standards be printed in the RECORD.

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

CERTIFICATION AND FUEL ECONOMY INFORMATION SYSTEM (CFEIS), 1999 ANNUAL CERTIFICATION TEST RESULTS, ALL SALESD AREA—LIGHT DUTY VEHICLES AND LIGHT DUTY TRUCKS

[Manufacturer; 20: DaimlerChrysler; Engine Family/Test Group: XER820481H; Engine System: 1; Emissions Certification System: KE021744AG; Easv System: 1]

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By Mr. ROBB (for himself, Mr. WARNER, and Mr. SARBASE):

S. 1176. A bill to provide for greater access to child care services for Federal employees; to the Committee on Governmental Affairs.

CHILD CARE SERVICES FOR FEDERAL EMPLOYEES

Mr. ROBB. Mr. President, today I am introducing legislation to assist federal workers seeking affordable care for their young children.

Many federal facilities provide child care centers for their employees’ use. But for many lower and middle income employees, these services are simply unaffordable—their costs put them beyond the reach of these families. The bill I am introducing today, along with Senators WARNER and SARBASE, will make this option affordable for these employees.

This legislation authorizes federal agencies to use appropriated funds to help lower and middle income federal workers afford the child care services they need. Let me emphasize that these funds have already been appropriated, meaning no new government spending is involved. This is a modest, cost-effective solution that will certainly benefit those parents who are understandably concerned about their child care needs.

Our federal employees should not have to choose between their desire for public service and their need for child care services.

By Mr. DASCHLE:

S. 1178. A bill to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the Oahe Irrigation Project, South Dakota, to the Commission of Schools and Public Lands of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes; to the Committee on Energy and Natural Resources.

THE BLUNT RESERVOIR AND PIERRE CANAL LAND CONVEYANCE ACT OF 1999

Mr. DASCHLE. Mr. President, I am today introducing the Blunt Reservoir and Pierre Canal Land Conveyance Act
of 1999. This proposal is the culmination of more than 2 years of discussion with local landowners, the South Dakota Water Congress, the U.S. Bureau of Reclamation, local legislators, representatives of South Dakota sportsmen, and the public. It lays the foundation for a certainty in certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the Oahe Irrigation Project in South Dakota to the Commission of School and Public Lands of the State of South Dakota, the project the right for them and their descendants to lease those lands and use them as they had in the past until purchased by the Federal government for project purposes. During the period from 1978 until the present, the Bureau of Reclamation has administered these lands on a preference lease basis for those original landowners or their descendants on a non-preferential basis for lands under lease to persons who were not preferential leaseholders. Currently, the Bureau of Reclamation administers 12,978 acres as preferential leases and 304 acres as non-preferential leases in the Blunt Reservoir. As I noted previously, the Oahe Irrigation Project is related directly to the overall project purposes of the Pick-Sloan Missouri Basin program authorized under the Flood Control Act of 1944. Under this program, the U.S. Army Corps of Engineers constructed four major dams across the Missouri River in South Dakota. The two largest reservoirs formed by these dams, Oahe Reservoir and Sharpe Reservoir, caused the loss of approximately 221,000 acres of fertile, wooded bottomland which constituted some of the most productive, unique and irreplaceable wildlife habitat in the State of South Dakota. This included habitat for both game and non-game species, including several species which are now listed as threatened or endangered. Merriweather Lewis, while traveling up the Missouri River in 1804 on his famous expedition, wrote in his diary, "Song birds, game species and furbearing animals abound here in numbers like none of the party has ever seen. The bottomlands and cottonwood trees provide a shelter and food for a great variety of species, all laying their claim to the river bottom." Under the provisions of the Wildlife Coordination Act of 1958, the State of South Dakota has developed a plan to mitigate a part of this lost wildlife habitat as authorized by Section 601 of Title VI of P.L. 92-195, October 21, 1972, known as the Cheyenne River Sioux Tribe, Lower Brule Sioux Tribe, and State of South Dakota Terrestrial Wildlife Habitat Restoration Act. The State's habitat mitigation plan had received the Secretary's approval and interim funding authorizations under Sections 602 and 609 of Title VI. The State's habitat mitigation plan requires the development of approximately 27,000 acres of wildlife habitat in South Dakota, including the 3,304 acres of non-preferential lease lands in the Blunt Reservoir feature to the South Dakota Department of Game, Fish and Parks would constitute a significant step toward satisfying the habitat mitigation obligation owed to the state by the Federal government and as agreed upon by the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, and the South Dakota Department of Game, Fish and Parks. As we developed this legislation, many meetings occurred among the local landowners, South Dakota Department of Game, Fish and Parks, business owners, local legislators, the Bureau of Reclamation, and representatives of local landowners. It became apparent that the best solution for the local economy, tax base and wildlife mitigation issues would be to allow the preferential leaseholders (original landowner or descendant or operator of the land at the time of purchase) to have an option to purchase the land from the Commission of School and Public Lands after the preferential lease parcels are conveyed to the Commission under the same terms and conditions they have enjoyed with the Bureau of Reclamation. If the preferential leaseholder fails to purchase a parcel within the 10-year period, that parcel will be conveyed to the South Dakota Department of Game, Fish and Parks to be used to implement the 27,000-acre habitat mitigation plan. The proceeds from these sales will be used to finance the administration of this bill, support public education in the State of South Dakota, and will be added to the South Dakota Wildlife Habitat Mitigation Trust Fund to assist in the payment of local property taxes on lands transferred from the Federal government to the state of South Dakota.
SEC. 3. BLUNT RESERVOIR AND PIERRE CANAL. 

SECTION 1. SHORT TITLE. 

This Act may be cited as the “Blunt Reservoir and Pierre Canal Land Conveyance Act of 1997.” 

SEC. 2. FINDINGS. 

Congress finds that— 

(A) under the Act of December 22, 1944 (commonly known as the “Flood Control Act of 1944” (58 Stat. 887, chapter 665; 33 U.S.C. 701-1 et seq.), Congress approved the Pick-Sloan Missouri River Basin program— 

(1) to provide irrigation above Sioux City, Iowa; 

(2) to protect urban and rural areas from devastating floods of the Missouri River; and 

(3) to provide irrigation to the general economic development of the United States; 

(B) to provide for irrigation above Sioux City, Iowa; 

(C) to protect urban and rural areas from devastating floods of the Missouri River; and 

(D) for other purposes; 

(2) the purpose of the Oahe Irrigation Project was to meet the requirements of that Act by providing irrigation above Sioux City, Iowa; 

(3) the principle features of the Oahe Irrigation Project were— 

(A) a system of main canals, including the Pierre Canal, running east from the Oahe Reservoir; and 

(B) the establishment of regulating reservoirs, including the Blunt Dam and Reservoir, located approximately 35 miles east of Pierre, South Dakota; 

(C) to establish the Pierre Canal and Blunt Reservoir was purchased from willing sellers between 1972 and 1977, when construction on the Oahe Irrigation Project was halted; 

(D) since 1978, the Commissioner of Reclamation has administered the land— 

(A) on a preferential lease basis to original landowners or their descendants; and 

(B) on a nonpreferential lease basis to other persons; 

(4) the 2 largest reservoirs created by the Pick-Sloan Missouri River Basin Program, Lake Oahe and Lake Sharpe, caused the loss of approximately 221,000 acres of fertile, wooded bottomland in South Dakota that constituted some of the most productive, unique, and irreplaceable wildlife habitat in the State; 

(5) the State of South Dakota has developed the Oahe project under the Federal irrigation law, the Fish and Wildlife Coordination Act of 1934 (commonly known as the “Fish and Wildlife Coordination Act of 1934” (16 U.S.C. 661 et seq.), to mitigate the loss of wildlife habitat, the implementation of which was authorized by section 602 of title VI of Public Law 105-277 (112 Stat. 2681-663); and 

(6) it is in the interests of the United States and the State of South Dakota to— 

(A) provide original landowners or their descendants with an opportunity to purchase their land; and 

(B) transfer the remaining land to the State of South Dakota to allow implementation of its habitat mitigation plan. 

SEC. 3. BLUNT RESERVOIR AND PIERRE CANAL. 

(a) DEFINITIONS.—In this section: 

(1) BLUNT RESERVOIR FEATURE.—The term “Blunt Reservoir feature” means the Blunt Reservoir feature of the Oahe Irrigation Project authorized by section 9 of the Act of December 22, 1944 (58 Stat. 891, chapter 665), as part of the Pick-Sloan Missouri River Basin Program. 

(2) COMMISSION.—The term “Commission” means the Commission of Schools and Public Lands of the State of South Dakota. 

(3) NONPREFERENTIAL LEASE PARCEL.—The term “nonpreferential lease parcel” means a parcel of land that— 

(A) was purchased by the Secretary for use in connection with the Blunt Reservoir feature or the Pierre Canal feature; and 

(B) is under lease to a person other than a preferential leaseholder as of the date of enactment of this Act. 

(4) PIERRE CANAL FEATURE.—The term “Pierre Canal feature” means the Pierre Canal feature of the Oahe Irrigation Project authorized by section 9 of the Act of December 22, 1944 (58 Stat. 891, chapter 665), as part of the Pick-Sloan Missouri River Basin Program. 

(5) PREFERENTIAL LEASEHOLDER.—The term “preferential leaseholder” means a leaseholder of a parcel as of the date specified in paragraph (2) or (3). 

(b) DEAUTHORIZATION.—The Blunt Reservoir feature of the Oahe Irrigation Project is deauthorized. 

(c) CONVEYANCE.—The Secretary shall convey all of the preferential lease parcels to the Commission, without consideration, on a preferential lease basis to original landowners or their descendants; any land not conveyed to original landowners or their descendants shall be conveyed to the State of South Dakota. 

(d) PURCHASE OPTION.— 

(1) IN GENERAL.—A preferential leaseholder shall have an option to purchase from the Commission the preferential lease parcel that is the subject of the lease. 

(2) TERMS.— 

(A) IN GENERAL.—Except as provided in subparagraph (B), a preferential leaseholder may elect to purchase a parcel on 1 of the following terms: 

(i) Cash purchase for the amount that is equal to— 

(I) the value of the parcel determined under paragraph (4); and 

(II) 10 percent of that value. 

(ii) Installment purchase, with 20 percent of the value of the parcel determined under paragraph (4) to be paid on the date of purchase and the remainder to be paid over not more than 30 years at 3 percent annual interest. 

(B) VALUATION.— 

(1) VALUE UNDER $10,000.—If the value of the parcel is under $10,000, the purchase shall be made on a cash basis in accordance with subparagraph (A)(i). 

(2) VALUE ABOVE $10,000.—If the value of the parcel is $10,000 or more, the Secretary shall have until the date that is 10 years after the date of the conveyance under subsection (c) to exercise the option under paragraph (1). 

(B) CONTINUATION OF LEASES.—Until the date specified in paragraph (A), a preferential leaseholder shall have an opportunity to continue to lease from the Commission the parcel leased by the preferential leaseholder under the same terms and conditions as under the lease, as in effect as of the date of conveyance. 

(C) OPTION EXERCISE PERIOD.— 

(1) IN GENERAL.—A preferential leaseholder shall have until the date that is 10 years after the date of the conveyance under subsection (c) to exercise the option under paragraph (1). 

(2) CONTINUATION OF LEASES.—Until the date specified in paragraph (A), a preferential leaseholder shall be entitled to continue to lease from the Commission the parcel leased by the preferential leaseholder under the same terms and conditions as under the lease, as in effect as of the date of conveyance. 

(D) VARIATIONS.— 

(1) IN GENERAL.—The value of a preferential lease parcel shall be determined to be, at the election of the preferential leaseholder— 

(A) the amount that is equal to— 

(i) the number of acres of the preferential lease parcel; multiplied by 

(ii) the amount of the per-acre assessment of adjacent parcels made by the Equalization of the county in which the preferential lease parcel is situated; or 

(E) USE OF PROCEEDS.—Of the proceeds of sales of land under this subsection— 

(A) not more than $500,000 shall be used to reimburse the Secretary for expenses incurred in implementing this Act; 

(B) an amount not exceeding 10 percent of the cost of each transaction conducted under this Act shall be used to reimburse the Commission for expenses incurred implementing this Act; and 

(C) $3,095,000 shall be deposited in the South Dakota Wildlife Habitat Mitigation Trust Fund established by section 603 of division C of Public Law 105-277 (112 Stat. 2681-663) for the purpose of supporting public education; 

(F) the remainder shall be used by the Commission to support public schools in the State of South Dakota.
shall be granted in the following order of priority:

(A) Exchanges with current lessees for non-preferential lease parcels.
(B) Exchanges among adjoining and adjacent landowners for unleased parcels and nonpreferential lease parcels not exchanged by current lessees.
(c) LEASEMENT FOR IRRIGATION PIPE.—A preferential leaseholder that purchases land at Pierre Canal or exchanges land for land at Pierre Canal shall have the State of South Dakota entitled to an easement on the land for an irrigation pipe.

(h) FUNDING OF THE SOUTH DAKOTA TERRESTRIAL LIFE HABITAT RESTORATION TRUST FUND.—Section 603(b) of title VI of Public Law 105-277 (112 Stat. 2861-663) is amended by striking "$108,000,000" and inserting "$111,000,000."

By Mrs. BOXER.

S. 1179. A bill to amend title 18, United States Code, to prohibit the sale, delivery, or other transfer of any type of firearm to a juvenile, with certain exceptions.

YOUTH ACCESS TO FIREARMS ACT OF 1999

Mrs. BOXER. Mr. President, last week, on introduction of the juvenile justice bill, the Senate passed some reasonable, common-sense proposals to control the proliferation of guns in this country. I believe the Senate’s action was an important first step. But there is more to be done.

And, today, I am introducing legislation to prohibit the sale and transfer of any gun to a juvenile, unless it comes from a parent, grandparent, or legal guardian.

Let me start, Mr. President, with a review of current law. A federally licensed firearms dealer—that is, someone who runs a gun store—cannot sell a handgun to someone under the age of 21 and cannot sell any other type of gun to someone under the age of 18.

The law is different, however, for private transactions. Those are sales or transfers by unlicensed individuals at gun shows, at flea markets, or in a private home. Since 1994, it has been illegal for a minor under the age of 18 to buy a handgun in these cases. But it is not illegal for a juvenile to buy a longgun—that is, a rifle, a shotgun, or a semiautomatic assault weapon—in a private transaction. And, it is not illegal for a longgun to be transferred—given—to a juvenile.

This is not right. An 18-year-old cannot buy a can of beer. An 19-year-old cannot buy a bottle of liquor or a bottle of wine. Anyone under 18 cannot buy a pack of cigarettes. And, as I mentioned, since 1994, if you are under 18, you cannot buy a handgun.

There is a reason for this. There is a reason we keep certain things away from juveniles. And, it does not make sense to me to say that it is illegal to sell cigarettes, alcohol, and handguns to a kid, but it is okay to sell them a rifle or a shotgun or a semiautomatic assault weapon.

So, why not—the Youth Access to Firearms Act—simply says that it would be illegal to sell, deliver, or transfer any firearm to anyone under the age of 18.

Now, in recognition of the culture and circumstances in many areas of this country, my bill does contain some exceptions to this prohibition.

First, the bill would not make possession of a long-gun by a juvenile a crime. It would only make the sale or transfer illegal.

Second, the bill would not apply to a rifle or shotgun given to a juvenile by that person’s parent, grandparent, or legal guardian.

Third, it would not apply to another family member giving a juvenile a rifle or shotgun with the permission of the juvenile’s parent, grandparent, or legal guardian.

Fourth, it would not apply to a temporary transfer—a loan—of a rifle or shotgun for hunting purposes.

And, fifth, it would not apply to the temporary transfer of a gun to a juvenile for employment, target shooting, or a course of instruction in the safe and lawful use of a firearm, if the juvenile has parental permission.

I have put these exceptions into the bill to make it clear what I am trying to do here. I am not trying to stop teenagers from having or responsibly using a rifle or a shotgun. I am not trying to stop teenagers from going hunting. I am not trying to prevent a parent or grandparent from giving a rifle or shotgun as a birthday present. But, what I am saying is that juveniles should not be able to buy a gun on their own—or be given one without the knowledge of their parents.

This is precisely what happened in Littleton, Colorado. The two teenage boys who shot up Columbine High School used four guns. Three of those four guns—two shotguns and a rifle—were given to them by an 18-year-old female friend. Under federal law, that was perfectly legal.

I should not be. You should not be able to give a gun to a juvenile. And if you should be able to give a gun to a juvenile, unless you are the parent or grandparent.

As I said earlier, there are certain things that are legally off-limits to juveniles. Selling and giving them guns, if you are not their parent, should be one of those things.

I urge my colleagues to support this bill.

By Mr. KENNEDY:

S. 1180. A bill to amend the Elementary and Secondary Education Act of 1965, to reauthorize and make improvements to that Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

EDUCATIONAL EXCELLENCE FOR ALL CHILDREN ACT OF 1999

Mr. KENNEDY. Mr. President, it is a privilege to introduce President Clinton’s proposal for reauthorizing the Elementary and Secondary Education Act, and for its reauthorization.

In 1990, I introduced the “Dollars and Sense” Act—sometimes referred to as the “Dollars and Sense” Act of 1990.” along with Senators Dodd, Daschle, Murray, Schumer, Levin, and Dorgan. This is another strong step by the President to ensure that all children have the benefit of the best possible education.

Since 1993, President Clinton has consistently led the way on improving schools and making sure that all children meet high standards.

As a result, almost every state has established high standards for its students. “High standards” is no longer just a term for academics experts and policy makers—it is becoming a reality for the nation’s schools and students.

The recently released National Assessment of Title I shows that student achievement is improving—and that the federal government is an effective partner in that success. This result is good news for schools, good news for parents, and good news for students—and it should be a wake up call to Congress. We need to do more to build on these emerging successes to ensure that every child has the opportunity for an excellent education.

Since the reauthorization of Title I in 1994, a non-partisan Independent Review Panel of twenty-two experts from across the country has been overseeing the Title I program. As the largest federal investment in improving elementary and secondary schools, Title I is improving education for 11 million children in 45,000 schools with high concentrations of poverty. It helps schools provide professional development for teachers, improve curriculums, and extend learning time, so that students meet high state standards of achievement.

Under the 1994 amendments to Title I, states were no longer allowed to set lower standards for children in the poorest communities than for students in more affluent communities. The results are clear. Students do well when expectations are set high and they are given the support they need and deserve.

Student achievement in reading and math has increased—particularly the achievement of the poorest students. Since 1992, reading achievement for 9-year-olds in their highest-poverty schools has increased by one whole grade level nationwide. Between 1990 and 1996, math scores of the poorest students also rose by a grade level.

Students are meeting higher state standards. According to state-reported results, students in the highest-poverty elementary schools improved in 5 of 6 states reporting three-year data in reading and 4 out of 5 states in math. Students in Connecticut, Maryland, North Carolina, and Texas made progress in both subjects.

Many urban school districts report that achievement also improved in their highest-poverty schools. In 10 of
13 large urban districts that report three-year trend data, more elementary students in the highest poverty schools are now meeting district or state standards of proficiency in reading or math. Six districts, including Houston, Phoenix, New York City, Philadelphia, San Antonio, and San Francisco, made progress in both subjects.

Federal funds are increasingly targeted to the poorest schools. The 1994 amendments to Title I shifted funds away from secondary schools and into high-poverty schools. Today, 95 percent of the highest-poverty schools receive Title I funds, up from 80 percent in 1993.

In addition, Title I funds help improve teaching and learning in the classroom. Ninety percent of Title I funds go to the local level. Ninety-three percent of those federal dollars are spent directly on instruction, while only 62 percent of all state and local education dollars are spent directly on instruction.

The best illustrations of these successes are in local districts and schools. In Baltimore County, Maryland, all but one of the 19 Title I schools increased student performance between 1993 and 1998. The success has come from Title I support for extended year programs, implementation of effective programs in reading, and intensive professional development for teachers.

At Roosevelt High School in Dallas, Texas, where 80 percent of the students are poor, Title I funds were used to increase parent involvement, train teachers to work more effectively with parents, and make other changes to bring high standards into every classroom. Student reading scores have nearly doubled, from the 40th percentile in 1992 to the 77th percentile in 1996. During the same period, math scores soared from the 16th to the 73rd percentile, and writing scores rose from the 58th to the 84th percentile.

In addition to the successes supported by Title I, other indicators demonstrate that student achievement is improving. U.S. students scored near the top on the latest international assessment of reading. American 4th graders out-performed students from all other nations except Finland.

At Baldwin Elementary School in Boston, where 80 percent of the students are poor, performance on the Stanford 9 test rose substantially from 1996 to 1998 because of increases in teacher professional development and implementation of a whole-school reform plan to raise standards and achievement for all children. In 1996, 66 percent of the 3rd grade students scored in the lowest levels in math. In 1998, 100 percent scored in the highest levels. In 1997, 75 percent of 4th graders scored in the lowest levels in reading. In 1998, no 4th graders scored at the lowest level, and 56 percent scored in the highest levels.

The combined verbal and math scores on the SAT increased 19 points from 1982 to 1997, with the largest gain of 15 points occurring between 1992 and 1997. The average math score is at its highest level in 26 years.

Students are taking more rigorous subjects than ever—and doing better in them than ever before. More than 56 percent of high school graduates taking the core courses recommended in the 1983 report, A Nation At Risk, had increased to 52 percent by 1994, up from 14 percent in 1982 and 40 percent in 1990. Since 1982, the percentage of high school graduates taking biology, chemistry, and physics doubled, rising from 10 percent in 1982 to 21 percent in 1994. With increased participation in advanced placement courses, the number of students that scored at 3 or above on the AP exams has risen nearly five-fold since 1982 from 131,871 in that year to 635,922 in 1998.

Clearly, the work is not done. These improvements are gratifying, but there is no cause for complacency. We must do more to ensure that all children have the opportunities they need to succeed. We must do more to increase support for programs like Title I to build on these successes and make them available to all children.

President Clinton's "Educational Excellence for All Children Act of 1999" builds on the success of the 1994 reauthorization of ESEA, which ensured that all children are held to the same high academic standards. This bill makes high standards the core of classroom action in every school across the country—and holds schools and school districts responsible for making sure all children meet those standards. The bill focuses on three fundamental ways to accomplish this goal: improving teacher quality, increasing accountability for results, and creating safe, healthy, and disciplined learning environments for children.

This year, the nation set a new record for elementary and secondary school enrollments. The figure will reach an all-time high of 53 million students—500,000 more students than last year. Communities, the states, and Congress must work together to see that these students receive a good education.

Serious teacher shortages are being caused by the rising student enrollments, and also by the growing number of teacher retirements. The nation's schools need to hire 2.2 million public school teachers over the next ten years, just to hold their own. If we don't act now, the need for more teachers will put even greater pressure in the future on school districts to lower their standards and hire more unqualified teachers. Too many teachers leave within the first three years of teaching—including 30-50% of teachers in urban areas—because they don't get the support and mentoring they need. Veteran teachers need on-going professional development opportunities to enhance their knowledge and skills, to integrate technology into the curriculum, and to help children meet high state standards.

Many communities are working hard to attract, keep, and support good teachers—and often they're succeeding. The North Carolina Teaching Fellows Program has recruited 3,600 high-ability high school graduates to go into teaching. The students agree to teach for four years in North Carolina public schools, in exchange for a four-year college scholarship. School principals in the state report that the performance of the fellows far exceeds that of other new teachers.

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

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

New York City's Mentor Teacher Internship Program has increased the retention of new teachers. In Montana, only 4 percent of new teachers in mentoring programs left after their first year of teaching, compared with 28 percent of teachers without the benefit of mentoring.

New York City's District 2 has made professional development the central component for improving schools. The idea is that student learning will increase as the knowledge of educators grows—and it's working. In 1996, student math scores were second in the city.

Massachusetts has invested $60 million in the Teacher Quality Endowment Fund to launch the 12-to-62 Plan for Strengthening Massachusetts Future Teaching Force. The program is a comprehensive effort to improve recruitment, retention, and professional development of teachers throughout their careers.

Congress should build on and support these successful efforts across the country to ensure that the nation's schools and communities improve the recruitment, retention, and on-going professional development of teachers. It will provide states and local school districts with the support they need to recruit, select, and retain the best educators, and provide additional professional development opportunities to teachers in urban areas.

One way to help is through the Teacher Quality Endowment Fund, a program that helps states and communities improve the recruitment, retention, and on-going professional development of teachers. It will provide states and local school districts with the support they need to recruit, select, and retain the best educators, and provide additional professional development opportunities to teachers in urban areas.

The Administration's proposal makes a major investment in ensuring quality teachers in every classroom, especially in areas where the needs are greatest. It authorizes funds to help states and communities improve the recruitment, retention, and on-going professional development of teachers.

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they need to help all children meet high standards of achievement. It will also support a national effort to recruit and train school principals.

In recognition of the national need to recruit 2.2 million teachers over the next 10 years, the Administration proposal will fund projects to recruit and retain high-quality teachers and school principals in high-need areas. The Transition to Teaching proposal will continue and expand the successful “Troops to Teachers” initiative by recruiting and supporting mid-career professionals in the armed forces as teachers, particularly in high-poverty school districts and high-need subjects.

The proposal holds states accountable for having qualified teachers in the classroom. It requires that within four years, 95 percent of all teachers must be certified, working toward full certification through an alternative route that will lead to full certification within three years, or are fully certified. It also requires states to ensure that at least 95 percent of secondary school teachers have academic training or demonstrated competence in the subject they teach.

Parents and educators across the country also say that reducing class size is at the top of their priorities for education reform. It is obvious that smaller class sizes, particularly in the early grades, improve student achievement. We must help states and communities reduce class sizes in the early grades, when individual attention is needed most. Congress made a down-payment last year on helping communities reduce class size, and we can’t walk away from that commitment now.

The Educational Excellence for All Children Act authorizes the full 7 years of this program, so that communities will receive 100,000 teachers across the country.

We know qualified teachers in small classes make a difference for students. There is also mounting evidence that the President and Congress took the right step in 1994 by making standards-based reform the centerpiece of the 1994 reauthorization. In schools and school districts across the country that have set high standards and required accountability for results, student performance has risen, and the numbers of students meeting high standards, particularly in high-poverty school districts and high-need subjects.

The proposal holds schools accountable for children meeting the standards. The bill requires schools and districts to end the unsound educational practices of socially promoting children or making them Repeat a grade. It does so in several ways—by increasing support for early education programs, by improving early reading skills, by improving the quality of the teaching force, by providing extended learning time through after-school and summer-school programs, and by creating safe, disciplined learning environments for children.

Last year in Boston, School Superintendent Tom Payzant ended social promotion and traditional grade retention. With extensive community involvement, Mayor Menino, Superintendent Payzant, and the School Committee implemented a policy to clarify expectations, teachers, parents, and students—the requirements needed to advance from one grade to the next, and to graduate from a Boston public school.

The call for a new promotion and retention policy came primarily from middle and high schools, where teachers were facing students who had not mastered the skills they needed in order to go on to a higher grade. Now, all students will have to demonstrate their ability to master the skills and knowledge they need in order to move on to the next grade and to graduate. If students are socially promoted or forced to repeat the same grade without changing the instruction that failed them last time, they are more likely to drop out. Clearly, these practices must end.

The Administration’s proposal makes public schools the centers of opportunity for all children—and holds schools accountable for providing this opportunity.

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improve teacher quality—hold schools, school districts, and states accountable for results—increase parent involvement—expand after-school programs—reduce class size in the early grades—and ensure that schools meet strict discipline standards. With investments like these, we hope to doing all the right things to ensure that the nation’s public schools are the best in the world.

Education must continue to be a top priority in this Congress. We must address the needs of public schools, families, and children so that we ensure that all children have an opportunity to attend an excellent public school now and throughout the 21st Century.

President Clinton’s proposal is an excellent series of needed initiatives, and it deserves broad bipartisan support. I look forward to working with my colleagues to make it the heart of this year’s ESEA Reauthorization Bill.

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

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

THE EDUCATIONAL EXCELLENCE FOR ALL CHILDREN ACT OF 1999—SECTION-BY-SECTION ANALYSIS

Section 2. Table of Contents. Section 2 of the bill would set out the table of contents for the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), hereinafter in the section-by-section analysis referred to as “the ESEA”) as it would be amended by the bill.

Section 3. America’s Education Goals. Section 3 of the bill would rename the National Education Goals (currently in Title I of the Goals 2000: Educate America Act, P.L. 105-267, as “America’s Education Goals”) and update the Goals to reflect our Nation’s continuing need for the Goals. Even though all the Goals will not have been reached by the year 2000 as originally hoped, nor accomplished to equal degrees, the Goals were purposely designed to set high expectations for education and learning in this country and in an individual’s life, and there is a continued need to reaffirm these Goals as a benchmark to which all students can strive and attain. With the help of educators, and the public united in an effort to achieve America’s Education Goals, the Nation will be able to raise its overall level of educational achievement.

Section 3(a) of the bill would contain findings concerning America’s Education Goals, as well as descriptions of areas in which the Nation as a whole, as well as individual States, have been successful (or unsuccessful) at making progress toward achieving the various Goals of the last decade.

In order to reflect the overarching importance to America’s Education Goals, section 3(b) of the bill would amend the ESEA to place the Goals in a proposed new section 3 of the ESEA. Proposed new section 3(a) of the ESEA would state the purpose of America’s Education Goals as: setting forth a common set of national goals for the education of our Nation’s students that the Federal Government and all States and local communities will work to achieve; identifying the greatest educational achievements related to preparing students for responsible citizenship, further learning, and the technological, scientific, economic, challenges of the 21st Century; and establishing a framework for educational excellence at the national, State, and local levels. Proposed new section 3(b) of the ESEA would state the Goals.

Title I of the Goals 2000: Educate America Act, the current authority for the National Education Goals, would be repealed by section 1211 of the bill.

Section 4. Transition. Section 4 of the bill would specify the actions that the Secretary of the bill may take as part of the transition between the requirements of the ESEA as in effect the day before the date of enactment of the Education Improvement Act of 1994 (Title I of the Goals 2000: Educate America Act, P.L. 103-103), and the requirements of the ESEA as amended by the bill.

Under section 4(a) of the bill, the Secretary would be required to take such steps as the Secretaries of the Department of Education determine to be appropriate to provide for the orderly transition to programs and activities under the ESEA, as amended by the bill, from programs and activities under the ESEA, as it was in effect the date before the date of enactment of the bill.

Under section 4(b) of the bill, a recipient of funds under the ESEA, as it was in effect the date before the date of enactment of the bill, may use such funds to carry out specified areas of the ESEA activities in order to ensure a smooth implementation of programs and activities under the ESEA, as amended by the bill.

Section 5. Effective Dates. Section 5 of the bill would set out the effective dates for the bill. The bill would take effect July 1, 2000, with respect to the provisions of the bill that pertain to programs administered by the Secretary on a competitive basis, and the amendments made by Title VI of the bill (impact aid) and the effect, with respect to appropriations for fiscal year 2001 and subsequent fiscal years, and amendments made by section 4 of the bill (transition requirements), which would take effect upon enactment.

Title I—HELPING DISADVANTAGED CHILDREN MEET HIGH STANDARDS

Section 101, declaration of policy and statement of purpose [ESEA, § 1001]. Section 101(a) of the bill would amend the statement of policy in section 101(a) of the ESEA by deleting paragraph (2), which called for an annual increase in appropriations of at least $750 million from fiscal year 1996 to fiscal year 2000.

Section 101(b) would amend the statement of need in section 101(b) of the ESEA to reflect that America’s Education Goals must be achieved, promoting comprehensive schoolwide reforms that are expected to have made under current law, and to improve teaching and learning in the State.

Section 111(2)(A) would add, to the list of other programs with which the plan must be consistent, a specific reference to the Individuals with Disabilities Education Act (IDEA) and the Carl D. Perkins Vocational and Technical Education Act, and the bill’s overall emphasis on accountability for results, will ensure that each participating State devotes a sufficient portion of its Part A funds to the criteria described in those sections. In addition, the bill’s overall emphasis on accountability for results, will ensure that each participating State devotes a sufficient portion of its Part A funds accordingly.

Section 103(b) of the ESEA would permit the Secretary to transfer amounts of not more than 10% of each year’s Title I appropriation to conduct evaluations and studies, collect data, and carry out other activities under section 1501.

PART A—Basic grants

Section 111, State plans [ESEA, § 1111]. Section 111(1)(A) of the bill would amend section 111(a)(1) of the ESEA, which requires a State that wishes to receive a Basic Grant under Part A of Title I to submit a State plan to the Secretary of Education (the Secretary).

Section 111(1)(A)(i) would add language emphasizing that the purpose of a State’s plan is to help all children achieve the standards,

 Section 111(1)(A)(ii) would add, to the list of other programs with which the plan must be consistent, a specific reference to the Individuals with Disabilities Education Act (IDEA) and the Carl D. Perkins Vocational and Technical Education Act, and the bill’s overall emphasis on accountability for results, will ensure that each participating State devotes a sufficient portion of its Part A funds accordingly.

Section 111(1)(A)(ii) would add, to the list of other programs with which the plan must be consistent, a specific reference to the Individuals with Disabilities Education Act (IDEA) and the Carl D. Perkins Vocational and Technical Education Act.
determined by the State, which must include at least mathematics and reading or language arts.

Section 1112(2)(C) would delete current section 1111(b)(2), which requires States to describe, in their plans, what constitutes adequate yearly progress by LEAs and schools participating in the Part A program. This requirement would be replaced by the new emphasis on accountability in section 1111(b)(3), described below. Section 1112(2)(C) would also reorganize paragraph (3) of section 1111(d), relating to assessments, as paragraph (2).

Section 1112(2)(D)(i) would clarify that States receiving the gaps that would require the assessments described in current paragraph (3) of section 1111(b) (which the bill would redesignate as paragraph (2) no later than the 2000-2001 school year.

Section 1112(2)(D)(ii) would amend subparagraph (F) of current section 1111(b)(3), relating to the assessments of limited English proficient (LEP) children. Clauses (iv) and (v) would be added to require, respectively, that: (1) LEP students who speak Spanish be assessed with tests written in Spanish, if Spanish language tests are more likely than English-language tests to yield accurate and reliable information on what those students know and can do in content areas other than English, and (2) LEP students be provided with tests used to assess the reading and language arts proficiency of any student who has attended school in the United States for three or more consecutive years.

Section 1112(2)(E) would add a new provision on accountability as section 1111(b)(3). It would replace the current requirement that States establish criteria for ‘adequate yearly progress’ in LEAs and schools with a requirement that they submit an accountability plan to the Secretary, reflecting the critical role that accountability plays as a component of overall systems. In particular, each State would have to have an accountability system that is based on challenging standards, includes all students, promotes continuous improvement, and includes rigorous criteria for identifying and intervening in schools and districts in need of improvement. This proposal addresses concerns that many current accountability systems focus only on overall school performance and divert attention away from the students who need the greatest help.

Section 1112(2)(F) would make a conforming amendment to section 1114(b)(4).

Section 1112(2)(G) would delete paragraphs (5), (6), and (7) from section 1111(b). Paragraph (5) requires States to identify languages other than English that are present in the participating school population, to indicate the languages for which assessments are not available, and to make every effort to develop them. This requirement is burdensome and unnecessary. Paragraph (6) describes the schedule, established in 1994, for States to develop the necessary standards and assessments that are used during the transition period during which States were not required to have “final” standards and assessments in place. These provisions would be deleted and replaced, and the schedule for adoption of standards would be eliminated.

Section 1112(2)(G) would also create a new paragraph (5), providing that while a State must develop the English language test within a reasonable time, it must comply with the statutory timelines for identifying, assisting, and taking corrective action with respect to LEAs and schools that need to improve.

Section 1112(2)(H) and (I) would reorganize paragraph (8) of section 1111(b) as paragraph (8) and make conforming amendments to cross-referenced provisions.

Section 1113 of the bill would amend section 1111(c) of the ESEA, to significantly shorten the list of assurances that each State must include in its plan.

Section 1114(4)(A) would delete section 1111(d)(2), relating to withholding of funds until States meet section 1111’s requirements. This provision duplicates Part D of the General Education Provisions Act, which establishes uniform procedures for applying sanctions and other enforcement actions across a broad range of programs, including the ESEA programs, administered by the Department of Education.

Section 1114(4)(B) would amend current section 1111(d)(4), relating to temporary technical amendments to section 1111(d)(1).

Section 1114(4)(C) would amend current section 1111(d)(6), relating to any student assessments that it will use to determine adequacy of progress under Part A of Title I to have a plan on file with, and approved by, the State education agency. The bill would add, to the list of other programs with which the plan must be coordinated, a specific reference to the IDEA and the Carl D. Perkins Vocational and Technical Education Act of 1998. The bill would also delete a reference to the Goals 2000 standards, and another requirement that an LEA’s plan must include in proposed section 11209 if the Secretary determines that a State is not carrying out its accountability obligations. These sections, which apply under section 11209 in the case of a State that fails to carry out its part of the Goals 2000 program, and any other State requirements, would help guide and modify instruction in the content areas, and provide those results to the parents of those children.

Section 1114(4)(D) would amend section 1112(b) to require each State to submit its plan to the Secretary for the first year for which Part A is in effect following the bill’s enactment.

Section 1114(4)(E) would replace subsection (g) of section 1111, which is obsolete by its current description under the Secretary’s requirement that they submit an accountability plan as part of their State application.

Section 1114(4)(F) would remove some obsolete language.

Section 1115, relating to the development and duration of an LEA’s plan, to require the LEA to submit the plan for the first year for which Part A, as amended by the bill, is in effect, and to require the LEA to submit revisions to its plan to the LEA for its approval.

Section 1116 would amend section 1112(e), relating to State review and approval of new LEA plans, to require that States use a peer-review process in reviewing those plans, and to remove some obsolete language.

Section 113, relating to eligible school attendance areas [ESEA, §1113]. Section 113(1) of the bill would amend section 1113, relating to eligible school attendance areas, to clarify language regarding obligations of States to ensure that their Title I funds to higher-poverty areas and schools than it provides to lower-poverty areas and schools.

Section 113(2) would also require that, in order to ensure that an LEA’s plan is in effect, all students, promote continuous improvement, and includes rigorous criteria for identifying and intervening in schools and districts in need of improvement. This proposal addresses concerns that many current accountability systems focus only on overall school performance and divert attention away from the students who need the greatest help.

Section 113(2)(A) would add language to section 1112(b)(7), relating to the purpose of an LEA’s plan to help all children achieve to high standards.

Section 113(2)(B) would amend section 1112(b)(1), relating to any student assessments that the LEA uses (other than those described in the State plan under section 1111), to require the LEA’s plan to describe and demonstrate how it will use to determine the literacy levels of first graders and their need for interventions and how it will ensure that those assessments are developmentally appropriate, measures to provide information about the variety of relevant skills, and are administered to students in the language most likely to yield valid results.

Section 113(2)(C) would amend section 1112(b)(8) to require an LEA’s professional development strategy under Part A to also be a component of its professional development plan under the new Title II, if it receives Title II funds.

Section 113(2)(D) would amend section 1112(b)(4)(B) to remove an obsolete reference, a reference to the proposed repeal of Subpart 2 of Part 2 of Title I, relating to financial assistance programs for low-income children, and include Indian children served under Title I of the ESEA in the categories of children for whom an LEA’s plan must describe the coordination of Title I services with other educational services those children receive.

Section 113(2)(E) would amend section 1112(b)(9), relating to preschool programs, to replace language in that provision with a cross-reference to new language that the bill would add to section 1120B. Section 113(2)(F) would amend section 1112(b)(3), to require LEAs to include two additional items in their plans: (1) a description of the actions it will take to assist its low-performing schools, if any, in making the changes needed to educate all children to high standards, and (2) a description of how the LEA will promote the use of extended learning time, such as an extended school year, before- and after-school programs, and summer programs.

Section 113(3) would amend section 1112(c), which describes the assurances that an LEA must include in its application, to conform to other provisions in the bill and to delete obsolete provisions relating to the Head Start Program. Instead, the new Head Start standards would be incorporated into program requirements, and States would also be required that an LEA include new assurances that it will: (1) annually assess the English proficiency of all LEP children participating in its programs, in order to make those assessments help guide and modify instruction in the content areas, and provide those results to the parents of those children; and (2) comply with parts (1) and (2) of section 1111(d)(1) regarding teacher qualifications and the use of paraprofessionals.

Section 114 would amend section 1112(d), relating to the development and duration of an LEA’s plan, to require the LEA to submit a plan for the first year for which Part A, as amended by the bill, is in effect, and to require the LEA to submit revisions to its plan to the LEA for its approval.

Section 115 would amend section 1112(e), relating to State review and approval of new LEA plans, to require that States use a peer-review process in reviewing those plans, and to remove some obsolete language.

Section 116, relating to eligible school attendance areas [ESEA, §1113]. Section 116(1) of the bill would amend section 1113, relating to eligible school attendance areas, to clarify language regarding obligations of States to ensure that their Title I funds to higher-poverty areas and schools than it provides to lower-poverty areas and schools.

Section 116(2) would also require that, in order to ensure that an LEA’s plan is in effect, all students, promote continuous improvement, and includes rigorous criteria for identifying and intervening in schools and districts in need of improvement. This proposal addresses concerns that many current accountability systems focus only on overall school performance and divert attention away from the students who need the greatest help.

Section 116(3) would add, as section 1113(c)(2)(C), language to clarify that an LEA’s plan must include the objectives and purposes of Title I funds to higher-poverty areas and schools than it provides to lower-poverty areas and schools.

Section 116(4) would amend section 1113(c)(3) to require an LEA to reserve sufficient funds to serve homeless children who do not attend participating schools, not just those who do when the LEA finds it “appropriate”. Some LEAs have invoked the current language as a justification for failing to provide services to those children.

Section 117, relating to schoolwide programs [ESEA, §1114]. Section 117(1) of the bill would amend section 1114(a) of the ESEA, to clarify language regarding the flexibility for, schoolwide programs under section 1114, by revising the subsection heading to...
more accurately reflect subsection (a)’s contents, and to delete current paragraph (2), which is obsolete.

Section 114(a)(3)(A) would make a conforming amendment to section 114(a)(4)(A) to reflect the bill’s redescription of section 114(b)(2) as section 114(c).

Section 115(1)(A)(ii) would delete the prohibition on using IDEA funds to support a schoolwide program to reflect the fact that section 113(a)(2)(D) of the IDEA, as enacted by the legislation of 2001, permits funds received under Part B of that Act to be used to support schoolwide programs, subject to certain conditions.

Section 116(d) would delete paragraph (5) of section 111(a), relating to professional development in schoolwide programs. That topic is addressed by other applicable provisions, including the revised statement of the required elements of schoolwide programs. See, especially, proposed sections 111(c)(3), which duplicates other provisions relating to school improvement, and section 114(b)(1).

Section 114(b)(1) would delete section 1114(c), which duplicates other provisions relating to school improvement, and section 114(b)(2) as subsection (c). Under this revised structure, subsection (b) would list the required components of a schoolwide program, while subsection (c) would describe the requirements of the LEA for the implementation of the required elements of a schoolwide program. Section 114(c) would revise the statement of the required elements of a schoolwide program as set forth in section 114(b) in its entirety. The revised statement would strengthen current law, to reflect experience and research over the past several years, including significant aspects of the Comprehensive School Reform Demonstration program.

Section 114(d)(1)–(4) would amend the requirements of section 1114 relating to plans for schoolwide programs (current subsection (b)(2), which the bill would redesignate as subsection (c)), to delete an obsolete reference, and to make technical and conforming amendments.

Section 114(d)(5) would add, as section 1114(c)(3), language requiring peer review and LEA approval of a schoolwide plan before the school implements it.

Section 115, targeted assistance schools [ESEA, §1115]. Section 115(1)(A)(i)(I) would make a technical amendment to section 1115(b)(1)(A) of the ESEA.

Section 115(1)(A)(i) would delete the requirement that children be at an age at which they can benefit from an organized instructional program provided at a school or other educational setting in order to be eligible for services. The change would make clear that preschool children of any age may be served under Part A as long as they can benefit from an organized instructional program.

Section 115(1)(B)(i) would amend section 1115(b)(2), which addresses the eligibility of certain groups of children, by deleting references to children who are economically disadvantaged. The current reference to that category of children is confusing, because it erroneously states that there are specific eligibility requirements for them.

Section 115(1)(B)(ii) would clarify that children who, within the prior two years, had received Title I preschool services are eligible for services under Part A, as are children who participated in a Head Start or Even Start program in that period.

Section 115(2)(A) and (D) would amend section 1115(b)(2)(C) and (D) to clarify that certain other groups of children are eligible for services. Section 115(2)(C) would streamline section 1115(c)(1)(E), relating to coordination with, and support of the regular educational program.

Section 115(2)(D) would amend section 1115(c)(1)(F) to emphasize that instructional staff must meet the standards set out in revised section 1119.

Section 115(2)(E) would make a technical amendment to section 1115(c)(1)(G), which would correct an error in section 1115(c)(1)(H).

Section 115(3) would delete section 1115(a), relating to the development of a schoolwide program, because other provisions of Part A would address that topic.

Section 115A, school choice (ESEA, §115A). Section 115A of the bill would eliminate the requirements that a State’s actions in revising and reauthorizing the LEA’s Part A plan to reflect local priorities in current section 1117(1) would substantially streamline the requirements of current section 1117(1).

Section 116, assessment and local educational agency school improvement [ESEA, §1116]. Section 116(a) of the bill would revise subsections (a) through (d) of section 1116 of the HSEA, in their entirety, as follows.

Section 116(b) would require the States to review all school programs served under Part A. It would be revised to conform to amendments that the bill would make section 1117 (State plans).

Section 116(c)(1)–(3), relating to an LEA’s obligation to identify participating schools that need improvement, would be deleted. Section 116(c)(4)–(6) would require each school so identified by an LEA, within three months of being identified, to develop or revise a school plan, to involve parents, school staff, the LEA, and a State school support team or other outside experts. The plan would have to have the greatest likelihood of improving the performance of participating children in meeting the State student performance standards, address the fundamental teaching and learning needs in the school, identify and address the need to improve the skills of the school’s staff through effective professional development, identify student performance targets and goals for the next three years, and specify the responsibilities of the LEA and the school under the plan. The LEA would have to submit the plan to a peer-review process, work with the school to revise the plan as necessary, and approve it before it is implemented.

Section 116(c)(5)(C) would be revised to make clear that, with limited exceptions, an LEA would be required to identify one or more of a list of specified corrective actions in the case of a school that fails to make progress within three years of its identification as being in need of improvement. The list would include four possible actions, each of which is intended to have serious consequences for the school (loss of Federal funds for State or local LEA, professional development to staff members, and a State school support team or other outside consultants) and a decision that needs improvement for LEAs.

Section 116(d), relating to SEA review of LEA programs, would similarly be revised to conform to the bill’s requirement of the bill to bring about that improvement, and would require an LEA that has been identified by the SEA as needing improvement to submit a revised Part A plan to the SEA for peer review and approval. In addition, the bill would strengthen and clarify language relating to the corrective actions that LEAs must take, in the case of an LEA that fails to make sufficient progress within three years of being identified by the SEA as in need of improvement.

Section 117, State assistance for school support and improvement [ESEA, §1117]. Section 117 of the bill would substantially streamline the requirements relating to State assistance for LEA and school support and improvement. Much of current section 1117 is needlessly prescriptive and otherwise unnecessary, particularly in light of the strengthened provisions on LEA and school improvement and corrective actions in revised section 1116(b)(1) and (2).

Section 111(b)(a) would retain the requirement of current law that each SEA establish a statewide system of intensive and sustained support and assistance for LEAs and schools, in order to increase the opportunity for all students in those LEAs and schools to meet State and Federal standards.

Section 111(b)(b) would replace the statement of priorities in current section 1117(1) with a 3-step statement of priorities. The bill would set that the SEA’s first priority for assistance to LEAs that it has identified for corrective action under section 1116 and to individual schools for which an LEA has failed to comply with any of its responsibilities under that section. The SEA would then support and assist other LEAs that it has identified as in need of improvement under section 1116, but that it has not identified as in need of corrective action. Finally, the SEA would support and assist other LEAs and schools that need those services in order to achieve Title I’s purpose.

Section 117(c) would provide examples of approaches the SEA could use in providing support and assistance to LEAs and schools. Section 117(d) would authorize the SEA to use the funds available to it for technical assistance and support under section 1003(a)(1) (other than the 70 percent or more that it reserves for State administrative activities) to support the SEA to also use the funds it reserves for State administration under redesignated section 1117(c) (current section 1103(c)) for that purpose.

Section 118, parental involvement [ESEA, §1118]. Section 118(a)(1), (2), and (5) would make conforming amendments to section 1118, relating to parental involvement in Part A programs.

Section 118(b) would amend section 1118(f) so that the requirement to provide full opportunities for participation by parents with limited English proficiency and parents with disabilities, to the extent practicable, applies to all Part A activities, not just to the specific provisions relating to parental involvement.

Section 118(c) would amend section 1118(e) to repeal subsection (g) of section 1118, to reflect the bill’s proposed repeal of the Goals 2000: Educate America Act.

Section 119, teacher qualifications and professional development [ESEA, §1119]. Section 119(1) would change the heading of section 1119 to “High-Quality Instruction” to reflect changes made to this section that are designed to ensure that participating children receive high-quality instruction.

Section 119(2) of the bill would delete subsection (f) of section 1119, which is not needed, and redesignate subsections (b) through (e) of that section as subsections (b) through (e).

Section 119(3) would insert a new subsection (a) in section 1119 to require that each participating LEA hire qualified instructional staff, provide high-quality professional development to staff members, and use at least five percent of its Part A grant for fiscal years 2001 and 2002, and 10 percent of its grant for each year thereafter, for that professional development.

Section 119(4) would insert new subsections (b) and (c) in section 1119 to specify the minimum qualifications needed for paraprofessionals in programs supported with Part A funds. These requirements are designed to ensure that participating children receive high-quality instruction and support and assistance, so that they can meet challenging State standards.
Section 119(5)(A) would revise the list of required professional development activities in current section 1119(b), which would be redesignated as section 1119(c), to reflect experience with the more comprehensive approaches to professional development.

Section 119(5)(B)(iii) would add child-care providers to those with whom an LEA could choose to spend professional development funds. The effect of this provision is to broaden the definition of professional development activities and to include child-care providers in the definition. This provision would be redesignated as section 1139(h), relating to the combined use of funds from multiple sources for professional development.

Section 120, participation of children enrolled in private schools [ESEA, §1120]. Section 120(a) of the bill would add, to section 1119(a) of the ESEA, a statement of an LEA’s responsibility to provide for the equitable participation of students from private schools, language to make clear that the services provided those children are to address their needs, and that the teachers and parents of these students participate on an equitable basis in services and activities under sections 1111 and 1112 of the ESEA, and in professional development.

Section 120(1)(B) would amend section 1120(a)(4) to give each LEA the option of determining the number of poor children in private schools every year, as under current law, or every two years.

Section 120(1)(A) (ii) and (iii) would amend section 1120(a)(4) so as to continue the topic of who an LEA consults with private school officials about services to children in those schools, to include: (1) how the results of the assessment of the services to children in those schools is made; (2) the amounts of funds generated by poor children in each participating attendance area; (3) the methods for determining the number of those children; and (4) how and when the LEA will make decisions about the delivery of services to those children.

Section 120(2)(B)(i) would amend section 1120(b)(2) to require that an LEA’s consultation with private school officials include meetings. Consultations through telephone conversations and similar methods, while still permissible, would not, by themselves, be sufficient.

Section 120(2)(B)(ii) would amend section 1120(b)(2) to clarify that LEA–private school consultations are to continue throughout the implementation and assessment of the LEA’s Part A program.

Section 120(3) would revise cross-references in section 1120(d)(2) to reflect the redesignation of sections by other provisions of the bill.

Section 120(4) would delete subsection (k) of section 1120(b), which authorizes the Secretary to designate, for each LEA, the number of LEAs that will pay for capital expenses that States would announce the reasons for their determinations.

Section 120A would amend section 1120(a) of the ESEA, which requires participating LEAs to ensure that they provide services in Title I schools, from State and local sources, that are at least comparable to the services provided to LEAs, to the extent the Secretary determines to be necessary to equip these schools to meet the criteria for Title I eligibility.

Section 120A(c)(2) would amend section 1120A(c)(2) to replace the current criteria for determining comparability with three criteria that would capture the concept of comparability more fairly and thoroughly. LEAs would be given until July 1, 2002, to comply with these criteria.

Section 120A(2)(B) would amend section 1120A(c)(3)(B) to require LEAs to update their records documenting compliance with the comparability criteria on an annual, rather than every two years.

Section 120B, preschool services and coordination of Title I regulations with Head Start regulations issued by the Department of Health and Human Services, to reflect enactment of the Head Start Amendments of 1998.

Section 120B(3) would add a subsection (d) to section 1120B to provide additional direction to preschool programs carried out with Part A funds. Those programs are of high quality. This language replaces, and builds on, current section 1121(c)(1)(H).

Section 120C, allocations [ESEA, §§1121-1127]. Section 120(a) of the bill would amend section 1121(b) of the ESEA, which authorizes assistance to the outlying areas, to correct an inconsistency in paragraphs (1) and (2) to make the $5 million total for assistance to the Freely Associated States (FAS) a maximum rather than a fixed annual amount. The Secretary should have the flexibility to determine that an amount less than the full $5 million may be warranted for the FAS in any given year, particularly in light of the possibility of possible changes in the respective compacts of free association.

Section 120C(b) would amend section 1122 of the ESEA, which governs the allocation of Part A funds to the States, by: (1) removing provisions that have expired; (2) describing the amount to be available for targeted assistance grants under section 1125; (3) providing for proportionate reductions in State allocations in case of insufficient appropriations; and (4) retaining the provisions on “hold-harmless” that apply to fiscal year 1999. Most of the substance of law that is currently applicable would be retained, but the section as a whole would be significantly shortened.

Section 120C(c)(1)(A) would clarify (without substantive change) section 1124(a)(1), relating to the allocation of basic grants to States. Section 120C(c)(1)(B) would redesignate section 1124(a)(1)(A) of the bill as section 1124(a)(2)(A) relating to the allocation of the Freely Associated States (FAS) funds. Section 120C(c)(1)(C) would redesignate section 1124(a)(1)(B) of the bill as section 1124(a)(2)(B) relating to the allocation of funds to the Insular Areas, including Puerto Rico, the Virgin Islands, and the Trust Territory of the Pacific Islands.

Section 120C(c)(1)(D) would amend section 1124(c)(1) of the ESEA, which requires the Secretary to announce the reasons for its determinations, and its use would otherwise be inappropriate. In that case, the two Secretaries and, if the Secretary determines to be necessary, the Secretary would add locations on the basis of county data, rather than LEA data, in accordance with new paragraphs (3) and (4).

For any fiscal year for which the Secretary allocates funds to LEAs, rather than to counties, section 1214(a)(2)(B) would clarify that the amount of a grant to any LEA with a population of 20,000 or more is the amount determined by the Secretary. For LEAs with a population of less than 20,000, the Secretary would use the amount determined by the Secretary or use an alternative method, approved by the Secretary, that best reflects the distribution of poor families among the State’s small LEAs.

For any fiscal year for which the Secretary allocates funds to LEAs, section 1214(a)(3) would direct the States to suballocate those funds to LEAs, in accordance with the Secretary’s regulations. Section 1214(b) would provide that funds would be apportioned directly to LEAs without regard to the county allocations calculated by the Secretary if a large number of its LEAs overlap county boundaries, or if it believes it has data that would better target funds than allocating them initially by counties.

In general, paragraphs (2) and (3) of section 1124(a) would retain current law, while eliminating extraneous or obsolete provisions, and making this portion of the statute much easier to read and understand than current law.

Section 120C(c)(1)(D) would revise language relating to Puerto Rico’s Part A allocation (current section 1124(c)(1)). The bill would redesignate as section 1124(a)(4) so that, over a 5-year phase-in period, its allocation would be determined on the same basis as the allocations to the 50 States and the District of Columbia.

Section 120C(c)(2) would amend section 1124(c)(2), relating to the number of poor children needed to qualify for a basic grant, to improve its readability and to delete obsolete language.

Section 120C(c)(3)(A)(ii) would amend section 1124(c)(1), which describes the children to be counted in determining an LEA’s eligibility for, and the amount of, a basic grant, to make it easier to read and understand. The number of these children is now quite small, and collection of reliable data on them is burdensome.

Section 120C(c)(3)(A)(iii) would amend section 1124(c)(1)(C), relating to counts of certain children who are neglected or delinquent, to give the Secretary the flexibility to use the number of those children for either the preceding year or the current year or law or for the second preceding year.

Section 120C(c)(3)(B)(ii) would delete the 3rd and 4th sentences of section 1124(c)(2), which provide a safe harbor, and unrequired, benefit to a single LEA.

Section 120C(c)(3)(C) would update section 1124(c)(3), relating to census updates.

Section 120C(c)(3)(D) would repeal section 1124(c)(4), relating to a study by the National Academy of Sciences, which has been completed and redetermined paragraphs (5) and (6) of section 1124(c) as paragraphs (4) and (5).

Section 120C(c)(3)(E)(i) would delete the first sentence of current section 1124(c)(5), which states that the Secretary’s apportionment is to be reallocated to other LEAs, and replace the entire section with a new section 1124(c)(4). This language, relating to counts of certain children from families with incomes above the poverty level, would no longer be needed in light of the deletion of these children from the count of children under section 1124(c)(1), described above.

Section 120C(c)(3)(E)(iii) would make section 1124(c)(6) to be redesignated as section 1124(c)(5) (to be redesignated as section 1124(c)(4)) a sentence about the counting of children in correctional institutions that is provided for this provision.

Section 120C(c)(4)(B) would make a conforming amendment to section 1124(c)(5).

Section 120C(d)(1)(A)(i) would remove obsolete language from section 1124(a)(1)(A) of...
amendments made to other provisions of the
Even Start statute in 1998 and enactment of the
Reading Excellence Act (Title II, Part C of the
ESEA) in that same year.
Section 1201(c)(1) of the bill would amend
section 1207(a)(2) of the ESEA, relating to local
Even Start programs, including the requirement
to provide technical assistance directly, as well
as through grants and contracts.
Section 1207(c) of the bill would amend
section 1204(b)(1) of the ESEA, relating to
calumetion grants, under which a State may
provide up to two percent of its allocation for
subgrants to LEAs that meet the numerical
eligibility thresholds but are located in
eligible counties.
Section 1202(d)(2) would delete subsections
(b) and (c) from section 1124A and redesignate
subsection (d) as subsection (b). Subsection
(c), relating to the total amount available for
concentration grants, would be replaced by a
new subsection (c), providing for ratably reduced allocations in the case of insufficient funds, duplicates pro-
posed in section 1201(e)(3).
Section 1203(c) would make conforming
amendments to section 1201(b) of the ESEA,
relating to the calculation of targeted assistance
counts used to calculate targeted assistance
grant amounts, with a simple cross-reference to the streamlined allocation provisions in section 1124A(3) and (4). Since the applicable rules are the same, there is no need to repeat them.
Section 1204(e)(4) would make a confor-
mizing amendment to section 1125(e), relating
to allocations for neglected children.
Section 1205, program indicators [ESEA,
§ 1131]. Section 1205 of the bill would add a
new Subpart 3. Program Indicators, to Part A of Title I of the ESEA. Subpart 3 would contain
section 1131, which would identify 7 program indicators relating to schools participating in the Part A program, on which States would report annually to the Secretary.
Part B—Even Start

Part B of Title I of the bill would amend Part B of Title I of the ESEA, which author-
izes the Even Start program.
Section 121, general statement of purpose [ESEA,
§ 1201]. Section 121 of the bill would amend
the Even Start statement of purposes in section
1201 of the ESEA by requiring that the existing resources on which Even Start programs are built be of high quality, and by adding a requirement that Even Start programs be based on the best available re-
search, development, research, and prevention and of reading difficulties. These amendments would reflect

the ESEA, which sets eligibility criteria for LEAs to receive concentration grants under section 1124A. The current eligibility criteria would be retained.
Section 1201(a)(1)(ii) would make confor-
mizing amendments to section 1124A(a)(1)(B), relating to minimum allocations to States.
Section 1201(d)(1)(B) would replace the
lengthy and complicated language in section
1124A(a)(4), relating to calculation of LEA concentratio

grant amounts, with a simple cross-reference to the streamlined allocation provisions in section 1124A(3) and (4). Since the applicable rules are the same, there is no need to repeat them. In addition, the revised section would retain the author-
ty, unique to the allocation of concen-
tration grants, under which a State may
use up to two percent of its allocation for
subgrants to LEAs that meet the numerical
eligibility thresholds but are located in
eligible counties.

Section 1202(c)(2) would amend section
1125(c), which establishes weighted child
counts used to calculate targeted assistance
grant amounts, with a simple cross-reference to the streamlined allocation provisions in section 1124A(3) and (4). Since the applicable rules are the same, there is no need to repeat them.
Section 1202(e)(1) would make conforming
amendments to section 1125(b) of the ESEA,
relating to the calculation of targeted assistance
counts used to calculate targeted assistance
grant amounts, with a simple cross-reference to the streamlined allocation provisions in section 1124A(3) and (4). Since the applicable rules are the same, there is no need to repeat them.
Section 1203(c) would make conforming
amendments to section 1125(d), relating to calculation of targeted assistance
grant amounts, with a simple cross-reference to the streamlined allocation provisions in section 1124A(3) and (4). Since the applicable rules are the same, there is no need to repeat them.
Section 1204(e)(4) would make a confor-
mizing amendment to section 1125(e), relating
to allocations for neglected children.
Section 1205, program indicators [ESEA,
§ 1131]. Section 1205 of the bill would add a
new Subpart 3. Program Indicators, to Part A of Title I of the ESEA. Subpart 3 would contain
section 1131, which would identify 7 program indicators relating to schools participating in the Part A program, on which States would report annually to the Secretary.
Part B—Even Start

Part B of Title I of the bill would amend Part B of Title I of the ESEA, which author-
izes the Even Start program.
Section 121, general statement of purpose [ESEA,
§ 1201]. Section 121 of the bill would amend
the Even Start statement of purposes in section
1201 of the ESEA by requiring that the existing resources on which Even Start programs are built be of high quality, and by adding a requirement that Even Start programs be based on the best available re-
search, development, research, and prevention and of reading difficulties. These amendments would reflect

the ESEA, which sets eligibility criteria for LEAs to receive concentration grants under section 1124A. The current eligibility criteria would be retained.
Section 1201(a)(1)(ii) would make confor-
mizing amendments to section 1124A(a)(1)(B), relating to minimum allocations to States.
Section 1201(d)(1)(B) would replace the
lengthy and complicated language in section
1124A(a)(4), relating to calculation of LEA concentratio

grant amounts, with a simple cross-reference to the streamlined allocation provisions in section 1124A(3) and (4). Since the applicable rules are the same, there is no need to repeat them. In addition, the revised section would retain the author-
ty, unique to the allocation of concen-
tration grants, under which a State may
use up to two percent of its allocation for
subgrants to LEAs that meet the numerical
eligibility thresholds but are located in
eligible counties.

Section 1202(c)(2) would amend section
1125(c), which establishes weighted child
counts used to calculate targeted assistance
grant amounts, with a simple cross-reference to the streamlined allocation provisions in section 1124A(3) and (4). Since the applicable rules are the same, there is no need to repeat them.
Section 1202(e)(1) would make conforming
amendments to section 1125(b) of the ESEA,
relating to the calculation of targeted assistance
counts used to calculate targeted assistance
grant amounts, with a simple cross-reference to the streamlined allocation provisions in section 1124A(3) and (4). Since the applicable rules are the same, there is no need to repeat them.
Section 1203(c) would make conforming
amendments to section 1125(d), relating to calculation of targeted assistance
grant amounts, with a simple cross-reference to the streamlined allocation provisions in section 1124A(3) and (4). Since the applicable rules are the same, there is no need to repeat them.
families that are consistent with the State's program indicators; emphasize that the program must address each of the program elements in the revised section 1208; and require each State to develop an plan for rapid and objective evaluation. Current subparagraphs (E) and (F) of section 1207(c)(1) would be deleted because the substance of those provisions would be discussed in the revised subelement of program elements in section 1205.

Section 127(b) of the bill would delete subsection (b) of section 1207, which purports to allow an eligible entity to submit its local Even Start plan as part of an SEA's consolidated application under Title XIV of the ESEA. This provision has had no practical effect.

Section 128, award of subgrants [ESEA, § 1208]. Section 128(a)(6) of the bill would amend section 1208(a)(6) of the ESEA, relating to a State's criteria for selecting local programs for Even Start subgrants, by deleting subparagraph (C), which refers to a three-year change for providing services, because that provision would be converted to a program element under section 1205. Section 128(a)(1) would also make technical and clarifying amendments to section 1208(a)(1).

Section 128(a)(2) would amend section 1208(a)(3) to require a State's review panel to include individuals with expertise in literacy programs, to enhance the quality of the panel's review and selection. Inclusion of one or more of the types of individuals described in section 1208(a)(3) would be made optional, rather than mandatory.

Section 128(b) of the bill would add a new authority, as section 128(b)(4), for each State to continue Even Start funding, for up to two years beyond the statutory Byear limit, for not more than two projects in the State that show substantial potential to serve as models for other projects throughout the Nation and as mentor sites for other family literacy projects in the State. This would allow States and localities to learn valuable lessons from well-tested, proven programs.

Section 129 of the bill would delete paragraph (3) from the national evaluation provisions in section 1209 of the ESEA. That paragraph describes the assistance of individuals or entities that are more appropriately addressed under section 1209(b).

Section 130, program indicators [ESEA, § 1210]. Section 130(a) of the bill would amend section 1210 of the ESEA to set a deadline of September 30, 2000 for States to develop the indicator of program quality required by the 1998 amendments. It did not include any deadline for the development of those indicators. In addition, the bill would add, to the current indicators that States are to develop, indicators relating to the levels of intensity of services and the duration of participating children and adults needed to reach the outcomes the States specifies for the other indicators.

Section 130A, repeal and redesignation [ESEA, §§ 1211 and 1212]. Section 130(a) of the bill would repeal section 1211 of the ESEA relating to research. The essential elements of this section would be incorporated into the revised section on evaluations (§1209). Section 1212 of the bill would redesignate section 1212 of the ESEA as section 1211.

Part C—Education of migratory children

Part C of Title I of the bill would amend Part C of Title I of the ESEA, which authorizes grants to State educational agencies to establish and improve programs of education for children of migratory farmworkers and fishers, to enable them to meet the same high standards as other children. Section 131, State allocations [ESEA, §1301]. Section 131(1) of the bill would amend section 1303(a) of the ESEA, which describes how available funds are allocated to States each year. The bill would replace the current provisions relating to the count of migratory children, the estimated number of eligible states and full-time equivalents (FTE) of these children. These provisions are ambiguous, and require either a burdensome collection of data or the continued use of outdated FTE adjustment factors based on 1994 data. The bill would base a State's child count on the number of eligible children, aged 3 thru 21, residing in the State in the previous year, plus the number of those children who received services under Part C in any year that would be provided by the State. This approach would be simple to understand and administer, minimize data collection burden on States, and encourage the identification and recruitment of eligible children. The double weight given to children served in summer or intersession programs would reflect the greater cost of serving those children.

Section 131(1) would also add, to section 1304(a), a new paragraph (2), which would establish minimum and maximums for annual State allocations. No State would be allocated more than 120 percent, or less than 80 percent, of the allocation to the prior year, except that each State would be allocated at least $200,000. The link to a State's prior-year allocation would ameliorate the disruptive and unpredictable increases and decreases in State child counts from year to year, which are typical among migratory children. The $200,000 minimum would ensure that each participating State would receive enough funds to carry out an effective program, including the costs of finding eligible children and encouraging them to participate.

Section 131(2) would revise subsection (b), which describes the computation of Puerto Rico's participation. After 5 years of an 8-year phase-in period, its allocation would be determined on the same basis as are the allocations of the 50 States.

Section 131 would delete subsections (d) and (e) of section 1303, relating to certain consortia formed by LEAs and the methods the Secretary must follow to determine the identification and recruitment of children in each State, respectively. Subsection (d) is unduly burdensome for States and the Department. Both it and the corresponding amendment to section 1308(a)(2) makes technical and conforming amendments to section 1308(a)(2).

Section 132, State applications [ESEA, §1304]. Section 132 of the bill would amend section 1304 of the ESEA, which requires States to submit applications for grants under the Migrant Education program, describes the children who are to be given priority for services, and authorizes the provision of services to certain categories of children who are no longer migratory.

Section 132(a)(1) would amend section 1304(b)(1) to require the State's application to include certain material that is now required to be in its comprehensive plan (but not included in applications submitted under section 1306(a)). This reflects the proposed repeal of the requirement for a comprehensive service-delivery plan that is separate from the State's application, and the requirement to examine program requirements and reduce paperwork burden on States.

Section 132(b) would amend section 1304(b)(5) to clarify the factors that States are to consider when making subgrants to local operating agencies.

Section 132(c) would redefine paragraphs (5) and (6) of section 1304(b) as paragraphs (6) and (7), respectively.

Section 132(d)(1) would insert a new paragraph (5) in section 1304(b) to require a State's application to describe how the State will encourage migratory children to participate in the program, and the assessments required under Part A of Title I.

Section 132(d)(2) and (b) would make technical and conforming amendments to section 1304(c)(1) and (2).

Section 132(c)(2) would strengthen the requirements of section 1304(c)(3) related to the improvement of parent and parent advisory councils.

Section 132(d)(2) would make a conforming amendment to section 1304(c)(7) to reflect the bill's amendments relating to child counts.

Section 133, authorized activities [ESEA, §1305]. Section 133 of the bill would amend section 1305 of the ESEA, in its entirety, section 1306 of the ESEA, to delete the requirement that a participating State develop a comprehensive service-delivery plan that is separate from its application for funds under section 1304. The important elements of this plan would be incorporated into section 1304, as amended by section 132 of the bill. In addition, provision 133(b) would clarify current provisions regarding priority in the use of program funds; the use of those funds to provide services described in Part A of Title I; and the use of funds under both the Migrant Education program and Part A; and the prohibition on using program funds to provide services that are available from other Federal programs.

Section 134, coordination of migrant education activities [ESEA, §1308]. Section 134 of the bill would amend section 1308 of the ESEA, which authorizes various activities to support the interstate and intrastate coordination of migrant-education activities.

Section 134(a)(1) would authorize nonprofit entities eligible for awards under section 1308(a). The current restriction to nonprofit entities has made it difficult to find organizations with the necessary technical expertise and experience to carry out certain important activities, such as the 1-800 help line and the program support center.

Section 134(b)(2) would amend section 1308(b)(4) to base the maximum amount that the Secretary could reserve each year from the appropriation for the Migrant Education program to support coordination activities under section 1308. This increase would be consistent with the Department's appropriations Acts for the two most recent fiscal years, increase the amount available for State incentive grants and make funds available to assist States and LEAs in transferring the records of migratory children and to conform to the proposed deletion of references in section 1308 to the 'full-time equivalent' number of those students in determining child counts.

Section 134(c) would increase, from 60 to 100, the maximum amount that the Secretary could reserve each year from the appropriation for the Migrant Education program to support coordination activities under section 1308. This increase would be consistent with the Department's appropriations Acts for the two most recent fiscal years, increase the amount available for State incentive grants and make funds available to assist States and LEAs in transferring the records of migratory children and to conform to the proposed deletion of references in section 1308 to the 'full-time equivalent' number of those students in determining child counts.
results in an unduly complicated process of determining the merits of applications in re-
lation to each other in years when all applica-
tions warrant approval and sufficient funds are available. Deleting this require-
ment would provide the Secretary with flexi-
bility, to, for example, award equal amounts to each consortium with an approvable appli-
cation. The bill would also provide larger awards to consortia including States that receive rel-
atively small allocations under section 1303. Section 138 definitions [ESEA, §1309]. Sec-
tion 135 of the bill would delete two refer-
ences to a child's guardian in the defini-
tion of "migratory child" in section 1303(2) of the Act, the term of which is also used in that section, is defined in section 1410(22) of the ESEA (which the bill would redesignate as section 1101(22)) to include "a legal guardian or other person standing in loco parentis".

Part D—Neglected and delinquent

Part D of Title I of the bill would amend Part D of Title I of the ESEA, which author-
izes grants for Children and Youth Who Are Neglected or delinquent. Those services are
better provided through other local, State, and Federal programs, including other ESEA
programs, such as Basic Grants under Part A.

Section 148, program evaluations [ESEA, §1431]. Section 148(b) of the bill would amend
section 1431(a) of the ESEA, relating to the scope of evaluations required, to con-
form to the proposed repeal of Subpart 2.

Section 148(c) would amend section 1431(b) to require the proposed deletion of Subpart 2.

Paragraph (1) would amend the current limit of one grant per State, in section 2252(a)(2)(A), to permit a State to receive se-
quential, but not simultaneous, grants. Thus, a State could receive a second grant af-
after its first grant period is over.

Paragraph (2) would add, to the State ap-
lication requirements in section 2252(b)(2), a clause (ix) to require an SEA's application to include the process and cri-
eria it will use to review and approve LEA application for the reading and literacy activities described in Part C of Title II of the ESEA, which section 178(b)(1)(B) of the bill would transfer to Part E of Title I, as follows:

Paragraph (1) would amend the current

limit of one grant per State, in section 2252(a)(2)(A), to permit a State to receive se-
quential, but not simultaneous, grants. Thus, a State could receive a second grant af-
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Paragraph (1) would amend the current

limit of one grant per State, in section 2252(a)(2)(A), to permit a State to receive se-
quential, but not simultaneous, grants. Thus, a State could receive a second grant af-
after its first grant period is over.
Section 177, authorization of appropriations [ESEA, § 2260]. Section 177 of the bill would repeal section 2260 of the ESA, which authorizes appropriations for the program, to reauthorize appropriations for the Secretary to enter into five-year contracts with LEAs to provide assistance for local reading improvement subgrants under section 2255. Making the eligibility criteria the same for the two types of subgrants, as provided by this amendment, will increase the likelihood that tutorial activities are carried out in the same LEAs that receive local reading improvement subgrants, promoting the coordination of the activities supported by the two types of subgrants.

Paragraph (5) would delete, from current section 2256(a)(2)(B), which the bill would redesignate as section 2256(a)(3)(B), language conditioning the receipt of all Title I funds by each LEA that is currently eligible under section 2256 on its providing public notice of the title I program content and possible providers of tutoring services. This provision is grossly disproportionate in its severity and is not logically related to the large amounts of funding it affects under the other Title I programs. Any failure to provide the notice described in this section should be subject to the same range of consequences as possible noncompliance with any other requirement of the statute.

Paragraph (6) would make conforming amendments to current section 2256(a)(3), which the bill would redesignate as section 2256(a)(4), to reflect the proposed deletion of eligibility of LEAs on the basis of having a school located in an empowerment zone or enterprise community under section 2256(a)(1). Paragraph (7) would make technical and conforming amendments to current subsection (a)(4), which the bill would redesignate as subsection (a)(5). Section 2257, national evaluation [ESEA, § 2257]. Section 178 of the bill would amend section 2257 of the ESEA, which provides for the administration of the activities supported by the two types of subgrants.

Section 179, transfer and redesignations. Section 179 of the bill would transfer the authority for the Reading Excellence program, currently in Part C of Title II of the ESEA, to part E of Title II, redesignate current Parts E and F of Title II as sections 2257 and 2258 of the ESEA, and make other technical and conforming amendments.

This provision is grossly disproportionate in its severity and is not logically related to the large amounts of funding it affects under the other Title I programs. Any failure to provide the notice described in this section should be subject to the same range of consequences as possible noncompliance with any other requirement of the statute.

This provision is grossly disproportionate in its severity and is not logically related to the large amounts of funding it affects under the other Title I programs. Any failure to provide the notice described in this section should be subject to the same range of consequences as possible noncompliance with any other requirement of the statute.
SAHEs to reserve not more than 3½ percent of their allocation for administrative activities and program evaluations and require them, in cooperation with the SEA, to award competitive subgrants to, or enter into contracts or cooperative agreements with, IHEs or nonprofit organizations to provide professional development in the core academic subjects to LEAs that would be for fours years (which would be extended for 2 more years if the subgrantee is making substantial progress toward meeting the indicators of program performance that the Secretary identifies; (5) describe how the LEA or IHE is participating in that program, the IHE's school or department of education and the school or departaments in the specific disciplines in which the professional development will be provided.

Section 2127 would also describe the activities that award recipients must carry out and require them to submit an annual report to the Secretary with fiscal year 2002, on their progress against indicators of program performance that the Secretary may establish. The SAHE would provide the SEA with copies of these reports.

Section 2128, competitive local awards. Section 2128 would require SEAs to award competitive subgrants from the SAHE's school or department of education and the school or departaments in the specific disciplines in which the professional development will be provided.

Section 2127 would also describe the activities that award recipients must carry out and require them to submit an annual report to the Secretary with fiscal year 2002, on their progress against indicators of program performance that the Secretary may establish. The SAHE would provide the SEA with copies of these reports.

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Section 2127 would also describe the activities that award recipients must carry out and require them to submit an annual report to the Secretary with fiscal year 2002, on their progress against indicators of program performance that the Secretary may establish. The SAHE would provide the SEA with copies of these reports.
221(a), the Secretary would be required to consult with the Secretaries of Defense and Transportation with respect to the appropriate amount of funding necessary to continue the Troops to Teachers program. Additionally, section 2213(b)(1)(B) would provide that, upon agreement, the Secretary would transfer the amount under section 2213(a) to the Department of Defense to carry out the Troops to Teachers program. Further, section 2213(b)(2) would allow the Secretary to enter into a written agreement with another department, agency, or organization that would train, place, and support program participants in different geographic regions of the Nation. Section 2213(c) would authorize the appropriation of such sums as may be necessary to carry out Part B for fiscal years 2001 through 2005.

Section 2214, application. Section 2214 of the ESEA would establish the application requirements. Section 2214 would provide that an applicant that desires a grant under Part B must submit to the Secretary an application containing such information as the Secretary may require. Applicants would be required to: (1) include a description of the target group of career-changing professionals on which the program would focus in carrying out their programs under this part, including a description of the characteristics of that target group that shows how the knowledge and experience that the applicant plans to impart is relevant to carrying out the purpose of this part; (2) describe how it plans to identify and recruit program participants; (3) include a description of the training, certification, or other requirements that the applicant would use to ensure that training would relate to their certification as teachers; (4) describe how it would ensure that program participants were placed in high-quality LEAs; (5) include a description of the teacher induction services that program participants would receive throughout at least their first year of teaching; (6) include a description of how the applicant would collaborate, as needed, with other institutions, agencies, or organizations to recruit, train, place, and support program participants under this part, including evidence of the commitment of the institutions, agencies, or organizations to the applicant’s program; and (7) describe how the applicant would use to measure the progress and the outcome measures that would be used to determine the program’s effectiveness; and (8) submit an assurance that the applicant would provide to the Secretary such information as the Secretary determines necessary to determine the overall effectiveness of programs under this part.

Section 2215, uses of funds and period of service. Section 2215 of the ESEA would describe the activities authorized under Part B. Under Part B funds could be used to: (1) recruit program participants, including informing them of opportunities under the program and putting them in contact with organizations that would train, place, and support them; (2) authorize training stipends and other financial incentives for program participants, an amount which is to be determined; (3) disaggregate, per participant; (3) assist institutions of higher education or other providers of teacher training to meet the particular needs of individuals who are changing careers to teaching; (4) authorize placement activities, including identifying high-poverty LEAs with needs for particular skills and other financial incentives for program participants, an amount which is to be determined; (5) authorize post-placement induction or support activities for program participants. Section 2215(b) would establish the requirements the Secretary would establish for the Secretary to establish as career-changing professionals. Under section 2215(b), a program participant who completes his or her training would be required to teach in a high-poverty LEA in which the program would allow the Secretary to establish appropriate requirements to ensure that program participants who receive a training stipend must fail to complete their service obligation, repay all or a portion of such stipend or other incentive.

Section 2216, equitable distribution. Section 2216 of the ESEA would require the Secretary, to the extent practicable, to make awards under Part B that support programs in high-poverty LEAs; and (5) include a description of the teacher's professional development activities for early childhood educators who are working in early childhood programs that serve high-needs children in high-poverty communities. Allowable professional development activities for early childhood educators include, but would not be limited to, activities that provide early childhood educators with recent research on child, language, and literacy development and on early childhood pedagogy; train them to work with children with limited English proficiency, disabilities, and other special needs; assist educators during their first three years in the field; development and implementation of professional development programs for early childhood educators using distance learning and other technologies; and data collection, evaluation, and reporting activities necessary to meet program accountability requirements.

Section 2217, accountability. Section 2217 of the ESEA would require that, in general, grantees develop and implement activities that will improve the knowledge and skills of early childhood educators who are working in early childhood programs that serve high-needs children in high-poverty communities. Allowable professional development activities for early childhood educators include, but would not be limited to, activities that provide early childhood educators with recent research on child, language, and literacy development and on early childhood pedagogy; train them to work with children with limited English proficiency, disabilities, and other special needs; assist educators during their first three years in the field; development and implementation of professional development programs for early childhood educators using distance learning and other technologies; and data collection, evaluation, and reporting activities necessary to meet program accountability requirements.

Section 2218, performance indicators. Section 2218 of the ESEA would require that the Secretary to ensure that program participants complete their service obligation, repay all or a portion of such stipend or other incentive. The Secretary would terminate a project if the project fails to achieve the purpose of this part; (2) describe how it would ensure that program participants were placed in high-quality LEAs; (5) include a description of the teacher's professional development activities for early childhood educators who are working in early childhood programs that serve high-needs children in high-poverty communities. Allowable professional development activities for early childhood educators include, but would not be limited to, activities that provide early childhood educators with recent research on child, language, and literacy development and on early childhood pedagogy; train them to work with children with limited English proficiency, disabilities, and other special needs; assist educators during their first three years in the field; development and implementation of professional development programs for early childhood educators using distance learning and other technologies; and data collection, evaluation, and reporting activities necessary to meet program accountability requirements.

Section 2219, authorization of appropriations. Section 2219 of the ESEA would authorize the appropriation of such sums as may be necessary to carry out the purposes of this part.
necessary for fiscal year 2001 and each of the four succeeding fiscal years to carry out Part C.

Part D—Technical assistance programs

Section 2401, findings. Section 2401 of the ESEA would also incorporate the Congressional findings for Part D as follows: (1) sustained, high-quality technical assistance that responds to State, tribal, and other needs; (2) the importance of providing information and assistance in a timely and effective manner; (3) the importance of disseminating, research-based information on what constitutes high-quality technical assistance and how to identify high-quality technical assistance activities and providers; (4) the importance of implementing high-quality technical assistance essential to improving programs and affording all children this opportunity; (5) States, LEAs, and tribes serving special needs, such as educationally disadvantaged students and students with limited English proficiency, have clear needs for technical assistance in those areas; (3) from those appropriations for any fiscal year, the Secretary would be required to approve a State's application for funds if it meets these requirements and is of sufficient quality to meet the State's needs; (6) funds provided under this subpart to LEAs that are eligible to receive direct grants to States and LEAs may be receiving under section 2416, the Secretary would be required to take into consideration the advice of peer reviewers, and not disapprove any application without giving the State notice and opportunity for a hearing.

Section 2414, State uses of funds. Section 2412 of the ESEA would describe the permissible uses of State formula grants under Subpart 1. The LEA could use these funds to: (1) improve instructional programs and the achievement of all LEA recipients within the State, directly, through contracts, or through subgrants to LEAs, or other LEA recipients of funds, for activities that meet the purposes of Subpart 1; (2) increase opportunities for all children to achieve to challenging State academic content standards and student performance standards; (3) assist SEAs in acquiring high-quality technical assistance.

Section 2412, purpose. Section 2412 of the ESEA would set out the awarding of funds under the ESEA to provide those students with opportunities to achieve to challenging State academic content and student performance standards; (2) an integrated system for acquiring, using, and supporting technical assistance that meet the technical assistance activities and providers; (3) the importance of providing information and assistance in a cost-effective manner.

Section 2402, purpose. Section 2402 of the ESEA would state the purposes of Part D as being to establish an independent source of consumer information regarding the quality of technical assistance activities and providers, in order to assist SEAs and LEAs, and other consumers of technical assistance services, in determining whether to approve a State's application for funds if it meets these requirements and is of sufficient quality to meet the State's needs; (6) planning and implementing effective, standards-based education reform; (2) the importance of providing information and assistance in a cost-effective manner.

Section 2411, purpose. Section 2411 of the ESEA would state the purposes of Subpart 1 of Part D of Title II. Section 2411(1) would state one such purpose as being to provide grants to SEAs and LEAs in order to: (1) contribute to the growing demand for increased standards-based education reform; (2) assist SEAs and LEAs in carrying out the requirements of the ESEA and from other sources can best be coordinated to meet those needs (including funds provided from all sources under the ESEA); (3) the ability of teachers to serve students with disabilities, and LEAs to assess their technical assistance needs and appropriate technical assistance services; (2) encourage SEAs and LEAs to use technical assistance in order to assist SEAs and LEAs to use technical assistance in order to assist SEAs and LEAs to improve the opportunity for all children to achieve to challenging State academic content standards and student performance standards; (2) an integrated system for acquiring, using, and supporting technical assistance that meet the technical assistance activities and providers; (3) the importance of providing information and assistance in a cost-effective manner.

Subpart 1—Strengthening the capacity of State and local educational agencies to provide effective, informed consumers of technical assistance.

Section 2411, purpose. Section 2411 of the ESEA would state the purposes of Subpart 1 of Part D of Title II. Section 2411(1) would state one such purpose as being to provide grants to SEAs and LEAs in order to: (1) assist SEAs and LEAs to use technical assistance in order to assist SEAs and LEAs to use technical assistance in order to assist SEAs and LEAs to improve the opportunity for all children to achieve to challenging State academic content standards and student performance standards; (2) an integrated system for acquiring, using, and supporting technical assistance that meet the technical assistance activities and providers; (3) the importance of providing information and assistance in a cost-effective manner.

Subpart 1—Strengthening the capacity of State and local educational agencies to provide effective, informed consumers of technical assistance.

Section 2411, purpose. Section 2411 of the ESEA would state the purposes of Subpart 1 of Part D of Title II. Section 2411(1) would state one such purpose as being to provide grants to SEAs and LEAs in order to: (1) assist SEAs and LEAs to use technical assistance in order to assist SEAs and LEAs to use technical assistance in order to assist SEAs and LEAs to improve the opportunity for all children to achieve to challenging State academic content standards and student performance standards; (2) an integrated system for acquiring, using, and supporting technical assistance that meet the technical assistance activities and providers; (3) the importance of providing information and assistance in a cost-effective manner.
and implementing strategies to promote opportunities for all children to achieve challenging State academic content standards and student performance standards.

Section 2416 of the ESEA would describe the formula for providing grants under Subpart 1 to the largest, high-need LEAs. Under subsection 2416(c), the Secretary would award funds among the LEAs described in section 2412(b)(2) in proportion to the relative amount of each such LEA's Basic Grants under Subpart 2 of Part A of Title I for the most recent fiscal year. As under the State formula in section 2413, the Secretary would be required to reallocate unused LEA allocations.

Section 2417, local application. Section 2417 of the ESEA would detail the application requirements that LEAs must meet to receive direct grants under Subpart 1. Each LEA would be required to submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Each application would be required to describe: (1) the LEA's need for technical assistance in implementing ESEA programs (including the need for an equitable distribution of funds for technical assistance and in implementing the State's, or its own, plan or policies for comprehensive standards-based education reform; (2) how the LEA will use the grant funds to coordinate all its various sources of funds for technical assistance, including Federal, State, and local resources, and other sources, into an integrated system for acquiring and using outside technical assistance and other means of building its own capacity to provide the opportunity for all children to achieve challenging State academic content standards and student performance standards implementing programs under the ESEA. The Secretary would administer whether to approve a State's application, the Secretary would be required to take into consideration the advice of peer reviewers, and could not disapprove any application without giving the State notice and opportunity for a hearing.

Section 2418, local uses of funds. Section 2418 of the ESEA would describe the ways in which an LEA could use direct grant funds awarded under Subpart 1. The LEA could use these funds to: (1) build its capacity to use ESEA funds for furthering standards-based education reform; (2) acquire high-quality technical assistance and the selection of high-quality technical assistance providers that receive funds under Subpart 2, all consortia that receive funds under proposed Subpart 2 of Part B of Title III of the ESEA (as amended by Title III of the bill), and clearings = in the States, LEAs, and other recipients of funds under the ESEA, in selecting technical assistance activities and providers for their use. Such a contract could be awarded for a period of up to five years, and the Secretary could reserve, from the funds appropriated to carry out Subpart 1 for any fiscal year, such sums as the Secretary determines necessary to carry out section 2419A.

Section 2419A, authorization of appropriations. Section 2419A of the ESEA would authorize the appropriation of such sums as may be necessary for fiscal year 2001 and for each of the four succeeding fiscal years to carry out Section 2419.

Section 2419B, authorization of appropriations. Section 2419B of the ESEA would authorize the appropriation of such sums as may be necessary for fiscal year 2001 and for each of the four succeeding fiscal years to carry out Section 2419.

Section 2420, general provisions. Section 2420 of the ESEA would set out the general provisions of the ESEA for the technical assistance centers. Each center would be required to: (1) develop a set of performance indicators that assesses whether the centers assist in improving teaching and learning under the ESEA for students in the special populations described; (2) conduct surveys every two years to determine if they are satisfied with the access to, and quality of, the services provided; (3) collect, as part of the Department's reviews of ESEA programs, information about the availability and quality of services provided by the centers, and share that information with the centers; and (4) take whatever steps are necessary to ensure that each center performs its responsibilities in a satisfactory manner, which may include termination of an award under this part, the use of interim arrangements. The Secretary would be required to: (1) develop a set of performance indicators that assesses whether the centers assist in improving teaching and learning under the ESEA for students in the special populations described; (2) conduct surveys every two years to determine if they are satisfied with the access to, and quality of, the services provided; (3) collect, as part of the Department's reviews of ESEA programs, information about the availability and quality of services provided by the centers, and share that information with the centers; and (4) take whatever steps are necessary to ensure that each center performs its responsibilities in a satisfactory manner, which may include termination of an award under this part, the use of interim arrangements. All of these activities are designed to ensure the quality and effectiveness of the proposed centers.

Section 2422, cited. Section 2422(c) would authorize the appropriation of such sums as may be necessary for fiscal year 2001 and for each of the four succeeding fiscal years to carry out the purposes of section 2422.

Section 2423, parental involvement. Section 2423 of the ESEA would authorize Parental Information and Resource Centers (PIRCs), which are currently authorized under Title IV of the Goals 2000: Educate America Act.

Section 2424, cited. Section 2424(a) would authorize the Secretary to award grants, contracts, or cooperative agreements to nonprofit organizations that serve parents (particularly those organizations that make substantial efforts to reach low-income, minority, or limited English proficient parents) to establish PIRCs. The PIRCs would coordinate the efforts of Federal, State, and local parent education and family involvement initiatives. In addition, the PIRCs would provide training, information, and support to SEAs, LEAs, other Federal programs and State and local parent education and family involvement initiatives. In addition, the PIRCs would establish PIRCs. The PIRCs would coordinate the efforts of Federal, State, and local parent education and family involvement initiatives. In addition, the PIRCs would provide training, information, and support to SEAs, LEAs, other Federal programs and State and local parent education and family involvement initiatives. In addition, the PIRCs would establish
greatest extent possible, to ensure that each State is served by at least one award recipient. Currently, there are PIRCs in all 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands.

Section 2423(b) would establish the application requirements for the PIRCs. Applicants desiring section 2423 funds would be required to submit an application at such time, and in such manner, as the Secretary shall determine. At a minimum, the application would include a description of the applicant’s capacity and expertise to implement a grant under section 2423; a description of how the applicant would use its award; and an assurance that LEAs, schools, and non-profit organizations in the State (particularly those organizations that make substantial efforts to reach a large number or percentage of minority or economically disadvantaged students) would coordinate their activities with the applicant in order to ensure that these dissemination activities are integrated with, and do not duplicate, the dissemination activities of the Office of Educational Research and Improvement (OERI), and that the public has access to the research, data, and other information supported by, or available from, OERI.

Section 2423(c) would authorize the appropriation of such sums as may be necessary for fiscal years 2001 through 2005 to carry out this PIRC program.

Section 2424, Eisenhower Regional Mathematics and Science Education Consortia. Section 2424 of the ESEA would authorize the establishment of the Eisenhower Regional Mathematics and Science Education Consortia. The Eisenhower Consortia would be authorized under Part C of Title II of the ESEA. Under current law, to eliminate outdated or unnecessary provisions and making structural changes, section 2424 would eliminate some modifications of funds for the Eisenhower Consortia in order to focus the uses of funds more closely on the program’s core purposes. Section 2424 would also authorize the appropriation of such sums as may be necessary for fiscal years 2001 through 2005 to carry out the Eisenhower Consortia activities.

Subpart 3—Technology-based technical assistance and information dissemination

Section 2431, Web-based and other information dissemination. Section 2431 of the ESEA would require the Secretary to carry out, in consultation with States, regions, and their educational agencies, a national system, through the Worldwide Web and other advanced telecommunications technologies, that supports interactive information sharing and dissemination about ways to improve educational practices throughout the Nation. In designing and implementing this proposed information dissemination system, the Secretary would be required to create opportunities for the continuing input of students, teachers, administrators, and other individuals who participate in, or may be affected by, the Nation’s educational system.

The proposed new information dissemination would include information on: (1) stimulating instructional materials that are aligned with challenging content standards; and (2) successful and innovative practices in instruction, professional development, challenging academic content, student performance standards, assessments, effective school management, and such other areas as the Secretary determines appropriate.

Under section 2431(a)(3)(A), the Secretary could require the technical assistance providers funded under proposed Part D of Title II of the ESEA (as added by Title III of the bill), or the educational laboratories and clearinghouses of the Educational Resources Information Center supported under the Educational Resources Information, and Improvement Act, to: (1) provide information (including information on practices employed in the regions or States or under the regional or State consortia) to the proposed information dissemination system; (2) coordinate their activities in order to ensure a unified system of technical assistance; or (3) otherwise participate in the proposed information dissemination system. Under section 2431(a)(3)(B), the Secretary would be required to ensure that these dissemination activities are integrated with, and do not duplicate, the dissemination activities of the Office of Educational Research and Improvement (OERI), and that the public has access to the research, data, and other information supported by, or available from, OERI.

Section 2431(b) would authorize the Secretary to carry out, in consultation with States, using advanced telecommunications technologies where appropriate, to assist LEAs,
Section 313 of the bill would amend section 312(b)(1) of the ESEA by removing the reference to the Goals 2000: Educate America Act, which would be repealed by another section of the bill. The National Education Goals would be renamed America’s Education Goals and added to the ESEA by section 2 of the bill.

Section 313(c) of the bill would amend current section 312(c) of the ESEA by eliminating the authority for the Secretary to undertake activities designed to facilitate maximum interdisciplinarity of the technologies. Instead, the Secretary would be authorized to develop a national repository of information on the effective uses of educational technologies, including information obtained through funded and intensive, high-quality professional development, and the dissemination of that information nationwide.

Section 314. Repeals; Redesignations; Authorization of Appropriations. Section 314 of the bill would repeal sections 3114 (Authorization of Appropriations), 3115 (Limitation on Use of Appropriations) and section 3116 (Report of Funding Alternatives) of the ESEA. As amended by the bill, an authorization of appropriations section would be included in the part of Title III of the ESEA to which it applies. These changes would also eliminate the current statutory provision that requires that funds be used for a discretionary grant program when appropriations for current Part A of Title III of the ESEA are less than $75 million, and for a State formula grant program when appropriations exceed that amount. This provision is now currently be overridden in appropriation language each year in order to operate both the Technology Innovation Challenge Grants program and the Technology Innovation Grants program.

Section 314(b) of the bill would redesignate several sections of the ESEA, and would add new sections 3130 and 3131 of the ESEA. Proposed new section 3130 of the ESEA ("National Evaluation of Education Technology") would require the Secretary to develop and carry out a strategy for an ongoing evaluation of existing and anticipated future uses of educational technology. This national evaluation strategy would be designed to inform the Secretary on the uses of educational technology, in stimulating reform and innovation in teaching and learning with technology, and in developing and disseminating new and advanced types of educational technology.

As part of this evaluation strategy, the Secretary would be authorized to: conduct, fund, and control studies on the effectiveness of the uses of educational technology; convene panels of experts to identify uses of educational technology that hold the greatest promise for improving teaching and learning, assist the Secretary with the review and assessment of the progress and effectiveness of projects that are funded under Federal leadership in promoting the use of technology in education. Section 313(1) of the bill would amend section 312(a) of the ESEA by eliminating the reference to the United States National Commission on Libraries and Information Systems, and replacing it with the White House Office of Science and Technology Policy, on the basis of which the Secretary consults under this program.

Section 312(a) of the bill would amend section 312(b)(1) of the ESEA by removing the reference to the Goals 2000: Educate America Act, which would be repealed by another section of the bill. The National Education Goals would be renamed America’s Education Goals and added to the ESEA by section 2 of the bill.

Section 313(c) of the bill would amend current section 312(c) of the ESEA by eliminating the authority for the Secretary to undertake activities designed to facilitate maximum interdisciplinarity of the technologies. Instead, the Secretary would be authorized to develop a national repository of information on the effective uses of educational technologies, including information obtained through funded and intensive, high-quality professional development, and the dissemination of that information nationwide.

Section 314. Repeals; Redesignations; Authorization of Appropriations. Section 314 of the bill would repeal sections 3114 (Authorization of Appropriations), 3115 (Limitation on Use of Appropriations) and section 3116 (Report of Funding Alternatives) of the ESEA. As amended by the bill, an authorization of appropriations section would be included in the part of Title III of the ESEA to which it applies. These changes would also eliminate the current statutory provision that requires that funds be used for a discretionary grant program when appropriations for current Part A of Title III of the ESEA are less than $75 million, and for a State formula grant program when appropriations exceed that amount. This provision is now currently be overridden in appropriation language each year in order to operate both the Technology Innovation Challenge Grants program and the Technology Innovation Grants program.

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and software; conduct evaluations and apply research studies that examine how students learn using educational technology, whether singly or in groups, and across age groups; and develop models that will assist in evaluating the purposes of the proposed new subpart.

Under proposed new section 3212(b) of the ESEA, applicants will provide a description of the proposed project and how it would carry out the purposes of the program, and a detailed plan for the independent evaluation of the program, which must include benchmarks to monitor progress toward the specific project objectives.

Proposed new section 3212(c) of the ESEA would allow the Secretary, when making awards, to set one or more priorities. Priorities could be related to applications from consortia that consist of particular types of the members described in proposed new section 3212(a) of the ESEA; (2) projects that develop innovative models that serve traditionally underserved populations, including low-income students, students with disabilities, limited English proficiency; (3) projects in which applicants provide substantial financial and other resources to achieve the goals of the project; and (4) projects that develop innovative models for using electronic networks to provide challenging courses, such as Advanced Placement courses.

Proposed new section 3213 of the ESEA ("Uses of Funds") would require award recipients to use their program funds to develop new applications, technologies, and telecommunications to support school reform efforts, such as wireless and web-based telecommunications, hand-held devices, web-based learning resources, distributed learning environments (including distance learning networks), and the development of educational software and other applications. In addition, recipients would also be required to use program funds to carry out activities consistent with the purposes of the proposed new subpart, such as: (1) developing and implementing innovative models for using electronic networks to support mentoring; (2) projects that develop innovative models to support effective use of educational technology, including the development of distance learning networks, software (including software deliverable through the internet), and online-learning resources; (3) projects serving more than one State and involving large-scale innovations in the development of educational technology; (4) projects that develop innovative models that serve traditionally underserved populations, including low-income students, students with disabilities, limited English proficiency; (5) projects in which applicants provide substantial financial and other resources to achieve the goals of the project; and (6) projects that develop innovative models for using electronic networks to provide challenging courses, such as Advanced Placement courses.

Proposed new section 3214 of the ESEA ("Authorization of Appropriations") would authorize the appropriation of such sums as may be necessary to carry out this subpart for fiscal years 2001 through 2005.
Proposed new section 3301 of the ESEA ("Purpose; Program Authority") would authorize the Secretary, through the Office of Educational Technology, to award grants on a competitive basis to eligible applicants for creating or expanding community technology centers that will provide disadvantaged residents of economically distressed urban or rural communities access to information technology and related training and provide technical assistance and support to community technology centers.

Proposed new section 3301(b) of the ESEA would authorize the Secretary to award grants to public or private nonprofit organizations, community-based organizations, an institution of higher education, an SEA, and LEA, or a consortium of these entities for the purpose of the TLCF to increase the capacity of institutions of higher education to prepare effective prospective teachers to use technology in their classrooms; and acquiring equipment, information technology, and the use of computing, information technology, and the use of such technology in support of pre-school, elementary, secondary, and post-secondary education; and workforce development job preparation activities.

Proposed new section 3302 of the ESEA ("Eligibility and Application Requirements") would set out the eligibility and application requirements for the proposed new subpart. Under proposed new section 3302(a) of the ESEA, to be eligible an applicant must: (1) have the capacity to expand significantly access to computers and related services for disadvantaged residents of economically distressed urban or rural communities (who would otherwise be denied such access); and (2) be an entity such as a foundation, museum, library, for-profit business, public or private nonprofit organization, or community-based organization, an institution of higher education, an SEA, and LEA, or a consortium of these entities.

Under the application requirements in proposed new section 3302(b) of the ESEA, an applicant would be required to submit an application to the Secretary at such time, and containing such information, as the Secretary may require, and that application must include: (1) a description of the proposed project and the capacity and the magnitude of the need for the services and how the project would expand access to information technology and related services to disadvantaged residents of an economically distressed urban or rural community; (2) a demonstration of the commitment, including the financial commitment, of entities such as institutions of higher education, businesses, and other groups in the community that will provide support for the creation, expansion, and continuation of the proposed project; the extent to which the proposed project establishes linkages with other appropriate agencies, efforts, and organizations providing services to disadvantaged residents of an economically distressed urban or rural community; (3) a description of how the proposed project would be sustained once the Federal funds awarded under this subpart end; and (4) a plan for the evaluation of the program, including benchmarks to monitor progress toward specific project objectives.

Under proposed new section 3302(c) of the ESEA, the Federal share of the cost of any project funded under the proposed new subpart would not exceed more than 50 percent of the cost of the project. The non-Federal share of any such acquisition would be in cash.

Proposed new section 3303 of the ESEA ("Eligibility and Application Requirements") would authorize the Secretary to award grants on a competitive basis to eligible applicants to the Secretary at such time, and containing such information, as the Secretary may require, and that application would be required to submit an application for the proposed project, including how the proposed project would be sustained once the Federal funds awarded under this subpart end; and a plan for the evaluation of the project, which shall include benchmarks to monitor progress toward specific project objectives.

Proposed new section 3302(c)(1) of the ESEA would limit the Federal share of any project funded under this part to no more than 50 percent of the cost of the project. The non-Federal share of any such acquisition would be in cash, except as required under proposed new section 3302(c)(2) of the ESEA, which would limit, to not more than 10 percent of the Federal share of any such acquisition to be in cash.

Proposed new section 3303(b) of the ESEA would authorize the Secretary to award grants on a competitive basis to eligible applicants for the purpose of the proposed new part is to assist consortia of public and private entities in carrying out programs that prepare prospective teachers to use technology to create learning environments conducive to preparing all students to achieve to challenging State and local content and student performance standards; and evaluate the effectiveness of the project.

Under proposed new section 3303(b)(1) of the ESEA, recipients would be permitted to use funds for activities such as: developing and implementing high-quality teacher preparation programs that enable prospective teachers to use advanced technology to create learning environments conducive to preparing all students to achieve to challenging State and local content and student performance standards; and evaluate the effectiveness of the project.

Under proposed new section 3303(b)(2) of the ESEA, the Secretary would have the authority to award grants on a competitive basis to eligible applicants for activities such as: developing and implementing high-quality teacher preparation programs that enable prospective teachers to use advanced technology to create learning environments conducive to preparing all students to achieve to challenging State and local content and student performance standards; and evaluate the effectiveness of the project.

Under proposed new section 3303(b)(3) of the ESEA, the Secretary would have the authority to award grants on a competitive basis to eligible applicants for activities such as: developing and implementing high-quality teacher preparation programs that enable prospective teachers to use advanced technology to create learning environments conducive to preparing all students to achieve to challenging State and local content and student performance standards; and evaluate the effectiveness of the project.

Proposed new section 3304 of the ESEA ("Authorization of Appropriations") would authorize the appropriation of such sums as may be necessary to carry out the proposed new part and would require that the non-Federal share of any such acquisition be in cash.

Proposed new section 3305 of the ESEA would authorize the Secretary to award grants on a competitive basis to eligible applicants to support a center coordinator, and staff, to develop and implement a program of the support to community technology centers.

Proposed new section 3305(b) of the ESEA would authorize the Secretary to award grants on a competitive basis to eligible applicants for the purpose of the proposed project would be sustained once the Federal funds awarded under this subpart end; and a plan for the evaluation of the project, which shall include benchmarks to monitor progress toward specific project objectives.

Proposed new section 3306 of the ESEA would authorize the Secretary to award grants on a competitive basis to eligible applicants to support a center coordinator, and staff, to develop and implement a program of the support to community technology centers.

Proposed new section 3306(b) of the ESEA would authorize the Secretary to award grants on a competitive basis to eligible applicants for the purpose of the proposed project would be sustained once the Federal funds awarded under this subpart end; and a plan for the evaluation of the project, which shall include benchmarks to monitor progress toward specific project objectives.

Proposed new section 3307 of the ESEA would authorize the Secretary to award grants on a competitive basis to eligible applicants to support a center coordinator, and staff, to develop and implement a program of the support to community technology centers.

Proposed new section 3307(b) of the ESEA would authorize the Secretary to award grants on a competitive basis to eligible applicants for the purpose of the proposed project would be sustained once the Federal funds awarded under this subpart end; and a plan for the evaluation of the project, which shall include benchmarks to monitor progress toward specific project objectives.
SEAs and LEAs to improve student achievement, particularly that of students in high-poverty, low-performing schools, by supporting State and local efforts to: (1) make effective use of available technologies, including education applications, networks, and electronic resources; (2) utilize research-based teaching practices that are linked to advanced technologies; (3) provide highly qualified and intensive, high-quality professional development that increases teacher capacity to create improved learning environments; (4) ensure the integration of educational technology into instruction. These purposes would focus program efforts on activities proven to improve teaching and learning.

Section 342. Allotment and Reallocation. Section 342 of the bill would amend section 3313 (a)(2) of the ESEA by modifying the minimum TLCF State grant amount to two thirds of the lesser of one-half of one percent of the appropriations for TLCF for a fiscal year, or $2,250,000. Second, the new minimum amount would be reduced to one third of the aggregate amount received by the Outlying Areas. Currently, this aggregate minimum amount for the Outlying Areas is accomplished through appropriate reallocation each year.

Section 343. Technology Literacy Challenge Fund. Section 343 of the bill would amend current section 3313 of the ESEA to require all LEAs to expend, on average, at least 20 percent of their total allocation to LEAs that need assistance in developing local technology plans. An SEA could use the remainder of its allocation for administrative costs and technical assistance. This change is necessary because section 343 of the bill would repeal current section 3115 of the ESEA, which limited the amount of any grant that could be used for administrative expenses.

Section 344. State Application. Section 344 of the bill would completely revise the application requirements for the State formula grant program in section 3333 of the ESEA. As revised, section 3333 of the ESEA would require an SEA to: (1) provide a new or updated State technology plan that is aligned with the State plan or policies for comprehensive standards-based education reform; (2) describe how it will meet the national technology education goals; (3) describe its long-term strategies for financing educational technology, including how it would use other Federal and non-Federal funds, including E-Rate funds; (4) describe and explain its criteria for identifying an LEA as high-poverty and having a substantial need for technology; (5) describe its educational technology to improve student achievement; (6) establish performance indicators for each of its goals described in the plan, and the indicators required for subparts A, B, C, D, and E; and (7) describe its long-term strategy for measuring its technology, and having a substantial need for educational technology; and (8) describe its goals for using educational technology in schools served by that agency are using such LEAs and that priority would also be required to describe the membership of the partnership, their respective roles, and their respective contributions to improving the capacity of the LEA.

In addition to the changes described above, section 344 of the bill would also require that the SEA provide an eligible local applicant with assistance in forming partnerships to apply for program funds and developing performance indicators.

Section 345. Local Uses of Funds. Section 345 of the bill would amend section 334 of the ESEA, which permits the local uses of funds under the TLCF. These local uses of funds would be: adapting or expanding existing activities that have demonstrated the promise of advanced technologies into curriculum; enabling teachers to use the Internet to communicate with other teachers and to retrieve web-based learning resources; using technology to collect, manage, and analyze data for school improvement; acquiring advanced technology equipment and resources; and acquiring wiring and access to advanced telecommunications; using web-based learning resources, including those that provide access to challenging courses such as Advanced Placement courses; and assisting schools to use technology to promote parent and family involvement, and support communications between family and school.

Section 346. Local Applications. Section 346 of the bill would amend section 3335 of the ESEA to make an LEA a "eligible local applicant" if it meets the requirements of subpart B of the bill. Eligible local applicants that are partnerships would be required to provide technical assistance to eligible local applicants and its capacity for providing that assistance; and (6) describe how it would use technology to support federal and non-Federal funds, for wiring and telecommunications services, or produces technology products or services, or has substantial expertise in the application of technology; or public or private non-profit organization with demonstrated experience in the application of technology in schools served by that agency are using technology effectively in their classrooms; institution of higher education; for-profit organization that develops, designs, manufactures, or produces technology products or services, or has substantial expertise in the application of technology; or private or public non-profit organization with demonstrated experience in the application of education technology.

"Low-performing school" would be defined as a school identified for school improvement under section 1116(c) of the ESEA, or in which a substantial majority of students fail to meet State performance standards.

Proposed new section 3418 of the ESEA ("Authorization of Appropriations") would authorize the appropriation of such sums as may be necessary to carry out this subpart for fiscal years 2001 through 2005.

Section 349. Regional Technology in Education Consortia. Section 349(a) of the bill would add a new subpart heading and designation, Subpart 2, Regional Technology In Education Consortia, and to part C of Title III of the ESEA. This proposed new subpart is based on current section 341 of the bill.
Section 340(b)(v) of the bill would amend Title IV of the ESEA, which requires the RTECs to assist colleges and universities to develop and implement preservice training programs for students enrolled in teacher education programs. As amended, this section of the ESEA would require that the RTECs work with districts and schools to develop support from parents and community members for educational technology programs. The amendments made by section 340(b)(v) of the bill would require the RTECs to work with districts and schools to increase the involvement and support of parents and community members for educational technology programs.

Section 340(b)(v) of the bill would amend section 341(b) of the ESEA by eliminating the requirement that the RTECs coordinate their activities with any other programs or institutions of higher education that represent the interests of the region regarding the application of technology to teaching, learning, instructional management, dissemination, the collection and analysis of educational statistics, and the transfer of student information. The bill would also require that the Department of Education coordinate with the Department of Justice to encourage the use of technology in the prevention of violence in schools.

Section 340(b)(v) of the bill would amend section 341(b)(4) of the ESEA, which requires the RTECs to coordinate their activities with appropriate entities. As revised, this section of the ESEA would require the RTECs to coordinate their activities with appropriate entities, including but not limited to, local districts, schools, and local Safe and Drug-Free Schools and Communities.

Section 340(b)(v) of the bill would amend section 341(b)(2)(A) of the ESEA, which requires the RTECs to coordinate their activities with appropriate entities. As revised, this section of the ESEA would require the RTECs to coordinate their activities with appropriate entities, including but not limited to, local districts, schools, and local Safe and Drug-Free Schools and Communities.
to redistribute to other States, on the basis of the requirement in proposed new section 4113(b)(4)(B)(iii) to provide capacity building and technical assistance services, and to require SEAs to develop capacity building and technical assistance services to improve their programs, consistent with the requirements in proposed new section 4113(b)(4)(B)(iii) that, to the extent practicable, SEAs and Governors use a portion of the funds for capacity building and technical assistance services to provide capacity building and technical assistance and accountability services to all LEAs in the State, including those that do not receive SDFSC State grant funds. Finally, this proposed new section would retain the assurances in current law that: (1) LEAs develop their applications in consultation and coordination appropriate State officials and representatives of parents, students, and community-based organizations; and (2) States will cooperate with, and provide in conducting national impact evaluations of programs required by proposed new section 4117(a).

Proposed new section 4112(b)(2) of the ESEA would retain the language in the current law under section 4112(d) requiring the Secretary to use a peer review process in reviewing SDFSC State grant applications.

Proposed new section (“State and Local Education Agency Programs”) of the ESEA would describe the SEA and LEA program requirements in this part. Proposed new section 4113(a) of the ESEA would retain the requirement in current law that 80 percent of the amount they reserve for State programs be awarded, on the basis of need, to eligible applicants. Proposed new section 4003 of the ESEA that the funds be used to carry out programs and activities that are designed to create and maintain drug-free, safe, and healthy learning environments for learning in and around schools.

Proposed new section 4113(b) of the ESEA would depart from the current statute by establishing a new authority requiring SEAs to reserve between 10 percent and 20 percent of their allocations under proposed new section 4113(c)(2) for administrative expenses. Under this new authority, SEAs may use the reserved funds to plan, develop, and implement, jointly with the Governor, capacity building and technical assistance and accountability services to support the effective implementation of local drug and violence prevention activities throughout the State and promote pupil safety and improvement. Within this 20 percent cap, but in addition to the 10 percent minimum for State-level administrative expenses, any SEA may use up to 5 percent of their funding (i.e., up to 25 percent of the amount they reserve for State-level activities) for program administration. This proposed new section 4113(c)(1) of the ESEA, and would provide greater assistance to LEAs for program improvement that under the current law.

Proposed new section 4113(b)(4)(A) of the ESEA would require SEAs and Governors to jointly use the amount reserved under section 4113(b)(4)(B) to plan, develop, and implement capacity building and technical assistance and accountability services designed to support the effective implementation of local drug and violence prevention activities throughout the State, as well as promote program accountability and prevention activities.

Proposed new section 4113(b)(4)(B)(i) of the ESEA would add new language to the statute clarifying that the SEA and Governor may contribute allocated funds to other programs, initiatives, or projects as required by proposed new section 4113(b)(4)(A) directly, or through subgrants or contracts with public and private organizations, as well as Individuals.

Proposed new section 4113(b)(4)(B)(ii) of the ESEA would add new language to the statute requiring that, to the extent practicable, SEAs and Governors use funds under proposed new section 4113(b)(4)(A) to provide capacity building and technical assistance and accountability services and activities to all LEAs in the State, not just those that receive SDFSC State grants, in order to ensure that: (1) LEAs receiving SDFSC State funds retain the requirement in current law that 80 percent of LEAs in each State under the targeting provisions in proposed new section 4113(c)(2)(D) of the ESEA, the Governor would permit SEA and Governor to provide emergency intervention services to schools facing a traumatizing, shooting or major accident that has disrupted the learning environment.

Proposed new section 4113(b)(4)(C) of the ESEA would add definitions of "capacity building" and "technical assistance and accountability services" to clarify the meaning of those terms in this part.

Proposed new section 4113(c)(1) of the ESEA would specify that SEAs must use at least 80 percent of their funding for local drug and violence prevention programs. Proposed new sections 4113(c)(2) and (3), rather than awarding at least 91 percent of their funding to LEAs as is required under current law. Proposed new section 4113(b)(4)(B)(iii) of the ESEA would require SEAs to use at least 70 percent of their total SDFSC State grant funding for competitive awards to LEAs that the SEA determines have need for assistance, rather than the current law approach of awarding at least 91 percent of their funding to LEAs as is required under current law.

Proposed new section 4113(b)(6) of the ESEA would make minor wording changes to the nine "need" factors in the current statute, and add three additional factors relating to local fiscal capacity to fund drug and violence prevention programs without Federal assistance; the incidence of drug paraphernalia in schools; and the high rates of drug-related emergencies or death. Proposed new section 4113(c)(3)(C) of the ESEA would depart from the current statute to require SEAs to base their competition on the quality of an LEA’s proposed program and how closely it is aligned with the following principles of effectiveness: (1) the LEA’s program is based on a thorough assessment of objective data about the drug and violence problems in the schools and communities to be served; (2) the LEA has established a set of measurable goals and objectives at ensuring that all schools served by the LEA have a drug-free, safe, and orderly learning environment, and has designed its program to meet those goals and objectives; (3) the LEA has designed and will implement its programs for youth based on research or evaluation that provides evidence that the program to be used will prevent or reduce drug use, violence, delinquency, or disruptive behavior among youth; and (4) the LEA will evaluate its program periodically to assess its progress toward achieving its goals and objectives, and will use evaluation results to refine, improve, and strengthen its program, and refine its goals and objectives.
make subgrants to more than 50 percent of the LEAs in the State and still comply with proposed new subparagraph (E) of this section.

Proposed new section 4133(c)(2)(E) of the ESEA would require SEAs to make their competitive awards to LEAs under proposed new section 4113(c)(2), to support high-quality, effective programs and activities that are consistent with the LEA’s needs, goals, and objectives identified in the State’s plan under proposed new section 4112.

Proposed new section 4113(c)(3)(A) of the ESEA would depart from the current statute to permit SEAs to use up to 10 percent of their total SDFSC State grant funding for non-competitive subgrants to LEAs with the greatest need for assistance, as described in proposed new section 4113(c)(2)(B), that did not receive a competitive award under section 4113(c)(2)(A). LEAs would be eligible to receive only one subgrant under this paragraph.

Proposed new section 4113(c)(3)(B) of the ESEA would require, for accountability purposes, that in order for an SEA to make a non-competitive award to an LEA under proposed new section 4113(c)(3)(A), the SEA must ensure that the LEA is meeting the information requirements under proposed new section 4113(a) of the ESEA pertaining to LEA needs assessment, results-based performance measures, measurable safe and drug-free schools plan, evaluation plan, and assurances, and provide continuing technical assistance to the LEA to build its capacity to develop and implement high-quality, effective programs consistent with the principles of effectiveness in proposed new section 4113(c)(2) of the ESEA.

Proposed new section 4113(d) of the ESEA would provide that LEAs awards under section 4113(c) be for a project period not to exceed three years, and require that, in order to receive funds for the second or third year of a project, the LEA demonstrate to the satisfaction of the SEA that the LEA’s project is making reasonable progress toward its performance indicators under proposed new section 4113(a)(3)(C) of the ESEA. This proposed new section would also make technical changes to the local allocation formula in current law.

Proposed new section 4114 ("Local Drug and Violence Prevention Programs") of the ESEA would establish the local drug and violence prevention services and activities that may be carried out under this title. Proposed new section 4114(a) of the ESEA would require that each LEA that receives SDFSC funding use those funds to support research-based drug and violence prevention services and activities that are consistent with the principles of effectiveness described in proposed new section 4113(c)(2)(C)(i) of the ESEA.

Proposed new section 4114(b) ("Other Authorizations of the ESEA") of the ESEA would allow an LEA that receives a SDFSC subgrant to use those funds for activities other than research-based programming, so long as the LEA meets the requirements in proposed new section 4114(a), and those additional activities are carried out in a manner that is consistent with the most recent relevant research and with the purposes of this title. Proposed new section 4114(b)(1) of the ESEA would also include an illustrative list of 13 such activities.

Proposed new section 4114(b)(2) of the ESEA would retain the 20 percent cap on SDFSC subgrant funds that LEAs may spend for the acquisition or use of metal detectors and would require LEAs to work with SEAs to waive this cap for an LEA that demonstrates, to the satisfaction of its SEA, in its application for funding under proposed new section 4116 of the ESEA, that it has a compelling need to do so.

Proposed new section 4115 ("Governor’s Program") of the ESEA would establish the Governor’s Program. Proposed new section 4115(a) would retain the requirement in the current law that 20 percent of the funds allocated to each State under proposed new section 4111(b) be awarded to the Governor, but require the Governor to use these funds to supplement and directly complement the efforts of LEAs to foster drug-free, safe, and orderly learning environments for learning in and around schools. Proposed new section 4115(b) of the ESEA would establish a new authority requiring Governors to reserve between 10 percent and 20 percent of their allocation under proposed new section 4111(b) for State-level activities to plan, develop, and implement, jointly with the SEA, capacity building, technical assistance, and accountability services to support the effective implementation of local drug and violence prevention activities throughout the State and promote program accountability and improvement, as described in proposed new section 4113(b)(4) of the ESEA. Within this 20 percent cap, but in addition to the 10 percent minimum for State-level activities, Governors could use up to 5 percent of their total funding (i.e., up to 25 percent of the amount they reserve for State-level activities) for direct or indirect administrative costs.

Proposed new section 4115(c) of the ESEA would specify that a Governor must use at least 80 percent of SDFSC State grant funding under proposed new section 4111(b) to make competitive subgrants to community-based organizations, LEAs, and other public entities and private non-profit organizations to support local drug and violence prevention activities that directly complement the efforts of LEAs to foster drug-free, safe, and orderly learning environments in and around schools. Proposed new section 4115(c)(1)(B) of the ESEA would require that, to be eligible for a subgrant, an applicant (other than a LEA applying on its own behalf) must include in its application a description of how those services and activities complement or support the LEAs’ or the Governor’s efforts and how their plans will complement or support the LEAs’ or the Governor’s efforts.

Proposed new section 4116 of the ESEA would (1) make technical changes to strengthen the current LEA application requirements for the SEA formula grant program by increasing the emphasis on the application’s alignment with the purposes of the proposed programming; and (2) make these strengthened requirements applicable to LEAs seeking subgrants from the SEA under proposed new section 4115(c) of the ESEA, or the non-competitive subgrant authority in proposed new section 4113(c)(3)(B) of the ESEA, as well as to LEAs that apply to Governors under the subgrant authority in proposed new section 4115(c) of the ESEA.

Proposed new section 4116(a) of the ESEA would (1) make technical changes to strengthen the current LEA application requirements for the SEA formula grant program by increasing the emphasis on the application’s alignment with the purposes of the proposed programming; and (2) make these strengthened requirements applicable to LEAs seeking subgrants from the SEA under proposed new section 4115(c) of the ESEA, or the non-competitive subgrant authority in proposed new section 4113(c)(3)(B) of the ESEA, as well as to LEAs that apply to Governors under the subgrant authority in proposed new section 4115(c) of the ESEA.
Prevention activities of demonstrated effectiveness designed to create and maintain safe, disciplined, and drug-free environments; (d) school readiness and family involvement; (e) improvements in classroom management and school environment, such as efforts to reduce class size or improve classroom discipline; (f) procedures to identify and respond to troubled students, including establishing linkages with, and referring students to, juvenile justice, community mental health, and other service providers; and (g) programs that connect students to responsible adults in the community, including activities such as after-school or mentoring programs; and (h) a crisis management plan for responding to violent or traumatic incidents on school grounds which provides for addressing the needs of victims, and communicating with parents, the media, law enforcement officials, and mental health service providers.

Proposed new section 416(a)(5) of the ESEA would retain the current requirement that a eligible entity that applies to the Governor for a subgrant under proposed new section 416(c) include in its application: (1) a description of services and activities to be supported which will be coordinated with relevant SDFSC State grant programs that are supported; (2) a description of how the entity will share resources, services, and data; (2) a description of how the applicant will coordinate its activities with those implementing other Drug-Free Communities Act, if any; and (3) an assurance that it will evaluate its program every two years to assess its progress toward meeting its goals and objectives, and will use the results of its evaluation to improve its program and refine its goals and objectives as needed (if the applicant is a LEA), or the assurances under proposed new section 416(a)(4) of the ESEA (if the applicant is an LEA).

Proposed new section 416(b) of the ESEA would authorize the Secretary to provide a peer review process in reviewing local applications for SDFSC subgrants, by giving the Secretary the flexibility to use other methods to ensure that applications under proposed new section 416 of the ESEA are funded on the basis of need and quality, while requiring SEA to use a peer review process.

Proposed new section 417 ("National Evaluations and Data Collections") of the ESEA would allow the Secretary to provide for national evaluations on the quality and impact of programs under this title, make minor modifications to current law, and provide the Secretary increased flexibility in meeting the national evaluation and data collection requirements in this section, and add a new requirement for the Secretary and the Attorney General to publish an annual report on school safety.

Proposed new section 417(b) of the ESEA would make minor technical changes to the current law to refocus the State reports required by this section on the LEA’s programs, including eliminating indicators for achieving drug-free, safe, and orderly learning environments in its schools, consistent with the changes proposed throughout proposed new Part A of Title IV of the ESEA. This section would also add a requirement for States to report, in such form as the Secretary, in consultation with the Secretaries of Health and Human Services, may require, all school-related suicides and homicides within the State, whether at school or at a school sponsored function, or on the way to or from school or a school sponsored function, within 30 days of the incident. This requirement will enable the Federal Government to collect longitudinal data on school-related suicides and homicides and will impose little administrative burden on the States.

Proposed new section 4112(c)(1)(A) of the ESEA would make minor technical changes to the current law to refocus the local reports required by this section on the LEA’s programs, including eliminating indicators for achieving drug-free, safe, and orderly learning environments in its schools, consistent with the changes proposed throughout proposed new Part A of Title IV of the ESEA. This section would add a new requirement that the LEA include in this report a statement of any problems the LEA is encountering with respect to enforcing its program that warrant the provision of technical assistance by the SEA, to assist the SEA in planning its technical assistance activities.

Proposed new section 4113(c)(2) or 4113(c)(3).

Proposed new section 4117(c)(1)(B) of the ESEA would add a new requirement that SEAs review the annual LEA reports, and terminate funding for the second or third year of an LEA’s program unless the SEA determines that the LEA is making reasonable progress toward meeting its objectives.

Proposed new section 4117(c)(3) of the ESEA would add new language requiring the ESEA requiring that Governors’ award recipients under proposed new section 4113(c) of the ESEA submit a progress report submit the Governor and to the public containing the same type of information required for LEA progress reports under proposed new section 4117(c) of the ESEA. The Governor or the Governor’s designee would be required to review the annual progress report, and terminate funding for the second or third year of an awardee’s program, if the Governor or designee determines that the awardee is making reasonable progress toward meeting its objectives.

Part B—National programs

Proposed new section 4211 ("National Activities") of the ESEA would authorize national programs. Proposed new section 4211(a) of the ESEA would, with only minor changes, authorize the Secretary to use national programs funds for programs to promote drug-free, safe, and orderly learning environments and promote healthy childhood development; (1) services and activities that reduce the need for suspension and expulsion in maintaining order and discipline; (II) services and activities to prevent and reduce truancy; (3) programs to provide counseling services to troubled youth; (4) programs, including support for the development and hiring of counselors and the operation of telephone help lines; (5) other activities that meet emerging or unmet national needs consistent with the purposes of this title.

Proposed new section 4211(c)(1) of the ESEA would authorize the Secretary to carry out programs for students that promote lifelong physical activity directly, or through grants, contracts, or cooperative agreements with public and private organizations and individuals, or through agreements with Federal agencies. Proposed new section 4211(c)(2) of the ESEA would require that the Secretary, in coordination with the Centers for Disease Control and Prevention, the President’s Council on Physical Fitness, and other Federal agencies, as appropriate. Such programs could include: conducting demonstrations of school-based programs that promote lifelong physical activity, with a particular emphasis on physical education programs that are a part of a coordinated school health programs; training, technical assistance, and other activities to encourage States to implement sound school-based programs that promote lifelong physical activity; and activities designed to build State capacity to provide leadership and strengthen schools’ capabilities to provide school-based programs that promote lifelong physical activity.

Proposed new section 4211(d) of the ESEA would retain the requirement in the current statute that the Secretary use a peer review process in reviewing applications for funds under proposed new section 4211(a) of the ESEA.

Part C—School emergency response to violence

Proposed new section 4311 ("Project SERV") of the ESEA would authorize Project SERV, a program designed to provide technical assistance to States and localities in which the learning environment has been disrupted due to a violent or traumatic crisis, such as a shooting or major accident. As in current law, Project SERV would carry out Project SERV directly, through contracts, grants, or cooperative agreements with public and private organizations, agencies, and others, and through agreements with other Federal agencies. Under proposed new section 4311(b) of the ESEA, Project SERV would provide: (1) assessment of the crisis situation, including assessing the resources available to the LEA and community
in response to the situation, and developing a response plan to coordinate services provided at the Federal, State, and local level; (2) mental health crisis counseling to students identified as needing such services and whose mental health needs are not met; (3) increased school security; (4) training and technical assistance for SEAs and LEAs, State and local mental health, law enforcement, and community agencies, and staff of other LEAs to enhance their capacity to develop and implement crisis intervention plans; (5) services and activities designed to identify and disseminate the best practices of school- and community-related plans for responding to crises; and (6) other needed services and activities that are consistent with the purposes of Project SERV.

Proposed new section 411(b) of the ESEA would require the Secretary of Education, in consultation with the Attorney General, the Department of Health and Human Services, and the Director of the Federal Emergency Management Agency, to establish criteria and application requirements as may be necessary to select which LEAs are assisted under Project SERV, and to establish requirements for uniform data and other information from all LEAs assisted under Project SERV.

Proposed new section 411(c) of the ESEA would authorize the establishment of the Coordinating Committee on school crises comprised of the Secretary (who shall serve as chair of the Committee), the Attorney General, the Secretary of Health and Human Services, the Director of the Federal Emergency Management Agency, the Director of the Office of National Drug Control Policy, and such other members as the Secretary shall determine. This committee would be charged with coordinating the Federal responses to crises that occur in schools or directly affect the learning environment in schools.

Part D—Related provisions

Proposed new section 411 ("Gun-Free Schools Act") of the ESEA would authorize the Gun-Free Schools Act as proposed new Part D of Title IV of the ESEA because of its close relationship with the SDSC program. The Gun-Free Schools Act is currently authorized under Part F of Title XIV of the ESEA.

Proposed new section 411(b) of the ESEA would continue, with minor technical changes, the general requirements of the current law that State receiving Federal funds under the ESEA have in effect a State law requiring that no funds may be made available under the ESEA to any LEA under the jurisdiction of the LEA in which the chief administrator of an LEA has determined the expulsion requirement described in proposed new section 411(d) to be inconsistent with the purposes of the ESEA.

Proposed new section 411(c) of the ESEA would continue that a policy prohibiting possession of firearms at school under the jurisdiction of the LEA in that State, and that such State law allow the chief administrator of each LEA to modify the expulsion requirement for a student on a case-by-case basis. It would also define the term "firearm" as that term is defined in the 18 United States Code (which includes bombs). Proposed new section 411(d) of the ESEA would require (1) the general requirement of the current law that each State receiving Federal funds under the ESEA have in effect a State law requiring that each SEA and LEA that receives Title IV, ESEA funds have in effect a State law requiring that no funds may be made available under the ESEA to any LEA under the jurisdiction of the LEA in which the chief administrator of an LEA has determined that a policy prohibiting possession of a firearm at school under the jurisdiction of the LEA in that State, and that such State law allow the chief administrator of each LEA to modify the expulsion requirement for a student on a case-by-case basis. It would also define the term "firearm" as that term is defined in the 18 United States Code (which includes bombs). Proposed new section 411(d) of the ESEA would continue that a policy prohibiting possession of firearms at school under the jurisdiction of the LEA in that State, and that such State law allow the chief administrator of each LEA to modify the expulsion requirement for a student on a case-by-case basis. It would also define the term "firearm" as that term is defined in the 18 United States Code (which includes bombs). Proposed new section 411(d) of the ESEA would require (1) the general requirement of the current law that each State receiving Federal funds under the ESEA have in effect a State law requiring that each SEA and LEA that receives Title IV, ESEA funds have in effect a State law requiring that no funds may be made available under the ESEA to any LEA under the jurisdiction of the LEA in which the chief administrator of an LEA has determined that a policy prohibiting possession of a firearm at school under the jurisdiction of the LEA in that State, and that such State law allow the chief administrator of each LEA to modify the expulsion requirement for a student on a case-by-case basis. It would also define the term "firearm" as that term is defined in the 18 United States Code (which includes bombs). Proposed new section 411(d) of the ESEA would require (1) the general requirement of the current law that each State receiving Federal funds under the ESEA have in effect a State law requiring that each SEA and LEA that receives Title IV, ESEA funds have in effect a State law requiring that no funds may be made available under the ESEA to any LEA under the jurisdiction of the LEA in which the chief administrator of an LEA has determined that a policy prohibiting possession of a firearm at school under the jurisdiction of the LEA in that State, and that such State law allow the chief administrator of each LEA to modify the expulsion requirement for a student on a case-by-case basis. It would also define the term "firearm" as that term is defined in the 18 United States Code (which includes bombs). Proposed new section 411(d) of the ESEA would require (1) the general requirement of the current law that each State receiving Federal funds under the ESEA have in effect a State law requiring that each SEA and LEA that receives Title IV, ESEA funds have in effect a State law requiring that no funds may be made available under the ESEA to any LEA under the jurisdiction of the LEA in which the chief administrator of an LEA has determined that a policy prohibiting possession of a firearm at school under the jurisdiction of the LEA in that State, and that such State law allow the chief administrator of each LEA to modify the expulsion requirement for a student on a case-by-case basis. It would also define the term "firearm" as that term is defined in the 18 United States Code (which includes bombs).
demonstrate knowledge, experience, or skills in the relevant field of expertise; and (2) allow grantees to use funds for activities, including professional development, that will build the capability to operate a magnet school once Federal assistance has ended.

Section 502(l) of the bill would repeal section 5111 of the ESEA of Innovative Programs. Activities are subsumed under the new Public School Choice program.

Section 502(g) of the bill would redesignate current section 512 of the ESEA (Evaluation, Technical Assistance, and Dissemination) as section 5111 and incorporate its requirements into new section 50115 of the ESEA (Evaluation, Technical Assistance, and Dissemination) that would authorize the Secretary to reserve not more than five percent (rather than two percent) of appropriated funds in any fiscal year to evaluate magnet school programs, as well as provide technical assistance to applicants and grantees and collect and disseminate information on successful magnet school programs. Section 502(g) of the bill would also require each evaluation, in addition to current items, to address the extent to which which magnet programs continue once grant assistance under this part ends.

Section 502(t) of the bill would amend section 5113(a) of the ESEA (Authorization) to authorize such sums as may be necessary for fiscal year 2001 and for each of the four succeeding fiscal years to carry out this part. Section 501(b) of the bill would also redesignate section 5113 as section 5112.

WOMEN'S EDUCATIONAL EQUITY

Section 503. Amendments to the Women's Educational Equity Act Program. Section 503(a)(1)/(A) of the bill would amend section 520(a) of the ESEA (Short Title) to update and change the short title from the Women's Educational Equity Act of 1994" to the "Women's Educational Equity Act." Section 503(a)(1)/(B) of the bill would amend section 5201(b) of the ESEA (Findings) to make it clear, in paragraph (3)/(B), that classroom textbooks and other educational materials continue not to reflect sufficiently the experiences, achievements, or concerns of women and girls. Little progress has been made in this area since 1994. Section 502(b) of the bill would also be amended by slightly editing paragraph (3)/(C) and adding a recent finding to that paragraph that girls are dramatically underrepresented in higher-level math courses.

Section 503(a)(2)/(A) of the bill would amend section 5204 of the ESEA (Applications) to change several internal section references to conform section numbers to the part redesignation and to clarify that the application requirements in which these references appear only to apply to implementation grants. Section 503(a)(2)/(B) of the bill would amend section 5204(b)(2) of the ESEA to change a reference to "the National Education Goals" to "America's Education Goals." Section 503(a)(2)/(C) of the bill would eliminate section 5204(3) of the ESEA, which requires an application description of how program funds would be used in a consistent manner with the School-to-Work Opportunities Act of 1994. The School-to-Work Opportunities Act sunsets in 2001, and this reference will be obsolete. Paragraphs (3)/(a) through (7) in the section would be deleted.

Section 503(a)/(3) of the bill would conform a section reference to a later redesignation. Section 503(b) of the bill would amend section 5206 of the ESEA (Report). The report required by this section will be submitted soon, satisfying the requirement and making this section unnecessary.

Section 503(a)/(5) of the bill would amend section 5207 of the ESEA (Administration) by eliminating subsection (a), requiring the Secretary to conduct an evaluation of materials and programs developed under the program and to submit a report to Congress by December 31, 1999. The bill would provide for the mandated funding for the mandated evaluation, and the report was not done.

Section 503(a)/(6) of the bill would amend section 5208 of the ESEA to authorize appropriations of such sums as may be necessary for fiscal year 2001 and for each of the four succeeding fiscal years to carry out this part. By requiring the appropriation for the Women's Educational Equity program has been small in recent years, using two thirds (rather than two percent) of appropriated funds in any fiscal year to evaluate magnet school programs, as well as provide technical assistance to applicants and grantees and collect and disseminate information on successful magnet school programs. Section 502(g) of the bill would also require each evaluation, in addition to current items, to address the extent to which which magnet programs continue once grant assistance under this part ends.

Section 503(a)/(10) of the bill would amend section 5113(a) of the ESEA (Authorization) to authorize such sums as may be necessary for fiscal year 2001 and for each of the four succeeding fiscal years to carry out this part. Section 501(h) of the bill would also redesignate section 5113 as section 5112.

ASSISTANCE TO ADDRESS SCHOOL DROPOUT

Section 504. Repeal of the Assistance to Address School Dropout Programs. Section 504 of the bill would repeal the "Assistance to Address School Dropout Problems' program under Part B of Title V of the ESEA.

PUBLIC CHARTER SCHOOLS

Section 505. Redesignation of the Public Charter Schools Program. Section 505 of the bill would redesignate the Public Charter Schools Program as Part C of Title X of the ESEA, as Part B of Title V of the ESEA. This bill would also make necessary conforming changes to carry out the redesignation.

OPTIONS: OPPORTUNITIES TO IMPROVE OUR NATION'S SCHOOLS

Section 506. Options: Opportunities to Improve Our Nation's Schools. Section 506 of the bill would amend Title V of the ESEA to add a proposed new Part C ("Options: Opportunities to Improve Our Nation's Schools") that would authorize a flexible, competitive grant program to help States provide innovative, high-quality public school choice programs.

Proposed new section 5301 of the ESEA would set forth the proposed new part and state that its purpose is to identify and support innovative approaches to high-quality public school choice by providing new financial incentives for the demonstration, development, implementation, and evaluation of, and dissemination of information about, public school choice options that promote innovative approaches to high-quality public school choice programs.

Proposed new section 5302(a) of the ESEA would authorize funds under this part, from funds appropriated under section 5303(a) and not reserved under section 5305(b), to make grants to SEAs and LEAs to support programs that promote innovative approaches to high-quality public school choice. Proposed new section 5302(b) of the ESEA would prohibit grants under this part from exceeding three years.

Proposed new section 5303(a) of the ESEA would authorize funds under the part to be used to demonstrate, develop, implement, and evaluate promising new approaches to high-quality public school choice. Examples of such approaches at the school, district, and State levels would include approaches to public school choice, including approaches that increase equal access to high-quality educational programs and diversity in schools; (2) public elementary and secondary programs that involve partnerships with institutions of higher education and that are designed to provide professional development opportunities; (3) programs that allow students in public secondary schools to enroll in postsecondary courses and to receive both secondary and postsecondary credit; (4) worksite satellite schools, in which SEAs or LEAs form partnerships with public or private employers, to create public schools at the workplace; and (5) approaches to school desegregation that provide students and parents choice through strategies other than magnet schools.

Proposed new section 5304(a) of the ESEA would require that funds under this part: (1) supplement, and not supplant, non-federal funds expended for existing programs; (2) not be used for transportation; and (3) not be used to fund projects that are specifically authorized under Part A or B of the title.

Proposed new section 5304(a) of the ESEA would require a SEA or LEA desiring to receive a grant under this part to submit an application to the Secretary, in such form and containing such information, as the Secretary may require. This application would be required to include a description of the program for which funds are sought and the specific methods and measures of how the program funded under this part will be coordinated with, and will complement and enhance, programs under other related Federal and non-federal programs. The program includes partners, the name of each partner and a description of its responsibilities. Also, each application would be required to include a description of the OK procedures and the applicant will use to ensure its accountability for results, including its goals and performance indicators, and the program is feasible, reliable, and will promote high-academic standards for all students. This will help ensure broad access to high-quality schools, while allowing, for example, public-private partnerships to create public worksite schools that allow children of employees at the worksite to attend such a school. The Secretary would be required to give a priority to applications for projects that would serve high-poverty LEAs, and would be authorized to give a priority to applications demonstrating that the applicant will carry out the program in partnership with one or more public and private agencies, organizations, and institutions, including institutions of higher education and public and private employers.

Proposed new section 5305(a) of the ESEA would authorize such sums as may be necessary for fiscal year 2001 and for each of the four succeeding fiscal years to carry out this part. Proposed new section 5305(b) of the ESEA would, from amounts appropriated for any fiscal year, authorize the Secretary to reserve more than twenty percent of the funds appropriated under section 5304(a) and not reserved under section 5305(b), to make grants to SEAs and LEAs to support programs that promote innovative approaches to high-quality public school choice. Proposed new section 5305(b) of the ESEA would prohibit grants under this part from exceeding three years.

Proposed new section 5305(a) of the ESEA would authorize funds under the part to be used to demonstrate, develop, implement, and evaluate promising new approaches to high-quality public school choice. Examples of such approaches at the school, district, and State levels would include approaches to public school choice, including approaches that increase equal access to high-quality educational programs and diversity in schools; (2) public elementary and secondary programs that involve partnerships with institutions of higher education and that are designed to provide professional development opportunities; (3) programs that allow students in public secondary schools to enroll in postsecondary courses and to receive both secondary and postsecondary credit; (4) worksite satellite schools, in which SEAs or LEAs form partnerships with public or private employers, to create public schools at the workplace; and (5) approaches to school desegregation that provide students and parents choice through strategies other than magnet schools.
of the ESEA would require each LEA that
would disburse the Secretary's funds to the State desiring to receive a Title VI grant to
submit an approvable application.

Section 6004, applications. Section 6005(a) of the ESEA would require the State of each
Data 2001 through 2005.

Section 6003 of the ESEA would authorize
the appropriations to be used for the purpose of reducing class size in grades 1 through
children to use its Title VI funds to make payments, on the basis of their respective
reduce class sizes in grades 1 through 3, to an average of 18 students per regular classroom.

Section 6006 of the ESEA would authorize
the Secretary to give priority to applicants
The outlaying areas, which would otherwise
school districts in the District of Columbia, and Puerto Rico.

Section 6003 of the ESEA would require the
the Secretary to use the rest of its Title IV funds to recruit, hire, and train certified teachers for the pur-
the Secretary to use up to 3 percent of its subgrant for local funds in non-Title I schools. This

publishers of a project to be approved by the Secretary on its activities under Title

The Secretary to use its Title IV funds to reduce class size, to help pay the salary of a
teaching in the early grades so that all students can learn to read independently and

Section 6002 of the ESEA would provide that the purpose of
in order to: (1) reduce class sizes nationally, in

Section 6001 of the

ENHANCEMENT, AND LANGUAGE ACQUISITION

Section 6007 of the ESEA would require each LEA that
wishes to receive Title VI funds to submit an

Section 6008, uses of funds. Section 6008(a) of the ESEA would require LEAs to use its Title VI funds to:
(1) develop and implement plans to reduce class size by hiring qualified

Section 6005(a) of the ESEA would require each LEA to provide for the equitable
and local funds in non-Title I schools. This

Section 6002 of

the Secretary's appropriation to carry Title VI for fiscal years 2001 through 2005.

the Secretary to use the rest of its Title IV funds to recruit, hire, and train certified teachers for the pur-

the Secretary to use its Title IV funds to reduce class size by hiring qualified

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that have limited or no experience in serving limited English proficient students.

Section 704. Comprehensive School Grants. Section 704(1) of the bill would amend section 7112(a) of the ESEA to extend comprehensive school grants for school-wide instructional programs. Section 704(1) of the bill would amend section 7114(b)(2) of the ESEA to replace the termination provisions with a clearer system of accountability requiring the Secretary, before making a continuation award for the fourth year of a program under this section, to determine if the program is making continuous and substantial progress in assisting children and youth with limited English proficiency to learn English and achieve to challenging State content and performance standards.

Section 705. Systemwide Improvement Grants. Section 705(1) of the bill would amend section 7114(b)(2) of the ESEA to replace the termination provisions with a clearer system of accountability requiring the Secretary, before making a continuation award for the fourth year of a program under this section, to determine if the program is making continuous and substantial progress in assisting children and youth with limited English proficiency to learn English and achieve to challenging State content and performance standards.

Section 706. Applications for Awards under Subpart 1. Section 706 of the bill would revise the list of evaluation components, in section 7123(c) of the ESEA, to require a recipient: (1) to use the data provided in the application and annual evaluation reports under section 7116(f) of the ESEA (Research) to support the use of the instruments used to measure student progress; (2) to report on the validity and reliability of all instruments used to measure student progress; and (3) to provide additional data to the Secretary if the recipient is not making substantial progress in implementing the program improvement plan.

Section 707. Evaluations under Subpart 1. Section 707(1) of the bill would amend current section 7123(a) of the ESEA (Evaluation) to require that grants be conducted annually, rather than biennially. This change would enhance the Department’s ability to hold projects accountable for teaching English to limited English proficient students and to determine the extent to which these students are achieving State standards.

Section 708. Research. Section 708 of the bill would require the use of research to support the ESEA. Section 708 of the bill would amend section 7116(f) of the ESEA (Required Documentation) to require documentation that English proficient students who were English proficient at the beginning of the school year would be required to include: (1) data on the overall school program and other Federal, State, or local programs serving limited English proficient students enrolled and demonstrate that they result in improved classroom practices and improved student achievement (4) a description of how the activities under the grant are coordinated and integrated with the overall school program and other Federal, State, or local programs serving limited English proficient youth; (5) other information as the Secretary may require. This revision is necessary to ensure that grantees submit data needed to make a determination on whether the project should be continued at the end of the third year or at the end of the fourth year, and also provide the Department with methods needed to assess progress towards meeting goals established for the Bilingual Education program under the Government Performance and Results Act (GPRA).

Section 709. Research. Section 709 of the bill would add a new subsection (d) (Performance Measures) that would require the Secretary to establish performance indicators to determine if programs under sections 7113 and 7114 (as redesignated) are making continuous and substantial progress and allow the Secretary to establish such indicators to determine if programs under section 7112 (as redesignated) are making continuous and substantial progress. Section 709 of the bill would amend current section 7231 of the ESEA (Research) to support the use of the
Section 713. Instructional Materials Development. Section 712 of the bill would amend section 7136 of the ESEA (Instructional Materials) to expand the current authorization for grants to develop, publish, and disseminate instructional materials. The current authorization for development of content in particular language areas, Native Hawaiian, Native Pacific Islanders, and other languages of outlying areas. The amendment would add other low-incidence languages that in which instructional materials are not readily available. The kinds of materials that may be developed would also be expanded to include materials in educational standards and assessments for dissemination to parents of limited English proficient students. The proposed instructional materials may be needed in languages other than those listed in the current statute and that materials may be needed to prepare parents to be more involved in the education of their children.

Section 712 of the bill would also require the Secretary to give priority to applications for developing instructional materials in languages indigenous to the United States or to the outlying territories and for developing and evaluating instructional materials that reflect educational standards and language standards set forth in sections 7124, 7125, and 7126. The Secretary would give special consideration to applicants that demonstrate significant progress in assisting limited English proficient students to learn English and to meet the challenges presented by the different needs of all children and youth, within three years. The expanded State role proposed in these amendments is designed to encourage and reward exceptional programs and to help disseminate information on effective instructional practices for serving limited English proficient students.

Section 710. State Grant Program. Section 710 of the bill would amend subsection (c) (Uses of Funds) of section 7134 (State Grant Program) to limit grants to LEAs or institutions of higher education that use funds under the section to: (1) assist LEAs with program design, capacity building, assessment of student performance, program evaluation, and accountability systems for limited English proficient students that are aligned with State reform efforts; and (2) collect data on limited English proficient students for LEAs and for participating students.

The proposed amendments recognize that instructional materials are a basic understanding of effective methods for serving limited English proficient students. Because of the rapid growth in this population, the need for LEAs and other public schools to develop effective instructional practices for these students is critical. The amendments also recognize the importance of promoting educational equity and increasing opportunities for all students, including those who are limited English proficient, to attend high-quality pre-college programs. The amendments would authorize grants to LEAs to support programs that provide professional development opportunities for teachers to assist in meeting the needs of limited English proficient students.

The proposed amendments also recognize the importance of professional development programs and expanding recruitment efforts for students who will enter relevant professional development programs. The amendments would authorize grants to LEAs to support programs that provide professional development opportunities for teachers to assist in meeting the needs of limited English proficient students. The amendments also recognize the importance of promoting educational equity and increasing opportunities for all students, including those who are limited English proficient, to attend high-quality pre-college programs. The amendments would authorize grants to LEAs to support programs that provide professional development opportunities for teachers to assist in meeting the needs of limited English proficient students.

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Section 719. Evaluations under Subpart 3. Section 719 of the bill would amend section 7149 of the ESEA (Program Evaluations) to require an annual evaluation and to clarify evaluation requirements. The purpose of these proposed amendments is to increase project accountability and ensure that the Department receives data from grantees that is required for project performance goals established under the GPRAMA.

Section 720. Transition. Section 720 of the bill would amend section 7161 of the ESEA (Transition) to provide that a recipient of a grant under subpart 1 of Part A of this title that is in its third or fourth year of the grant on the day preceding the date of enactment of this Act may continue to receive continuation funding under the terms and conditions of the original grant.

EMERGENCY IMMIGRANT EDUCATION PROGRAM

Section 721. Findings of the emergency Immigrant Education Program. Section 721 of the bill would amend section 7301 (Findings and Purpose) of Part C (Emergency Immigrant Education Program) of Title VII of the ESEA to add an additional finding to better justify the program.

Section 722. State Administrative Costs. Section 722 of the bill would amend section 7302 of the ESEA (State Administrative Costs) to authorize States to use up to 2 percent of their project administrative costs to distribute funds to LEAs within the State on a competitive basis. The current provision caps State administrative costs at 1.5 percent, and is insufficient to cover the costs of holding a State discretionary grant competition.

Section 723. Competitive State Grants to Local Educational Agencies. Section 723 of the bill would amend section 7304(e)(1) of the ESEA to eliminate the $50 million appropriations trigger on, and the 20 percent cap for, allowing States each year to reserve funds from their program allotments and award grants, on a competitive basis, to LEAs with the State. This change reflects current budget policy and practice of allowing States to compete for funds.

Section 724. Authorization of Appropriations for Part C. Section 724 of the bill you amend section 7309 of the ESEA (Authorizations of Appropriations) to authorize the appropriations and authorizations necessary for each of fiscal years 2001 through 2005 to carry out Part C of Title VII.

GENERAL PROVISIONS

Section 725. Definitions. Section 725 of the bill would amend section 7501 (Definitions; Regulations) of Part E (General provisions) of Title VII of the ESEA to add a definition of ‘reclassification rate,’ a term used in the proposed amendments to the Applications and Evaluations sections of Subpart 1 of Part A of Title VII of the ESEA. The term would mean the annual percentage of limited English proficient students who have met the State criteria for no longer being considered limited English proficient. Also, the current definition of ‘Special Alternative Instructional Program’, would be eliminated.

Section 726. Regulations, Parental Notification, and Use of Paraprofessionals. Section 726 of the bill would amend section 7502 (Regulations and Notification) of Part E to add requirements for projects funded under subpart 1 of Part A of the title relating to parental notification and the use of instructional staff who are not certified in the field in which they teach. Section 726(3) of the bill would amend the section heading to read: ‘REGULATIONS, PARENTAL NOTIFICATION, USE OF PARAPROFESIONALS’.

Section 726(d) of the bill would amend section 7502(b) (Parental Notification) of the ESEA by making conforming amendments in paragraphs (1)(A) and (C) of the subsection to clarify the definition and provide for the use of a recipient of funds under Subpart 1 of Part A to provide a written notice to parents of children who will participate in the programs under that subpart, in a form and language understandable to the parents, that informs them that they may withdraw their child from the program at any time.

Section 726(c) of the bill would add a new subsection (c) to require that, on the date of enactment of this Act, the ESEA for All Children Act of 1999 shall be eligible to reclassify as English proficient students. Also, the bill would amend section 8002(h) of the ESEA to conform references to bilingual education and special language instruction for limited English proficient programs for children and youth with limited English proficiency.

Section 727. Terminology. Section 727 of the bill would amend subsections 1 and 2 of Part A and section 7101(e) of the ESEA to conform references to bilingual education and special language instruction for limited English proficient programs for children and youth with limited English proficiency.

Section 728. Repeals. Section 730 of the bill would repeal current sections 7112, 7117, 7120, 7121, 7147 and Part B of Title VII of the ESEA.

Section 712 would no longer be needed since the authorized activity would be consolidated with the activity authorized by Section 713.

Section 729. Redesignations and Conforming Amendments. Section 731 of the bill would provide for the redesignation of various sections of the ESEA and for conforming references to those sections and to other sections of the ESEA that have been changed.

TITLe VII—IMPACT AID

Title VIII of the bill would amend Title VIII of the ESEA, which authorizes the Impact Aid program.

Section 801, purpose [ESEA, §8001]. Section 801 of the bill would amend section 8001 of the ESEA to provide that the purpose of the Impact Aid program is to provide assistance to certain LEAs that are financially burdened as a result of activities of the Federal Government carried out in their jurisdictions, in order to help those LEAs provide educational services to their children, including federally connected children, so that they meet or exceed State academic achievement standards. This will provide a succinct statement of the program’s purpose, as is typical of other programs, in place of the statement in the current law which refers to certain categories of eligibility that other provisions of the bill would repeal.

Section 802, payments relating to Federal acquisition of real property [ESEA, §8002]. Section 802 of the bill would amend section 8002 of the ESEA, which authorizes the Secretary of ED to pay pro rata $150,000 to LEAs for the revenue lost due to the presence of non-taxable Federal property, such as a military base or a national park, in their jurisdiction. This amendment would repeal the non-taxable Federal property foundation and substitute a new provision that would better target funds on the LEAs most burdened by the presence of Federal property, which is insufficient, so that appropriated funds for LEAs would be non-withdrawable. Section 8002, which is not warranted under current law, may be justified in the future.

Section 802(a)(1) of the bill would delete unneeded language in section 8002(b)(2) of the ESEA that refers to the fiscal years for which payments under section 8002 are authorized. That issue is fully covered by the authorization of appropriations in section 8104 of the ESEA.

Section 802(a)(2) would delete an alternative eligibility criterion (current section 8002(a)(1)(C) (ii)), which was enacted to benefit a single LEA, and would add a requirement that the Federal property claimed as the basis of eligibility have a current aggregate assessed value (as determined under section 8002(b)(3)) that is at least 10 percent of the total assessed value of all real property in the LEA. The new requirement that Federal property constitute at least 10 percent of the total assessed value when the Federal Government acquired it would be required only if the new requirement that Federal payments under section 8002 are made only to LEAs in which the presence of Federal property has a significant effect on the local tax base.

Section 802(b) would repeal subsections (d) through (g) and (i) through (k) of section 8002 in its entirety. Each of these provisions was enacted for the benefit of a single LEA (or a limited number of LEAs) and describes a situation in which the burden, if any, from Federal properties is sufficient to warrant compensation from Federal taxpayers. The presence of these provisions reduces the amount of funds available to LEAs that legitimately request funds under this authority.

Section 802(c) would replace the soon-to-be obsolete “hold harmless” language in section 8002(h) of the ESEA with language for FY 1999 that would no longer be eligible for Federal assistance. The new provision would repeal the section for FY 1999, but that would no longer be eligible for Federal assistance. That issue is fully covered by the current law, which specifies situations that are unlikely to occur. Section 7147 (Program Requirements) of the ESEA would be repealed because it requires LEAs to request Federal assistance for FY 1999 and that that reimbursement will not be available to LEAs that legitimately request funds under this authority.

Section 802(d) would make minor conforming amendments to section 8002(b)(1). Section 803, payments for eligible federally connected children [ESEA, §8003]. Section 803(a)(1) of the bill would amend the list of categories of children that are eligible for purposes of basic support payments under section 8003(a), by deleting the various categories of so-called “(b)” children, whose attendance at LEA schools imposes a much lower burden that does not warrant Federal compensation. As amended, these payments would be made on behalf of approximately 300,000 “(a)” students at LEAs, i.e.: (1) children of Federal employees who both live and work on Federal property; (2) children of Federal employees’ other household members; (3) children of Federal employees’ other household members of the uniformed services) living on Federal property; (4) children living on Indian lands; and (4) children of foreign military personnel living on Federal property.

Section 803(a)(2) would conform the statement of weighted student units in section...
Section 803(a)(2) to reflect the elimination of “(b)” students from eligibility.

Section 803(a)(3) would delete section 803(a)(3) and (4), each of which relates to categories whose eligibility would be ended under paragraph (1).

Section 803(b)(1)(B) would delete the requirement that LEAs have at least 10 percent of eligible students (or that those students constitute at least three percent of their annual average daily attendance) in order to receive a payment. The phrase “with (a)” children would qualify for a basic support payment.

Section 803(b)(3)(D) would amend section 8003(b)(3)(D) (which would be redesignated as subparagraph (2)) to reflect the elimination of a LEA’s eligibility for a payment in the event that the ratio of the amount of supplemental payments the LEA would have to make as a result of the addition of “(b)” children to its total current expenditures is less than one percent. This is the amount of supplemental payments the LEA would have to make to reflect the actual local cost of educating students because each of the three options, unlike the two options that would be deleted, would include a measure of the amount or proportion of funds that are provided at the local level.

Section 803(b)(1)(E) would add a new subparagraph (C) to section 8003(b)(1) to provide that, generally, local contribution rates would be determined using data from the third preceding fiscal year. This is the most recent fiscal year for which satisfactory data on average per-pupil expenditures are usually available.

Section 803(b)(2)(B) would amend section 8003(b)(2)(B), which describes how the Secretary computes each LEA’s “learning opportunity threshold” (LOT), a factor used in determining actual payment amounts when sufficient funds are not available, as the norm to pay the statutory amount. Under current law, an LEA’s LOT is a percentage, which may not exceed 100, computed by adding the percentage of its students who are federally connected and the percentage that its maximum payment is of its total current expenditures. Under the amendments, an LEA’s LOT would be 50 percent plus one-half of the percentage of its students who are federally connected. The proposed LOT would consistently favor LEAs with high concentrations of federally connected students, which face a disproportionately higher cost of providing special education activities, unlike the current statute, which allows an LEA to reach a LOT of 100 percent even though the federally connected students constitute only one percent of its total student body. The revised LOT would also reduce the current incentive for LEAs to reduce their local tax effort in order to earn a higher LOT.

Section 803(b)(2)(B)(i) would delete section 8003(b)(2)(B)(i), which no longer be needed in light of the changes to the LOT calculation described above. This section would also delete section 8003(b)(2)(B)(ii), which inappropriately benefits a single LEA by providing a different method of calculating its LOT that is not available to any other LEA.

Section 803(b)(2)(C) would amend section 8003(b)(2)(C) to clarify that payments that are proportionately increased from the amounts determined under the LOT provisions (but not to exceed the statutory maximum) when sufficient funds are available to make payments above the LOT-based amounts.

Section 803(b)(3) would delete section 8003(b)(3), which provides an unwarranted benefit to the State in which there is only one LEA by requiring the Secretary to treat each of the administrative districts of that LEA as if they were individual LEAs. As with the two options that would be deleted, this section would provide more funds to the State than to other LEAs.

Section 803(c) to the effect that children served under Title I would be treated as if they were individual LEAs. This reflects the actual local cost of educating students because each of the three options, unlike the two options that would be deleted, would include a measure of the amount or proportion of funds that are provided at the local level.

Section 803(c)(2)(B)(ii) would delete section 8003(c)(2)(B)(ii), which describes when available funds are sufficient to make payments under the current law.

Section 803(d) would amend section 8003(d) of the ESEA, which describes how the Secretary computes each LEA’s “learning opportunity threshold” (LOT), a factor used in determining actual payment amounts when sufficient funds are not available, as the norm to pay the statutory amount. Under current law, an LEA’s LOT is a percentage, which may not exceed 100, computed by adding the percentage of its students who are federally connected and the percentage that its maximum payment is of its total current expenditures. Under the amendments, an LEA’s LOT would be 50 percent plus one-half of the percentage of its students who are federally connected. The proposed LOT would consistently favor LEAs with high concentrations of federally connected students, which face a disproportionately higher cost of providing special education activities, unlike the current statute, which allows an LEA to reach a LOT of 100 percent even though the federally connected students constitute only one percent of its total student body. The revised LOT would also reduce the current incentive for LEAs to reduce their local tax effort in order to earn a higher LOT.

Section 803(e)(2), an LEA would have to meet each of three criteria to qualify for a payment. First, federally connected children (i.e., “(a)" children) would have to constitute at least 40 percent of the LEA’s enrollment and the LEA would have to have a tax rate for general-fund purposes that is at least 100 percent of the average tax rate of comparable LEAs in the LEA’s State. Any LEA whose boundaries are the same as those of a military installation would also qualify. Second, the LEA would have to be exercising its “Indian Community Participation”, to reflect the actual local cost of educating students because each of the three options, unlike the two options that would be deleted, would include a measure of the amount or proportion of funds that are provided at the local level.

Section 803(e)(3) would replace the highly complicated provisions of current law relating to the amounts for heavily impacted LEAs, including its multiple formulas, with a single formula that, for each eligible LEA, would factor in the number of its pupils and the number of its federally connected children, the amount available to it from other sources for current expenditures, and the amount of basic support payments it receives under section 8003(b) and the amount of supplemental payments for children with disabilities it receives under section 8003(d).

Section 803(f)(1) would direct the Secretary, in determining eligibility and payment amounts for heavily impacted LEAs, to use data from the second preceding fiscal year, or, if that LEA is an affected LEA (or the SEA) within 60 days of being requested by the Secretary to do so. If any of those data are not provided by that LEA, or by another LEA of the same LEA, the Department of Education would provide the most recent fiscal year for which satisfactory data are available. This should provide ample time for LEAs (and States, as may be necessary for certain data) to provide that the Secretary can make payments to LEAs, for whom these funds are designed to provide a substantial portion of their budgets, on a timely basis.

Section 803(g) of the bill would delete section 8003(g) of the ESEA, which authorizes additional payments to LEAs with high concentrations of children with disabilities. These payments are separate from the payments for children with disabilities under section 8003(d), which the bill would continue to authorize. This complicated authority has never been funded.

Section 803(h) would amend section 8003(h) of the ESEA to prohibit an LEA from receiving payment under paragraph (b)(1) for students classified as federal-impact eligible children if federal funds (other than Impact Aid funds) provide a substantial portion of their educational programs. This provision, which would codify the Department’s regulations (see 34 CFR 222.30(2)(iii)), recognizes that the responsibility for the costs of a child’s basic education rests with an LEA and that, if the Federal Government is already paying a substantial portion of those costs through some other program, it should provide additional funds to LEAs to meet the local costs of providing a free public education to federally connected children.

Section 804, policies and procedures relating to children residing on Indian lands [ESEA, § 8004]. Section 804’s of the bill would change the heading of section 8004 of the ESEA to “Indian Community Participation”, to reflect the amendments the bill would make to this section.

Section 804(2) would retain the current requirements of section 8004(a) of the ESEA under which an LEA that claim children residing on Indian lands in its applications for Impact Aid funds must ensure that the parents of Indian children and Indian tribes are afforded an opportunity to present their views and make recommendations on the unique educational needs of those children and how those children may realize the benefits of the LEA’s educational programs and activities. Section 804(2) would also add language providing that an LEA that receives an Indian Education Program grant under Subpart 1 of Part A of Title IX shall meet the requirements described in the previous sentence through activities planned and carried out by the Indian parent committee established for that purpose if it is not participating in the Title IX program. An LEA could meet its obligations under section 8004(a) by complying with the parental involvement provisions of Title I and must comply with those provisions for Indian children if the LEA that receive Impact Aid funds from the Federal Government is already paying a substantial portion of those costs through some other program, it should provide additional funds to LEAs to meet the local costs of providing a free public education to federally connected children.
Section 804(3) would streamline the language in section 804(b), relating to LEA retention of records to demonstrate its compliance with section 804(a), without changing the substance of that provision.

Section 804(4) would delete subsection (c) of section 8004, which automatically waives the statement of preconditions for an LEA to receive payments, and the record-keeping requirement of subsection (b) with respect to the children of any “Indian tribe” that provides the LEA with a written statement that it is satisfied with the educational services the LEA is providing those children. The proposed amendment relating to community involvement are similar. Section 806(2) would authorize payments to LEAs with sudden and substantial increases in attendance of military dependents. (the LEA’soriginal authorization of appropriations in section 8014.)

Section 809, State consideration of payments in providing State aid [ESEA, § 8009]. Section 809 of the bill would amend section 8009 of the ESEA, which generally prohibits a State from using Federal payments for purposes other than those taken into account in determining the LEA’s eligibility for State aid (or the amount of that aid) unless the Secretary certifies that the LEA has a comprehensive equalization plan that meets certain criteria.

Section 809(2) would add, to section 809(b)(1)(A)’s statement of preconditions for an LEA to receive payments, a requirement that the average per-pupil expenditure (APPE) in the State be at least 80 percent of the APPE in the 50 States and the District of Columbia. Section 811 would require that LEAs in States with comparatively low expenditures for education receive adequate funds before the State reduces State aid on account of Impact Aid payments. Section 812, Forgiveness of overpayments [ESEA, § 8010]. Section 812 of the bill would repeal subsection (c) of section 810 of the ESEA. Subsection (c)(3) sets out a special rule that would allow the Secretary to determine that Federal funds are warranted special benefit to a single LEA.

Section 813, definitions [ESEA, § 8013]. Section 813A of the bill would conform the definition of “current expenditures” in section 813(4)(a) of the ESEA to the proposed repeal of current Title VI and to a corresponding amendment to section 1411(b)(5) of the bill. The proposed amendment to section 813(a) to streamline that provision.

Section 814, authorization of appropriations [ESEA, § 8014]. Section 814 of the bill would amend section 814 of the ESEA to authorize the appropriation of funds to carry out various Impact Aid activities through fiscal year 2005. New subsection (b) of section 814 would provide that funds appropriated for school construction under section 8007(e) for the fiscal year ending on September 30, 2006, and for the fiscal year ending on September 30, 2008, would be available to the Secretary until expended. However, if appropriations acts, which normally contain provisions governing the use of funds, appropriate, provide a different rule than the one in proposed section 814(b), the appropriations acts would govern.

TITLEx—INDIAN, NATIVE HAWAIIAN, AND ALASKAN EDUCATION

Part A—Indian Education

Part A of Title IX of the bill would make various amendments to Part A of Title IX of the ESEA, which authorizes a program of formula grants to LEAs to support Indian education, to include demonstration programs and related activities, to increase educational achievement of American Indian and Alaskan Native students. Section 901, findings and purpose [ESEA, § 9101 and 9102]. Section 901 of the bill would authorize the Secretary to make grants for planning and carrying out the purposes in sections 9101 and 9102 of the ESEA by changing references to the “special education” and “cultural educational needs” of American Indian and Alaskan Native students to refer instead to their “unique educational and culturally related academic needs.”

Section 902, grants to local educational agencies [ESEA, § 9112]. Section 902 of the bill would amend section 9112 of the ESEA, which authorizes formula grants to certain LEAs educating Indian children. Current section 9112(b) provides that when an eligible LEA is not enrolled in a parent committee required by the statute, an Indian tribe that represents at least half of the LEA’s students may apply for the LEA’s grant and is to be treated by the Secretary as if it were an LEA. The amendment would codify the Department’s interpretation that this section is not subject to the statutory requirements relating to the parent committee, maintenance of effort, or submission of its grant application to the Department for its review.

These requirements would be inappropriate to apply to an Indian tribe, as they are, under section 913(d), for schools operated or supported by the Bureau of Indian Affairs [BIA]. Section 903, amount of grants [ESEA, § 9113]. Section 903 of the bill would amend section 9113 of the ESEA, which authorizes the Secretary to make a technical amendment to section 9113(b)(2) of the ESEA, which authorizes formula grants to LEAs for school construction under section 8007 and for facilities maintenance under section 8008, available to the Secretary to support aspects of the operation of the new or renovated school.

Section 904, facilities [ESEA, § 9114]. Section 904 of the bill would authorize amendment to section 8008 of the ESEA, relating to certain school buildings that are owned by the Department but used by LEAs to serve dependent students. The proposed amendment would allow these buildings to be referred to as assisted projects, to the extent that the Department consents to the use of the funds, and to the extent that the LEA’s parent committee, as it were, for the LEA’s students, may apply for the LEA’s grant and is to be treated by the Secretary as if it were an LEA. The amendment would codify the Department’s interpretation that this section is not subject to the statutory requirements relating to the parent committee, maintenance of effort, or submission of its grant application to the Department for its review.

These requirements would be inappropriate to apply to an Indian tribe, as they are, under section 913(d), for schools operated or supported by the Bureau of Indian Affairs [BIA].
Section 905, authorized services and activities [ESEA, § 9115]. Section 905(1) of the bill would make a conforming amendment to section 911(b)(5) of the ESEA to reflect the renaming of the Perkins Act, as P.L. 105-105 requires.

Section 905(4) would add four activities to the examples of authorized activities in section 913(b). These additions would encourage LEAs to address the needs of American Indian, Native Hawaiian, and Alaskan Native students in the areas of curriculum development, creating and implementing standards, improving student achievement, and gifted and talented education.

Section 906, student eligibility forms [ESEA, § 9116]. Section 906(1) of the bill would make technical amendments to section 916(f) of the ESEA.

Section 906(2) would amend section 916(g) to permit tribal schools operating under grants or contracts from the BIA to use either their child counts that are certified by the BIA for purposes of receiving funds from the Bureau or to use a count of children for whom the school has eligibility forms (commonly referred to as "506 forms") that meet the requirements of section 9116. This change would allow schools to avoid the burden of two separate child counts.

Section 906(3) of the bill would add a new subsection (h) to section 916 of the ESEA to allow cases in which the pupil roster date or period (up to 31 days) to count the number of children it will claim for purposes of receiving funds.

Section 907, payments [ESEA, § 9117]. Section 907 of the bill would delete obsolete language from section 917 of the ESEA, relating to payment of grants to LEAs.

Section 908, State educational agency review [ESEA, § 9118]. Section 908 of the bill would rewrite section 910 of the ESEA, relating to the submission to the Secretary of information and the review of those applications by SEAs, in its entirety. As revised, section 910 would not contain current subsection (a), which requires LEAs to submit applications to the Secretary, since that duplicates the requirement in section 914(a) of the ESEA, where it logically belongs. The revised section would also improve the clarity of the requirement that an SEA submit its application to the SEA for its possible review.

Section 909, improvement of educational opportunities for Indian children [ESEA, § 9119]. Section 909 of the bill would amend section 9122 of the ESEA to authorize grants to provide support for a variety of projects, selected on a competitive basis, to develop, test, and demonstrate the effectiveness of services and programs to improve educational opportunities for Indian children. In particular, the bill would amend section 9122(d)(2), relating to project applications, to: (1) clarify that certain application requirements do not apply in the case of applicants for dissemination grants under subsection (d)(1)(D); and (2) require applications for planning, pilot, and demonstration projects to include information demonstrating that the program is either a research-based program or that it is a research-based program that has been modified to be culturally appropriate for the students who will be served, as well as a description of how the applicant will incorporate the proposed services into the ongoing school program once the grant period is over.

Section 910, professional development [ESEA, § 9122]. Section 910 of the bill would amend section 9122 of the ESEA, which authorizes training and assistance for Indian individuals and organizations in which they can serve Indian peoples. Section 910(1) of the bill would repeal section 912(e)(2) of the Act, which affords a performance incentive to train Indian individuals and organizations. This provision, which was carried over from a related program authorized before the 1994 amendments, has no practical effect, since the only projects that have been eligible since 1994 are those that train Indians. Section 910(2) would amend section 9122(h), which requires individuals to receive training under section 9122 to perform related work that benefits Indian people or repay the assistance they received, so that it will not apply to in-service training; but would not apply to in-service training. Individuals receiving in-service training are already serving Indian people, and that repayment requirement, in which the tax-payers, is generally of short duration, and frequently does not involve an established per-person cost of participating, such as the substantial costs charged by colleges for preservice degree courses and programs.

Section 910(3) of the bill would add to section 9122 a new authority for grants to consortia to provide in-service training to teachers in LEAs with substantial numbers of Indian children in their schools, so that these teachers can better meet the needs of Indian children in their classrooms. An eligible consortium would consist of a tribal college and an institution of higher education and two or more public or other entities, or one or both of these entities, or one or both of those entities along with one or more tribal schools, tribal educational agencies, or public or private service delivery organizations. This new authority would help ensure that classroom teachers are aware of, and responsive to, the unique needs of the Indian children they teach.

Section 911, repeal of authorities [ESEA, §§ 9123, 9124, 9125, and 9131]. Section 911 of the bill would repeal various sections of Part A of title IX of the ESEA that have not been recently funded and for which the Administration is not requesting funds for fiscal year 2000. The goals of these provisions (fellowships for individuals interested in providing education, tribal administrative planning and development, and adult education) are more effectively addressed through other programs. Because Subpart 3 of Part A would be repealed, section 911 would also redesignate the remaining subparts.

Section 912, Federal administration [ESEA, §§ 9152 and 9153]. Section 912 of the bill would make technical amendments to sections 9152 and 9153 of the ESEA, to reflect the proposed repeal of Subpart 3 and the redesignation of the remaining subparts.

Section 913, authorization of appropriations [ESEA, § 9162]. Section 913 of the bill would amend section 9162 of the ESEA to authorize appropriations for the Native Hawaiian education programs under Part A of title IX of the ESEA through fiscal year 2005.

Part B – Native Hawaiian Education Act

Sec. 921, Native Hawaiian Education Act. Section 921 of the bill would add a new section 921(b)(4) of the ESEA in order to replace a series of categorical programs serving Native Hawaiian children and adults with a single, more flexible authorization to accomplish those purposes. In addition to technical and conforming changes, section 902 of the bill would repeal sections 9304 through 9306 of the ESEA. In place of the repealed sections, section 902 of the bill would insert a new section 9304 of the ESEA that would permit all of the types of activities currently carried out under the program to continue. However, the proposed new section 9304 would permit the Department more flexibility in operating the program in a manner that meets the educational needs of Native Hawaiian children and adults.

Proposed new section 9304 ("Program Authorized") of the ESEA would authorize the new Alaska Native Education program. Proposed new section 9304(a) would authorize the Secretary to make grants to, or enter into contracts with, Alaska Native organizations, educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, and to enter into agreements with consortia of these organizations to carry out programs that meet the purposes of this part.

The activities that would be carried out under this section include: (1) the development and implementation of plans, methods, and strategies to improve the education of Alaska Native students; (2) the development and implementation of programs to address the educational needs of Alaska Native students; (3) professional development activities for Alaska Native educators; (4) the development and implementation of home instruction programs for Alaska Native preschool children; (5) the development and operation of student enrollment programs; (6) the development and operation of programs and services to address the special needs of gifted and talented Native Hawaiian students; (7) activities to meet the special needs of Native Hawaiian students with disabilities; (8) the development of academic and vocational curricula to address the needs of Native Hawaiian children and adults, including curriculum materials and science curricula that incorporate Native Hawaiian tradition and culture; (9) establishment of culturally appropriate programs based on culturally specific learning centers that address the needs of Native Hawaiian families and communities through the coordination of public and private programs and other activities, consistent with the purposes of this part, to meet the educational needs of Native Hawaiian children and adults.
C of Title IX of the ESEA.

Section 1001. Fund for the Improvement of Education. Section 1001 of the bill would amend section 1001(a) of the ESEA to emphasize that the Fund for the Improvement of Education (FIE) is a program focused on improving elementary and secondary education. Section 1001(b) of the bill would amend section 1001(b) of the ESEA to strengthen the prerequisite to the authorization of funds more narrowly. Authorized activities would include: (1) development, evaluation, and other activities designed to improve elementary and secondary education; (2) the development, implementation, and evaluation of programs designed to foster student community service; and (3) programs to improve academic learning. The application would include: (1) a description of any partnership and other collaborative effort between the applicant and other educational agencies; (2) a description of the program's goals and objectives; (3) a description of activities to be carried out by the applicant; (4) a description of the program's linkage to broader educational reforms being instituted by the applicant and applicable State and local standards for student performance; (5) a description of how the program will evaluate its progress in meeting its goals and objectives; and (6) such other information as the Secretary may require.

Section 1002. Gifted and Talented Children. Section 1002(1) of the bill would strike out section 1002(1) of the ESEA and replace it with proposed new section 1002 of the ESEA. Specifically, proposed new section 1002(1) of the ESEA would authorize a new program, under which the Secretary could make awards to SEAs, LEAs, or consortia of educational agencies, to the list of authorized activities. Proposed new section 1002(b) of the ESEA would authorize funds under this section to: (1) conduct research and development on models of successful education reform in increasing democratic progress, to the list of authorized activities of the Arts in Education program. Proposed new section 1002(c) of the bill would amend section 1002 of the ESEA to authorize the appropriation of such sums as may be necessary to carry out this program through fiscal year 2005.

Section 1003. Inexpensive Book Distribution. Section 1003 of the bill would strike under current law. The application would include: (1) a description of any partnership and other collaborative effort between the applicant and other educational agencies; (2) a description of the program's goals and objectives; (3) a description of activities to be carried out by the applicant; (4) a description of the program's linkage to broader educational reforms being instituted by the applicant and applicable State and local standards for student performance; (5) a description of how the program will evaluate its progress in meeting its goals and objectives; and (6) such other information as the Secretary may require.

Finally, proposed new section 1003 of the ESEA would authorize funds under this section to: (1) conduct research and development on the design, development, and implementation of the program to provide for the development of successful education reform in increasing democratic progress, to the list of authorized activities of the Arts in Education program.

SUMMARY

This section of the bill would also allow the Secretary to require recipients of awards under this part to provide matching funds from other Federal funds and to limit competitions to particular types of entities, such as State or local educational agencies. The application would include: (1) a description of any partnership and other collaborative effort between the applicant and other educational agencies; (2) a description of the program's goals and objectives; (3) a description of activities to be carried out by the applicant; (4) a description of how the program will evaluate its progress in meeting its goals and objectives; and (6) such other information as the Secretary may require.

Section 1003(3) of the bill would also streamline the application requirements under current law. The application would include: (1) a description of any partnership and other collaborative effort between the applicant and other educational agencies; (2) a description of the program's goals and objectives; (3) a description of activities to be carried out by the applicant; (4) a description of how the program will evaluate its progress in meeting its goals and objectives; and (6) such other information as the Secretary may require.

Finally, this section of the bill would also authorize funds under this section to: (1) conduct research and development on the design, development, and implementation of the program to provide for the development of successful education reform in increasing democratic progress, to the list of authorized activities of the Arts in Education program.

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Finally, this section of the bill would also authorize funds under this section to: (1) conduct research and development on the design, development, and implementation of the program to provide for the development of successful education reform in increasing democratic progress, to the list of authorized activities of the Arts in Education program.

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Finally, this section of the bill would also authorize funds under this section to: (1) conduct research and development on the design, development, and implementation of the program to provide for the development of successful education reform in increasing democratic progress, to the list of authorized activities of the Arts in Education program.

SUMMARY

This section of the bill would also allow the Secretary to require recipients of awards under this part to provide matching funds from other Federal funds and to limit competitions to particular types of entities, such as State or local educational agencies. The application would include: (1) a description of any partnership and other collaborative effort between the applicant and other educational agencies; (2) a description of the program's goals and objectives; (3) a description of activities to be carried out by the applicant; (4) a description of how the program will evaluate its progress in meeting its goals and objectives; and (6) such other information as the Secretary may require.
Section 1007. Allen J. Eliender Program.

Section 1007 of the bill would repeal Part G of Title X of the ESEA.

Section 1008. 21st Century Community Learning Centers. A provision of the bill would require authorization and improve Part I of Title X of the ESEA, which authorizes grants to rural and inner-city public schools to plan, implement, and evaluate educational, health, social service, cultural, and recreational needs of a rural or inner-city community, respectively. (Title X of the bill would amend section 100906 of the ESEA to clarify the definitions listed in this section. Instead, applicants would include at least four of the activities described in this section. Applicants would include expanded learning opportunities for children and youth in the community, that offer significant expanded learning opportunities for children and youth in the community, that would amend section 10906 of the ESEA to clarify the definitions of "community learning centers" as an entity that provides expanded learning opportunities, and may also provide services that address health, social service, cultural, and recreational needs of the community. It would require an LEA to require a community learning center operated by a local educational agency (but not a CBO) to be located within a public elementary or secondary school, and that the educational, health, social service, cultural, and recreational needs of a rural or inner-city community be addressed.

Section 1008(b) of the bill would amend section 10902 of the ESEA to update the findings.

Section 1008(b)(2)(A) of the bill would amend section 100903(a) of the ESEA by adding language to current law to clarify that the Secretary may award grants to LEAs and community based organizations (CBOs) (with not less than 10% of the funds appropriated to carry out this part for any fiscal year) on behalf of public elementary or secondary schools in inner-cities, rural areas, and small cities. In both cases, awards would be limited to schools or CBOs that serve communities with a substantial need for expanded learning opportunities. The provision would be due to: their high proportion of low-achieving students; lack of resources to establish or expand community learning centers; or other needs consistent with the purposes of this part.

Section 1008(b)(2)(B) of the bill would retain the current requirement in section 100903(b) for equitable distribution among the States and United States by the authorizing level. The bill would delete the provision requiring equitable distribution among urban and rural areas of a State.

Section 1008(b)(2)(C) of the bill would amend section 100903(c) of the ESEA to change the duration of grants awarded under this part from 3-years to 5-years.

Section 1008(b)(3)(A) of the bill would amend section 100904 of the ESEA to change the eligible applicant for a grant under this part from a school to an LEA (which would apply on behalf of one or more schools) or a community-based organization. The provision of the bill would also add a new requirement that the applicant provide information that it will provide at least 50 percent of the cost of the project from other sources, which may include other Federal funds and may be provided by the non-Federal source. The applicant would also be required to provide an assurance that in each year of the project, it will expend, from non-Federal sources, a fair share of the cost of those awards under this part as it expended for the preceding year and information demonstrating how the applicant will continue the project after completion of the grant.

Paragraph (3)(B) of section 1008 of the bill would amend section 100904(b) of ESEA to require the Secretary to give priority, in all competitions for the grants under this part, to broad selection of services that address the needs of the community, and applications that offer significant expanded learning opportunities for students not otherwise served by LEAs.

The provision of the bill would also add a new requirement to section 100904 of the ESEA that an application submitted by a CBO must obtain evidence of substantial participation by the LEAs concur with the project.

Section 1008(b)(4) of the bill would amend section 100905 of the ESEA to require that applicants provide expanded learning opportunities and eliminate the requirement that applicants include at least four of the activities listed in the bill. Instead, applicants must provide educational activities and may provide a range of other services to the community.

Section 1008(b)(5) of the bill would amend section 100906 of the ESEA to clarify the definition of "community learning center" as an entity that provides expanded learning opportunities, and may also provide services that address health, social service, cultural, and recreational needs of the community. It would require an LEA to require a community learning center operated by a local educational agency (but not a CBO) to be located within a public elementary or secondary school, that the educational, health, social service, cultural, and recreational needs of a rural or inner-city community be addressed.

Section 1008(b) of the bill would amend section 100907 of the ESEA to authorize the appropriation of such sums as may be necessary to carry out this part through fiscal year 2005.

Section 1008(c)(2) of the bill would add a provision similar to Section 10904(c)(2) of the ESEA that would allow the Secretary to fund programs established by Part H to carry out certain activities relating to the program's purpose, including testing the effect of offering financial assistance to teachers and administrators in high schools if their students demonstrate significant gains in educational outcomes.

Proposed new section 1008(d) of the ESEA would change the term "high school" as used in part H.

Finally, proposed new section 1009 would amend the program's purpose to set forth the findings and purpose of the part.

Proposed new section 1009 of the ESEA ("Elementary School Foreign Language Assistance Program") would authorize the Elementary School Foreign Language Assistance Program carried out with Part H funds. Proposed new section 1010 of the bill would carry out the provisions of this part for any fiscal year.

Proposed new section 1012 of the bill would authorize the appropriation of such sums as may be necessary for fiscal years 2004 through 2005 to carry out this part.

Section 1011. Elementary School Foreign Language Assistance Program. Section 1011 of the bill would revise and move the "Foreign Language Assistance Program" to Title B, Part III, Title VII of the ESEA, as new Part I. Proposed new Part I would seek to expand, improve, and enhance the programs at the elementary school level by supporting States to encourage and support such programs, local implementation of innovative programs that meet local needs, and identification and dissemination of information on best practices in elementary school foreign language education.

Proposed new section 1010 of the ESEA ("Findings; Purpose") would set forth the findings and purpose of the part.

Proposed new section 1002 of the ESEA ("Elementary School Foreign Language Assistance Program") would authorize the Elementary School Foreign Language Assistance Program carried out with Part H funds. Proposed new section 1002(a) of the ESEA would authorize the Secretary, from funds appropriated under subsection (g) for any fiscal year, to make grants to LEAs and CBOs for the projects carried out with Part H funds. Proposed new section 1011 of the bill would authorize the appropriation of such sums as may be necessary for fiscal years 2004 through 2005 to carry out this part.

Proposed new section 1009 of the bill would authorize the appropriation of such sums as may be necessary for fiscal years 2004 through 2005 to carry out this part.
to develop programs to prepare the elementary school foreign language teachers needed in schools within the State and to recruit candidates to prepare for, and assume, such teaching. Developing or developing innovative approaches for achieving proficiency in the foreign language for students, beginning in elementary schools.

Proposed new section 10902(e) would require an SEA or LEA that receives a grant under this section to submit to the Secretary an annual report that provides information on the extent to which the LEA is meeting its goals. An LEA that receives a grant under this section would be required to include in its report information on students' reading and writing of a foreign language, and compare such educational outcomes to the State's foreign language standards, if such State standards exist.

Proposed new section 10902(f) would require that the Federal share of a program under this section for each fiscal year be not more than 50 percent of the total cost of the program, and that the Secretary would be authorized to waive the requirement of cost sharing for any LEA that the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the activities assisted under this section.

Proposed new section 10902(g)(1) would authorize appropriations of such sums as may be necessary for fiscal year 2001 and for each of the four succeeding fiscal years for the purpose of carrying out this section. Proposed new section 10902(g)(2) would, for any fiscal year, authorize the Secretary to reserve up to five percent of the amount appropriated to: (1) conduct independent evaluations of the activities carried out under this section; (2) provide technical assistance to recipients of awards under this section; and (3) disseminate findings and methodologies from evaluations required by, or funded under, this section and other information obtained from such programs.

Section 101. National Writing Project. Section 101 would authorize the Department to make grants to eligible entities to carry out programs to improve the teaching of writing as a learning process. Proposed new section 10101(b) would authorize the Secretary to make grants to support the National Writing Project for the improvement of the quality of instruction in reading, and in the teaching of writing as a learning process. Proposed new section 10102 of the bill would: (1) amend section 10901 of the ESEA to update the findings; (2) amend section 10902 of the ESEA to authorize the Secretary to conduct an independent evaluation of the National Writing Project program; (3) authorize the appropriation of such sums as may be necessary to carry out his program through fiscal year 2005; and (4) make conforming changes.

TITLE XI—GENERAL PROVISIONS, DEFINITIONS, AND ACCOUNTABILITY

Section 1101. Definitions. Section 1101 of the bill would amend definitions of Part A of Title IV of the ESEA to: (1) amend the definition of the term "covered program;" (2) add a new definition for the term "family literacy services;" (3) add a number of cross-reference changes from provisions and parts in Title XIV of the ESEA to provisions and parts in Title XI of the ESEA to reflect changes in the law as a result of section 1109 of the bill. As amended, covered programs would be: Part A of Title I; Part C of Title I; Part A of Title II; Subpart I of Part D of Title I; Part C of Title II of the ESEA (other than section 4115), the Comprehensive School Reform Demonstration Program, and Title VI of the ESEA. The term "family literacy services" would be defined as services provided to eligible participants on a voluntary basis that are of sufficient intensity, both in hours and duration, to make sustainable changes in the SEAs and LEAs for the implementation of family literacy activities between parents and their children, training for parents on how to be the primary teachers for their children and children's learning, parent-child study groups, parent literacy training leading to self-sufficiency, and an age-appropriate education to prepare children for success in school and life experiences.

Section 1102. Administrative Funds. Section 1102 of the bill would amend various provisions in Part B of Title XIV of the ESEA to: (1) revise the list of programs that are subject to the authority to consolidate State administrative funds; (2) expand the list of additional administrative funds that may be consolidated into one administrative fund; (3) clarify that local consolidated administrative funds may be used at the school district and school level; and (4) clarify the circumstances under which the Secretary may transfer a portion of its funds under one covered program to another covered program.

Proposed new section 11001(b) of the bill would authorize the Secretary to conduct an independent evaluation of the National Writing Project under the provisions under Title I, Part A of Title II, Subpart 1 of Part D of Title III, and Part A of Title IV (other than section 4115) of the ESEA, the Comprehensive School Reform Demonstration Program, Title VI of the ESEA (Class Size Reduction), the Carl D. Perkins Vocational and Technical Education Act of 1998, and such other programs as the Secretary may designate.

Paragraph (1)(B) of section 1102 of the bill would amend section 14201(b)(2) of the ESEA to revise the list of additional uses for the consolidated administrative funds to include: (1) State level activities designed to carry out Title XI (the redesignated general provisions title) including Part B (accountability and school-level data systems) of the ESEA; (2) coordination with other Federal and non-Federal programs; (3) the establishment and operation of peer review mechanisms under the Title XI; (4) collaborative activities with other State educational agencies to improve administration under the Act; (5) the dissemination of information regarding model programs and practices; (6) an independent evaluation of the activities assisted under the included programs; (7) training personnel engaged in audit and other monitoring activities; and (8) implementation of the Cooperative Audit Resolution and Oversight Initiative. (Items (1), (4), (7), and (8) provide new authority.)


In addition to making conforming changes, section 1102(b) of the bill would eliminate an outdated cross-reference to section 2003 of the ESEA (Consolidation of Funds for Local Administration) to make clear that an LEA may use local consolidated administrative funds to fund a State level activity designed to improve school districts and school levels for uses comparable to those described above for consolidated State administrative funds.

Section 1102. Administrative Funds. Section 1102 of the bill would repeal section 14204 of the ESEA (Administrative Funds Studies). Paragraph (4) of section 1102 of the bill would make conforming amendments.

Paragraph (5) of section 1102 of the bill would make conforming amendments, and proposed new section 1102(a) of the bill would make conforming changes to section 14203 of the ESEA (Consolidation of Funds for Local Administration) to make clear that an LEA may use local consolidated administrative funds to fund an kindergarten or other pre-kindergarten program to another covered program. Section 1103. Coordination of Programs. Section 1103 of the bill would amend provisions of Part C of Title XIV of the ESEA relating to the Coordination of Programs to: (1) make new provisions in Title XI for funding of Title XIV programs; (2) clarify that Title XIV programs may be included in a local plan and add a new section on consolidated State reporting.
Section 1103(1) of the bill would make an editorial change to the heading for the Part. Section 1103(2) of the bill would substantially revise section 14302 of the ESEA (Optional Consolidated Plans), which authorizes an SEA to submit a consolidated State plan instead of separate State plans for the programs covered by that section.

Proposed new section 14302(a)(1) of the ESEA would direct the Secretary to establish performance criteria under proposed new section 14305(a) of the ESEA that would require an SEA to include in its consolidated State plan a description of the programs included. Proposed new section 14302(e)(1) of the ESEA would establish procedures for peer review and Secretarial approval. The Secretary would direct the Secretary to approve a plan if it meets the requirements of the section and would authorize the Secretary to accommodate an SEA with one or more conditions. Under proposed new section 14302(e)(3) of the ESEA, if the Secretary determines that the plan does not meet those conditions, the Secretary would be required to notify the State of that determination and the reasons for it. Proposed new section 14302(f)(4) of the ESEA would require an SEA to update its State plan, to offer the State an opportunity to revise the plan, provide technical assistance, and provide a hearing.

Proposed new section 14302(f)(2) of the ESEA would provide for revision and amendment of a consolidated State plan. Section 1103. Uniform provisions. Proposed new section 14305(c) of the ESEA would provide for the State educational agency to submit a consolidated State plan meeting the requirements of that section.

Proposed new section 14305(b) of the ESEA would provide for the submission of a consolidated State plan. Proposed new section 14305(c) of the ESEA would require an SEA to include in its consolidated State plan any information required by the Secretary under proposed new section 14305(b) of the ESEA regarding performance indicators, benchmarks and targets, and any other indicators or measures that the State determines are appropriate for evaluating its performance.

Proposed new section 14305(d) of the ESEA would require an SEA to include in its consolidated State plan a description of any Federal program that the SEA desires a waiver to include. The Secretary would be directed by proposed new section 14302(e)(1) to appoint individuals who: (1) are knowledgeable about the programs and target populations; (2) are representatives of various practitioners and parents of students served under the programs; and (3) have expertise on educational standards, assessment, and accountability.

Proposed new section 14305(e) of the ESEA would direct the Secretary to approve a plan if it meets the requirements of the section and would authorize the Secretary to accommodate an SEA with one or more conditions. Under proposed new section 14305(e)(3) of the ESEA, if the Secretary determines that the plan does not meet those conditions, the Secretary would be required to notify the State of that determination and the reasons for it. Proposed new section 14305(f)(4) of the ESEA would require an SEA to update its State plan, to offer the State an opportunity to revise the plan, provide technical assistance, and provide a hearing.

Proposed new section 14305(f)(2) of the ESEA would provide for revision and amendment of a consolidated State plan. Proposed new section 14305(c) of the ESEA would provide for the submission of a consolidated State plan meeting the requirements of that section.

Proposed new section 14305(b) of the ESEA would provide for the submission of a consolidated State plan. Proposed new section 14305(c) of the ESEA would require an SEA to include in its consolidated State plan a description of any Federal program that the SEA desires a waiver to include. The Secretary would be directed by proposed new section 14302(e)(1) to appoint individuals who: (1) are knowledgeable about the programs and target populations; (2) are representatives of various practitioners and parents of students served under the programs; and (3) have expertise on educational standards, assessment, and accountability.

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Proposed new section 14305(f)(2) of the ESEA would provide for revision and amendment of a consolidated State plan. Proposed new section 14305(c) of the ESEA would provide for the submission of a consolidated State plan meeting the requirements of that section.
Section 1105(2) of the bill would also amend section 1450(c)(1) of the ESEA, with respect to the issues to be covered by consultation between designated public educational agencies and schools and school districts. Section 1105(2) of the bill would add two issues to be covered by such consultation: (1) the extent applicable, the amount of funds received by and available to private school children; and (2) how and when the agency will make decisions about the delivery of consultation to private school children. Conversely, section 1105(2) of the bill would amend section 1450(c)(2) of the ESEA to clarify the timing of such consultation. Under proposed new section 1450(c)(2) of the ESEA, consultation would be required to include meetings of agency and private school officials, to occur before the LEA makes any decision that may affect the opportunities of eligible private school children or their teachers to participate in programs under the ESEA, and to continue throughout the implementation and assessment of activities under section 14503 of the ESEA.

Paragraphs (3) and (4) of section 1105 of the bill would amend sections 14504 and 14506 of the ESEA to make conforming amendments with cross-references. Paragraph (5) of section 1105 of the bill would repeal sections 14513 and 14514 of the ESEA.

Section 1106. Gun Possession. Section 1106 of the bill would repeal Part F of Title XIV of the ESEA, the “Gun-Free Schools Act.” These proposed new provisions would be included in proposed new title IV of the ESEA.

Section 1107. Evaluation and Indicators. Section 1107 of the bill would amend Part G of Title XIV of the ESEA (Evaluation and Indicators) to add a new section 14702 of the ESEA (“Performance Measures”), authorizing the Secretary to establish performance indicators, benchmarks, and targets for each program under the ESEA and Title VII-B of the McKinney-Vento Homeless Assistance Act. Proposed new section 14702(c) of the ESEA would authorize the Secretary to require an applicant for funds under the ESEA or the McKinney-Vento Homeless Assistance Act to cross-reference information relating to how it will use the indicators, benchmarks and targets to improve its program performance. It would further require that the indicators, benchmarks, and targets be consistent with the purposes for which the funds are appropriated under the ESEA, as well as the purposes of the McKinney-Vento Homeless Assistance Act. Finally, it would be subject to the provisions of Part G of Title XI of the ESEA as redesignated (current section 1105 of the ESEA), to make clear that the authority under that section is placed in the SEA, rather than the Secretary, and to make other conforming changes.

Section 1108. Coordinated Services. Section 1108 of the ESEA would transfer Title XI of the ESEA as Title XI of the ESEA and would make conforming amendments to its parts and sections. Sec. 1110. (ED-Flex Partnerships). Section 1110 of the bill would make minor revisions to the Education Flexibility Partnership Act of 1999 (P.L. 106-25) and redesignate it as Part G of Title XI of the revised ESEA. Proposed new sections 1110(a), (b), (3), and (4) of section 1101(a) would make minor changes to the title short title, findings, and definitions of the Education Flexibility Partnership Act of 1999 to reflect its incorporation into the ESEA.

Paragraph (5) of section 1110(a) would, in addition to making minor editorial revisions, make State eligibility for ED-Flex status turn, in part, on whether the State has an approved accountability plan under proposed new section 11208 of the ESEA and is making satisfactory progress, as determined by the Secretary, in implementing its policies under proposed new sections 11204 (Student Progress and Promotion Policy) and 11205 (Ensuring Teacher Quality) of the ESEA, with such State’s ED-Flex Act being in compliance with various Title I accountability requirements and waive State statutory and regulatory requirements. Paragraph (6) of section 1110(a) would also revise the conditions under which the Secretary may grant an extension of ED-Flex authority, beyond five years, to provide, in part, that the Secretary may grant such an extension only if he or she determines that the State has made significant statewide gains in student achievement and is closing the achievement gap between low- and high-performing students.

In addition, paragraph (5) of section 1110(a) of the bill would revise the list of Federal education programs that are subject to ED-Flex authority to reflect the amendments that would be made to the ESEA by the bill, and to include Title B of Title VII of the Stewart B. McKinney Homeless Assistance Act. Paragraph (5) would also clarify that, while States may grant waivers with respect to the ED-Flex Act to low-income families needed to permit a schoolwide program under section 1114 of the ESEA, in doing so they may not go below 40 percent of the enrollment of children and families in the community and of the services available to meet such needs; a description of the entities operating coordinated services projects; (3) a description of its coordinated services project and other information related to the project; and (4) an annual budget that indicates the sources and amount of funds the SEA will use for the project, consistent with section 11405(b) and the purposes for which the funds will be used.

Proposed new section 11903(b) of the ESEA would also require such an eligible entity to evaluate annually the success of the project; train teachers and appropriate personnel; and ensure that the coordinated services project addresses the health and welfare needs of migratory families. Proposed new section 11903(c) of the ESEA would provide that an SEA need not require eligible entities to submit an application under subsection (a) in order to permit them to carry out coordinated services projects under section 11903 of the ESEA.

Section 11903(b)(2) of the bill would make conforming amendments to section 11904 of the ESEA. Proposed new section 11903(b)(3) of the bill would amend section 11905 of the ESEA, as redesignated (current section 11004 of the ESEA), to make clear that the authority under that section is placed in the SEA, rather than the Secretary, and to make other conforming changes.

Section 1111. Accountability. Section 1111 of the bill would amend Title XI of the Act by adding a new Part B, Improving Education Through Accountability. Proposed new section 11201 (“Short Title”) of the ESEA would establish the short title of this part as the “Education Accountability Act.” Proposed new section 11202 (“Purpose”) of the ESEA would set out the statement of...
purpose for the new part. Under proposed new section 11202, the purpose of the part would be to improve academic achievement for all children, assist in meeting America's Education Goals under section 2 of the Education Act of 1965, and promote the incorporation of challenging State academic content and student performance standards into classroom practice, for the benefit of both local officials for student progress, and improve the effectiveness of programs under the ESEA and the educational opportunities of the students that they serve.

Proposed new section 11203 ("Turning Around Failing Schools") of the ESEA would require the LEAs and schools in need of improvement to develop and implement a statewide system for holding its LEAs and schools accountable for student performance, including, but not limited to, extended interventions and accommodations for students with limited English proficiency; provide that students with limited English proficiency are assessed, to the greatest extent practicable, in the language and form most likely to yield accurate and reliable information about those students know and can do; and provide that Spanish-speaking students with limited English proficiency are assessed, to the greatest extent practicable, using tests written in Spanish, if Spanish-language assessments are more likely than English-language tests to yield accurate and reliable information on what those students know and can do.

Proposed new section 11204 ("Student Progress and Promotion Policy") of the ESEA would require any State that receives assistance under the ESEA to have in effect, at the time it submits its accountability plan, a policy that would require its LEAs to implement continuing, intensive and comprehensive educational interventions as may be necessary to ensure that all students can meet the challenging academic performance standards required under section 1111(b)(2)(A) of the ESEA, and require all students to meet those challenging standards before being promoted at three key transition points (one of which must be graduation from secondary school), as determined by the State, consistent with section 1111(b)(2)(A) of the ESEA. Those LEAs (1) require the LEAs to implement continuing, intensive and comprehensive educational interventions as may be necessary to ensure that all students can meet the challenging academic performance standards required under section 1111(b)(2)(A) of the ESEA, and require all students to meet those challenging standards before being promoted at three key transition points (one of which must be graduation from secondary school), as determined by the State, consistent with section 1111(b)(2)(A) of the ESEA, or any (2) do not in its accountability plan account for the rigor or quality of its teacher certification standards. Specifically, proposed new section 11205(a) would require that a State that receives assistance under the ESEA; to have in effect, at the time it submits its accountability plan, a policy that would require its LEAs and schools to have in place and implement sound and equitable discipline policies, to ensure a safe, and orderly, and drug-free learning environment in every school. A State would also be required under section 11205(c)(2) to include in its accountability plan an assurance that it has in effect a policy that meets the requirements of this section.

Proposed new section 11205 ("Ensuring Teacher Quality") of the ESEA would establish what a State must include in its accountability plan under proposed new section 11208 of the ESEA with respect to its promotion policy. A State would be required to include in its accountability plan a detailed description of its policy under proposed new subsection (b). Additionally, a State would be required to include in its accountability plan the strategies (including timelines and performance indicators) it will take to ensure that its policy is fully implemented no later than four years from the date of the approval of its plan. Finally, a State would also be required to address in its plan the steps that it will take to ensure that the policy will be disseminated to all LEAs and schools in the State and to the general public.

Proposed new section 11206 ("Sound Discipline Policy") of the ESEA would be required to include in its accountability plan provisions to ensure that its certification policies ensure that its certification policies ensure that its certification policies meet the requirements of this section. Specifically, proposed new section 11205(a)(1) would require that a State that receives assistance under the ESEA; to have in effect, at the time it submits its accountability plan, a policy that would require its LEAs and schools to have in place and implement a policy that meets the requirements of this section.

Finally, proposed new section 11205(c)(2) of the ESEA would require a State to assure in its accountability plan that in carrying out its teacher quality policy, it would not de-emphasize rigor or quality of its teacher certification standards.

Subsection (a) of proposed new section 11206 ("Sound Discipline Policy") of the ESEA would require the LEAs and schools to ensure that they have in place and implement sound and equitable discipline policies, and are coordinated with prevention strategies and programs under Title IV of the ESEA. Additionally, LEA and school policies would have to: apply to all students; be enforced consistently and equitably; be clear and understandable; be developed with the participation of school staff, students, and parents; and be broadly disseminated; ensure that any discipline process is consistent with applicable Federal, State and local laws; ensure that teachers are adequately trained to manage their classrooms effectively, including in the case of students who have been expelled from school, for appropriate supervision, counseling, and educational...
services that will help those students continue to meet the State's challenging standards.

Subsection (a) of proposed new section 11207 ("Education Report Cards") of the ESEA would require a State that receives assistance under the ESEA, to have in effect, at the time it submits its accountability plan, a policy that requires the development and dissemination of annual report cards regarding the status of education and educational results in the State. The report cards must include the number of LEAs and schools. Under proposed new section 11207(a), report cards would have to be concise and disseminated in a format and manner that the public could understand, and focus on educational results.

Proposed new section 11207(b) of the ESEA would establish the information that, at a minimum, a State must include in its annual State-level report card. Under proposed new section 11207(b)(1), a State would be required to include information regarding student performance on statewide assessments, set forth on an aggregated basis, in both reading (or language arts) and mathematics, as well as any other subject area for which the State requires assessments. A State would also be required under proposed new section 11207(b)(1) to include in its report card information indicating attendance and graduation rates in the State's public schools, as well as the average class size in each of the State's school districts. A State would also be required under proposed new section 11207(b)(1) to include information regarding the availability of participation in respect to school safety, including the incidence of school violence and drug and alcohol abuse and the number of instances in which a student, has possessed a firearm at school, subject to the Gun-Free Schools Act. Finally, a State would be required under proposed new section 11207(b)(1) to include in its report card information regarding the number of teachers teaching outside their professional qualifications in the State, including the number of teachers teaching with emergency credentials and the number of teachers teaching outside their field of expertise.

Proposed new section 11207(b)(2) of the ESEA would require that student achievement data in the State's report card contain statistically sound, disaggregated results with respect to the following categories: gender; racial and ethnic group; migrant status; student disability category; economically disadvantaged students, as compared to students who are not disadvantaged; economically disadvantaged students, as compared to students who are not economically disadvantaged; limited English proficiency, as compared to students who are proficient in English. Under proposed new section 11207(b)(2), a State could also include in its report card any other information it determines appropriate to reflect school quality and student achievement. This could include information on: longitudinal achievement scores from the National Assessment of Educational Progress or State assessments; parent involvement, as determined by the Department as the extent of parental participation in school parental involvement activities; participation in extended learning time programs, such as after-school programs; and the performance of students in meeting physical education goals.

Under proposed new section 11207(c) of the ESEA, a State would be required under proposed new section 11207(c) to ensure that each LEA and each school in the State includes in its annual report, at a minimum, the information required by proposed new section 11207(b)(2). Additionally, a State would be required under proposed new section 11207(c) to ensure that LEAs include in their annual report cards the number of their low-performing schools, such schools are identified as in need of improvement under section 1116(c)(1) of the ESEA, and information that shows how students in their schools performed on statewide assessments compared to students in the rest of the State (including such comparisons over time, if the information is available). LEA and school report cards would include in their annual report cards whether they have been identified as a low-performing school and information that shows how the LEA and school performed on statewide assessments compared to students in the rest of the LEA and the State (including such comparisons over time, if the information is available). LEA and school report cards would also include in their annual report cards the information described in proposed new section 11207(b)(3) and other appropriate information.

Proposed new section 11207(d) of the ESEA would establish requirements for the dissemination of State-level report cards. Under proposed new section 11207(d), State-level report cards would be required to be posted on the Internet, disseminated to all schools and LEAs in the State, and made broadly available to the public. LEA report cards would have to be disseminated to all their schools and to all parents of students attending that school, and made broadly available to the public. School report cards would have to be disseminated to all parents of students attending that school and made broadly available to the public.

Under proposed new section 11207(e) of the ESEA, a State would be required to include in its accountability plan an assurance that the State has an effective accountability policy that meets the requirements of proposed new section 11207.

Proposed new section 11208 ("Education Accountability Plans") of the ESEA would establish the requirements for a State's education accountability plan. In general, each State would have to include in its accountability plan an assurance that it has an effective accountability policy that meets the requirements of proposed new section 11207.

Proposed new section 11208(b) would establish the specific contents of a State accountability plan. A State would be required to include a description of the State's system under proposed new section 11208; a description of the steps the State will take to ensure that all LEAs have the capacity needed to achieve the goals set forth in the State's plan; the information that the Secretary may reasonably require the State to report annually to the Secretary, in such form and manner as the Secretary may require, on its progress in carrying out the requirements of this Part; the information that the Secretary may reasonably require that the Secretary determine have demonstrated significant, statewide achievement gains in core subjects, as measured by the National Assessment of Educational Progress or State assessments for three consecutive years, as a condition for enforcement.

Proposed new section 11208(c) of the ESEA would require a State to report annually to the Secretary, in such form and manner as the Secretary may require, on its progress in carrying out the requirements of this Part, and would be required to include this report in the consolidation of the State's performance report required under proposed new section 11506 of the ESEA. Additionally, in reporting on its progress in implementing its student progress and social promotion policy under proposed new section 11204 of the ESEA, a State would be required to assess the effect of its policy, and its implementation, on improving the academic achievement for all children, and otherwise carrying out the purpose specified in proposed new section 11202 of the ESEA.

Proposed new section 11208(d) of the ESEA would require a State that submits a consolidated State plan under section 11502 to include in that plan its accountability plans for each of the State's school districts. Under proposed new section 11208(e) of the ESEA, the Secretary would, in considering that State's separate accountability plan under this section, use procedures comparable to those in its accountability plan under proposed new section 11208(a) of the ESEA. Under proposed new section 11208(e) of the ESEA, the Secretary would, in considering that State's separate accountability plan under this section, use procedures comparable to those in its accountability plan under proposed new section 11208(a) of the ESEA. Under proposed new section 11208(e) of the ESEA, the Secretary would, in considering that State's separate accountability plan under this section, use procedures comparable to those in its accountability plan under proposed new section 11208(a) of the ESEA.

Proposed new section 11209 ("Authority of Secretary to Ensure Accountability") of the ESEA would establish the Secretary's authority to ensure accountability. If the Secretary determines that a State has failed substantially to carry out a requirement of this Part or its approved accountability plan, or has not substantially to meet a performance indicator in its accountability plan, proposed new section 11209(a) of the ESEA would authorize the Secretary to take any of the following steps to ensure prompt compliance: (1) providing, or arranging for, technical assistance under the ESEA; (2) requiring a corrective action plan; (3) suspending or terminating assistance under the ESEA; (4) suspending or terminating eligibility to participate in competitive programs under the ESEA; (5) withholding, in whole or in part, State administrative funds under the ESEA; (6) withholding, in whole or in part, program funds under the ESEA; (7) imposing one or more conditions upon the Secretary's approval of a State plan or application under the ESEA; (8) taking other actions under Part D of the General Education Priorities Act; and (9) taking other appropriate steps, including referral to the Department of Justice for enforcement.

Proposed new section 11209(b) of the ESEA would require the Secretary to take one or more additional steps under proposed new section 11209 if the Secretary determines that the State has failed substantially to carry out this Part or its approved accountability plan, or has not substantially to meet a performance indicator in its accountability plan. Proposed new section 11209(c) of the ESEA would require the Secretary to establish, through regulation, a system for recognizing and rewarding States described under proposed new section 11209(a) of the ESEA. Rewards could include conferring a priority in competitive programs under the ESEA, in addition to the grants or administrative funds to States that have demonstrated evidence of improvement in meeting the requirements of this Part, or that its performance has failed substantially to carry out a requirement of this Part or its approved accountability plan, or has not substantially to meet a performance indicator in its accountability plan.
four succeeding fiscal years, the appropriation of whatever sums are necessary to provide such supplementary funds.

Proposed new section 11211 ("Best Practices for LEAs") would require the Secretary, in implementing this part, to disseminate information regarding best practices, models, and other forms of technical assistance, after consulting with State and LEAs and other agencies, institutions, and organizations with experience or information relevant to the purposes of this part.

Proposed new section 11222 ("Construction") of the ESEA would provide that nothing in this Part may be construed as affecting home schooling, or the application of the civil rights laws or the Individuals with Disabilities Education Act.

Section 1112. America's Education Goals Panel. Section 1112 of the bill would involve the authority for the National Education Goals Panel from Title II of the Goals 2000: Educate America Act to a new Part C of Title XI of the ESEA, and rename the panel the "America's Education Goals Panel." This conforms to the renaming of the National Education Goals as "America's Education Goals Panel," as proposed in part C of the Goals 2000: Educate America Act of 2000.

Section 1201. Amendments to the Stewart B. McKinney Homeless Assistance Act. Section 1201 of the bill would set forth amendments to the Stewart B. McKinney Homeless Assistance Act, as added by section 2(b) of the bill.

The statutory authority for the Goals Panel for Education Act of 1994 would be amended to require the Committee on Education and the Workforce to specify, in its report on the reauthorization of the Goals Panel, the need for a program to meet the unique needs of homeless children and youth.

Proposed new section 2 of the ESEA, as added by section 2(b) of the bill.

The current authority for the National Education Goals Panel, Title II of the Goals 2000: Educate America Act, would be repealed.
agreements, to periodically collect and disseminate data and information on the number and location of homeless children and youth, the education and related services such children and youth receive, the extent to which such needs are being met, and such other data and information as the Secretary deems necessary and relevant to carry out this section. The Secretary would also be required to coordinate such collection and dissemintation with the other agencies and entities that receive assistance and administer programs under this subtitle. Proposed new section 724(g) of the Act would require the Secretary, not later than four years after the date of the enactment of the bill, to prepare and submit to the President and appropriate committees of the House of Representatives and the Senate a report on the status of education of homeless youth and children.

Section 1201(e) of the bill would amend section 726 of the Act to authorize the appropriation of such sums as may be necessary for each of the fiscal years 2001 through 2005 to carry out the subtitle.

Section 1202. Amendments to Other Laws.

Section 1202 of the bill would make conforming amendments to other statutes that reflect the changes to the ESEA that are proposed in this bill.

Section 1202(a) of the bill would eliminate an outdated cross-reference in section 116(a)(5) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 3022(a)).

Section 1202(b) of the bill would update a cross-reference in section 317(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b)(1)).

Section 1202(c) of the bill would amend the Pro-Children Act of 1994 (20 U.S.C. 6081 et seq.), to referenced to kindergarten, elementary, and secondary education services from the prohibition against smoking contained in that Act. Proposed new Title IV of the ESEA, as contained in that Act, contains a comparable prohibition against smoking in facilities used for education services, and the education references in the Pro-Children Act are no longer necessary.

Part B—Repeals

Section 1211. Repeals. Section 1211 of the bill would repeal Title XIII of the ESEA, several parts of the Goals 2000: Educate America Act (P.L. 103-227), and Title III of the Education for Economic Security Act (20 U.S.C. 3001 et seq.). These provisions have either expired or served their purpose, and the activities that are more appropriately carried out with State and local resources, or have been incorporated into the ESEA as amended by the bill.

Title XIII, Support and Assistance Programs to Improve Education, of the ESEA would be repealed. Proposed new Part D of Title II of the ESEA contains the new ESEA technical assistance and information dissemination programs.

In the Goals 2000 Institute, Title I, National Education Goals; Title II, National Education Reform Leadership, Standards, and Assessments, Title III, State and Local Education Systemic Improvement; Title IV, Parental Assistance; Title VII, Safe Schools; and Title VIII, Minority-focused Civics Education, would be repealed. Part B, Gun-free School Programs, of the Goals 2000 statute would also be repealed.

Next, the Educational Research, Development, Dissemination, and Improvement Act of 1994 (P.L. 103-227) would be amended by repealing Part F, Star Schools; Part G, Office of Comprehensive School Health Education; Part H, Field Readers; and Part I, the Centers to the Carl D. Perkins Vocational and Applied Technology Act.

Title III, Partnerships in Education for Mathematics, Science, and Engineering, of the Education for Economic Security Act would also be repealed by section 1211 of the bill.

By Mr. LEAHY.

S. 1182. A bill to appropriate funds to carry out the commodity supplemental food program and the emergency food assistance program fiscal year 2000 to the Committee on Agriculture, Nutrition, and Forestry.

Commodity Supplemental Food Program

Mr. LEAHY. Mr. President, I am proud to introduce a bill to increase funding for the Commodity Supplemental Food Program for Fiscal Year 2000. I look forward to working with Appropriations Committee members on this and other important matters through the appropriations process.

The Commodity Supplemental Food Program does exactly what its name suggests—it provides supplemental food to states that distribute them to low-income postpartum, pregnant and breastfeeding women, infants, children up to age six, as well as senior citizens.

People participating in CSFP receive healthy packages of food including items such as infant formula juice, rice, pasta, and canned fruits and vegetables.

The Commodity Supplemental Food Program currently operates in twenty states and last year, more than 370,000 people participated in it every month. There still remains a great need to expand this program, as there is a waiting list of states—including my state of Vermont— that want to participate, but are not able to because of lack of funding.

The bill I am introducing would fix this problem, by increasing the funding so that more women, children and seniors in need could participate. I look forward to working with the Vermont Congressional delegation on this matter.

The Commodity Supplemental Food Program has proven itself to be vitally important to senior citizens, as 243,000 people participate in CSFP every month are seniors. There continues to be a great need for our seniors in Vermont, and in the rest of the nation.

This has been true for sometime, and still is the case. I successfully fought efforts a few years ago to terminate the Meals on Wheels Program. Ending that program would have been a disaster for our seniors.

According to an evaluation of the Elderly Nutrition Program of the Older Americans Act, approximately 67% to 88% of the participants are at moderate to high nutritional risk. It is further estimated that 40% of older adults have low calorie intakes of three or more nutrients in their diets. And the results of nutritional programs on the health of seniors are amazing—for instance, it was estimated in a report that for every $1 spent on Senior Nutrition Programs, more than $3 is saved in hospital costs.

This Congress, I have taken a number of steps to address the nutritional problems facing our seniors, and have met with some success. In response to a budget request that I submitted last year, the Administration increased their funding request for the Elderly Nutrition Program by $10 million to $150 million. This year, I will continue to work to see that the full $150 million is included in the final budget.

This past April I also cosponsored the Medicare Medical Nutrition Therapy Act, which provides for Medicare coverage of medical nutrition therapy services of registered dietitians and nutrition professionals. Medicare coverage of medical nutrition therapy would save money by reducing hospital admissions, shortening hospital stays, and decreasing complications.

I look forward to working with my colleagues to pass this measure into law through the normal appropriations process for Fiscal year 2000.

By Mr. DOMENICI.

S. 1182. A bill to authorize the use of flat grave markers to extend the useful life of the Santa Fe National Cemetery, New Mexico, and to allow more veterans the honor and choice of being buried in the cemetery; to the Committee on Veterans’ Affairs.

Santa Fe National Cemetery Legislation

Mr. DOMENICI. Mr. President, it is with great pleasure and honor that I rise today to introduce a bill to extend the useful life of the Santa Fe National Cemetery in New Mexico.

The men and women who have served in the United States Armed Forces have made immeasurable sacrifices for the principles of freedom and liberty that make this Nation unique throughout civilization. The service of veterans has been vital to the history of the Nation, and the sacrifices made by veterans and their families should not be forgotten.

These veterans at the very least deserve every opportunity to be buried at a national cemetery in keeping with their sacrifice. However, unless Congressional action is taken the Santa Fe National Cemetery will run out of space to provide casketed burials for our veterans at the conclusion of 2002.

I believe all New Mexicans can be proud of the Santa Fe National Cemetery that has grown from 39100 of an acre to its current 77 acres. The cemetery first opened in 1888 and within several years was designated a National Cemetery in April 1875.

Men and women who have fought in all of nation’s wars hold an honored spot within the hallowed ground of the cemetery. Today the Santa Fe National Cemetery contains almost 27,000 graves that are mostly marked by upright headstones.

However, as I have already stated, unless Congress acts the Santa Fe National Cemetery will be forced to close. The bill I am introducing allows the Secretary of Veterans Affairs to provide for the use of flat grave markers that will extend the useful life of the cemetery until 2008.
While I wish the practice of utilizing headstones could continue indefinitely if a veteran chose, my wishes are outweighed by my desire to extend the useful life of the cemetery. I would note that my desire is shared by the New Mexico Chapter of the American Legion, the Albuquerque Chapter of the Retired Officers’ Association, and the New Mexico Chapter of the VFW who have all endorsed the use of flat grave markers.

Finally, this is not without precedent because to the exceptions have been granted on six prior occasions with the last recent action occurring in 1994 when Congress authorized the Secretary of Veterans Affairs to provide for flat grave markers at the Willamette National Cemetery in Oregon.

Mr. President, I ask unanimous consent that a copy of the Bill and four letters of support for the use of flat grave markers be printed in the Record.

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

<table>
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<th>S. 1182</th>
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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO USE FLAT GRAVE MARKERS AT SANTA FE NATIONAL CEMETERY, NEW MEXICO.

(a) FINDINGS.—Congress makes the following findings:

(1) The men and women who have served in the Armed Forces have made immeasurable sacrifices for the principles of freedom and liberty that make this Nation unique in all civilizations.

(2) The service of veterans has been vital to the history of the Nation, and the sacrifices made by veterans and their families should not be forgotten.

(3) Those veterans at the very least deserve every opportunity to be buried in a National Cemetery of their choosing.

(4) The Santa Fe National Cemetery in New Mexico opened in 1986 and was designated a National Cemetery in April 1875.

(5) The Santa Fe National Cemetery now has 77 acres with almost 27,000 graves most of which are marked by upright headstones.

(6) The Santa Fe National Cemetery will run out of space to provide for casketed burials at the end of 2000 unless Congress acts to allow the use of flat grave markers to extend the useful life of the cemetery until 2008.

(b) AUTHORITY.—Notwithstanding section 2404(c)(2) of title 38, United States Code, the Secretary of Veterans Affairs may provide for flat grave markers at the Santa Fe National Cemetery, New Mexico.

We are in complete agreement and in support of this venture. If we can be of assistance in any way, please advise.

Sincerely,

HARRY R. RHIZOR,
Department Commander,
ALBUQUERQUE CHAPTER,
THE RETIRED OFFICERS’ ASSOCIATION,
ALBUQUERQUE, NM, March 7, 1997.

Director,
Santa Fe National Cemetery,
Santa Fe, NM.

DEAR SIR, The Albuquerque Chapter of The Retired Officers Association supports your position to begin using flat grave markers for future interments.

Sincerely,

GEORGE PIERCE,
LTC, USA, President.
VFW,
DEPARTMENT OF NEW MEXICO,
Albuquerque, NM, April 16, 1997.

GILL GALLO,
Director, Department of Veterans Affairs,
Santa Fe National Cemetery,
Santa Fe, NM.

DEAR MR. GALLO: This letter will acknowledge receipt of your informational letter concerning the Santa Fe National Cemetery dated April 4, 1997. Please be advised that I took the liberty to circulate the information to VFW Post Commanders located in Northern New Mexico. The following is our consensus.

Although we would want to continue with the upright marble headstones which are provided with the 5x10 grave site, we found it more important to extend the life of the National Cemetery therefore we support your efforts to utilize the granite markers and the recommended 4x8 grave sites. We are also in agreement with your recommendations for a columbarium for the burial of our cremated Comrades.

Please thank your staff for the outstanding work and service which they provide our departed Comrades and Veterans. Let me also thank you for providing us with the specific information needed to come to our decision.

As State Commander of the Veterans of Foreign Wars of the United States of America Department of New Mexico, I pledge you full support of your recommendation and would ask that you forward this letter of support to your Washington Office.

May God Bless our men and women who served and served in our military armed forces.

Yours in comradeship,
ROBERT O. PEREA,
State Commander.

DEPARTMENT OF VETERANS AFFAIRS,
DIRECTOR NATIONAL CEMETERY SYSTEM,
Washingtong, DC, January 9, 1998.

MICHAEL C. D’ARCO,
Director, New Mexico Veterans Services Commission
Santa Fe, NM.

DEAR MR. D’ARCO, I know that you are conducting your study on the issue of veterans cemeteries in New Mexico. Following is information on the Santa Fe National Cemetery.

There is approximately a three-year inventory of casketed sites readily available for immediate use in the recently developed sections of the cemetery, sections 10, 11, and 12. If no other cemeteries are developed, then we would exhaust this inventory in 2003. Based on our understanding that future flat marker grave sites on the east side of the cemetery are acceptable to veterans and the neighboring community, an additional seven-year inventory of sites can be developed in that portion of the cemetery. This would extend the useful life of the cemetery for casketed burials to the year 2008. While this is just a general estimate, and exact details will not be available until a more formal design is completed, we anticipate developing and using these sites. Accordingly, the 2008 date is the date to use in your study for casketed burial closure of the Santa Fe National Cemetery.

It is important to note that we anticipate being able to provide for inground cremation services well beyond the year 2030. Consideration will also be given toward columbarium development.

Incidentally, we are estimating Fort Bayard National Cemetery’s closure date as 2027, but we are optimistic that potential exists beyond that date. I hope this information is useful to you. If you have any questions, please contact me or Roger R. Rapp on my staff at 202-273-5225.

Sincerely yours,

JERRY W. BOWEN.

By Mr. NICKLES:
S. 1183. A bill to direct the Secretary of Energy to convey to the City of Bartlesville, Oklahoma, the former site of the NIPER facility of the Department of Energy; to the Committee on Energy and Natural Resources.

NIPER LEGISLATION

Mr. NICKLES. Mr. President, today I am introducing legislation that will transfer ownership of land owned by the Department of Energy (DOE) and known as the National Institute of Petroleum Energy Research (NIPER) to the City of Bartlesville for business and educational purposes.

The NIPER facility was established in 1918 as the Petroleum Experiment Station by the U.S. Bureau of Mines. Its purpose was to provide research targeted to oil and gas field problems. In 1936, as World War II approached, additions to the Work Project Administration building were erected. Its research was expanded to help the war effort. During the 1973-1974 energy crisis, the center was renamed the Bartlesville Energy Research Center. When the Center privatized in 1983, it was renamed the National Institute for Petroleum and Energy Research (NIPER). NIPER closed its operations on December 22, 1990.

According to the Surplus Property Act of 1949, excess federal property is screened for use by the following: Housing and Urban Development, Health and Human Services, and local and state organizations including non-profit organizations. At the conclusion of the screening process, a negotiated sale is conducted. If the property is still undeclared it goes to auction.

Unfortunately this process can take many years, thus preventing the city of Bartlesville from realizing any near-term economic boost from NIPER’s redevelopment. Consequently, this legislation is needed to ensure that the NIPER facilities are redeveloped as quickly as possible to provide a prompt economic boost to the community. This legislation also will ensure that the NIPER facilities do not deteriorate while the property is being
processed through the lengthy steps of the Surplus Property Act and therefore make re-use impossible.

The City of Bartlesville intends to provide an educational facility and a place for business and industry that would facilitate the job creation through technology and investment. The NIPER facility will also provide housing for administrative services for community development organizations such as United Way, Women and Children in Crisis, and various homeless programs. This project enjoys the strong support of the Mayor of Bartlesville and other locally elected officials.

By Mr. DOMENICI (for himself and Mr. KYL):

S. 1184. A bill to authorize the Secretary of Agriculture to dispose of land for recreation or other public purposes; to the Committee on Energy and Natural Resources.

NATIONAL FOREST SYSTEM COMMUNITY PURPOSES ACT

Mr. DOMENICI. Mr. President, I rise to introduce important legislation, cosponsored by Senator KyL, that would allow us to convey parcels of land to States and local governments, on the condition that it be used for a specific recreational or local public purpose. The National Forest System Community Purposes Act is patterned after an existing law that set in place one of the most successful local community assistance programs under the Bureau of Land Management (BLM).

That law, the Recreation and Public Purposes Act, was enacted in 1966. Under its authority, the BLM has been able to work cooperatively with States and communities to provide land needed for recreational areas and other public projects to benefit local communities in areas where Federal land dominates the landscape. With skyrocketing demands on the Forest Service and local communities to provide accommodations and other services for an ever-increasing number of Americans who take advantage of all the opportunities available in the national forests, I believe the time has come to provide this ability to the Forest Service.

In the 1996 Omnibus Parks and Public Lands Management Act, there were no fewer than 31 boundary adjustments, land conveyances, and exchanges authorized, many of which dealt with national forests. Had this legislation been enacted at that time, I cannot say for sure how many of these provisions would have been unnecessary, but I expect the number would have been reduced by at least one-third.

During the 105th Congress, I sponsored three bills that directed the Secretary of Agriculture to convey small tracts of Federal land to communities in New Mexico. All three of these bills were subsequently passed in the Senate unanimously, but two of these bills were not enacted last year, and the Senate has once again seen fit to pass them in the 106th Congress. We now await action in the House. I know that other Senators are faced with a similar situation of having to shepherd bills through the legislative process simply to give the Forest Service the authority to cooperate with local communities on projects to meet local needs.

Over one-third of the land in New Mexico is owned by the federal government, and finding appropriate sites for community and educational purposes can be difficult. Communities adjacent to and surrounded by National Forest System land have limited opportunities to acquire land for educational and other local public purposes. In many cases, these recreational and other local needs are not within the mission of the Forest Service, but would not be inconsistent with forest plans developed to benefit from a process similar to that of the National Forest System Community Purposes Act. This program has worked so well that it would benefit from the legislative process simply to provide this needed assistance to local communities.

In fairness, the Forest Service was very willing to sell this land to the village, but they were constrained by cur- rents of federal lands that it could be used for a specific recreational or local public purpose. The National Forest System Community Purposes Act is patterned after an existing law that set in place one of the most successful local community assistance programs under the Bureau of Land Management (BLM).

In the same vein, innocent product sellers—often small businesses like your neighborhood corner grocery
store—have also described the high legal costs they incur when they are needlessly drawn into product liability lawsuits. The unfairness in these cases is astonishing—the business may not even produce a product, but is still sued for damages. The fact is no secret that courts differ in how favorably they look upon product liability suits—some are receptive, others outright hostile. So even though a local store neither designs nor manufactures the product, it is often dragged into court because the plaintiff’s attorney desires to pull manufacturers into a favorable forum. That’s called “forum shopping” on the part of the plaintiff, and the practice causes needless financial damage to America’s small businesses. And while the non-culpable product seller is rarely found liable for damages, it must still bear the enormous cost of defending itself against these unwarranted suits. Rental and leasing companies are in a similarly desperate position, as they are commonly held liable for the wrongful conduct of their customers even though the companies themselves are found to have committed no wrong.

The 105th Congress passed the Volunteer Protection Act, which provides specific protections from abusive litigation to volunteers. The Senate passed that legislation by an overwhelming margin of 99-1, and the President signed it, making it Public Law 105-19. That legislation provides a model for further targeted reforms for sectors of our economy that are particularly hard hit and in need of immediate relief. I believe it is high time for small business liability reform, time to take this small step, time to shield those not at fault from needless expense and unwarranted distress.

Mr. President, I’d like to take a moment and provide a little background on our effort, as I believe it will highlight the need for reform. Small businesses should an often unbearable load from unwarranted and unjustified lawsuits. Data from San Diego’s Superior Court published by the Washington Legal Foundation reveals that punitive damages are requested in 41 percent of suits against small businesses. It is simply unfathomable that such a large proportion of our small businesses could be engaging in the sort of egregious misconduct that warrant a request for punitive damages. Similarly, the National Federation of Independent Business reports that 34 percent of Texas small business owners are sued or threatened with court action seeking punitive damages; again, the outrageously high rate of prayer for punitive damages simply cannot have anything to do with actual wrongdoing by the defendant.

The specifics of the cases are no better. In a case reported by the American Consulting Engineers Council, a drunk driver had an accident after speeding and bypassing detour signs. Eight hours after the crash, the driver still had a blood alcohol level of .09. Nonetheless, the driver sued the engineering firm that designed the road, the contractor, the subcontractor, and the state highway department. Five years later, and after expending exorbitant amounts on legal fees, the defendants settled the case for $350,000. The engineering firm, a small 15 person firm, was swamped with over $200,000 in legal costs—an intolerable amount for a small business to have to pay in defending an unwarranted lawsuit.

There are stories. An Ann Landers column from October, 1995, reported a case in which a minister and his wife sued a guide-dog school for $160,000 after a blind man was learning to use a seeing-eye dog. The couple filed their lawsuit 13 months after the so-called accident, in which witnesses reported that the woman did not move out of the blind man’s way because she wanted to see if the dog would follow her.

The experience of a small business in Michigan, the Michigan Furnace Company, is likewise alarming. The President of that company has reported that every lawsuit in the history of her company has been a nuisance lawsuit. She indicates that if the money the company spends on liability insurance and legal fees were distributed among employees, it would amount to a $10,000 annual raise. That’s real money, and that’s a real cost coming right out of the pocket of Michigan workers.

These costs are stifling our small businesses and the careers of people in their employ. The straightforward provisions of Title I of the Small Business Liability Reform Act will provide small businesses with relief by discouraging abusive litigation. This section contains two principal reforms. First, the bill limits punitive damages that may be awarded against a small business. In most civil lawsuits against small businesses, punitive damages would be available against the small business only if the claimant proves by clear and convincing evidence that the harm was caused by the defendant’s willful, wanton, or reckless disregard for the rights and safety of the claimant. Punitive damages would also be limited in amount to the lesser of $250,000 or two times the compensatory damages awarded for the harm. That formulation is exactly the same as that in the small business protection provision that was included in the Product Liability Conference Report passed in the 104th Congress.

Second, the bill includes several liability reforms for small businesses included under the exact same formulation used in the Volunteer Protection Act passed in the 104th Congress and in the Product Liability Conference Report passed in the 104th Congress. Joint and several liability would be limited such that a small business would be liable for noneconomic damages only in proportion to the small business’s responsibility for causing the harm. A small business is responsible for 100 percent of an accident, then it will be liable for 100 percent of noneconomic damages. But if it is only 70 percent, 25 percent, 10 percent or any other percent responsible, then the small business will be liable only for a like percentage of noneconomic damages.

Small businesses would still be jointly and severally liable for economic damages, and any other defendants in the action that were not small businesses could be held jointly and severally liable for all damages. But the intent of this provision is to provide some protection to small businesses, so that they will not be sought out as “deep pocket” defendants by trial lawyers who would otherwise try to get small businesses on the hook for harms that they have not caused. The fact is that many small businesses simply do not have deep pockets, and they frequently need all of their resources just to stay in business, take care of their employees, and make ends meet.

Other provisions in this title specify the situations in which its reforms apply. The title defines small business as any business having fewer than 25 employees, the same definition included in the Product Liability Conference Report. Like the Volunteer Protection Act, this title covers all civil lawsuits except those involving criminal or government misconduct. The limitations on liability would not apply to any misconduct that constitutes a crime of violence, act of international terrorism, hate crime, sexual offense, civil rights law violation, or natural resource damages, or that occurs under the authority of an officer of the United States. The limitations on liability would not apply to any misconduct that constitutes a crime of violence, act of international terrorism, hate crime, sexual offense, civil rights law violation, or natural resource damages, or that occurs under the authority of an officer of the United States.

Title II of the Act addresses liability reform for non-culpable product sellers, commonly small businesses, who have long sought help in gaining a degree of protection from unwanted lawsuits. Product sellers, like your corner grocery store, provide a crucial service to all of us by offering a convenient source for a wide assortment of goods. Unfortunately, current law subjects them to harmful and unnecessary litigation; in about twenty-nine states, product sellers are drawn into the overwhelming majority of product liability cases even though they play
no part in the designing and manufacturing process, and are not to blame in any way for the harm. It is pointless to haul a product seller into the litigation when everyone in the system knows that the seller is not at fault. Dragging in the rental car dealership takes away a defense that helps no one, not the claimant, nor the product seller, and certainly not the consumer. All it does is increase the cost to product sellers of doing business in our neighborhoods, because these businesses are unnecessarily forced to bear the cost of court expenses in their defense.

Again, the real-world background presents a compelling case. In one instance, a product seller was dragged into a product liability suit even though the product it sold was shipped directly from the manufacturer to the plaintiff. In the end, the manufacturer—not the product seller—had to pay compensation to the plaintiff. Unfortunately, this was after the product seller had been forced to spend $25,000 in court expenses $25,000 that could have been used to expand the business or to provide higher salaries.

Title II would allow a plaintiff to sue a product seller only when the product seller has been found to be the harm. When the plaintiff cannot collect from the manufacturer. This limitation would cover all product liability actions brought in any Federal or State Court. However, we have specifically ensured that the provision does not apply to actions brought for certain commercial losses, and actions brought under a theory of dram-shop or third party liability arising out of the sale of alcoholic products to intoxicated persons or minors.

Additionally, rental or leasing companies are often unfairly subjected to lawsuits based on vicarious liability, which holds these companies responsible for acts committed by an individual rentee or lessee. In several states, these companies are subject to liability for the negligent tortious acts of their customers even if the rental company is not negligent and the product is not defective. This type of fault-ignorant liability is detrimental to the economy because it increases non-cul- pable companies’ costs, costs which are ultimately passed along to the rental customers.

Settlements and judgements from vicarious liability claims against rental companies cost the industry approximately $100 million annually. In Michigan, for example, a renter lost control of a car and drove off the highway. The car flipped over several times, killing a passenger who was not wearing a seat belt. The car rental company, which was not at fault, nevertheless settled for $1,226 million out of fear of being held vicariously liable for the passenger’s death.

In another case, four British sailors rented one car from Alamo to drive from Fort Lauderdale to Naples. The driver fell asleep at the wheel, and his car left the road and ended up in a canal. The driver and two passengers were killed, while the fourth passenger was seriously injured. Although the Court found Alamo not to have acted negligently, Alamo was ordered by a jury to pay the plaintiffs $7.7 million solely due to Alamo’s ownership of the vehicle.

Often even when the injured party and the driver are both at fault, it is the innocent rental company that has to bear the resulting expenses. For example, an individual in a rented auto struck a pedestrian at an intersection in a suburban commercial area on Long Island. The pedestrian, who was intoxicated, was jay-walking on her way from one bar to another. The driver was also intoxicated. The pedestrian unfortunately sustained a traumatic brain injury and was left in a permanent vegetative state. Although the auto rental company was clearly not at fault in this case, the result is predictable: the rental company was forced to settle for $8.5 million out of fear of a much larger jury award.

We believe that subjecting product renters and lessors to vicarious liability is not only unfair, but also increases the cost to all consumers. Title II resolves this problem by providing that product renters and lessors shall not be liable for the wrongful acts of another solely by reason of product ownership—product renters and lessors would only be responsible for their own acts.

I am pleased to have Senators Lieberman, Hatch, McCain, McConnell, Lott, Bond, Ashcroft, Coverdell, Nickles, Brownback, Gorton, Grassley, Sessions, Burns, Inhofe, Helms, Allard, Hagel, Mack, Bunning, Jeffords, DeWine, Craig, Hutchinson, and Enzi as original co-sponsors of the legislation and very much appreciate their support for our efforts to reform and deterrence of unlawful conduct; (3) the interest of the government in the punishment and deterrence of unlawful conduct; (4) the spurious nature of litigation and the magnitude and unpredictability of punitive damage awards and noneconomic damage awards have continued unabated for at least the past 30 years; (5) the Supreme Court of the United States has recognized that a punitive damage award can be unconstitutional if the award is grossly excessive in relation to the legislative purpose and the culpable conduct; (6) just as punitive damage awards can be grossly excessive, so can awards to plaintiffs in cases where there is no real harm to anyone; (7) as a result of joint and several liability, entities including small businesses are often brought into litigation despite the fact that the conduct may have little or nothing to do with the accident or transaction giving rise to the lawsuit, and may therefore face increased and unjust costs due to the possibility of a result of unfair and disproportionate damage awards; (8) the costs imposed by the civil justice system on small businesses are particularly acute, since small businesses often lack the resources to bear those costs and to challenge unwarranted lawsuits; (9) due to high liability costs and unwarranted litigation costs, small businesses face higher costs in purchasing insurance through interstate insurance markets to cover their activities; (10) liability reform for small businesses will promote the free flow of goods and services, lessen burdens on interstate commerce, and decrease litigiousness; and (11) legislation to address these concerns is an important exercise of the powers of Congress under clauses 3, 9, and 18 of section 8 of...
article I of the Constitution of the United States, and the 14 amendment to the Constitution of the United States.

SEC. 102. DEFINITIONS.

In this title:
(1) ACT OF INTERNATIONAL TERRORISM.—The term ‘act of international terrorism’ has the same meaning as in section 2331 of title 18, United States Code.
(2) CRIME OF VIOLENCE.—The term ‘crime of violence’ has the same meaning as in section 16 of title 18, United States Code.
(3) DANGEROUS PRODUCT.—The term ‘dangerous product’ means a product that is defective or dangerous under applicable State law.

SEC. 103. LIMITATION ON PUNITIVE DAMAGES AGAINST LARGE BUSINESSES.

(a) GENERAL RULE.—Except as provided in section 105, in any civil action against a large business, punitive damages may, to the extent permitted by applicable State law, be awarded against the large business only if the claimant establishes by clear and convincing evidence that conduct carried out by that defendant through willful misconduct or with a conscious, flagrant indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the claim.

(b) LIMITATION ON AMOUNT.—In any civil action against a large business, punitive damages shall not exceed the lesser of—
(1) $250,000; or
(2) 2 times the total amount awarded to the claimant for economic and noneconomic losses; or
(c) APPLICATION BY COURT.—This section shall not be applied by the court and shall not be disclosed to the jury.

SEC. 104. LIMITATION ON SEVERAL LIABILITY FOR NONECONOMIC LOSS FOR SMALL BUSINESSES.

(a) GENERAL RULE.—Except as provided in section 105, in any civil action against a small business, the liability of each defendant that is a small business, or the agent of a small business, for noneconomic loss shall be determined in accordance with subsection (b).

(b) AMOUNT OF LIABILITY.—
(1) IN GENERAL.—In any civil action described in section 105, the court shall render a separate judgment against each defendant in that subsection in an amount determined under subparagraph (A).
(2) PERCENTAGE OF LIABILITY.—For purposes of determining the amount of noneconomic loss allocated to each defendant under subparagraph (A), the court shall determine the percentage of responsibility of each person responsible for the harm to the claimant, regardless of whether or not the person is a party to the action.

SEC. 105. EXCEPTIONS TO LIMITATIONS ON LIABILITY.

The limitations on liability under sections 103 and 104 do not apply to any misconduct of a defendant—
(1) that constitutes—
(A) a crime of violence;
(B) an act of international terrorism; or
(C) a hate crime; and
(2) that results in liability for damages relating to the injury, destruction of, or loss of use of, natural resources described in—
(A) section 1002(2)(A) of the Oil Pollution Act of 1990 (33 U.S.C. 2702(2)(A)); or
(B) section 3010a(4)(C) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)(4)(C));
(3) that involves—
(A) a sexual offense, as defined by applicable State law; or
(B) a violation of a Federal or State civil rights law.

If the defendant was under the influence (as determined under applicable State law) of intoxicating alcohol or a drug at the time of the misconduct, and the fact that the defendant was under the influence was the cause of any harm alleged by the plaintiff in the subject action.

SEC. 106. PREEMPTION AND ELECTION OF STATE NONAPPLICATION.

(a) PREEMPTION.—Subject to subsection (b), this title shall preempt any State law that provides additional protections from liability for small businesses.

(b) ELECTION OF STATE REGARDING NONAPPLICATION.—This title does not apply to any action in a State court against a small business if the State in which all parties are citizens of the State, if the State enacts a statute—
(1) citing the authority of this subsection;
(2) declaring the election of such State that this title does not apply to any action that is subject to the provisions of this title; and
(3) containing no other provision.

SEC. 107. EFFECTIVE DATE.

(a) IN GENERAL.—This title shall take effect 90 days after the date of enactment of this Act.
(b) APPLICATION.—This title applies to any claim for harm caused by an act or omission of a small business, if the claim is filed on or after the effective date of this title, without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such effective date.

TITLE II—PRODUCT SELLER FAIR TREATMENT

SEC. 201. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—
(1) although damage awards in product liability actions may encourage the production of safer products, they may also have a direct effect on interstate commerce and the economies of the United States by increasing the cost of, and decreasing the availability of, products;

(b) PURPOSES.—The purposes of this Act, based on the powers of the United States under clause 3 of section 8 of article I of the United States Constitution, are to promote the free flow of goods and services and lessen the burdens on interstate commerce, by—
(1) establishing certain uniform and principles of product liability that provide a fair balance among the interests of all parties in the chain of production, distribution, and use of products; and
(2) reducing the unacceptable costs and delays in product liability actions caused by excessive litigation that harms both plaintiffs and defendants.

SEC. 202. DEFINITIONS.

In this title:
(1) ALCOHOL PRODUCT.—The term ‘alcohol product’ includes any product that contains not less than 1/2 of 1 percent of alcohol by volume and is intended for human consumption;
(2) CLAIMANT.—The term ‘claimant’ means any person who brings an action covered by this title and any person on whose behalf such an action is brought. If such an action is brought through or on behalf of an estate, the term includes the claimant’s decedent. If such an action is brought through or on behalf of a minor or incompetent, the term includes the claimant’s legal guardian.
(3) COMMERCIAL LOSS.—The term ‘commercial loss’ means—
(A) any loss or damage solely to a product itself or another article of commerce;
(B) loss relating to a dispute over the value of a product; or
(C) consequential economic loss, the recovery of which is governed by applicable State commercial or contract laws that are similar to the Uniform Commercial Code.
(4) COMPENSATORY DAMAGES.—The term ‘compensatory damages’ awarded for economic and noneconomic losses.
(5) DRAM-SHOP.—The term “drum-shop” means a drinking establishment where alcoholic beverages are sold to be consumed on the premises.

(6) ECONOMIC LOSS.—The term “economic loss” means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expenses, property damage, loss of the use of personal property, loss of income, property that is caused by a product.

(7) HARM.—The term “harm” includes physical, nonphysical, economic, and non-economic loss.

(8) MANUFACTURER.—The term “manufacturer” means—
(A) any person who—
(i) designs or formulates the product (or component part of the product); or
(ii) has engaged another person to design or formulate the product (or component part of the product);
(B) a product seller, but only with respect to those aspects of a product (or component part thereof) that are created or affected when, before placing the product in the stream of commerce, the product seller—
(i) makes, constructs and designs, or formulates an aspect of the product (or component part of the product) made by another person; or
(ii) has engaged another person to design or formulate an aspect of the product (or component part of the product) made by another person; or
(C) a product seller not described in subparagraph (B) that holds itself out as a manufacturer to the user of the product.

(9) NONECONOMIC LOSS.—The term “noneconomic loss” means loss for physical or emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), injury to reputation, or any other noneconomic loss of any kind or nature.

(10) PERSON.—The term “person” means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(11) PRODUCT.—
(A) IN GENERAL.—The term “product” means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state that—
(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;
(ii) is produced for introduction into trade or commerce;
(iii) has intrinsic economic value; and
(iv) is capable of being sold to persons for commercial or personal use.

(B) EXCLUSION.—The term “product” does not include—
(i) the organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) is leased, rented, or sold by a person other than a manufacturer and under applicable State law, to a standard of liability other than negligences; or
(ii) electricity, water delivered by a utility, natural gas, or any similar commodity.

(12) PRODUCT LIABILITY ACTION.—The term “product liability action” means a civil action brought under any theory of liability for harm caused by the product or to persons for personal injury, illness, or death, or damage to property that is caused by a product.

(13) PRODUCT SELLER.—
(A) IN GENERAL.—The term “product seller” means a person who in the course of a business conducted for that purpose—
(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or
(ii) installs, repairs, refurbishes, reconditions, or otherwise obtains the harm-causing aspect of the product.

(B) EXCLUSION.—The term “product seller” does not include—
(i) a seller or lessor of real property;
(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or
(iii) any person who—
(I) acts in only a financial capacity with respect to the sale of a product; or
(Id) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(14) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

SEC. 202. APPLICABILITY; PREEMPTION.
(a) PREEMPTION.—
(1) IN GENERAL.—Except as provided in paragraph (2), this title governs any product liability action brought in any Federal or State court.

(2) ACTIONS EXCLUDED.—
(A) ACTIONS FOR COMMERCIAL LOSS.—A civil action brought for commercial loss caused or contributed to by any failure of a State commercial or contract laws that are similar to the Uniform Commercial Code.

(B) ACTIONS FOR NEGLIGENT ENTRUSTMENT; NEGLIGENCE PER SE CONCERNING FIREARMS AND AMMUNITION; DRAM-SHOP.—
(I) NEGLIGENCE ENTRUSTMENT.—A civil action for negligent entrustment shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

(ii) NEGLIGENCE PER SE CONCERNING FIREARMS AND AMMUNITION.—A civil action brought under a theory of negligence per se concerning firearms or ammunition shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

(iii) DRAM-SHOP.—A civil action brought under a theory of dram-shop or third-party liability arising out of the sale or providing of an alcoholic beverage to an intoxicated person or minor shall not be subject to the provisions of this title, but shall be subject to any applicable Federal or State law.

(3) R EASONABLE OPPORTUNITY FOR INSPECTION.—A product seller engaged in interstate or foreign commerce is or would be unable to enforce a judgment under applicable State law.

(4) EFFECT ON OTHER LAWS.—Nothing in this title shall be construed to—
(A) waive or affect any defense of sovereign immunity asserted by the United States; or
(B) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or to a citizen of a foreign nation on the ground of inconvenient forum; or
(C) preempt any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil penalties, cleanup costs, injuries, and damages, or any other form of relief, for the remediation of the environment (as defined in section 101(18) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(18))).

SEC. 204. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS, RENTERS, AND LESSORS.
(a) GENERAL RULES.—
(1) IN GENERAL.—In any product liability action under this Act, a product seller other than a manufacturer shall be liable to a claimant only if the claimant establishes that—
(A) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller; or
(B) the product seller failed to exercise reasonable care with respect to the product; and
(C) the failure to exercise reasonable care was a proximate cause of the harm to the claimant;

(2) ALLON TO THE CLAIMANT.—The policy maker made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(3) THE PRODUCT SELLER FAILED TO CONFORM TO THE WARRANTY; and

(4) THE FAILURE OF THE PRODUCT TO CONFORM TO THE WARRANTY CAUSED THE HARM TO THE CLAIMANT;

(b) SPECIAL RULE.—
(1) IN GENERAL.—A product seller shall be deemed to be liable for harm caused by a product for harm caused by the product, if—
(A) the product seller is or would be unable to enforce a judgment under applicable State law; and
(B) the product Seller, in the exercise of reasonable care, would not have revealed the aspect of the product that allegedly caused the claimant's harm.

(c) RELATIVE LIABILITY.—For purposes of this subsection only, the statute of limitations applicable to claims asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer.

(2) DEFINITION.—For purposes of paragraph (2), and for determining the applicability of...
this title to any person subject to that paragraph, the term “product liability action” means a civil action brought on any theory for harm caused by a product or product use. (2) When a product is not contributed to the defectiveness of its ingredients by the defendant or the defense is not an applicable provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded under subsection (a), and under section 102(13)(B)) shall be subject to liability in a product liability action under subsection (a), but any person engaged in the business of renting or selling a product shall not be liable to a claimant for the tortious act of another solely by reason of ownership of that product.

Section 105: Exceptions to limitations on liability

Section 105: Exceptions to limitations on liability

SEC. 205. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction under this title based on section 1331 or 1337 of title 28, United States Code.

SEC. 206. EFFECTIVE DATE.

This title shall apply with respect to any action commenced on or after the date of enactment of this Act without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before that date of enactment.

The SMALL BUSINESS LIABILITY REFORM ACT OF 1999—SECTION BY-SECTION ANALYSIS

A bill to offer small businesses and product sellers certain protections from litigation excesses.

TITLE I: SMALL BUSINESS LAWSUIT ABUSE PROTECTION

Section 101: Finding

This section sets out congressional findings concerning the litigation excesses facing small businesses, and the need for litigation reforms to provide certain protections to small businesses from abusive litigation.

Section 102: Definitions

Various terms used in this title are defined in this section. Significantly, for purposes of the legislation, a small business is defined as any business or organization with fewer than 25 full time employees.

Section 103: Limitation on punitive damages for small businesses

This section provides that punitive damages that are permitted by applicable State law, be awarded against a defendant that is a small business only if the claimant establishes by clear and convincing evidence that the defendant, with a conscious, flagrant indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the action.

Section 104: Limitation on joint and several liability for noneconomic loss

This section provides that, in any civil action against a small business, punitive damages may not exceed the lesser of two times the amount awarded to the claimant for economic and noneconomic losses, or $250,000.

Section 105: Exceptions to limitations on liability

The limitations on liability included in this title would not apply to any misconduct that constitutes a crime of violence, act of international terrorism, hate crime, sexual offense, civil rights law violation, or natural resource damages, or which occurred while the defendant was under the influence of intoxicating alcohol or any drug.

Section 106: Preemption and election of State nonapplicability

This title preempts State laws to the extent that they are inconsistent with it, but it does not preempt any State law that provides additional protections from liability to small businesses. The title also indexes provisions regarding these States.

Section 107: Effective date

This title would take effect 90 days after the date of enactment, and would apply to claims filed on or after the effective date.

TITLE III: PRODUCT SELLER FAIR TREATMENT

Section 201: Findings

This section sets out congressional findings concerning the effect of damage awards in product liability actions on interstate commerce, the present inequities resulting from inconsistent product liability laws within and among the States, and the need for national, uniform federal product liability laws.

Section 202: Definitions

Various terms and phrases used in this title are defined.

Section 203: Applicability; preemption

This title applies to any product liability action brought in any Federal or State court. Civil actions for commercial loss; negligent entrustment; negligence per se concerning firearms and ammunition; and civil actions for dram shop liability are excluded from the applicability of this title.

Section 204: Liability rules applicable to product sellers, renters and lessors

Product sellers other than the manufacturer (wholesaler-distributors and retailers, for example) may be held liable only if they had a reason to know that the product was defective; if the harm was caused by the failure of the product to conform to the product seller’s own, independent express warranty; or if harm was the result of the product seller’s intentional wrongdoing.

Product sellers shall “stand in the shoes” of a culpable manufacturer when the manufacturer is “judgment-proof.” The statute of limitations in such cases is tolled.

Finally, product renters and lessors shall not be liable for the tortuous acts of another solely by reason of ownership.

Section 205: Federal cause of action precluded

This title does not create Federal district court jurisdiction pursuant to Sections 1331 or 1337 of Title 28, United States Code.

Section 206: Effective date

This title shall apply to any action commenced on or after the date of enactment.

NAW ENDorses Abraham-LieberMAN LEGAL PROTECTION

WASHINGTON, D.C.—The National Association of Wholesaler-Distributors (NAW) today gave its “enthusiastic and wholehearted support” to the Small Business Liability Reform Act of 1999, which would significantly reduce the exposure of wholesaler-distributors and product sellers such as wholesalers, retailers, lessors and renters to harms caused by their own negligence or intentional wrongdoing, the product’s breech of the seller’s own express warranty, and for the product manufacturer’s responsibility when the manufacturer is judgment-proof.

“The product liability laws of a majority of the States do not make the distinction between the differing roles of manufacturers and non-manufacturer product sellers. As a result, blameless wholesaler-distributors are routinely joined in product liability lawsuits simply because they are in the product’s chain of distribution,” explained George Keeley, NAW general counsel and senior partner in the firm of Keeley, Kuenn & Reid.

“In the end, the staggering legal fees which cost the seller dearly do not benefit the claimant in any way. These costs will be significantly reduced if the Abraham-Lieberman bill is enacted.”

“For too long, wholesaler-distributors have been among the worst product liability system that serves the interests of trial lawyers very well, at everyone else’s expense,” said Dirk Van Dongen, NAW’s president. “For nearly two decades, NAW has vigorously advocated Federal legislation to rein-in these abuses. Enactment of the Small Business Liability Reform Act of 1999 is at the very top of our agenda for the 106th Congress and I commend Senators Abraham and Lieberman for their continuing, tireless leadership of this important effort.”

NAW BACKS NEW LEGAL REFORM INITIATIVE

WASHINGTON, D.C.—The National Federation of Independent Business (NFIB) will support new legal reforms that aim to protect small-business owners from frivolous lawsuits and the threat of being “stuck with the whole tab” for damage awards arising from incidents in which they were only “bit players.”

The nation’s leading small-business advocacy group, NFIB hailed today’s introduction in the House of Representatives of the Small Business Liability Reform Act of 1999. Sponsored by U.S. Sens. Spencer Abraham (Mich.) and Joseph Lieberman (Conn.), the proposal would limit the amount any one person or company may be forced to pay in damages caused by another company’s misconduct.

The measure would also eliminate joint-and-several liability for small firms, leaving them responsible for paying only their “proportionate” share of economic and non-economic damages. Under the current doctrine of joint-and-several liability, defendants found to be as little as 1 percent “at fault” in a civil case may be held responsible for paying all assessed damages, if no other defendants are able to pay.

“This bill strikes a long-overdue blow on behalf of fairness, common sense and true justice,” said Dan Jett, president of federal public policy. “Limiting punitive damages and exposure to liability will...
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make small businesses a much less lucrative—and, thus, a much less attractive—target for trial lawyers and others tempted to file frivolous lawsuits to extort settlements.

"Emotional liability will improve justice by making sure small-business owners pay their fair share of damages—but not more," he continued. "Under the current doctrine of comparative negligence, the victim often creates yet another victim—the marginally-involved business owner who is left holding the bag for everyone else involved.

The Abraham-Lieberman bill would limit liability in all types of civil lawsuits for businesses with fewer than 25 employees. NFIB's Danner estimated the liability limitations would apply to "a little more than 90 percent" of all employing businesses. "Passage would bring relief to literally millions of small-business owners and their families," he said. "It would certainly ease Main Street's growing anxiety about being slapped with—and ruined by—a Mickey Mouse lawsuit."

"When we asked our members in Alabama to identify the biggest problem facing their businesses, the most frequent answer, by far, was 'cost of liability insurance/fear of lawsuits,'" Danner noted. "Another problem, 'street crime,' drew only a third as many respondents.

"There's something dreadfully wrong with our justice system when small-business owners are more afraid of being mugged by trial lawyers than by common street thugs."

A nationwide survey of NFIB's 600,000 members found virtually all (93 percent) favor capping punitive damages. "Small-business owners support any measures that will restore fairness, balance and common sense to our civil justice system," Danner said. "We have pledged our full support to Sens. Abraham and Lieberman in their efforts to do just that, through their Small Business Liability Reform Act."

Eliminating frivolous lawsuits is a priority in NFIB's Small Business Growth Agenda for the 106th Congress. To learn more about the Act of NFIB's Agenda, please contact McCall Cameron at 202-554-9000.

SBLC APPLAUDS SENATOR ABRAHAM'S SMALL BUSINESS LIABILITY REFORM LEGISLATION

WASHINGTON, D.C.—"We are pleased that Senator Spencer Abraham has introduced legislation that will have a significant impact on the small businesses in the U.S.," said David Gorin, Chairman of the Small Business Legislative Council (SBLC). Mr. Gorin's remarks relate to the Small Business Liability Reform Act of 1999, which Senator Abraham and Senator Joseph Lieberman have introduced today. The legislation proposes a $250,000 limit on punitive damages for small businesses as well as provide protection from product-related injuries for non-manufacturing product sellers.

"For far too long, small businesses have been the losers in litigation. As our civil justice system has moved farther and farther away from common sense, small businesses have had to absorb an increasing hidden cost of doing business. That hidden cost is the result of making decisions and undertaking actions, not on the basis of what makes good business sense, but rather on the basis of 'will I be sued?'

"Gorin concluded, "The Small Business Legislative Council strongly supports Senator Abraham's legislation. SBLC believes the Small Business Liability Reform Act will restore common sense to the civil justice system and allow small businesses to make decisions on the basis of what's best for the economy, not the trial lawyers."

The SBLC is a permanent, independent coalition of nearly eighty trade and professional associations that share a common commitment to the future of small businesses. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, agriculture, and insurance. Our policies are developed through a consensus among our membership. Individual associations may express their own views.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

ACL
Air Conditioning Contractors of America

ACIL
Air Conditioning Contractors of America

ACM
American Machine Tool Distributors Association

American Animal Hospital Association
American Association of Equine Practitioners
American Bus Association
American Consulting Engineers Council
American Machine Tool Distributors Association
American Nursery and Landscape Association
American Road & Transportation Builders Association
American Society of Interior Designers
American Society of Travel Agents, Inc.
American Subcontractors Association
American Textile Machinery Association
American Trucking Associations, Inc.
Architectural Precast Association
Associated Equipment Distributors
Associated Landscape Contractors of America
Association of Small Business Development Centers
Association of Sales and Marketing Companies
Automotive Recyclers Association
Automotive Service Association
Bowling Proprietors Association of America
Building Service Contractors Association International
Business Advertising Council
CBA
Council of Fleet Specialists
Council of Growing Companies
Direct Selling Association
Electronics Representatives Association
Florists’ Transworld Delivery Association
Health Industry Representatives Association
Helicopter Association International
Independent Bankers Association of America
Independent Medical Distributors Association
International Association of Refrigerated Warehouses
International Foodservice Equipment Manufacturers Association
International Franchise Association
International Plumbing, Heating, Cooling Contractors
International Association of Realtors
National Association of the Remodeling Industry
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National Association of the Remodeling Industry
National Association of Surety Bond Producers
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National Association of Surety Bond Producers
National Chimney Sweep Guild
National Community Pharmacists Association
National Electrical Contractors Association
National Electrical Manufacturers Representatives Association
National Funeral Directors Association, Inc.
National Lumber & Building Material Dealers Association
National Moving and Storage Association
National Ornamental & Miscellaneous Metals Association
National Paperbox Association
National Shoe Retailers Association
National Society of Public Accountants
National Tooling and Machining Association
National Tour Association
National Wood Flooring Association
Opticians Association of America
Petroleum Marketers Association of America
Power Transmission Representatives Association
Printing Industries of America, Inc.
Professional Lawn Care Association of America
Promotional Products Association International
The Retailer’s Bakery Association
Small Business Council of America, Inc.
Small Business Exporters Association
SMC Business Council
Small Business Technology Coalition
Society of American Florists
Turfgrass Producers International
Tire Association of North America
United Motorcoach Association

NSBU ENTHUSIASTICALLY SUPPORTS SMALL BUSINESS LIABILITY BILL

SMALL BUSINESS ASSOCIATION OF MICHIGAN

ALSO LENDS THEIR SUPPORT

WASHINGTON, DC—National Small Business United (NSBU), the nation’s oldest bipartisan small business advocacy organization, is pleased to announce their support for the Small Business Liability Reform Act of 1999. The Small Business Association of Michigan (SBAM), one of NSBU’s affiliate groups, has so announced their support for the legislation which will provide protections to small business from frivolous and excessive litigation as well as limiting the product liability of non-manufacturer product sellers.

Senators Spencer Abraham (R-Mich.) and Joseph Lieberman (D-Conn.), both of whom sit on the Senate Committee on Small Business, will introduce this measure which provides critical and necessary restrictions upon litigation, while not prohibiting legitimate litigation. "In today’s litigious environment, small businesses are often used as a scapegoat. Everyday, small businesses are forced to shut down and close because of these frivolous, and often times, unnecessary lawsuits," said Tom Farrell, NSBU Chair and owner of Farrell Consulting, Inc, in Pittsburgh, PA. The Small Business Liability Reform Act will finally place some common sense limitations on these unfounded lawsuits.”

NSBU joins SBAM in applauding Senators Abraham and Lieberman for their pragmatic leadership on such an important issue for the small business community.

NRF SUPPORTS BILL TO PROTECT SMALL BUSINESSES FROM UNNECESSARY LITIGATION

WASHINGTON, DC—The National Retail Federation voiced its support for the Small
Business Liability Reform Act of 1999. The bill, which is sponsored by Senators Spencer Abraham (R-MI) and Joe Lieberman (D-CT), would help protect small businesses from frivolous, meritorious against those most responsible. The “Small Business Liability Reform Act of 1999” by Sen-

SAYS SMALL RESTAURANTS NEED PROTECTION FROM COSTLY, EXCESSIVE LITIGATION
WASHINGTON, DC—Saying that just one costly lawsuit is enough to put a restaurant out of business, the National Restaurant Association today strongly endorsed a bill sponsored by Sens. Spencer Abraham (R-MI) and J. Lieberman (D-CT) to protect small businesses from litigation abuse.

The Association today strongly endorsed a bill sponsored by Sens. Spencer Abraham (R-MI) and Joe Lieberman (D-CT) to protect small businesses from litigation abuse. The “Small Business Liability Reform Act of 1999” by Sens. Abraham and Lieberman would provide innocent distributors from product liability lawsuits retailers and distributors with the ability to bring a product seller to Federal court or to pursue product liability suits in Federal court.

WASHINGTON, D.C.—The American Consulting Engineers Council (ACEC) strongly supports the “Small Business Liability Re- form Act of 1999” which was introduced today by Senators Spencer Abraham (R-MI) and Joe Lieberman (D-CT). The legislation, which builds on proposals that have been endorsed by ACEC in recent Congresses, will improve our nation’s civil justice system through a package of care- fully-targeted reforms that will deter unwarranted, frivolous and needlessly wasteful litigation against employers, and particularly small businesses.

The threat of litigation and frivolous lawsuits continues to be a primary concern for consulting engineering firms according to ACEC’s recent Professional Liability Survey report. ACEC officials estimate that 25 percent of consulting engineering firms reported that the threat of litigation stifled the use of innovative technologies or tools while working on projects. Over one-third of all ACEC members fear the specter of lawyers who have no involvement other than selling the product can taint the market for professional services that consultants have come to expect from mass retail stores. He added, “The Abraham-Lieberman bill would provide innocent retailers and distributors with reasonable safeguards, while still allowing consumers to pursue claims they believe are meritorious against those most responsible for the product.”

ABC APPLAUDS INTRODUCTION OF SMALL BUSINESS LIABILITY REFORM

ABC President David Bush said, “ABC has long been supportive of legislation reform as a solution to punitive damages and joint liability for non-economic damages in any civil action, with the exception of lawsuits involving cer- tain types of egregious conduct. If passed, the bill would limit punitive damages to the lesser of two times the amount awarded to the plaintiff or the lesser of $250,000 or the product’s gross profit margin.”

IMRA HAILS BILL LIMITING RETAILERS’ EXPOSURE TO PRODUCT LIABILITY SUITS
ARLINGTON, VA—The International Mass Retail Association (IMRA) applauds today’s introduction of the bipartisan “Small Business Liability Reform Act of 1999” by Sen- ators Abraham (R-MI) and Joseph Lieberman (D-CT). The bill would shield retailers, product liability laws for many years without prompting major controversy.

“Product safety is an important concern for the nation’s mass retailers,” Verdisco noted, “but groundless, costly product liability cases against retailers who have no in-volvement other than selling the product can taint the market for professional services that consultants have come to expect from mass retail stores.” He added, “The Abraham-Lieberman bill would provide innocent retailers and distributors with reasonable safeguards, while still allowing consumers to pursue claims they believe are meritorious against those most responsible for the product.”

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The legislation would limit punitive damages and joint liability for non-economic damages against small businesses in any civil case. The chilling effects of our country's litigation crisis, however, goes well beyond our own volunteers.

Lawsuits and the mere threat of lawsuits impede invention and innovation, and the competitive position our nation has enjoyed in the world marketplace. The litigation crisis has several pernicious effects. For example, it discourages the production of more and better products, while encouraging the production of more and more attorneys. In 1995, there were only one lawyer for every 659 Americans. Today, in contrast, there is one lawyer for every 290 people. In fact, we have more lawyers per capita than any other Western democracy.

Mr. President, don't get me wrong—there is nothing inherently wrong with being a lawyer. I am proud to be a graduate of the University of Kentucky College of Law. My point, however, is simple: government and society should promote a world where its more desirable to create goods and services than to sue small businesses.

The chilling effects of our country's litigation epidemic are felt throughout our national economy—especially by our small businesses. We must act to remove the litigation harness that constrains our nation's small businesses.

Small businesses are vital to our nation's economy. My state provides a perfect example of the importance of small business. In Kentucky, more than 85% of our businesses are small businesses. The Small Business Lawsuit Abuse Protection Act is a narrowly-crafted bill which seeks to restore some rationality, certainty and civility to the legal system.

First, Title I of this bill would offer limited relief to businesses or organizations that have 25 or fewer full-time employees. Title I seeks to provide some reasonable limits on punitive damages, which typically serve as a windfall to plaintiffs. It also provides for a defendant's responsibility for non-economic losses would be in proportion to the business's responsibility for causing the harm.

The other Title in the bill includes liability reforms for innocent product sellers—which are very often small businesses. These businesses are often dragged into product liability cases even though they did not produce, design or manufacture the product, and are not in any way to blame for the harm that the product is alleged to have caused. Title II would help protect product sellers from being subjected to frivolous lawsuits when they are not responsible for the alleged harm.

Now, let me explain what this bill does not do. It does not close the courthouse door to plaintiffs who sue small businesses. For example, this bill does not limit a plaintiff's ability to sue a small business for an act of negligence, or any other act, for that manner. It also does not prevent a plaintiff from recovering from product sellers when those sellers are responsible for harm.

Mr. President, this is a sensible, narrowly-tailored piece of legislation that is greatly needed to free up the enterprising spirit of our small businesses. I look forward to the Senate's consideration of this important legislation.

ADDITIONAL COSPONSORS

S. 10

At the request of Mr. Daschle, the name of the Senator from New York (Mr. Schumer) was added as a cosponsor of S. 10, a bill to provide health programs to certain individuals with disabilities, to establish the National Health Service Corps Scholarship Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes.

S. 13

At the request of Mr. Robb, his name was added as a cosponsor of S. 13, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives for education.

S. 42

At the request of Mr. Helms, the name of the Senator from New Hampshire (Mr. Smith) was added as a cosponsor of S. 42, a bill to amend the Public Health Service Act to permit family planning projects to offer adoption services.

S. 51

At the request of Mr. Biden, the name of the Senator from Indiana (Mr. Bayh) was added as a cosponsor of S. 51, a bill to reauthorize Federal programs to prevent violence against women, and for other purposes.

S. 97

At the request of Mr. McCain, the name of the Senator from Texas (Mrs. Hutchison) was added as a cosponsor of S. 97, a bill to require the installation and use by schools and libraries of a technology for filtering or blocking material on the Internet on computers with Internet access to be eligible to receive or retain universal service assistance.

S. 216

At the request of Mr. Mowihon, the name of the Senator from Rhode Island (Mr. Chafee) was added as a cosponsor of S. 216, a bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the use of foreign tax credits under the alternative minimum tax.

S. 288

At the request of Mr. Robb, his name was added as a cosponsor of S. 288, a bill to amend the Internal Revenue Code of 1986 to exclude from income certain amounts received under the National Health Service Corps Scholarship Program and F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program.

S. 317

At the request of Mr. Dorgan, the name of the Senator from Arkansas (Mrs. Lincoln) was added as a cosponsor of S. 317, a bill to amend the Internal Revenue Code of 1986 to provide an exclusion for gain from the sale of farmland which is similar to the exclusion from gain on the sale of a principal residence.

S. 331

At the request of Mr. Jeffords, the name of the Senator from Missouri (Mr. Ashcroft) was added as a cosponsor of S. 331, a bill to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program and the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes.

S. 343

At the request of Mr. Bond, the name of the Senator from Indiana (Mr. Lugar) was added as a cosponsor 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. 344

At the request of Mr. Bond, the name of the Senator from New Hampshire (Mr. Gregg) was added as a cosponsor of S. 344, a bill to amend the Internal Revenue Code of 1986 to provide a safe harbor for determining that certain individuals are not employees.

S. 429

At the request of Mr. Durbin, the name of the Senator from Maryland (Mr. Sarbanes) was added as a cosponsor of S. 429, a bill to designate the legal public holiday of "Washington's Birthday" as "Presidents' Day" in