

States as an adult and applied to reactivate his permanent residency. It was granted and he enlisted in the Army. A few years later, the Board of Immigration Appeals reversed its decision and ordered Sergeant Bojorquez deported.

For several years he filed motions and appeals, and in a final attempt to become a citizen of this country, Manuel contacted the President on July 12, 1994, and requested that he designate the Persian Gulf war a period of military hostility which would allow active duty aliens, such as himself, to apply for naturalization.

Despite the concern, support, and assistance of Representative CRAMER and myself, 2 weeks before Thanksgiving the District Director of the Immigration and Naturalization Service informed Manuel he would be deported on February 1, 1995. With little hope left, Manuel contacted the President again and finally his prayers were answered.

Impressed by Manuel's commitment to serving his adopted country, the President passed an Executive order which not only allows Manuel to become a citizen, but also includes other active duty aliens who fought in the Persian Gulf war. This young, vibrant family man proved to us all that the American dream still lives.

Manuel's selfless dedication to defending our country, which he could not call his own until today, is a superior example to all American citizens. I applaud him for his tireless efforts and I thank him for the reminder of how lucky we are to live in this great Nation.

#### REPORT OF THE AGREEMENT BETWEEN THE UNITED STATES AND ESTONIA RELATIVE TO FISHERIES—MESSAGE FROM THE PRESIDENT—PM-1

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; referred jointly, pursuant to 16 U.S.C. 1823(b), to the Committee on Commerce, Science, and Transportation, and to the Committee on Foreign Relations.

#### *To the Congress of the United States*

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 *et seq.*), I transmit herewith the Agreement between the Government of the United States of America and the Government of the Republic of Estonia Extending the Agreement of June 1, 1992, Concerning Fisheries Off the Coasts of the United States. The Agreement, which was effected by an exchange of notes at Tallinn on March 11 and May 12, 1994, extends the 1992 Agreement to June 30, 1996.

In light of the importance of our fisheries relationship with the Republic of Estonia, I urge that the Congress give favorable consideration to this Agreement at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, January 19, 1995.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRASSLEY:

S. 243. A bill to provide greater access to civil justice by reducing costs and delay, and for other purposes; to the Committee on the Judiciary.

By Mr. NUNN (for himself, Mr. ROTH, Mr. GLENN, Mr. BOND, Mr. BUMPERS, Mr. PRESSLER, Mr. LIEBERMAN, Mrs. HUTCHISON, Mr. JOHNSTON, Mr. DOMENICI, Mr. HOLLINGS, Mr. NICKLES, Mr. BREAUX, Mr. WARNER, Mr. ROBB, Mr. COCHRAN, Mr. BRYAN, Mr. SMITH, Mr. LAUTENBERG, Mr. MACK, Ms. MOSELEY-BRAUN, and Mr. SHELBY):

S. 244. A bill to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes; to the Committee on Governmental Affairs.

By Mr. COHEN (for himself, Mr. DOLE, Mr. SIMPSON, Mr. STEVENS, Mr. D'AMATO, Mr. GRAHAM, Mr. COATS, Mr. GREGG, Mr. WARNER, Mr. NICKLES, Mr. PRYOR, Mr. BOND, Mr. CHAFEE, Mr. FORD, and Mr. DOMENICI):

S. 245. A bill to provide for enhanced penalties for health care fraud, and for other purposes; to the Committee on Finance.

By Mr. LIEBERMAN:

S. 246. A bill to establish demonstration projects to expand innovations in State administration of the aid to families with dependent children under title IV of the Social Security Act, and for other purposes; to the Committee on Finance.

By Mr. GREGG (for himself and Mr. COCHRAN):

S. 247. A bill to improve senior citizen housing safety; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GREGG (for himself, Mrs. HUTCHISON, Mr. LOTT, Mr. GRAMM, Mr. NICKLES, and Mr. WARNER):

S. 248. A bill to delay the required implementation date for enhanced vehicle inspection and maintenance programs under the Clean Air Act and to require the Administrator of the Environmental Protection Agency to reissue the regulations relating to the programs, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. HUTCHISON (for herself, Mr. BROWN, Mr. D'AMATO, and Mrs. FEINSTEIN):

S. 249. A bill to amend title IV of the Social Security Act to require States to establish a 2-digit fingerprint matching identification system in order to prevent multiple enrollments by an individual for benefits under such Act, and for other purposes; to the Committee on Finance.

By Mr. MCCONNELL:

S. 250. A bill to amend chapter 41 of title 28, United States Code, to provide for an analysis of certain bills and resolutions pending before the Congress by the Director of the Administrative Office of the United States Courts, and for other purposes; to the Committee on the Judiciary.

By Mr. MCCAIN:

S. 251. A bill to make provisions of title IV of the Trade Act of 1974 applicable to Cambodia; to the Committee on Finance.

By Mr. THOMPSON (for himself, Mr. ASHCROFT, Mr. ABRAHAM, Mr. BOND, Mr. BROWN, Mr. BURNS, Mr. COVERDELL, Mr. CRAIG, Mr. FAIRCLOTH, Mr. FRIST, Mrs. HUTCHISON, Mr. INHOFE, Mr. MACK, Mr. PACKWOOD, Mr. SMITH, and Mr. THOMAS):

S.J. Res. 21. A joint resolution proposing a constitutional amendment to limit congressional terms; to the Committee on the Judiciary.

By Mr. GRAMS (for himself, Mr. LOTT, Mr. INHOFE, Mr. THOMAS, and Mr. MACK):

S.J. Res. 22. A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget; 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. DORGAN:

S. Con. Res. 2. A concurrent resolution expressing the sense of the Congress that the People's Republic of China should purchase a majority of its imported wheat from the United States in order to reduce the trade imbalance between the People's Republic of China and the United States; to the Committee on Finance.

By Mr. SIMON (for himself and Mr. BROWN)

S. Con. Res. 3. A concurrent resolution relative to Taiwan and the United Nations; to the Committee on Foreign Relations.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY:

S. 243. A bill to provide greater access to civil justice by reducing costs and delay, and for other purposes; to the Committee on the Judiciary.

#### THE CIVIL JUSTICE REFORM ACT OF 1995

Mr. GRASSLEY. Mr. President, I rise today to introduce legislation to reform America's Federal Civil Justice System. The purpose of this bill, the Civil Justice Reform Act of 1995, is to improve deserving parties' access to the Federal courts by reducing the volume of frivolous cases, to reduce the costs of Federal civil litigation, and to encourage the settlement of disputes. It is similar to the bill introduced by Senator DECONCINI and myself in March 1993.

This bill introduces some modest reforms that will reduce the economic and social costs our society has borne due to the litigation explosion. Our society spends billions of dollars every year on civil lawsuits. More than \$1 billion goes just to pay for the Federal district courts, which handle hundreds of thousands of civil cases annually. It has become clear to most Americans that our system of dispute resolution through adversarial lawsuits has gotten out of hand, and reason needs to be restored to it. More litigation does not necessarily translate into more justice.

Many of the elements of this bill are based on the 1992 Access to Justice Act. For example, my bill reintroduces a modified English rule on attorney's fees that will award prevailing parties in Federal diversity cases reasonable attorney's fees, with adequate safeguards to protect against possible injustice. This provision is hardly the radical proposition some will paint it as being. In fact, for those of my colleagues who are always fond of pointing out that the United States is the only industrialized country that fails to provide some benefit or another, I would point out that this so-called English rule is followed by most industrialized countries, with the United States being the most notable exception. So I think it is worth trying in the United States in a limited class of cases—diversity suits—in order to see if it is effective in discouraging frivolous lawsuits.

By limiting the rule to diversity cases, the bill ensures that no one will be denied a forum for their dispute, since all such cases can be filed in State court. If the defendant removes the case to Federal court, then the loser pays rule will not apply. This limited English rule will expire in 5 years unless Congress chooses to continue it, after a fourth-year report by the administrative office of the courts on the effectiveness of the rule.

The bill also includes a number of safeguards to avoid any unintended consequences. The amount the loser must pay is limited to the amount of his or her own fees. Moreover, the court is given broad discretion to limit the amount the loser must pay if it finds such payment to be unjust under the circumstances of the case before it.

The bill also requires 30 days advance notice of intent to sue—something most responsible lawyers already do. It also requires prisoners with civil rights cases—which currently constitute of around 10 percent of the Federal civil docket—to first exhaust their administrative remedies before filing suit in Federal court.

To promote early settlement of cases and reduce litigation costs, the bill contains a statutory offer of judgment rule. It is similar to a proposal by Judge William Schwartz, former director of the Federal Judicial Center. This rule will allow either party to a lawsuit to offer a settlement to the other party at any point in the litigation. If the settlement is declining and the party rejecting the offer ultimately gets a judgment less favorable than the settlement offer, he or she is then responsible for the offeror's attorneys fees from the time the offer was made. This will give parties a strong incentive to offer and accept reasonable settlements.

Another provision of my bill will begin to curtail some of the excesses of the expert witness battles that dominate too many Federal trials. Following the example of several States, particularly Arizona, my bill will limit

parties to one expert witness on a given issue.

The Civil Justice Reform Act of 1990 has had a positive effect on the Federal courts in reforming pretrial, processes to reduce costs and delay. This bill takes the next step by making some limited fee shifting proposals and a few other modest reforms for reducing litigation costs. I look forward to the hearings I intend to hold in the Subcommittee on Administrative Oversight and Courts, and to discussing these proposals with my colleagues on the Judiciary Committee, as well as the full Senate.

I ask unanimous consent that the full text of the bill appear in the RECORD.

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

S. 243

*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 "Civil Justice Reform Act of 1995".

**SEC. 2. DIVERSITY OF CITIZENSHIP JURISDICTION; AWARD OF ATTORNEYS' FEES TO PREVAILING PARTY.**

(a) AWARD OF FEES.—Section 1332 of title 28, United States Code, is amended by inserting after subsection (e) the following new subsection:

"(f)(1) The prevailing party in an action under this section shall be entitled to attorneys' fees only to the extent that such party prevails on any position or claim advanced during the action. Attorneys' fees under this paragraph shall be paid by the nonprevailing party but shall not exceed the amount of the attorneys' fees of the nonprevailing party with regard to such position or claim. If the nonprevailing party receives services under a contingent fee agreement, the amount of attorneys' fees under this paragraph shall not exceed the reasonable value of those services.

"(2) In order to receive attorneys' fees under paragraph (1), counsel of record in any actions under this section shall maintain accurate, complete records of hours worked on the matter regardless of the fee arrangement with his or her client.

"(3) The court may, in its discretion, limit the fees recovered under paragraph (1) to the extent that the court finds special circumstances that make payment of such fees unjust.

"(4) This subsection shall not apply to any action removed from a State court under section 1441 of this title, or to any action in which the United States, any State, or any agency, officer, or employee of the United States or any State is a party.

"(5) As used in this subsection, the term 'prevailing party' means a party to an action who obtains a favorable final judgment (other than by settlement), exclusive of interest, on all or a portion of the claims asserted in the action."

(b) STUDY AND REPORT.—(1) The Director of the Administrative Office of the United States Courts shall conduct a study regarding the effect of the requirements of subsection (f) of section 1332 of title 28, United States Code, as added by subsection (a) of this section, on the caseload of actions brought under such section, which study shall include—

(A) data on the number of actions, within each judicial district, in which the nonprevailing party was required to pay the attorneys' fees of the prevailing party; and

(B) an assessment of the deterrent effect of the requirements on frivolous or meritless actions.

(2) No later than 4 years after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall submit a report to the appropriate committees of Congress containing—

(A) the results of the study described in paragraph (1); and

(B) recommendations regarding whether the requirements should be continued or applied with respect to additional actions.

(c) REPEAL.—No later than 5 years after the date of enactment of this Act, this section and the amendment made by this section shall be repealed.

**SEC. 3. OFFER OF JUDGMENT.**

(a) IN GENERAL.—Part V of title 28, United States Code, is amended by inserting after chapter 113 the following new chapter:

**"CHAPTER 114—PRETRIAL PROVISIONS**

"Sec.

"1721. Offer of judgment.

**"§ 1721. Offer of judgment**

"(a)(1) In any civil action filed in a district court, any party may serve upon any adverse party a written offer to allow judgment to be entered for the money or property specified in the offer.

"(2) If within 14 days after service of the offer, the adverse party serves written notice that the offer is accepted, either party may file the offer and notice of acceptance and the clerk shall enter judgment.

"(3) An offer not accepted within such 14-day period shall be deemed withdrawn and evidence thereof is not admissible, except in a proceeding to determine reasonable attorney fees.

"(4) If the final judgment obtained by the offeree is not more favorable than the offer made under paragraph (1) which was not accepted by the offeree, the offeree shall pay the offeror's reasonable attorney fees incurred after the expiration of the time for accepting the offer, to the extent necessary to make the offeror whole.

"(5) In no case shall an award of attorney fees under this section exceed the amount of the judgment obtained. The court may reduce the award of costs and attorney fees to avoid the imposition of undue hardship on a party.

"(6) The fact that an offer is made under this section shall not preclude a subsequent offer.

"(7)(A) Subject to the provisions of subparagraph (B), when the liability of 1 party has been determined by verdict, order, or judgment, but the amount or extent of the liability remains to be determined by further proceedings, any party may make an offer of judgment, which shall have the same effect as an offer made before trial.

"(B) The court may shorten the period of time an offeree may have to accept an offer under subparagraph (A), but in no case shall such period be less than 7 days.

"(b) A party making an offer shall not be deprived of the benefits of an offer it makes by an adverse party's subsequent offer, unless the subsequent offer is more favorable than the judgment obtained.

"(c) If the judgment obtained includes nonmonetary relief, a determination that it is more favorable to the offeree than was the offer shall be made only when the terms of the offer included all such nonmonetary relief.

"(d) This section shall not apply to class or derivative actions under rules 23, 23.1 and 23.2 of the Federal Rules of Civil Procedure.

"(e)(1) Except as provided under paragraph (2), the provisions of this section shall not be

construed to prohibit an award or reduce the amount of an award a party may receive under a statute which provides for the payment of attorney's fees by another party.

"(2) The amount a party may receive under this section may be set off against the amount of an award made under a statute described in paragraph (1)."

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part IV of title 28, United States Code, is amended by inserting after the item relating to chapter 113 the following:

**"114. Pretrial provisions ..... 1721".**

**SEC. 4. PRIOR NOTICE AS A PREREQUISITE OF FILING A CIVIL ACTION IN THE UNITED STATES DISTRICT COURT.**

(a) IN GENERAL.—Chapter 23 of title 28, United States Code, is amended by adding at the end the following:

**"§ 483. Prior notice of civil action**

"(a) (1) No less than 30 days before filing a civil action in a court of the United States the claimant intending to file such action shall transmit written notice to any intended defendant of the specific claims involved, including the amount of actual damages and expenses incurred and expected to be incurred. The claimant shall transmit such notice to any intended defendant at an address reasonably expected to provide actual notice.

"(2) For purposes of this section, the term 'transmit' means to mail by first class-mail, postage prepaid, or contract for delivery by any company which physically delivers correspondence as a commercial service to the public in its regular course of business.

"(3) The claimant shall at the time of filing a civil action, file in the court a certificate of service evidencing compliance with this subsection.

"(b) If the applicable statute of limitations for such action would expire during the period of notice required by subsection (a), the statute of limitations shall expire on the thirtieth day after the date on which written notice is transmitted to the intended defendant or defendants under subsection (a). The parties may by written agreement extend that 30-day period for an additional period of not to exceed 90 days.

"(c) The requirements of this section shall not apply—

"(1) in any action to seize or forfeit assets subject to forfeiture or in any bankruptcy, insolvency, receivership, conservatorship, or liquidation proceeding;

"(2) if the assets that are the subject of the action or would satisfy a judgment are subject to flight, dissipation, or destruction, or if the defendant is subject to flight;

"(3) if a written notice prior to filing an action is otherwise required by law, or the claimant has made a prior attempt in writing to settle the claim with the defendant;

"(4) in proceedings to enforce a civil investigative demand or an administrative summons;

"(5) in any action to foreclose a lien; or

"(6) in any action pertaining to a temporary restraining order, preliminary injunctive relief, or the fraudulent conveyance of property, or in any other type of action involving exigent circumstances that compel immediate resort to the courts.

"(d) If the district court finds that the requirements of subsection (a) have not been met by the claimant, and such defect is asserted by the defendant within 60 days after service of the summons or complaint upon such defendant, the claim shall be dismissed without prejudice and the costs of such action, including attorneys' fees, shall be imposed upon the claimant. Whenever an action is dismissed under this subsection, the claimant may refile such claim within 30

days after dismissal regardless of any statutory limitations period if—

"(1) during the 60 days after dismissal, notice is transmitted under subsection (a); and

"(2) the original action was timely filed in accordance with subsection (b)."

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 23 of title 28, United States Code, is amended by adding at the end the following:

"483. Prior notice of civil action."

**SEC. 5. CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT.**

(a) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—Section 7 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e) is amended—

(1) by amending subsection (a) to read as follows:

"(a) In any action brought pursuant to section 1979 of the Revised Statutes of the United States, by any adult convicted of a crime confined in any jail, prison, or other correctional facility, the court shall continue such case for a period not to exceed 180 days in order to require exhaustion of such plain, speedy, and effective administrative remedies as are available."; and

(2) in subsection (b)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(B) by inserting immediately after "(b)" the following:

"(1) Upon the request of a State or local corrections agency, the Attorney General of the United States shall provide the agency with technical advice and assistance in establishing plain, speedy, and effective administrative remedies for inmate grievances."

(b) PROCEEDINGS IN FORMA PAUPERIS.—Section 1915(d) of title 28, United States Code, is amended to read as follows:

"(d) The court may request an attorney to represent any such person unable to employ counsel and may dismiss the case if the allegation of poverty is untrue, or if satisfied that the action fails to state a claim upon which relief can be granted or is frivolous or malicious."

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act.

**SEC. 6. EXPERT WITNESSES.**

(a) IN GENERAL.—Chapter 119 of title 28, United States Code, is amended by inserting after section 1828 the following new section:

**"§ 1829. Multiple expert witnesses**

"In any civil action filed in a district court, the court shall not permit opinion evidence on the same issue from more than 1 expert witness for each party, except upon a showing of good cause."

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 119 of title 28, United States Code, is amended by inserting after the item relating to section 1828 the following new section:

"1829. Multiple expert witnesses."

**SEC. 7. SEVERABILITY.**

If any provision of this Act or the amendments made by this Act or the application of any provision or amendment to any person or circumstance is held invalid, the remainder of this Act and such amendments and the application of such provision and amendments to any other person or circumstance shall not be affected by that invalidation.

**SEC. 8. EFFECTIVE DATE.**

Except as expressly provided otherwise, this Act and the amendments made by this Act shall become effective 90 days after the date of the enactment of this Act. This Act shall not apply to any action or proceeding commenced before such effective date.

By Mr. NUNN (for himself, Mr. ROTH, Mr. GLENN, Mr. BOND, Mr. BUMPERS, Mr. PRESSLER, Mr. LIEBERMAN, Mrs. HUTCHISON, Mr. JOHNSTON, Mr. DOMENICI, Mr. HOLLINGS, Mr. NICKLES, Mr. BREAUX, Mr. WARNER, Mr. ROBB, Mr. COCHRAN, Mr. BRYAN, Mr. SMITH, Mr. LAUTENBERG, Mr. MACK, Ms. MOSELEY-BRAUN, and Mr. SHELBY):

S. 244. A bill to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes; to the Committee on Governmental Affairs.

THE PAPERWORK REDUCTION ACT OF 1995

Mr. NUNN. Mr. President, I rise this morning on behalf of myself, Mr. ROTH, Mr. GLENN, Mr. BOND, and Mr. BUMPERS, to introduce the Paperwork Reduction Act of 1995. This bill is substantially identical to S. 560, which was unanimously approved by the Senate in the closing days of the 103d Congress.

I am pleased that the bill enjoys even broader bipartisan support this Congress. It is being cosponsored by the chairman and ranking Democratic member of the Committee on Governmental Affairs, BILL ROTH and JOHN GLENN, both have worked long and hard on legislation to strengthen the Paperwork Reduction Act of 1980 and to reauthorize appropriations for the Office of Information and Regulatory Affairs [OIRA], which has been without authorizing legislation since October of 1989. Leading cosponsors also include the chairman, Mr. BOND, and ranking Democratic member, Mr. BUMPERS, of the Committee on Small Business. The Committee on Small Business, of which I am the senior member, has played a crucial supporting role on behalf of the small business community in maintaining the effort to enact legislation to strengthen the 1980 act. We are being joined by 22 of our colleagues from both sides of the aisle, many of whom are present or former members of the Committee on Small Business of the Governmental Affairs.

Mr. President, as previously mentioned, the Paperwork Reduction Act of 1995 is substantively identical to S. 560 introduced in the 103d Congress. That bill represented the culmination of years of work which began in the 100th Congress. It represents a skillful blending of S. 560, as introduced by me and S. 681, a bill introduced by my friend from Ohio, Mr. GLENN, then chairman of the Governmental Affairs Committee. His skill and leadership, and the tenacity of all of the those involved in both bills made possible the crafting of this text of S. 560. It garnered unanimous support within the Governmental Affairs Committee. S. 560, as reported last year, had the support of the Clinton administration and I am hopeful that the administration

will also support this bill I introduce today.

Senator ROTH, chairman of the Governmental Affairs Committee indicated to me that we will have a markup on this bill next week. It is my hope that it will be an early legislative initiative in this Congress. I have also talked to Speaker GINGRICH about the bill, and it is my hope that they will make it an important part of their legislative agenda on the House side. So I am hoping, Mr. President, we will be able to get this bill to the President's desk in the next several weeks, certainly in the next several months, for actual implementation as law.

It also had the support of the broad-based Paperwork Reduction Act Coalition as well as elected officials, and many in the educational and nonprofit communities. S. 560, the Paperwork Reduction Act of 1994, passed the Senate by unanimous voice vote on October 6, 1994. The following day, the text of S. 560 was attached to a House-passed measure, H.R. 2561, and returned to the House. Unfortunately, the House Governmental Operations Committee declined to clear either measure before the adjournment of the 103d Congress, so we start anew with our legislative effort this year.

In this congress, I am hopeful that the House of Representatives will be more receptive to this legislation and that we can see it enacted into law. A modified version of S. 560 has been included in H.R. 9, the Job Creation and Wage Enhancement Act of 1995, which includes many of the regulatory and paperwork relief provisions of the Republican Contract With America. Representative BILL CLINGER, the new chairman of the House Committee on Government Reform and Oversight, the new name for the Committee on Government Operations, was the principal Republican cosponsor of H.R. 2995, the House companion to S. 560.

The Paperwork Reduction Act of 1995 provides a 5-year reauthorization of appropriations for the Office of Information and Regulatory Affairs [OIRA]. Created by the 1980 Act, OIRA serves as the focal point at the Office of Management and Budget for the act's implementation.

The principal purpose of the Paperwork Reduction Act of 1995 is to reaffirm and provide additional tools by which to attain the fundamental objective of the Paperwork Reduction Act of 1980—to minimize the Federal paperwork burdens imposed by individuals, businesses, especially small businesses, educational and nonprofit institutions, and State and local governments.

Mr. President, let me highlight some of the provisions of the bill. This legislation reemphasizes the fundamental responsibilities of each Federal agency minimize new paperwork burden by thoroughly reviewing each proposed collection of information for need and practical utility, the act's fundamental standards. The bill make explicit the

responsibility of each Federal agency to conduct this review itself, before submitting the propose collection of information for public comment and clearance by OIRA.

The bill before us reflects the provisions of S. 560 that further enhance public participation in the review of paperwork burdens, when such burdens are first being proposed or when an agency is seeking to obtain approval to continue to use an existing paperwork requirement. Strengthening public participation is at the core of the 1980 act.

The Paperwork Reduction Act of 1995 maintains the 1980 act's Government-wide 5-percent goal for the reduction of paperwork burdens on the public. Given past experience, some question the effectiveness of such goals in producing net reductions in Government-wide paperwork burdens. I believe that the bill should reflect individual agency goals as well, and although this provision is not in the bill introduced today, I am hopeful it will be strengthened in the future. If seriously implemented, such agency goals can become an effective restraint on the cumulative growth of Government-sponsored paperwork burdens.

Mr. President, the bill includes amendments to the 1980 act which further empower members of the public to help police Federal agency compliance with the act. I would like to describe two of these provisions.

One provision would enable a member of the public to obtain a written determination from the OIRA Administrator regarding whether a federally sponsored paperwork requirement is in compliance with the act. If the agency requirement is found to be noncompliant, the Administrator is charged with taking appropriate remedial action. This provision is based upon a similar process added to the Office of Federal Procurement Policy Act in 1988.

The second provision encourages members of the public to identify paperwork requirements that have not been submitted for review and approval pursuant to the act's requirements. Although the act's public protection provisions explicitly shield the public from the imposition of any formal agency penalty for failing to comply with such an unapproved, or bootleg, paperwork requirement, individuals often feel compelled to comply. This is especially true when the individual has an on-going relationship with the agency and that relationship accords the agency substantial discretion that could be used to redefine their future dealings. Under this bill, which we are introducing today, a member of the public can blow the whistle on such a bootleg paperwork requirement and be accorded the protection of anonymity.

Next, Mr. President, I would like to emphasize that the Paperwork Reduction Act of 1995 clarifies the 1980 Act to make explicit that it applies to Gov-

ernment-sponsored third-party paperwork burdens.

These are recordkeeping, disclosure, or other paperwork burdens that one private party imposes on another private party at the direction of a Federal agency. In 1990, the U.S. Supreme Court decided that such Government-sponsored third-party paperwork burdens were not subject to the Paperwork Reduction Act. The Court's decision in *Dole versus United Steelworkers of America* created a potentially vast loophole. The public could be denied the Act's protections on the basis of the manner in which a Federal agency chose to impose a paperwork burden, indirectly rather than directly. It is worthy of note that Senator Chiles, now Governor Chiles, the father of the Paperwork Reduction Act went to the trouble and expense of filing an amicus brief to the Supreme Court arguing that no such exemption for third-party paperwork burdens was intended. The Court decided otherwise. I know that Governor Chiles will be gratified that this bill makes explicit the Act's coverage of all Government-sponsored paperwork burdens. Once this bill is enacted, we can feel confident that this major loophole will be closed. But given more than a decade of experience under the Act, it is prudent to remain vigilant to additional efforts to restrict the Act's reach and public protections.

The smart use of information by the Government, and its potential to minimize the burdens placed on the public, is a core concept of the 1980 Act. The information resources management [IRM] provisions of the Paperwork Reduction Act of 1995 build upon the foundation laid more than a decade ago by our former colleague from Florida, Lawton Chiles, the father of the Paperwork Reduction Act. These provisions of the bill are the major contribution of my friend from Ohio, Senator GLENN, who has emphasized the potential of improved IRM policies to make government more effective in serving the public.

Mr. President, I will not take any more of the Senate's time today to discuss the individual provisions of the Paperwork Reduction Act of 1995.

Mr. President, the Paperwork Reduction Act of 1995 enjoys strong support from the business community, especially the small business community. It has the support of a broad Paperwork Reduction Act Coalition, representing virtually every segment of the business community. They have worked long and hard on this legislation for many years. Without them, we would not be able to have the consensus bill that we have today.

Participating in the coalition are the major national small business associations—the National Federation of Independent Business [NFIB], the Small Business Legislative Council [SBLC], and National Small Business United [NSBU] as well as the many specialized national small business associations,

like the American Subcontractors Association, that comprise the membership of the SBLC or NSBU. Other participants represent manufacturers, aerospace and electronics firms, construction firms, providers of professional and technical services, retailers of various products and services, and the wholesalers and distributors who support them. I would like to identify a few other organizations that comprise the Coalition's membership: the Aerospace Industries Association [AIA], the American Consulting Engineers Council [ACEC], the Associated Builders and Contractors [ABC], the Associated General Contractors of America [AGC], the Chemical Manufacturers Association [CMA], the Computer and Business Equipment Manufacturers Association [CBEMA], the Contract Services Association [CSA], the Electronic Industries Association [EIA], the Independent Bankers Association of America [IBAA], the International Communications Industries Association [ICIA], the National Association of Manufacturers, the National Association of Wholesalers and Distributors, the National Security Industrial Association [NSIA], the National Tooling and Machining Association [NTMA], the Printing Industries Association [PIA], and the Professional Service Council [PSC]. Leadership for the coalition is being provided by the Council on Regulatory and Information Management [C-RIM] and by the U.S. Chamber of Commerce. C-RIM is the new name for the Business Council on the Reduction of Paperwork, which has dedicated itself to paperwork reduction and regulatory reform issues for more than a half century.

The coalition also includes a number of professional associations and public interest groups that support strengthening the Paperwork Reduction Act of 1980. These include the Association of Records Managers and Administrators [ARMA] and Citizens for a Sound Economy [CSE], to name but two very active coalition members.

Mr. President, given the regulatory and paperwork burdens faced by State and local governments, legislation to strengthen the Paperwork Reduction Act is high on the agenda of the associations representing elected officials. The Governor of Florida, my friend Lawton Chiles, has worked hard on this issue within the National Governors Association. During its 1994 annual meeting, the National Governors Association adopted a resolution in support of legislation to strengthen the Paperwork Reduction Act of 1980.

Mr. President, I urge my colleagues to join me in supporting this legislation.

As I mentioned, Chairman ROTH and Senator GLENN are both cosponsors of this legislation, as is Senator BOND, the new chairman of the Small Business Committee, and the previous chairman and now ranking member, Senator BUMPERS.

It is my understanding that we will have a markup on this bill next week. It is my hope it can be on an accelerated schedule here on the Senate floor. It is my hope that the Paperwork Reduction Act of 1995 will get similar expedited treatment on the House side, so that President Clinton will have this bill on his desk in the next few weeks. So that with a strengthened Paperwork Reduction Act we can continue the difficult but very important process of cracking down on Federal agency paperwork burdens that do not meet the Act's standards.

Mr. President, I ask unanimous consent that the text of 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. 244

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Paperwork Reduction Act of 1995".

**SEC. 2. COORDINATION OF FEDERAL INFORMATION POLICY.**

Chapter 35 of title 44, United States Code, is amended to read as follows:

**"CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY**

"Sec.

"3501. Purposes.

"3502. Definitions.

"3503. Office of Information and Regulatory Affairs.

"3504. Authority and functions of Director.

"3505. Assignment of tasks and deadlines.

"3506. Federal agency responsibilities.

"3507. Public information collection activities; submission to Director; approval and delegation.

"3508. Determination of necessity for information; hearing.

"3509. Designation of central collection agency.

"3510. Cooperation of agencies in making information available.

"3511. Establishment and operation of Government Information Locator Service.

"3512. Public protection.

"3513. Director review of agency activities; reporting; agency response.

"3514. Responsiveness to Congress.

"3515. Administrative powers.

"3516. Rules and regulations.

"3517. Consultation with other agencies and the public.

"3518. Effect on existing laws and regulations.

"3519. Access to information.

"3520. Authorization of appropriations.

**"§ 3501. Purposes**

"The purposes of this chapter are to—

"(1) minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, Federal contractors, State, local and tribal governments, and other persons resulting from the collection of information by or for the Federal Government;

"(2) ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government;

"(3) coordinate, integrate, and to the extent practicable and appropriate, make uni-

form Federal information resources management policies and practices as a means to improve the productivity, efficiency, and effectiveness of Government programs, including the reduction of information collection burdens on the public and the improvement of service delivery to the public;

"(4) improve the quality and use of Federal information to strengthen decisionmaking, accountability, and openness in Government and society;

"(5) minimize the cost to the Federal Government of the creation, collection, maintenance, use, dissemination, and disposition of information;

"(6) strengthen the partnership between the Federal Government and State, local, and tribal governments by minimizing the burden and maximizing the utility of information created, collected, maintained, used, disseminated, and retained by or for the Federal Government;

"(7) provide for the dissemination of public information on a timely basis, on equitable terms, and in a manner that promotes the utility of the information to the public and makes effective use of information technology;

"(8) ensure that the creation, collection, maintenance, use, dissemination, and disposition of information by or for the Federal Government is consistent with applicable laws, including laws relating to—

"(A) privacy and confidentiality, including section 552a of title 5;

"(B) security of information, including the Computer Security Act of 1987 (Public Law 100-235); and

"(C) access to information, including section 552 of title 5;

"(9) ensure the integrity, quality, and utility of the Federal statistical system;

"(10) ensure that information technology is acquired, used, and managed to improve performance of agency missions, including the reduction of information collection burdens on the public; and

"(11) improve the responsibility and accountability of the Office of Management and Budget and all other Federal agencies to Congress and to the public for implementing the information collection review process, information resources management, and related policies and guidelines established under this chapter.

**"§ 3502. Definitions**

"As used in this chapter—

"(1) the term 'agency' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but does not include—

"(A) the General Accounting Office;

"(B) Federal Election Commission;

"(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

"(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities;

"(2) the term 'burden' means time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency, including the resources expended for—

"(A) reviewing instructions;

"(B) acquiring, installing, and utilizing technology and systems;

"(C) adjusting the existing ways to comply with any previously applicable instructions and requirements;

"(D) searching data sources;

“(E) completing and reviewing the collection of information; and

“(F) transmitting, or otherwise disclosing the information;

“(3) the term ‘collection of information’—  
“(A) means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

“(i) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States; or

“(ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes; and

“(B) shall not include a collection of information described under section 3518(c)(1);

“(4) the term ‘Director’ means the Director of the Office of Management and Budget;

“(5) the term ‘independent regulatory agency’ means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Housing Finance Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

“(6) the term ‘information resources’ means information and related resources, such as personnel, equipment, funds, and information technology;

“(7) the term ‘information resources management’ means the process of managing information resources to accomplish agency missions and to improve agency performance, including through the reduction of information collection burdens on the public;

“(8) the term ‘information system’ means a discrete set of information resources and processes, automated or manual, organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information;

“(9) the term ‘information technology’ has the same meaning as the term ‘automatic data processing equipment’ as defined by section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2));

“(10) the term ‘person’ means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, or local government or branch thereof, or a political subdivision of a State, territory, or local government or a branch of a political subdivision;

“(11) the term ‘practical utility’ means the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion;

“(12) the term ‘public information’ means any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public; and

“(13) the term ‘recordkeeping requirement’ means a requirement imposed by or for an agency on persons to maintain specified records.

### “§ 3503. Office of Information and Regulatory Affairs

“(a) There is established in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs.

“(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information resources management policy.

“(c) The Administrator and employees of the Office of Information and Regulatory Affairs shall be appointed with special attention to professional qualifications required to administer the functions of the Office described under this chapter. Such qualifications shall include relevant education, work experience, or related professional activities.

### “§ 3504. Authority and functions of Director

“(a)(1) The Director shall oversee the use of information resources to improve the efficiency and effectiveness of governmental operations to serve agency missions, including service delivery to the public. In performing such oversight, the Director shall—

“(A) develop, coordinate and oversee the implementation of Federal information resources management policies, principles, standards, and guidelines; and

“(B) provide direction and oversee—

“(i) the review of the collection of information and the reduction of the information collection burden;

“(ii) agency dissemination of and public access to information;

“(iii) statistical activities;

“(iv) records management activities;

“(v) privacy, confidentiality, security, disclosure, and sharing of information; and

“(vi) the acquisition and use of information technology.

“(2) The authority of the Director under this chapter shall be exercised consistent with applicable law.

“(b) With respect to general information resources management policy, the Director shall—

“(1) develop and oversee the implementation of uniform information resources management policies, principles, standards, and guidelines;

“(2) foster greater sharing, dissemination, and access to public information, including through—

“(A) the use of the Government Information Locator Service; and

“(B) the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability;

“(3) initiate and review proposals for changes in legislation, regulations, and agency procedures to improve information resources management practices;

“(4) oversee the development and implementation of best practices in information resources management, including training; and

“(5) oversee agency integration of program and management functions with information resources management functions.

“(c) With respect to the collection of information and the control of paperwork, the Director shall—

“(1) review proposed agency collections of information, and in accordance with section 3508, determine whether the collection of information by or for an agency is necessary for the proper performance of the functions

of the agency, including whether the information shall have practical utility;

“(2) coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of Information and Regulatory Affairs with the Office of Federal Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement and acquisition and to reduce information collection burdens on the public;

“(3) minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;

“(4) maximize the practical utility of and public benefit from information collected by or for the Federal Government; and

“(5) establish and oversee standards and guidelines by which agencies are to estimate the burden to comply with a proposed collection of information.

“(d) With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to—

“(1) apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and

“(2) promote public access to public information and fulfill the purposes of this chapter, including through the effective use of information technology.

“(e) With respect to statistical policy and coordination, the Director shall—

“(1) coordinate the activities of the Federal statistical system to ensure—

“(A) the efficiency and effectiveness of the system; and

“(B) the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes;

“(2) ensure that budget proposals of agencies are consistent with system-wide priorities for maintaining and improving the quality of Federal statistics and prepare an annual report on statistical program funding;

“(3) develop and oversee the implementation of Governmentwide policies, principles, standards, and guidelines concerning—

“(A) statistical collection procedures and methods;

“(B) statistical data classification;

“(C) statistical information presentation and dissemination;

“(D) timely release of statistical data; and

“(E) such statistical data sources as may be required for the administration of Federal programs;

“(4) evaluate statistical program performance and agency compliance with Governmentwide policies, principles, standards and guidelines;

“(5) promote the sharing of information collected for statistical purposes consistent with privacy rights and confidentiality pledges;

“(6) coordinate the participation of the United States in international statistical activities, including the development of comparable statistics;

“(7) appoint a chief statistician who is a trained and experienced professional statistician to carry out the functions described under this subsection;

“(8) establish an Interagency Council on Statistical Policy to advise and assist the Director in carrying out the functions under this subsection that shall—

“(A) be headed by the chief statistician; and

“(B) consist of—

“(i) the heads of the major statistical programs; and

“(ii) representatives of other statistical agencies under rotating membership; and

“(9) provide opportunities for training in statistical policy functions to employees of the Federal Government under which—

“(A) each trainee shall be selected at the discretion of the Director based on agency requests and shall serve under the chief statistician for at least 6 months and not more than 1 year; and

“(B) all costs of the training shall be paid by the agency requesting training.

“(f) With respect to records management, the Director shall—

“(1) provide advice and assistance to the Archivist of the United States and the Administrator of General Services to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information resources management policies, principles, standards, and guidelines established under this chapter;

“(2) review compliance by agencies with—

“(A) the requirements of chapters 29, 31, and 33 of this title; and

“(B) regulations promulgated by the Archivist of the United States and the Administrator of General Services; and

“(3) oversee the application of records management policies, principles, standards, and guidelines, including requirements for archiving information maintained in electronic format, in the planning and design of information systems.

“(g) With respect to privacy and security, the Director shall—

“(1) develop and oversee the implementation of policies, principles, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for agencies;

“(2) oversee and coordinate compliance with sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

“(3) require Federal agencies, consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

“(h) With respect to Federal information technology, the Director shall—

“(1) in consultation with the Director of the National Institute of Standards and Technology and the Administrator of General Services—

“(A) develop and oversee the implementation of policies, principles, standards, and guidelines for information technology functions and activities of the Federal Government, including periodic evaluations of major information systems; and

“(B) oversee the development and implementation of standards under section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d));

“(2) monitor the effectiveness of, and compliance with, directives issued under sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759) and review proposed determinations under section 111(e) of such Act;

“(3) coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy;

“(4) ensure, through the review of agency budget proposals, information resources management plans and other means—

“(A) agency integration of information resources management plans, program plans

and budgets for acquisition and use of information technology; and

“(B) the efficiency and effectiveness of inter-agency information technology initiatives to improve agency performance and the accomplishment of agency missions; and

“(5) promote the use of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of Federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.

#### “§ 3505. Assignment of tasks and deadlines

“In carrying out the functions under this chapter, the Director shall—

“(1) in consultation with agency heads, set an annual Governmentwide goal for the reduction of information collection burdens by at least five percent, and set annual agency goals to—

“(A) reduce information collection burdens imposed on the public that—

“(i) represent the maximum practicable opportunity in each agency; and

“(ii) are consistent with improving agency management of the process for the review of collections of information established under section 3506(c); and

“(B) improve information resources management in ways that increase the productivity, efficiency and effectiveness of Federal programs, including service delivery to the public;

“(2) with selected agencies and non-Federal entities on a voluntary basis, conduct pilot projects to test alternative policies, practices, regulations, and procedures to fulfill the purposes of this chapter, particularly with regard to minimizing the Federal information collection burden;

“(3) in consultation with the Administrator of General Services, the Director of the National Institute of Standards and Technology, the Archivist of the United States, and the Director of the Office of Personnel Management, develop and maintain a Governmentwide strategic plan for information resources management, that shall include—

“(A) a description of the objectives and the means by which the Federal Government shall apply information resources to improve agency and program performance;

“(B) plans for—

“(i) reducing information burdens on the public, including reducing such burdens through the elimination of duplication and meeting shared data needs with shared resources;

“(ii) enhancing public access to and dissemination of, information, using electronic and other formats; and

“(iii) meeting the information technology needs of the Federal Government in accordance with the requirements of sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759), and the purposes of this chapter; and

“(C) a description of progress in applying information resources management to improve agency performance and the accomplishment of missions; and

“(4) in cooperation with the Administrator of General Services, issue guidelines for the establishment and operation in each agency of a process, as required under section 3506(h)(5) of this chapter, to review major information systems initiatives, including acquisition and use of information technology.

#### “§ 3506. Federal agency responsibilities

“(a)(1) The head of each agency shall be responsible for—

“(A) carrying out the agency's information resources management activities to improve agency productivity, efficiency, and effectiveness; and

“(B) complying with the requirements of this chapter and related policies established by the Director.

“(2)(A) Except as provided under subparagraph (B), the head of each agency shall designate a senior official who shall report directly to such agency head to carry out the responsibilities of the agency under this chapter.

“(B) The Secretary of the Department of Defense and the Secretary of each military department may each designate a senior official who shall report directly to such Secretary to carry out the responsibilities of the department under this chapter. If more than one official is designated for the military departments, the respective duties of the officials shall be clearly delineated.

“(3) The senior official designated under paragraph (2) shall head an office responsible for ensuring agency compliance with and prompt, efficient, and effective implementation of the information policies and information resources management responsibilities established under this chapter, including the reduction of information collection burdens on the public. The senior official and employees of such office shall be selected with special attention to the professional qualifications required to administer the functions described under this chapter.

“(4) Each agency program official shall be responsible and accountable for information resources assigned to and supporting the programs under such official. In consultation with the senior official designated under paragraph (2) and the agency Chief Financial Officer (or comparable official), each agency program official shall define program information needs and develop strategies, systems, and capabilities to meet those needs.

“(5) The head of each agency shall establish a permanent information resources management steering committee, which shall be chaired by the senior official designated under paragraph (2) and shall include senior program officials and the Chief Financial Officer (or comparable official). Each steering committee shall—

“(A) assist and advise the head of the agency in carrying out information resources management responsibilities of the agency;

“(B) assist and advise the senior official designated under paragraph (2) in the establishment of performance measures for information resources management that relate to program missions;

“(C) select, control, and evaluate all major information system initiatives (including acquisitions of information technology) in accordance with the requirements of subsection (h)(5); and

“(D) identify opportunities to redesign business practices and supporting information systems to improve agency performance.

“(b) With respect to general information resources management, each agency shall—

“(1) develop information systems, processes, and procedures to—

“(A) reduce information collection burdens on the public;

“(B) increase program efficiency and effectiveness; and

“(C) improve the integrity, quality, and utility of information to all users within and outside the agency, including capabilities for ensuring dissemination of public information, public access to government information, and protections for privacy and security;

“(2) in accordance with guidance by the Director, develop and maintain a strategic information resources management plan that shall describe how information resources management activities help accomplish agency missions;

“(3) develop and maintain an ongoing process to—

“(A) ensure that information resources management operations and decisions are integrated with organizational planning, budget, financial management, human resources management, and program decisions;

“(B) develop and maintain an integrated, comprehensive and controlled process of information systems selection, development, and evaluation;

“(C) in cooperation with the agency Chief Financial Officer (or comparable official), develop a full and accurate accounting of information technology expenditures, related expenses, and results; and

“(D) establish goals for improving information resources management's contribution to program productivity, efficiency, and effectiveness, methods for measuring progress towards those goals, and clear roles and responsibilities for achieving those goals;

“(4) in consultation with the Director, the Administrator of General Services, and the Archivist of the United States, maintain a current and complete inventory of the agency's information resources, including directories necessary to fulfill the requirements of section 3511 of this chapter; and

“(5) in consultation with the Director and the Director of the Office of Personnel Management, conduct formal training programs to educate agency program and management officials about information resources management.

“(c) With respect to the collection of information and the control of paperwork, each agency shall—

“(1) establish a process within the office headed by the official designated under subsection (a), that is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved under this chapter, to—

“(A) review each collection of information before submission to the Director for review under this chapter, including—

“(i) an evaluation of the need for the collection of information;

“(ii) a functional description of the information to be collected;

“(iii) a plan for the collection of the information;

“(iv) a specific, objectively supported estimate of burden;

“(v) a test of the collection of information through a pilot program, if appropriate; and

“(vi) a plan for the efficient and effective management and use of the information to be collected, including necessary resources;

“(B) ensure that each information collection—

“(i) is inventoried, displays a control number and, if appropriate, an expiration date;

“(ii) indicates the collection is in accordance with the clearance requirements of section 3507; and

“(iii) contains a statement to inform the person receiving the collection of information—

“(I) the reasons the information is being collected;

“(II) the way such information is to be used;

“(III) an estimate, to the extent practicable, of the burden of the collection; and

“(IV) whether responses to the collection of information are voluntary, required to obtain a benefit, or mandatory; and

“(C) assess the information collection burden of proposed legislation affecting the agency;

“(2)(A) except as provided under subparagraph (B), provide 60-day notice in the Federal Register, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information, to solicit comment to—

“(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

“(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

“(iii) enhance the quality, utility, and clarity of the information to be collected; and

“(iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology; and

“(B) for any proposed collection of information contained in a proposed rule (to be reviewed by the Director under section 3507(d)), provide notice and comment through the notice of proposed rulemaking for the proposed rule and such notice shall have the same purposes specified under subparagraph (A) (i) through (iv); and

“(3) certify (and provide a record supporting such certification, including public comments received by the agency) that each collection of information submitted to the Director for review under section 3507—

“(A) is necessary for the proper performance of the functions of the agency, including that the information has practical utility;

“(B) is not unnecessarily duplicative of information otherwise reasonably accessible to the agency;

“(C) reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities, as defined under section 601(6) of title 5, the use of such techniques as—

“(i) establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond;

“(ii) the clarification, consolidation, or simplification of compliance and reporting requirements; or

“(iii) an exemption from coverage of the collection of information, or any part thereof;

“(D) is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond;

“(E) is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond;

“(F) contains the statement required under paragraph (1)(B)(iii);

“(G) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public;

“(H) uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected; and

“(I) to the maximum extent practicable, uses information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public.

“(d) With respect to information dissemination, each agency shall—

“(1) ensure that the public has timely and equitable access to the agency's public information, including ensuring such access through—

“(A) encouraging a diversity of public and private sources for information based on government public information, and

“(B) agency dissemination of public information in an efficient, effective, and economical manner;

“(2) regularly solicit and consider public input on the agency's information dissemination activities; and

“(3) not, except where specifically authorized by statute—

“(A) establish an exclusive, restricted, or other distribution arrangement that interferes with timely and equitable availability of public information to the public;

“(B) restrict or regulate the use, resale, or redissemination of public information by the public;

“(C) charge fees or royalties for resale or redissemination of public information; or

“(D) establish user fees for public information that exceed the cost of dissemination.

“(e) With respect to statistical policy and coordination, each agency shall—

“(1) ensure the relevance, accuracy, timeliness, integrity, and objectivity of information collected or created for statistical purposes;

“(2) inform respondents fully and accurately about the sponsors, purposes, and uses of statistical surveys and studies;

“(3) protect respondents' privacy and ensure that disclosure policies fully honor pledges of confidentiality;

“(4) observe Federal standards and practices for data collection, analysis, documentation, sharing, and dissemination of information;

“(5) ensure the timely publication of the results of statistical surveys and studies, including information about the quality and limitations of the surveys and studies; and

“(6) make data available to statistical agencies and readily accessible to the public.

“(f) With respect to records management, each agency shall implement and enforce applicable policies and procedures, including requirements for archiving information maintained in electronic format, particularly in the planning, design and operation of information systems.

“(g) With respect to privacy and security, each agency shall—

“(1) implement and enforce applicable policies, procedures, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for the agency;

“(2) assume responsibility and accountability for compliance with and coordinated management of sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

“(3) consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

“(h) With respect to Federal information technology, each agency shall—

“(1) implement and enforce applicable Governmentwide and agency information technology management policies, principles, standards, and guidelines;

“(2) assume responsibility and accountability for any acquisitions made pursuant to a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759);

“(3) promote the use of information technology by the agency to improve the productivity, efficiency, and effectiveness of agency programs, including the reduction of information collection burdens on the public and improved dissemination of public information;

"(4) propose changes in legislation, regulations, and agency procedures to improve information technology practices, including changes that improve the ability of the agency to use technology to reduce burden; and

"(5) establish, and be responsible for, a major information system initiative review process, which shall be developed and implemented by the information resources management steering committee established under subsection (a)(5), consistent with guidelines issued under section 3505(4), and include—

"(A) the review of major information system initiative proposals and projects (including acquisitions of information technology), approval or disapproval of each such initiative, and periodic reviews of the development and implementation of such initiatives, including whether the projected benefits have been achieved;

"(B) the use by the committee of specified evaluative techniques and criteria to—

"(i) assess the economy, efficiency, effectiveness, risks, and priority of system initiatives in relation to mission needs and strategies;

"(ii) estimate and verify life-cycle system initiative costs; and

"(iii) assess system initiative privacy, security, records management, and dissemination and access capabilities;

"(C) the use, as appropriate, of independent cost evaluations of data developed under subparagraph (B); and

"(D) the inclusion of relevant information about approved initiatives in the agency's annual budget request.

**"§3507. Public information collection activities; submission to Director; approval and delegation**

"(A) An agency shall not conduct or sponsor the collection of information unless in advance of the adoption or revision of the collection of information—

"(1) the agency has—

"(A) conducted the review established under section 3506(c)(1);

"(B) evaluated the public comments received under section 3506(c)(2);

"(C) submitted to the Director the certification required under section 3506(c)(3), the proposed collection of information, copies of pertinent statutory authority, regulations, and other related materials as the Director may specify; and

"(D) published a notice in the Federal Register—

"(i) stating that the agency has made such submission; and

"(ii) setting forth—

"(I) a title for the collection of information;

"(II) a summary of the collection of information;

"(III) a brief description of the need for the information and the proposed use of the information;

"(IV) a description of the likely respondents and proposed frequency of response to the collection of information;

"(V) an estimate of the burden that shall result from the collection of information; and

"(VI) notice that comments may be submitted to the agency and Director;

"(2) the Director has approved the proposed collection of information or approval has been inferred, under the provisions of this section; and

"(3) the agency has obtained from the Director a control number to be displayed upon the collection of information.

"(b) The Director shall provide at least 30 days for public comment prior to making a decision under subsection (c), (d), or (h), except as provided under subsection (j).

"(c)(1) For any proposed collection of information not contained in a proposed rule, the Director shall notify the agency involved of the decision to approve or disapprove the proposed collection of information.

"(2) The Director shall provide the notification under paragraph (1), within 60 days after receipt or publication of the notice under subsection (a)(1)(D), whichever is later.

"(3) If the Director does not notify the agency of a denial or approval within the 60-day period described under paragraph (2)—

"(A) the approval may be inferred;

"(B) a control number shall be assigned without further delay; and

"(C) the agency may collect the information for not more than 2 years.

"(d)(1) For any proposed collection of information contained in a proposed rule—

"(A) as soon as practicable, but no later than the date of publication of a notice of proposed rulemaking in the Federal Register, each agency shall forward to the Director a copy of any proposed rule which contains a collection of information and any information requested by the Director necessary to make the determination required under this subsection; and

"(B) within 60 days after the notice of proposed rulemaking is published in the Federal Register, the Director may file public comments pursuant to the standards set forth in section 3508 on the collection of information contained in the proposed rule;

"(2) When a final rule is published in the Federal Register, the agency shall explain—

"(A) how any collection of information contained in the final rule responds to the comments, if any, filed by the Director or the public; or

"(B) the reasons such comments were rejected.

"(3) If the Director has received notice and failed to comment on an agency rule within 60 days after the notice of proposed rulemaking, the Director may not disapprove any collection of information specifically contained in an agency rule.

"(4) No provision in this section shall be construed to prevent the Director, in the Director's discretion—

"(A) from disapproving any collection of information which was not specifically required by an agency rule;

"(B) from disapproving any collection of information contained in an agency rule, if the agency failed to comply with the requirements of paragraph (1) of this subsection;

"(C) from disapproving any collection of information contained in a final agency rule, if the Director finds within 60 days after the publication of the final rule that the agency's response to the Director's comments filed under paragraph (2) of this subsection was unreasonable; or

"(D) from disapproving any collection of information contained in a final rule, if—

"(i) the Director determines that the agency has substantially modified in the final rule the collection of information contained in the proposed rule; and

"(ii) the agency has not given the Director the information required under paragraph (1) with respect to the modified collection of information, at least 60 days before the issuance of the final rule.

"(5) This subsection shall apply only when an agency publishes a notice of proposed rulemaking and requests public comments.

"(6) The decision by the Director to approve or not act upon a collection of information contained in an agency rule shall not be subject to judicial review.

"(e)(1) Any decision by the Director under subsection (c), (d), (h), or (j) to disapprove a collection of information, or to instruct the agency to make substantive or material

change to a collection of information, shall be publicly available and include an explanation of the reasons for such decision.

"(2) Any written communication between the Office of the Director, the Administrator of the Office of Information and Regulatory Affairs, or any employee of the Office of Information and Regulatory Affairs and an agency or person not employed by the Federal Government concerning a proposed collection of information shall be made available to the public.

"(3) This subsection shall not require the disclosure of—

"(A) any information which is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy; or

"(B) any communication relating to a collection of information which has not been approved under this chapter, the disclosure of which could lead to retaliation or discrimination against the communicator.

"(f)(1) An independent regulatory agency which is administered by 2 or more members of a commission, board, or similar body, may by majority vote void—

"(A) any disapproval by the Director, in whole or in part, of a proposed collection of information of that agency; or

"(B) an exercise of authority under subsection (d) of section 3507 concerning that agency.

"(2) The agency shall certify each vote to void such disapproval or exercise to the Director, and explain the reasons for such vote. The Director shall without further delay assign a control number to such collection of information, and such vote to void the disapproval or exercise shall be valid for a period of 3 years.

"(g) The Director may not approve a collection of information for a period in excess of 3 years.

"(h)(1) If an agency decides to seek extension of the Director's approval granted for a currently approved collection of information, the agency shall—

"(A) conduct the review established under section 3506(c), including the seeking of comment from the public on the continued need for, and burden imposed by the collection of information; and

"(B) after having made a reasonable effort to seek public comment, but no later than 60 days before the expiration date of the control number assigned by the Director for the currently approved collection of information, submit the collection of information for review and approval under this section, which shall include an explanation of how the agency has used the information that it has collected.

"(2) If under the provisions of this section, the Director disapproves a collection of information contained in an existing rule, or recommends or instructs the agency to make a substantive or material change to a collection of information contained in an existing rule, the Director shall—

"(A) publish an explanation thereof in the Federal Register; and

"(B) instruct the agency to undertake a rulemaking within a reasonable time limited to consideration of changes to the collection of information contained in the rule and thereafter to submit the collection of information for approval or disapproval under this chapter.

"(3) An agency may not make a substantive or material modification to a collection of information after such collection has been approved by the Director, unless the modification has been submitted to the

Director for review and approval under this chapter.

“(i)(1) If the Director finds that a senior official of an agency designated under section 3506(a) is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved and has sufficient resources to carry out this responsibility effectively, the Director may, by rule in accordance with the notice and comment provisions of chapter 5 of title 5, United States Code, delegate to such official the authority to approve proposed collections of information in specific program areas, for specific purposes, or for all agency purposes.

“(2) A delegation by the Director under this section shall not preclude the Director from reviewing individual collections of information if the Director determines that circumstances warrant such a review. The Director shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Director, any official to whom approval authority has been delegated under this section shall comply fully with the rules and regulations promulgated by the Director.

“(j)(1) The agency head may request the Director to authorize collection of information prior to expiration of time periods established under this chapter, if an agency head determines that—

“(A) a collection of information—

“(i) is needed prior to the expiration of such time periods; and

“(ii) is essential to the mission of the agency; and

“(B) the agency cannot reasonably comply with the provisions of this chapter within such time periods because—

“(i) public harm is reasonably likely to result if normal clearance procedures are followed; or

“(ii) an unanticipated event has occurred and the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information related to the event or is reasonably likely to cause a statutory or court-ordered deadline to be missed.

“(2) The Director shall approve or disapprove any such authorization request within the time requested by the agency head and, if approved, shall assign the collection of information a control number. Any collection of information conducted under this subsection may be conducted without compliance with the provisions of this chapter for a maximum of 90 days after the date on which the Director received the request to authorize such collection.

**“§3508. Determination of necessity for information; hearing**

“Before approving a proposed collection of information, the Director shall determine whether the collection of information by the agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility. Before making a determination the Director may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent that the Director determines that the collection of information by an agency is unnecessary for the proper performance of the functions of the agency, for any reason, the agency may not engage in the collection of information.

**“§3509. Designation of central collection agency**

“The Director may designate a central collection agency to obtain information for two or more agencies if the Director determines that the needs of such agencies for information will be adequately served by a single collection agency, and such sharing of data

is not inconsistent with applicable law. In such cases the Director shall prescribe (with reference to the collection of information) the duties and functions of the collection agency so designated and of the agencies for which it is to act as agent (including reimbursement for costs). While the designation is in effect, an agency covered by the designation may not obtain for itself information for the agency which is the duty of the collection agency to obtain. The Director may modify the designation from time to time as circumstances require. The authority to designate under this section is subject to the provisions of section 3507(f) of this chapter.

**“§3510. Cooperation of agencies in making information available**

“(a) The Director may direct an agency to make available to another agency, or an agency may make available to another agency, information obtained by a collection of information if the disclosure is not inconsistent with applicable law.

“(b)(1) If information obtained by an agency is released by that agency to another agency, all the provisions of law (including penalties which relate to the unlawful disclosure of information) apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information.

“(2) The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.

**“§3511. Establishment and operation of Government Information Locator Service**

“In order to assist agencies and the public in locating information and to promote information sharing and equitable access by the public, the Director shall—

“(1) cause to be established and maintained a distributed agency-based electronic Government Information Locator Service (hereafter in this section referred to as the ‘Service’), which shall identify the major information systems, holdings, and dissemination products of each agency;

“(2) require each agency to establish and maintain an agency information locator service as a component of, and to support the establishment and operation of the Service;

“(3) in cooperation with the Archivist of the United States, the Administrator of General Services, the Public Printer, and the Librarian of Congress, establish an interagency committee to advise the Secretary of Commerce on the development of technical standards for the Service to ensure compatibility, promote information sharing, and uniform access by the public;

“(4) consider public access and other user needs in the establishment and operation of the Service;

“(5) ensure the security and integrity of the Service, including measures to ensure that only information which is intended to be disclosed to the public is disclosed through the Service; and

“(6) periodically review the development and effectiveness of the Service and make recommendations for improvement, including other mechanisms for improving public access to Federal agency public information.

**“§3512. Public protection**

“Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to maintain, provide, or disclose information to or for any agency or person if the collection of information subject to this chapter—

“(1) does not display a valid control number assigned by the Director; or

“(2) fails to state that the person who is to respond to the collection of information is not required to comply unless such collection displays a valid control number.

**“§3513. Director review of agency activities; reporting; agency response**

“(a) In consultation with the Administrator of General Services, the Archivist of the United States, the Director of the National Institute of Standards and Technology, and the Director of the Office of Personnel Management, the Director shall periodically review selected agency information resources management activities to ascertain the efficiency and effectiveness of such activities to improve agency performance and the accomplishment of agency missions.

“(b) Each agency having an activity reviewed under subsection (a) shall, within 60 days after receipt of a report on the review, provide a written plan to the Director describing steps (including milestones) to—

“(1) be taken to address information resources management problems identified in the report; and

“(2) improve agency performance and the accomplishment of agency missions.

**“§3514. Responsiveness to Congress**

“(a)(1) The Director shall—

“(A) keep the Congress and congressional committees fully and currently informed of the major activities under this chapter; and

“(B) submit a report on such activities to the President of the Senate and the Speaker of the House of Representatives annually and at such other times as the Director determines necessary.

“(2) The Director shall include in any such report a description of the extent to which agencies have—

“(A) reduced information collection burdens on the public, including—

“(i) a summary of accomplishments and planned initiatives to reduce collection of information burdens;

“(ii) a list of all violations of this chapter and of any rules, guidelines, policies, and procedures issued pursuant to this chapter; and

“(iii) a list of any increase in the collection of information burden, including the authority for each such collection;

“(B) improved the quality and utility of statistical information;

“(C) improved public access to Government information; and

“(D) improved program performance and the accomplishment of agency missions through information resources management.

“(b) The preparation of any report required by this section shall be based on performance results reported by the agencies and shall not increase the collection of information burden on persons outside the Federal Government.

**“§3515. Administrative powers**

“Upon the request of the Director, each agency (other than an independent regulatory agency) shall, to the extent practicable, make its services, personnel, and facilities available to the Director for the performance of functions under this chapter.

**“§3516. Rules and regulations**

“The Director shall promulgate rules, regulations, or procedures necessary to exercise the authority provided by this chapter.

**“§3517. Consultation with other agencies and the public**

“(a) In developing information resources management policies, plans, rules, regulations, procedures, and guidelines and in reviewing collections of information, the Director shall provide interested agencies and

persons early and meaningful opportunity to comment.

"(b) Any person may request the Director to review any collection of information conducted by or for an agency to determine, if, under this chapter, a person shall maintain, provide, or disclose the information to or for the agency. Unless the request is frivolous, the Director shall, in coordination with the agency responsible for the collection of information—

"(1) respond to the request within 60 days after receiving the request, unless such period is extended by the Director to a specified date and the person making the request is given notice of such extension; and

"(2) take appropriate remedial action, if necessary.

### "§ 3518. Effect on existing laws and regulations

"(a) Except as otherwise provided in this chapter, the authority of an agency under any other law to prescribe policies, rules, regulations, and procedures for Federal information resources management activities is subject to the authority of the Director under this chapter.

"(b) Nothing in this chapter shall be deemed to affect or reduce the authority of the Secretary of Commerce or the Director of the Office of Management and Budget pursuant to Reorganization Plan No. 1 of 1977 (as amended) and Executive order, relating to telecommunications and information policy, procurement and management of telecommunications and information systems, spectrum use, and related matters.

"(c)(1) Except as provided in paragraph (2), this chapter shall not apply to the collection of information—

"(A) during the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal matter;

"(B) during the conduct of—

"(i) a civil action to which the United States or any official or agency thereof is a party; or

"(ii) an administrative action or investigation involving an agency against specific individuals or entities;

"(C) by compulsory process pursuant to the Antitrust Civil Process Act and section 13 of the Federal Trade Commission Improvements Act of 1980; or

"(D) during the conduct of intelligence activities as defined in section 4-206 of Executive Order No. 12036, issued January 24, 1978, or successor orders, or during the conduct of cryptologic activities that are communications security activities.

"(2) This chapter applies to the collection of information during the conduct of general investigations (other than information collected in an antitrust investigation to the extent provided in subparagraph (C) of paragraph (1)) undertaken with reference to a category of individuals or entities such as a class of licensees or an entire industry.

"(d) Nothing in this chapter shall be interpreted as increasing or decreasing the authority conferred by Public Law 89-306 on the Administrator of the General Services Administration, the Secretary of Commerce, or the Director of the Office of Management and Budget.

"(e) Nothing in this chapter shall be interpreted as increasing or decreasing the authority of the President, the Office of Management and Budget or the Director thereof, under the laws of the United States, with respect to the substantive policies and programs of departments, agencies and offices, including the substantive authority of any Federal agency to enforce the civil rights laws.

### "§ 3519. Access to information

"Under the conditions and procedures prescribed in section 716 of title 31, the Director and personnel in the Office of Information and Regulatory Affairs shall furnish such information as the Comptroller General may require for the discharge of the responsibilities of the Comptroller General. For the purpose of obtaining such information, the Comptroller General or representatives thereof shall have access to all books, documents, papers and records, regardless of form or format, of the Office.

### "§ 3520. Authorization of appropriations

"(a) Subject to subsection (b), there are authorized to be appropriated to the Office of Information and Regulatory Affairs to carry out the provisions of this chapter, and for no other purpose, \$8,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

"(b)(1) No funds may be appropriated pursuant to subsection (a) unless such funds are appropriated in an appropriation Act (or continuing resolution) which separately and expressly states the amount appropriated pursuant to subsection (a) of this section.

"(2) No funds are authorized to be appropriated to the Office of Information and Regulatory Affairs, or to any other officer or administrative unit of the Office of Management and Budget, to carry out the provisions of this chapter, or to carry out any function under this chapter, for any fiscal year pursuant to any provision of law other than subsection (a) of this section."

### SEC. 3. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall take effect on June 30, 1995.

### S. 244, THE 'PAPERWORK REDUCTION ACT OF 1995'—SUMMARY

The "Paperwork Reduction Act of 1995" will—

Reaffirm the fundamental purpose of the Paperwork Reduction Act of 1980: to minimize the Federal paperwork burdens imposed on individuals, small businesses, State and local governments, educational and non-profit institutions, and Federal contractors.

Provide a five-year authorization of appropriations for the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget, the paperwork "watchdog" under the Act.

Clarify that the Act's public protections apply to all Government-sponsored paperwork, eliminating any confusion over the coverage of so-called "third-party burdens" (those imposed by one private party on another private party due to a Federal regulation), caused by the U.S. Supreme Court's 1989 decision in *Dole v. United Steelworkers of America*.

Seek to reduce the paperwork burdens imposed on the public through an annual Government-wide paperwork reduction goal of 5 percent.

Emphasize the fundamental responsibilities of each Federal agency to minimize paperwork burdens and foster paperwork reduction, by requiring—

a thorough review of each proposed collection of information for need and practical utility, the Paperwork Reduction Act's fundamental standards, which enables an agency to collect needed information while minimizing the burden imposed on the public;

agency planning to maximize the use of information already collected by the public;

better notice and opportunity for public participation with at least a 60-day comment period for each proposed paperwork requirement;

agency certification of compliance with public participation requirements and the Act's fundamental standards of need and

practical utility for each proposed paperwork requirement before its submission to OIRA for review, approval and assignment of a control number clearance; and

Strengthen OIRA's responsibilities in the fight to minimize paperwork burdens imposed on the public, by—

empowering OIRA to establish standards under which Federal agencies can more accurately estimate the burden placed upon the public by a proposed paperwork requirements;

working with the Office of Federal Procurement Policy (OFPP) to reduce the substantial paperwork burdens associated with Government contracting; and

Empower the public further in the paperwork reduction fight by enabling an individual to obtain a written determination from the OIRA Administrator regarding whether a Federally sponsored paperwork requirement complies with the Act's standards and public protections, in the same manner that a determination can be sought from the OFPP Administrator regarding whether a procurement regulation issued by an individual agency or buying activity is consistent with the Government-wide Federal Acquisition Regulation.

Improves the Government's ability to make more effective use of the information collected from the public by—

specifying responsibilities of individual agencies regarding information resources management (IRM);

enhancing OIRA's responsibility and authority for establishing Government-wide IRM policy;

establishing policies for linking information technology (IT) budgeting and IRM decision-making to agency program performance, consistent with "Best Practices" studies conducted by the U.S. General Accounting Office.

Strengthen OIRA's leadership role in Federal statistical policy.

### THE PAPERWORK REDUCTION ACT COALITION Aerospace Industries Association of America.

Air Transport Association of America.  
Alliance of American Insurers.  
American Consulting Engineers Council.  
American Institute of Merchant Shipping.  
American Iron and Steel Institute.  
American Petroleum Institute.  
American Subcontractors Association.  
American Telephone & Telegraph.  
Associated Builders & Contractors.  
Associated Credit Bureaus.  
Associated General Contractors of America.

Association of Manufacturing Technology.  
Association of Records Managers and Administrators.

Automotive Parts and Accessories Association.

Biscuit and Cracker Manufacturers' Association.

Bristol Myers.  
Chemical Manufacturers Association.  
Chemical Specialties Manufacturers Association.

Citizens Against Government Waste.  
Citizens For A Sound Economy.  
Computer and Business Equipment Manufacturers Association.

Contract Services Association of America.  
Copper & Brass Fabricators Council.  
Dairy and Food Industries Supply Association.

Direct Selling Association.  
Eastman Kodak Company.  
Electronic Industries Association.  
Financial Executive Institute.  
Food Marketing Institute.

Gadsby & Hannah.  
 Gas Appliance Manufacturers Association.  
 General Electric.  
 Glaxo, Inc.  
 Greater Washington Board of Trade.  
 Hardwood Plywood and Veneer Association.  
 Independent Bankers Association of America.  
 International Business Machines.  
 International Communication Industries Association.  
 International Mass Retail Association.  
 Kitchen Cabinet Manufacturers Association.  
 Mail Advertising Service Association International.  
 McDermott, Will & Emery.  
 Motorola Government Electronics Group.  
 National Association of Homebuilders of the United States.  
 National Association of Manufacturers.  
 National Association of Plumbing-Heating-Cooling Contractors.  
 National Association of the Remodeling Industry.  
 National Association of Wholesalers-Distributors.  
 National Federation of Independent Business.  
 National Food Brokers Association.  
 National Food Processors Association.  
 National Foundation for Consumer Credit.  
 National Glass Association.  
 National Restaurant Association.  
 National Roofing Contractors Association.  
 National Security Industrial Association.  
 National Small Business United.  
 National Society of Professional Engineers.  
 National Society of Public Accountants.  
 National Tooling and Machining Association.  
 Northrop Corporation.  
 Packaging Machinery Manufacturers Institute.  
 Painting and Decorating Contractors of America.  
 Printing Industries of America.  
 Professional Services Council.  
 Shipbuilders Council of America.  
 Small Business Legislative Council.  
 Society for Marketing Professional Services.  
 Sun Company, Inc.  
 Sunstrand Corporation.  
 Texaco.  
 United Technologies.  
 Wholesale Florists and Florist Suppliers of America.

MEMBERS OF THE SMALL BUSINESS  
 LEGISLATIVE COUNCIL

Air Conditioning Contractors of America.  
 Alliance for Affordable Health Care.  
 Alliance of Independent Store Owners and Professionals.  
 American Animal Hospital Association.  
 American Association of Nurserymen.  
 American Bus Association.  
 American Consulting Engineers Council.  
 American Council of Independent Laboratories.  
 American Floorcovering Association.  
 American Gear Manufacturers Association.  
 American Machine Tool Distributors Association.  
 American Road & Transportation Builders Association.  
 American Society of Travel Agents, Inc.  
 American Sod Producers Association.  
 American Subcontractors Association.  
 American Textile Machinery Association.  
 American Trucking Associations, Inc.  
 American Warehouse Association.  
 American Wholesale Marketers Association.

AMT-The Association for Manufacturing Technology.  
 Apparel Retailers of America.  
 Architectural Precast Association.  
 Associated Builders & Contractors.  
 Associated Equipment Distributors.  
 Associated Landscape Contractors of America.  
 Association of Small Business Development Centers.  
 Automotive Service Association.  
 Automotive Recyclers Association.  
 Bowling Proprietors Association of America.  
 Building Service Contractors Association International.  
 Business Advertising Council.  
 Christian Booksellers Association.  
 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 Bakers Association.  
 Independent Bankers Association of America.  
 Independent Medical Distributors Association.  
 International Association of Refrigerated Warehouses.  
 International Communications Industries Association.  
 International Formalwear Association.  
 International Television Association.  
 Machinery Dealers National Association.  
 Manufacturers Agents National Association.  
 Manufacturers Representatives of America, Inc.  
 Mechanical Contractors Association of America, Inc.  
 National Association for the Self-Employed.  
 National Association of Catalog Showroom Merchandisers.  
 National Association of Home Builders.  
 National Association of Investment Companies.  
 National Association of Plumbing-Heating-Cooling Contractors.  
 National Association of Private Enterprise.  
 National Association of Realtors.  
 National Association of Retail Druggists.  
 National Association of RV Parks and Campgrounds.  
 National Association of Small Business Investment Companies.  
 National Association of the Remodeling Industry.  
 National Association of Truck Stop Operators.  
 National Association of Women Business Owners.  
 National Chimney Sweep Guild.  
 National Association of Catalog Showroom Merchandisers.  
 National Coffee Service Association.  
 National Electrical Contractors Association.  
 National Electrical Manufacturers Representatives Association.  
 National Food Brokers Association.  
 National Independent Flag Dealers Association.  
 National Knitwear Sportswear Association.  
 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 Tire Dealers & Retreaders Association.  
 National Tooling and Machining Association.  
 National Tour Association.  
 National Venture Capital Association.  
 Opticians Association of America.  
 Organization for the Protection and Advancement of Small Telephone Companies.  
 Passenger Vessel Association.  
 Petroleum Marketers Association of America.  
 Power Transmission Representatives Association.  
 Printing Industries of America, Inc.  
 Promotional Products Association International.  
 Retail Bakers of America.  
 Small Business Council of America, Inc.  
 Small Business Exporters Association.  
 SMC/Pennsylvania Small Business.  
 Society of American Florists.

Mr. ROTH. Mr. President, I am pleased to join today with the distinguished gentleman from Georgia [Senator NUNN] in introducing the Paperwork Reduction Act of 1995. Last year, this legislation, after thorough consideration by the Committee on Governmental Affairs, was reported unanimously and then passed the Senate on two different occasions, also unanimously.

This legislation is part of the Contract With America. While the contract contains the original version which Senator NUNN and I introduced in the last Congress, we believe that the new House leadership would be receptive to the improved version we are today introducing. I am hopeful that the Senate will take the lead once again in passing this legislation. As chairman of the Committee on Governmental Affairs, I intend to process this legislation quickly, and ask my colleagues on the committee to join with Senator NUNN, Senator GLENN, and myself in this effort.

I would hope that this legislation could be acted on this month to become the third Governmental Affairs bill in this young session to be considered on the floor.

This legislation enjoys widespread support among the business community, both big and small, as well as among State, local, and tribal governments and the people—all who bear the burden of Federal Government paperwork collections. This legislation strengthens the paperwork reduction aspects of the 1980 act and directs OIRA to reduce paperwork burdens on the public by 5 percent annually. By overturning the 1990 Supreme Court decision in *Dole versus United Steel Workers of America*, it extends the jurisdiction of the act by 50 percent. One could thus expect the burden-saving results of this legislation to be substantial.

The Committee on Governmental Affairs has broad jurisdiction over subjects of paperwork burdens, information technology, and regulations. No one piece of legislation can adequately deal with all facets of those subjects. This legislation is not the last that

will be addressed on those subjects by the committee.

On February 1, 1995, the committee will hold a hearing on the Government's use of information technology as part of the Committee's Reinventing Government effort.

On February 8, 1995, the committee will begin a set of hearings on the broad subject of regulatory reform.

Mr. GLENN. Mr. President, it gives me great pleasure to join with my colleagues from the Government Affairs Committee, Senator NUNN and Senator ROTH, to cosponsor our bipartisan legislation to reauthorize the Paperwork Reduction Act. The legislation we introduce today reflects the compromise we achieved in the last Congress, which the Senate passed by a unanimous vote on October 6, 1994. I am confident that this bill will once again be passed by the Senate and then move quickly in the House.

This legislation has two very important and closely related purposes. First, the Paperwork Reduction Act is vital to reducing Government paperwork burdens on the American public. Too often, individuals and businesses are burdened by having to fill out questionnaires and forms that simply are not needed to implement the laws of the land. Too much time and money is wasted in an effort to satisfy bureaucratic excess. The Paperwork Reduction Act of 1980 created a clearance process to control this Government appetite for information. The Paperwork Reduction Act of 1995 strengthens this process and will reduce the burdens of Government redtape on the public.

Second, the act is key to improving the efficiency and effectiveness of government information activities. The Federal Government is now spending over \$25 billion a year on information technology. The new age of computers and telecommunications provides many opportunities for improvements in Government operations. Unfortunately, as oversight by our committee and others has shown, the Government is wasting millions of dollars on poorly designed and often incompatible systems. This must stop. The Paperwork Reduction Act of 1980 took a first step on the road to reform when it created information resources management [IRM] policies to be overseen by OMB. The Paperwork Reduction Act of 1995 strengthens that mandate and establishes new requirements for agency IRM improvements.

In these and other ways, this legislation strengthens the Paperwork Reduction Act and reflects the concerns of a broad array of Senators. As my colleagues know, I have been working for several years to reauthorize this important law. I am very pleased with the result. With this legislation, we:

Reauthorize the act for 5 years;

Overturn the Dole versus United Steelworkers Supreme Court decision, so that information disclosure requirements are covered by the OMB paperwork clearance process;

Require agencies to evaluate paperwork proposals and solicit public comment on them before the proposals go to OMB for review;

Create additional opportunities for the public to participate in paperwork clearance and other information management decisions;

Strengthen agency and OMB information resources management [IRM] requirements;

Establish information dissemination standards and require the development of a government information locator service [GILS] to ensure improved public access to government information, especially that maintained in electronic format; and

Make other improvements in the areas of government statistics, records management, computer security, and the management of information technology.

These are important reforms. They are the result of over a year long process of consultation among members of the Governmental Affairs Committee, the administration, and the General Accounting Office. Of course, reaching agreement on this legislation has involved compromises that displease some. It may also not completely resolve conflicting views on many of the OMB paperwork and regulatory review controversies that have dogged congressional oversight of the Paperwork Reduction Act. But again, this legislation is a compromise that addresses many important issues and will help the Government reduce paperwork burdens on the public and improve the management of Federal information resources. I believe this is a very good compromise that can and should pass both the Senate and the House. I urge my colleagues to support this legislation.

By Mr. COHEN (for himself, Mr. DOLE, Mr. SIMPSON, Mr. STEVENS, Mr. D'AMATO, Mr. GRAHAM, Mr. COATS, Mr. GREGG, Mr. WARNER, Mr. NICKLES, Mr. PRYOR, Mr. BOND, Mr. CHAFEE, Mr. FORD, and Mr. DOMENICI):

S. 245. A bill to provide for enhanced penalties for health care fraud, and for other purposes; to the Committee on Finance.

THE HEALTH CARE FRAUD PREVENTION ACT OF 1995

Mr. COHEN. Mr. President, I rise today to introduce, on behalf of myself, Senators DOLE, SIMPSON, STEVENS, D'AMATO, GRAHAM of Florida, COATS, GREGG, WARNER, NICKLES, PRYOR, CHAFEE, BOND, and FORD, the Health Care Fraud Prevention Act of 1995.

Mr. President, health care reform has now taken a back seat to some other measures that are now before the Congress, as our colleagues in the House debate their Contract With America provisions and this body debates unfunded mandates, a balanced budget amendment, and entitlement reform. Apparently health care reform is going to have to wait. But I must say that it

is just as important as these other issues as far as the American people are concerned. But as we await the debate on health care reform, which I believe must come this session, we also have to take steps immediately to toughen our defenses against fraudulent practices that are driving up the cost of health care for families, businesses and taxpayers alike.

You may recall that last year I introduced a measure which contained some additions to the criminal law provisions of our title 18 statutes. Those provisions were adopted unanimously by the Senate. They were sent over to the House where they were stripped out of the anticrime bill at conference because the majority rationalized that these provisions should not go on the crime bill but on a health care reform bill. As we know, there was no health care reform bill passed last year.

On a number of occasions, I sought to attach the provisions to pending legislation, for example, the D.C. appropriations bill and the Labor, HHS appropriations bill. I was prevailed upon to withdraw the legislation at that time so as to allow the appropriations bills to go forward. And I pointed out at that time, which was at the conclusion of last year's session of Congress, that we would lose as much as \$100 billion a year due to health care fraud and abuse. That amounts to \$275 million a day or \$11.5 million every single hour.

Mr. President, I do not think we can afford to delay this any longer. Over the past 5 years, we have lost as much as \$418 billion from health care fraud and abuse, which is approximately four times the total losses associated with the savings and loan crisis.

Just imagine the furor that enveloped this country over the bailout necessary because of the savings and loan problems that afflicted this country. It is four times that as far as health care fraud is concerned, and yet there does not seem to be much of a sense of urgency on the part of our colleagues to do much about it.

Mr. President, I have worked with the Justice Department, the FBI, Medicaid fraud units, inspectors general, and others in developing this legislation. As I pointed out last year there is a song, I think it was by Paul Simon—not our PAUL SIMON but the song writer Paul Simon—who had a song called "Fifty Ways To Leave Your Lover." We showed through an Aging Committee's year-long investigation at least 50 ways in which to pick the pockets of Uncle Sam and of private insurers.

I will not, because of the length of the report, introduce it now into the RECORD. I will simply ask unanimous consent that at the conclusion of my remarks the executive summary of this year-long investigation be introduced in the RECORD and included as part of it.

Let me simply add a few more examples of the kinds of activities that are taking place now while we are debating

other amendments, germane and non-germane, to the pending unfunded mandates bill. First, let me point out that there are roughly a half billion Medicare claims processed each year and the overwhelming majority of those are submitted for legitimate services by conscientious health care providers and beneficiaries—the overwhelming majority. It is the minority who are taking as much as \$100 billion out of the system.

Let me give you examples of what is going on. A doctor promoted his clinic in television, radio, newspaper, and telephone book ads as a “one-stop, walk-in diagnostic center.” You can walk in, and they can take care of any problem you have got. So a person might go in for an examination for a shoulder injury and be subjected to a huge battery of tests which have nothing to do with the shoulder, resulting in bills of \$4,000 and more per patient.

Using the names of dozens of dead patients, a phantom laboratory in Miami allegedly cheated the Government out of \$300,000 in Medicare payments in a matter of just a few weeks for lab tests never performed. The lab that was submitting the bills for the tests was basically a rented mailbox and a Medicare billing number. That was it.

Employees of an airline were indicted for filing false and fraudulent claims for reimbursement to a private insurance company for medical care and services they claimed to have received in another country. The allegations are that the employees attempted to mail false and fictitious forms totaling close to \$600,000 for treatments and services never performed.

A durable medical equipment company, its owner and sales manager pled guilty to supplying unnecessary medical equipment such as hospital beds and oxygen concentrators to residents of adult congregate living facilities and then billing Medicare for more than \$600,000. These conspirators induced the facilities' managers to allow them to provide the equipment by promising to leave the equipment when the patients died or were transferred.

Physician-owners of a clinic in New York stole over \$1.3 million from the State Medicaid program by fraudulently billing for over 50,000 phantom psychotherapy sessions never given to Medicaid patients.

Finally, a medical equipment supplier stole \$1.45 million from Medicaid by repeatedly billing for expensive back supports that were never authorized by the patients' physicians.

These cases are but a small sample of the fraudulent and abusive schemes that are plaguing our health care system daily, freezing millions of Americans out of affordable health care coverage, and driving up costs for taxpayers.

The bill I am introducing today will go far in strengthening our defenses against health care fraud.

Specifically, it will:

Give prosecutors stronger tools and tougher statutes to combat criminal health care fraud. It would, for example, provide a specific health care offense in title 18 so that prosecutors are not forced to spend excessive time and resources to develop a nexus to the mail or wire fraud statutes to pursue clear cases of fraud, or to track the cash-flow from health care schemes in order to prosecute under money laundering statutes.

It will allow injunctive relief and forfeiture for criminal health care fraud; provide greater authority to exclude violators from Medicare and Medicaid programs; create tough administrative civil penalties and remedies for fraud and abuse so that a range of sanctions will be available; and coordinate enforcement programs and beef up investigative resources, which are now woefully inadequate. For example, the HHS' inspector general states that it produces \$80 in savings for each Federal dollar invested in their office yet their full-time equivalent position level has actually decreased over the last few years.

The FBI recently testified that they have over 1,300 cases pending but that regardless of this prioritization, the amount of health care fraud not being addressed due to a lack of available resources is growing and that health care fraud appears to be a problem of immense proportion which is presently not being fully addressed.

I might point out we have been reading about the extent of global international crime, even all the way from Russia, now moving into this country and ripping off the Medicare-Medicaid Programs and other health care systems by the millions. This is a growing problem of great concern to me, so the FBI needs help. This bill helps agencies like the FBI and HHS and DOD inspectors general by financing additional health care fraud enforcement resources with proceeds derived from forfeiture, fines, and other health care fraud enforcement efforts.

It will also provide guidance to health care providers and industries on how to comply with fraud rules, so they will know what is and what is not prohibited activity.

I have worked closely with law enforcement and health care fraud experts in developing these proposals, and am continuing to work with industry representatives to ensure that fraud and abuse statutes and requirements are fair, clearly understood by health care providers, and reflect the changing health care market. Our goal should not be to burden health care providers with complicated, murky rules on fraud and abuse, but rather to lay down clear rules and guidance, followed by tough enforcement for violations.

Mr. President, when we are losing as much as \$275 million per day to health care fraud and abuse, we cannot afford to delay any longer. The only ones who benefit from delay on this important

issue are those who are bilking billions from our system. The very big losers will be the American taxpayers, patients, and families who cannot afford health care coverage because premiums and health care costs are escalating to cover the exorbitant costs of fraud and abuse.

I want to thank Senator DOLE for his steadfast support and leadership on this issue and I urge my colleagues to support and act expeditiously on this legislation.

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

There being no objection, the material was ordered to be printed.

#### EXECUTIVE SUMMARY

##### GAMING THE HEALTH CARE SYSTEM: BILLIONS OF DOLLARS LOST EACH YEAR TO FRAUD AND ABUSE

For the past year, the Minority Staff of the Senate Special Committee on Aging under my direction has investigated the explosion of fraud and abuse in the U.S. health care system. This report examines emerging trends, patterns of abuse, and types of tactics used by fraudulent providers, unscrupulous suppliers, and “professional” patients who game the system in order to reap billions of dollars in reimbursements by Medicare, Medicaid, and private insurers.

The consequences of fraud and abuse to the health care system are staggering: as much as 10 percent of U.S. health care spending, or \$100 billion, is lost each year to health care fraud and abuse. Over the last five years, estimated losses from these fraudulent activities totaled about \$418 billion—or almost four times as much as the cost of the entire savings and loan crisis to date.

Our investigation revealed that vulnerabilities to fraud exist throughout the entire health care system and that patterns of fraud within some provider groups have become particularly problematic. Major patterns of abuse that plague the system are overbilling, billing for services not rendered, “unbundling” (whereby one item, for example a wheelchair, is billed as many separate component parts), “upcoding” services to receive higher reimbursements, providing inferior products to patients, paying kickbacks and inducements for referrals of patients, falsifying claims and medical records to fraudulently certify an individual for government benefits, and billing for “ghost” patients, or “phantom” sessions or services.

This report provides 50 case examples of scams that have recently infiltrated our health care system. While these are but a small sampling of schemes that were reviewed during the investigation, they serve to illustrate how our health care system is rife with abuse, and how Medicare, Medicaid and private insurers have left their doors wide open to fraud.

Patients—and, in the case of Medicare and Medicaid, taxpayers—pay a high price for health care fraud and abuse in the form of higher health care costs, higher premiums, and at times, serious risks to patients' health and safety. For example:

Physician-owners of a clinic in New York stole over \$1.3 million from the State Medicaid program by fraudulently billing for over 50,000 “phantom” psychotherapy sessions never given to Medicaid recipients;

A speech therapist submitted false claims to Medicare for services “rendered to patients” several days after they had died;

A home health care company stole more than \$4.6 million from Medicaid by billing for home care provided by unqualified home care aides. In addition to cheating Medicaid, elderly and disabled individuals were at risk from untrained and unsupervised aides;

Nursing home operators charged personal items such as swimming pools, jewelry, and the family nanny to Medicaid cost reports;

Fifteen hundred workers lost their prescription drug coverage because a scam drove up the cost of the insurance plan for their employer. The scam involved a pharmacist who stole over \$370,000 from Medicaid and private health insurance plans by billing over one thousand times for prescription drugs that he did not actually dispense;

Large quantities of sample and expired drugs were dispensed to nursing home patients and pharmacy customers without their knowledge. When complaints were received from nursing home staff and patient relatives regarding the ineffectiveness of the medications, one of the scam artists stated "those people are old, they'll never know the difference and they'll be dead soon anyway";

Durable medical equipment suppliers stole \$1.45 million from the New York State Medicaid program by repeatedly billing for expensive orthotic back supports that were never prescribed by physicians;

A scheme involved the distribution of \$6 million worth of reused pacemakers and mislabeled pacemakers intended for "animal use only." The scheme involved kickbacks to cardiologists and surgeons to induce them to use pacemakers that had already expired; and

A clinical psychologist was indicted for having sexual intercourse with some of his patients and then seeking reimbursement from a federal health plan for these encounters as "therapy" sessions.

Our investigation found that scams such as these are perpetrated against both public and private health plans, and that health care fraud schemes have become more complex and sophisticated, often involving regional or national corporations and other organized entities. No part of the health care system is exempt from these fraudulent practices, however, we found that major patterns of fraud and abuse have infiltrated the following health care sectors: ambulance and taxi services, clinical laboratories, durable medical equipment suppliers, home health care, nursing homes, physicians, psychiatric services, and rehabilitative services in nursing homes. Our investigation further concludes that fraud and abuse is particularly rampant in Medicaid, and that many of the fraudulent schemes that have preyed on the Medicare program in recent years are now targeting the Medicaid program for further abuse.

#### GREATER OPPORTUNITIES FOR FRAUD WILL EXIST UNDER HEALTH CARE REFORM

As our health care system moves toward a managed care model, opportunities for fraud and abuse will increase unless enforcement efforts and tools are strengthened. The structure and incentives of a managed care system will result in a concentration of particular types of schemes, such as the failure to provide services and quality of care deficiencies in order to cut costs. In addition, while efforts toward simplification and electronic filing of health care claims offer tremendous savings, they also pose particular opportunities for abuse. Thus, it is crucial that any such system be designed with safeguards built in to detect and deter fraud and abuse.

#### FINDINGS OF INVESTIGATION

##### *Deficiencies in the current system expose billions of health care dollars to fraud and abuse*

A. Current Criminal and Civil Statutes Are Inadequate to Effectively Sanction and Deter Health Care Fraud:

Federal prosecutors now use traditional fraud statutes, such as the mail and wire fraud statutes, the False Claims Act, false statement statutes, and money laundering statute to persecute health care fraud. Our investigation found that the lack of a specific federal health care fraud criminal statute, inadequate tools available to prosecutors, and weak sanctions have significantly hampered law enforcement's efforts to combat health care fraud. Inordinate time and resources are lost in pursuing these cases under indirect federal statutes. Often, even when law enforcement shuts down a fraudulent scheme, the same players resurface and continue their fraud in another part of the health care system.

This cumbersome federal response to health care fraud has resulted in a system whereby the mouse has outsmarted the mousetrap. Those defrauding the system are ingenious and motivated, while the government and private sector responses to these perpetrators have not kept pace with the sophistication and extent of those they must pursue.

B. The Fragmentation of Health Care Fraud Enforcement Allows Fraud to Flourish:

Despite the multiplicity of Federal, State and local law enforcement agencies, and private health insurers and health plans involved in the investigation and prosecution of health care fraud, these enforcement efforts are inadequately coordinated, allowing health care fraud to permeate the system. While some strides have been made in coordinating law enforcement efforts, immediate steps must be taken to streamline and toughen our response to health care fraud.

#### RECOMMENDATIONS

Based on our investigation and findings, we recommend the following to reduce fraud and abuse throughout the health care system:

1. Establish an all-payer fraud and abuse program to coordinate the functions of the Attorney General, Department of Health and Human Services, and other organizations, to prevent, detect, and control fraud and abuse; to coordinate investigations; and to share data and resources with Federal, State, and local law enforcement and health plans.

2. Establish an all-payer fraud and abuse trust fund to finance enforcement efforts. Fines, penalties, assessments, and forfeitures collected from health care fraud offenders would be deposited in this fund, which would in turn be used to fund additional investigations, audits, and prosecutions.

3. Toughen federal criminal laws and enforcement tools for intentional health care fraud.

4. Improve the anti-kickback statute and extend prohibitions of Medicare and Medicaid to private payers.

5. Provide a greater range of enforcement remedies to private sector health plans, such as civil penalties.

6. Establish a national health care fraud data base which includes information on final adverse actions taken against health care providers. Such a data base should contain strong safeguards in order to ensure the confidentiality and accuracy of the information data contained in the data base.

7. Design a simplified, uniform claims form for reimbursement and an electronic billing system, with tough anti-fraud controls incorporated into these designs.

8. Take several steps to better protect Medicare from fraudulent and abusive provider billing practices and excessive payments by Medicare. Specifically:

Revise and strengthen national standards that suppliers and other providers must meet in order to obtain or renew a Medicare provider number;

Prohibit Medicare from issuing more than one provider billing number to an individual or entity (except in specified circumstances), in order to prevent providers from "jumping" from one billing number to another in order to double-bill or avoid detection by auditors;

Require Medicare to establish more uniform national coverage and utilization policies for what is reimbursed under Medicare, so that providers cannot "forum shop" in order to seek out the Medicare carrier who will pay a higher reimbursement rate;

Require the Health Care Financing Administration to review and revise its billing codes for supplies, equipment and services in order to guard against egregious overpayments for inferior quality items or services; and

As we revise the health care system, give guidance to health care providers on how to do business properly and how to avoid fraud.

Adoption of these recommendations will go far in shoring up our defenses against unscrupulous providers, patients, and suppliers who are bleeding billions of dollars from our health care system through fraud and abuse. Since Medicare and Medicaid lose as much as \$31 billion annually to fraud and abuse, the savings from reducing fraud in these programs would go far toward paying for much needed reforms in our health care system, such as providing access to health care coverage for the uninsured, prescription drug benefits for the elderly, or long-term care for the elderly and individuals with disabilities.

We must not wait to fix these serious problems in the health care system until we see what form health care reform takes. We are losing as much as \$275 million each day to health care fraud, and effective steps can be taken within the current system to curb this abuse. With billions of dollars and millions of lives at stake, we can no longer afford to wait.

#### SECTION-BY-SECTION ANALYSIS

The Cohen legislation establishes an improved coordinated federal effort to combat fraud and abuse in our health care system. It expands certain existing criminal and civil penalties for health care fraud to provide a stronger deterrent to the billing of fraudulent claims and to eliminate waste in our health care system resulting from such practices.

Section 101. a. All-Payer Fraud and Abuse Control Program: The Secretary of Health and Human Services and the Attorney General are required to jointly establish and coordinate an all-payer national health care fraud control program to restrict fraud and abuse in private and public health programs. The Secretary and Attorney General (through its Inspectors General and the Federal Bureau of Investigation) would be authorized to conduct investigations, audits, evaluations and inspections relating to the delivery and payment for health care and would be required to arrange for the sharing of data with representatives of health plans.

b. Health Care Fraud and Abuse Control Account: To supplement regularly appropriated funds, a special account would be established to fund the all-payer program, managed by the Secretary and Attorney General. All criminal fines, penalties, and civil monetary penalties imposed for violations of fraud and abuse provisions of this

legislation would be deposited into the account and used for carrying out the proposed requirements.

Section 102. Application of Certain Federal Health Anti-Fraud and Abuse Sanctions to All Fraud and Abuse Against Any Health Plan: The provisions under the Medicare and Medicaid program, which provide for criminal penalties for specified fraud and abuse violations, would apply and be extended in certain circumstances to similar violations for all payers in the health care system. The violations would include willful submission of false information or claims. Penalties would include fines and possible imprisonment. The Secretary could also consider community service opportunities.

Section 103. Health Care Fraud and Abuse Guidance: Provides mechanisms for further guidance to health care providers on the scope and applicability of the anti-fraud statutes in order to better comply with these statutes. The further guidance would be provided by the modifications of existing safe harbors and the promulgation of new safe harbors; interpretive rulings providing the HHS' Inspector General's interpretation of anti-fraud statutes; and special fraud alerts setting activities that the Inspector General considers suspect under the anti-fraud statutes.

Section 104. Reporting of Fraudulent Actions Under Medicare: The Secretary is required to establish a program through which Medicare beneficiaries may report instances of suspected fraudulent actions on a confidential basis.

Section 201. Mandatory Exclusion from Participation in Medicare and State Health Care Programs: The Secretary currently has authority to exclude individuals and entities from Medicare and Medicaid based on convictions or program-related crimes relating to patient abuse or neglect. This section would extend the Secretary's authority to felony convictions relating to fraud and felony convictions relating to controlled substances. Currently, the Secretary is permitted, but not required, to exclude those convicted of such an offense. Adoption of this proposal would better recognize the seriousness of such offenses and ensure that beneficiaries are well protected from dealing with such individuals.

Section 202. Establishment of Minimum Period of Exclusion for Certain Individuals and Entities Subject to Permissive Exclusion from Medicare and State Health Care Programs: Mandatory exclusions contain a minimum period of exclusion for five years. This section establishes a minimum period of exclusion expressly determined in statute for certain permissive exclusions, such as three years for specific convictions.

Section 203. Permissive Exclusion of Individuals with Ownership or Control Interest in Sanctioned Entities: Some of the current permissive exclusions are "derivative" exclusions—that is they are based on an action previously taken by a court, licensure board, or other agency. Current law allows permissive exclusion authority for entities when a convicted individual has ownership, control or agency relationship with such entity. However, if an entity rather than an individual is convicted under Medicare fraud, the IG has no authority to exclude the individuals who own or control the entity and who may really have been behind the fraud.

This creates a loophole whereby an individual who is indicated for fraud along with a corporation owned by his can avoid being excluded from the programs by persuading the prosecutor to dismiss his indictment in exchange for agreeing to have the corporation plead guilty or pay fines. The bill would extend the current permissive exclusion authority for entities controlled by a sanc-

tioned individual to individuals with control interest in sanctioned entities.

Section 205. Intermediate Sanctions for Medicare Health Maintenance Organizations: The Secretary would be able to impose civil monetary penalties on Medicare-qualified HMOs for violations of Medicare contracting requirements.

Section 301. Establishment of the Health Care Fraud and Abuse Data Collection Program: The Secretary would create a comprehensive national data collection program for the reporting of information about final adverse actions against health care providers, suppliers, or licensed practitioners including criminal convictions, exclusions from participation in Federal and State programs, civil monetary penalties and license revocations and suspensions.

Section 401. Civil Monetary Penalties: The provisions under Medicare and Medicaid which provide for civil monetary penalties for specified violations apply to similar violations in certain circumstances for all payers in the health care system. The violations would include billing for services not provided or submitting fraudulent claims for payment.

The provisions would also clarify that repeatedly claiming a higher code, or repeatedly billing for medically unnecessary services, for purposes of reimbursement is prohibited and subject to civil monetary penalties. The intent of this provision is to impose sanctions for patterns of prohibited conduct.

An intermediate civil monetary penalty would also be established for criminal anti-kickback violations.

One abusive technique now used by some Medicare providers is to waive the patient's copayment for services covered by Medicare. The concern is that routine waivers of copayments result in unnecessary procedures and overutilization (because the beneficiary has no financial stake in the decision to order a medical item or service). The provision would clarify that the routine waiver of Medicare Part B copayments and deductibles would be prohibited and subject to civil monetary penalties although exceptions are provided.

In addition, retention by an excluded individual of an ownership or control interest of an entity who is participating in Medicare or Medicaid would be prohibited and subject to civil monetary penalties.

Finally, the amount of civil monetary penalty that can be assessed is increased from \$2,000 to \$10,000.

Section 501. Health Care Fraud: Establishes a new health care fraud statute in the criminal code. Provides a penalty of up to 10 years in prison, or fines, or both for knowingly executing a scheme to defraud a health plan in connection with the delivery of health care benefits, as well as for obtaining money or property under false pretenses from a health plan. This section is patterned after existing mail and wire fraud statutes.

Section 502. Forfeitures for Federal Health Care Offenses: Requires the court, in imposing sentence on a person convicted of a Federal health care offense, to order the forfeiture to the United States of property used in commission of an offense if it results in a loss or gain of \$50,000 or more and constitutes or is derived from proceeds traceable to the commission of the offense.

Section 503. Injunctive Relief Relating to Federal Health Care Offenses: This provision expands the scope of the current injunctive relief section by adding the commission of a health care offense. This provision allows the Attorney General to commence a civil action to enjoin such violation as well as to freeze assets.

Section 504. Grand Jury Disclosure: This provision allows the disclosure of grand jury information to federal prosecutors to use in a civil proceeding relating to health care fraud.

Section 505. False Statements: Provides penalties for making false statements relating to health care matters.

Section 506. Voluntary Disclosure Program: Creates a program of voluntary disclosure to the Attorney General and Secretary to provide an incentive for disclosure of violations and wrongdoing.

Section 507. Obstruction of Criminal Investigations: Provides a penalty for the obstruction of criminal investigations of federal health care offenses.

Section 508. Theft or Embezzlement: Establishes a statute that provides penalties for the willful embezzlement or theft from a health care benefit program.

Section 509. Laundering of Monetary Instruments: Provides that a federal health care offense is a predicate to current money laundering statutes.

Sections 601-604: Payments for State Health Care Fraud Control Units: Provides language to establish state health care provider fraud control units modeled on the current state Medicaid Fraud Control Units. The jurisdiction of these units would be expanded to include investigation and prosecution of provider fraud in other federally-funded or mandated programs. The proposal also allows the states to choose whether to conduct investigations and prosecutions for patient abuse related crimes occurring in board and care facilities and other alternative residential settings.

The HHS' Inspector General would continue oversight and the state units would detail its activities in its yearly grant applications. This section also contains a recitation of the units' original authorization language as currently contained in the Social Security Act, and also allows the units to participate in the all-payer fraud abuse control program.

Mr. DOLE. Mr. President, I want to take a few moments to express my support for the Health Care Fraud Prevention Act of 1995, which was introduced earlier today by my distinguished colleague from Maine, Senator COHEN.

As Senator COHEN has pointed out, health care fraud and abuse costs the American taxpayers literally billions and billions of hard-earned dollars each year. Unscrupulous doctors who overbill patients, medical suppliers who sell unnecessary or defective equipment to unsuspecting customers, clinic operators who submit false Medicaid reimbursement claims—all these scams have the effect of driving up the cost of health care for families and businesses alike.

To combat these activities, the act establishes a new health care fraud statute in title 18 of the United States Code. This statute provides for an array of penalties, including imprisonment and fines, for those who knowingly scheme to defraud a health care plan. This statute is patterned after the existing mail and wire fraud statutes.

The act also gives the Secretary of HHS greater authority to exclude health care scam artists from the Medicaid and Medicare programs, while establishing tough civil penalties for fraud so that a range of sanctions will be available.

In addition, the act directs the Attorney General and the Secretary of Health and Human Services to establish an all-payer national health care fraud control program. Under this program, both the Secretary and the Attorney General would be authorized to conduct investigations and audits of health care delivery systems. To pay for these investigations, the act establishes a "Health care fraud and abuse control account." Criminal and civil fines imposed on violators would be deposited into the account and then used to finance future law enforcement efforts.

Of course, the vast majority of health care providers are good people committed to the well-being of their patients. Their hard work and commitment should not be tarnished in any way by those few bad apples who attempt to game the health care system for their own personal benefit. This legislation won't put an end to the health care fraud racket, but it will help to ensure that our law enforcement authorities have the tools to get the job done.

Not surprisingly, the Health Care Fraud Prevention Act was crafted with the help of law enforcement officials, including officials at both the FBI and the Department of Justice.

Finally, I want to commend my distinguished colleague from Maine for bringing this important issue to the attention of the Senate. Today's legislation is the product of a 2-year ongoing investigation conducted by the staff of the Special Committee on Aging. And last year, Senator COHEN successfully offered many of the provisions contained in this bill as an amendment to the 1994 Crime-Control Act. Unfortunately, the amendment was dropped in conference.

To his credit, Senator COHEN has continued to speak out on this issue, and I fully expect that his persistence will pay off later this year when the Senate has an opportunity to consider this important legislation.

Mr. DORGAN. Mr. President, let me say as I begin, to my friend from Maine, the work he has done on this issue in Medicare fraud is extraordinary work. During the period between the end of the last session and the beginning of this session, I saw some newspaper reports about Medicare fraud. I bothered to once again review the work he did in the last session, the bill he introduced in the last session on this issue. I hope we make progress on this issue that he is leading on, in this session of the Senate, because I think what he is doing is very important. There is too much fraud. The fact is, we are not detecting enough of it and not prosecuting enough of it vigorously, so I support his efforts and thank him for making those efforts.

Mr. PRYOR. Mr. President, I rise to support S. 245, the Health Care Fraud Prevention Act of 1995. Health care fraud and abuse in our health care system is draining billions of dollars a

year from American families, businesses, and government. The Department of Justice and other experts have estimated that as much as 10 percent of our national health care bill is lost to fraud and abuse. Every dollar stolen from the health care system—be it from Medicare, Medicaid, or a private health care plan—means one less dollar for patient care or for lower insurance premiums. With health care costs still escalating, the last thing we need to be doing is allowing criminals to steal from the system.

Fraud also tarnishes the good names of honest health care professionals and companies. While the vast majority of providers are honest and hard working, the crooks cast a cloud over the entire health care system.

Mr. President, there are too many examples of fraud in our health care system. For example, seven New York physicians were recently excluded from the New York Medicaid program for their part in a scheme that stole over \$8 million from the program. As part of this Medicaid fraud scheme, indigent individuals with no legitimate medical need for prescription drugs would enter the doctors' clinics and obtain prescriptions for expensive drugs. They, in turn, would resell the prescriptions to people on the street. In exchange for the prescriptions, the "patients" would subject themselves to unnecessary medical tests and procedures for which Medicaid could then be fraudulently billed.

In other cases, it is not so clear that there has been fraud, but rather that a health care plan has been taken advantage of. As an example, I received a letter from a constituent of mine, Jennie H., not too long ago. Jennie wrote that Medicare had paid a medical supplier \$2,136 for 300 adult incontinence pads that were delivered to her mother. That works out to almost \$7.12 for each pad, far more than what they would cost at the drug store.

Much studying has been on the health care fraud problem in recent years. In addition to the report issued last year by my friend from Maine, Senator COHEN, the incoming chairman of the Senate Special Committee on Aging, reports by the General Accounting Office, the HHS inspector general, and congressional committees have also documented the extent and range of the problem. They have detailed abuses ranging from the billing of services never provided to the illegal sale of controlled substances.

This is a subject about which I too have long been concerned. When I was chairman of the Senate Special Committee on Aging, I held several hearings on fraud and abuse in the health care system. In addition, the health care bill reported out of the Finance Committee last year included an anti-fraud provision that I helped develop.

Mr. President, now is the time to take action against health care fraud. While I would have preferred to see the health care fraud problem addressed as

part of health care reform, it is clear that we cannot wait for that to happen. Each day we wait to give crime fighters the authority and tools they need to combat fraud in a coordinated and effective manner means millions of wasted health care dollars.

The bill which I have joined Senator COHEN in sponsoring today represents a balanced, bipartisan approach to combating health care fraud and takes the best provisions common to the bills debated last year, such as the President's proposal. It establishes an improved, coordinated effort to combat fraud and abuse. It expands certain existing criminal and civil penalties for health care fraud to provide a stronger deterrent to the billing of fraudulent claims and to eliminate waste in our health care system. I encourage my colleagues to support this legislation.

By Mr. LIEBERMAN:

S. 246. A bill to establish demonstration projects to expand innovations in State administration of the aid to families with dependent children under title IV of the Social Security Act, and for other purposes; to the Committee on Finance.

THE WELFARE REFORMS THAT WORK ACT

Mr. LIEBERMAN. Mr. President, today I am introducing the Welfare Reforms That Work Act of 1995. The welfare system is in crisis. The United States has one of the most expensive welfare systems in the world. But 20 percent of America's children are poor, a higher percentage than any other industrialized country. The welfare system is a disaster for those who are on it and those who pay for it.

This Congress has a historic opportunity to begin to fix this disaster. The primary welfare program—Aid to Families With Dependent Children [AFDC]—is viewed by those participating in it and those paying for it as a failure. It is failing at its primary task, moving people into the work force. Worse yet, it is contributing to the cycle of poverty. By rewarding single parents who don't work, don't marry, and have additional children out of wedlock, the current system demeans our most cherished values and deepens society's most serious problems. Democrats, Republicans, and the American public agree that the system must be changed.

But little consensus exists on how best to reform the system so that it promotes work and family. Last year both President Clinton and Republicans in Congress proposed legislation that would impose time limits and work requirements on welfare recipients and would begin to turn welfare incentives around. But in this Congress some have gone further. The Republican Contract With America proposes, among other things, ending benefits abruptly for teenage mothers who have children out of wedlock. More recently some Members have advocated giving the States total control of AFDC and other Federal welfare programs, ending

the entitlement status of these programs, and capping Federal outlays.

While I believe that each of these ideas should be tested to see if they will produce better results than the current failed welfare system, I cannot support mandating any of them nationally because no one knows whether they will work. If Congress imposes them nationally and they do not work, millions of children's lives will be put at risk.

While I am pleased to see that my colleagues are advocating State flexibility, I am concerned about their blank-check approach. I agree that States should be the testing ground for bold programmatic changes. But handing the AFDC Program over to the States with no strings attached does not guarantee reform and may produce national division and welfare shopping. And, placing caps on block grants works against State flexibility by limiting State experiments to those that save money in the short term but may do nothing to promote work and reconstruct families in the long term. The American people are asking us to reform, not eliminate, the way we are carrying out our responsibility to help poor children.

Mr. President, today I am proposing an alternative welfare reform approach that I hope will meet our welfare reform goals in a way that is acceptable to both sides of the aisle—the Welfare Reforms That Work Act. The bill would allow States to test—with appropriate Federal oversight—bold welfare reform initiatives that are promising but unproven, and that involve some human or financial risk. It would also establish a process for identifying successful reform approaches—welfare reforms that work—that can be applied nationally. The bill does not preclude our mandating immediately those reforms about which there is growing agreement—such as requiring unwed teenage mothers to live at home as a condition of receiving welfare payments—and which involve limited human risk or Federal expense.

States should be at the forefront of reform for three reasons. First, a State-based approach is financially prudent. Some reforms that merit testing—including imposing time limits and work requirements or expanding residential child care options, including orphanages—will cost money in the short term. In an article in the *New Republic*, Paul Offner of the Senate Finance Committee staff advises us to learn an important lesson from the 1988 Family Support Act: overly ambitious and underfunded reform efforts are doomed to failure. They do little to change the expectations of those working in the system or those using it. My bill would allow States to fund ambitious changes at the more affordable city, county, or State level.

Second, a State-driven approach allows us to test bold changes responsibly. We have few proposed reforms that we know will work, and those that have been tested, such as the model

education and training programs launched in California and Florida, have delivered only marginal results to date. In a recent *Wall Street Journal* James Q. Wilson bluntly confessed that he simply does not know what reforms will work.

Absent better information, we would be wise to heed the advice of proverbs and avoid zealous acts without knowledge. Changes to welfare are consequential. They affect people's lives, children's lives. Under my bill States could test bold welfare rules changes—such as totally denying benefits to teenage mothers or establish orphanages—but only if the States can ensure that children are not unintended victims of these tests. As we try to change the behavior of parents, we must not cause more pain to the children.

Third, States are eager and able to lead our reform efforts. In testimony last year before the Senate Finance Committee's Subcommittee on Social Security and Family Policy, the American Public Welfare Association [APWA] and other State organizations indicated their strong desire to pursue innovative strategies. When I introduced S. 1932, a similar State-based welfare reform bill last year, all 11 States that commented on the bill praised the bill's general approach.

States are already leading the way. Over half the States have proposed reforms and received waivers from Federal rules under section 1115 of the Social Security Act to implement their proposed changes. My own State of Connecticut recently received a waiver to implement a comprehensive reform initiative.

But the waiver process does not go far enough. In testimony before the House Committee on Government Operations last September, the APWA, State welfare administrators, and other witnesses testified that the budget neutrality requirement of the current process creates a substantial barrier to reform. As States seek to promote work and family through changing eligibility rules, it give States an incentive to test sticks but not carrots. Witnesses at the hearing urged that the Federal Government share in the cost of demonstrations programs, make the results of demonstrations readily available, and allow States to adopt, without a waiver, those demonstrations that prove effective. In other words, we must be honest and acknowledge that we may have to spend a little more money in the short run to save a lot more money and a lot more lives in the long run.

My bill addresses these and other concerns voiced by States about the current waiver process. To ensure that States will be able to test the broadest array of reforms, my bill authorizes \$675 million over 5 years to support demonstration projects and independent program evaluations. Half of these funds would support innovative pilot programs specified in the bill, and the remaining half would fund other State-proposed demonstrations. Demonstra-

tion projects would last up to 5 years. States would report on progress annually. As results of interim and final reports on State tests become available, the Secretary of the Department of Health and Human Services [HHS] will submit legislation to Congress to provide for the national implementation of successful programs. As a result of this process, those innovations that proved successful could be rapidly adopted by other States or imposed nationwide.

The bill promotes State-initiated welfare reforms that meet what I believe should be our four main reform goals: moving welfare recipients into the work force; strengthening families, stopping illegitimate births and breaking the cycle of welfare dependency; increasing child support collection and paternal responsibility, and improving the delivery of welfare services.

#### TITLE I AUTHORIZES INITIATIVES TO MOVE WELFARE RECIPIENTS INTO THE WORK FORCE

We must make returning to work the primary focus of the welfare system. The current system demands little of people on welfare. It often impedes, rather than empowers, those who seek to return to the work force. If an AFDC mother goes back to work, her income increases only minimally—often not enough to cover child care—and she loses her Medicaid benefits. She is likely to be economically worse off if she returns to the work force, so she stays on welfare.

Title I includes initiatives to move people on welfare into the work force. Two pilot programs focus on teenage parents—those at greatest risk for long-term welfare dependency. The first allows States to condition AFDC benefits for single parents under 20 years of age on: first, attending school, participating in job training or holding a job; and second, living at home. The second allows States to include young AFDC clients in the Job Corps—a successful, residential antipoverty program for youths 16 to 22 years of age.

Title I also allows States to require 30 days of State-assisted job search or, where appropriate, substance abuse treatment, during the usual lag time between application for and receipt of benefits. Welfare clients should be engaged in job search from the day they first seek a welfare grant. Other provisions in this title assist people on welfare in accumulating assets to invest in education or to start a small business.

#### TITLE II AUTHORIZES INITIATIVES TO STRENGTHEN FAMILIES AND BREAK THE CYCLE OF WELFARE DEPENDENCY

Current Federal welfare rules discourage family unification and encourage out-of-wedlock childbearing. This title seeks to turn these incentives around. It recognizes that while welfare is a privilege granted by Government, not a right for parents, the States and the Federal Government have a moral responsibility to ensure the well-being of American children.

The title seeks to address what is perhaps the most compelling and difficult challenge of welfare reform, to discourage out-of-wedlock births without harming children. An increasing percentage of those entering the welfare system are never-married mothers at greatest risk of long-term welfare dependency. Between 1983 and 1992, families headed by unwed mothers accounted for about four-fifths of the growth in people on welfare, and at least 40 percent of never-married mothers receiving AFDC remain in the system for 10 years or more.

Never-married teen parents are particularly likely to fall into long-term welfare dependency. More than one half of welfare spending goes to women who first gave birth as teens. As William Raspberry noted last winter in a Washington Post column aptly entitled "Out of Wedlock, Out of Luck," children born to parents who had their first child out-of-wedlock before they finished high school and reached the age of 20 are "almost guaranteed a life of poverty." In other words, they and their parents are almost guaranteed a life on welfare. Citing William A. Galston's analyses, Raspberry notes that a startling 79 percent of children in this category lived in poverty in 1992. In contrast, only 8 percent of children whose parents had achieved all three milestones—marriage, graduation, and the 20th birthday—before having their first child were living in poverty.

The potential effect of welfare on illegitimacy has taken center stage in the welfare reform debate but there is considerable disagreement about its effects. David Ellwood, economist and Department of Health and Human Services official, has found little evidence that welfare contributes to the increase in illegitimacy. In his book, "Poor Support," he points to several other concurrent social changes that are likely contributors to the increase—the growing percentage of women in the work force, the drop in earnings and rise in unemployment among young men, and changes in attitudes toward marriage.

Others interpret the data differently. Most notably, Charles Murray believes that welfare is the primary cause of the increase in illegitimate births. In a catalytic Wall Street Journal article published October 29, 1993, Murray argues that welfare has reduced the economic penalty associated with out-of-wedlock childbearing and, in turn, has reduced the social stigma associated with it. He concludes that the removal of both of these disincentives has led to more out-of-wedlock births. Based on this conclusion, Murray recommends the dramatic step of ending welfare altogether. Murray acknowledges that his approach may put this generation of children at risk and advocates, among other things, Government investment in new facilities to care for these children—thus the ensuing brouhaha about orphanages—just the kinds

of facilities this act would enable states to create.

The stigma of illegitimacy was not just an accident of social history; it was a societal attempt to protect children. Today, the stigma is largely gone and so the children have suffered terribly. Raspberry's previously mentioned article cites polling results indicating that 70 percent of Americans aged 18 to 34 believe that people having children out of wedlock do not deserve any moral reproach. That is an outrageous result, one that we must turn around because the decision to bear a child has profound moral and human content. We must infuse our children with a clear understanding of the consequences of teenage childbearing. We must teach them that it is wrong to have children unless you are married, always morally wrong for the mother and father, and usually horrible for the child and the mother.

Few would argue that a national campaign to discourage unmarried teenagers from having children is not a good thing to do. Indeed, Senate Minority leader DASCHLE introduced a bill, S. 8, on the first day of this session to combat teen pregnancy. His bill, among other things, would require unwed mothers under age 18 to live at home or in an alternative adult-supervised living arrangement as a condition of receiving AFDC. This measure seems appropriate; it would eliminate the incentive teenagers now have to bear a child so they can move out of the house, and it imposes little risk to the children of teenagers who have a child anyway.

The more difficult question for those of us working on welfare reform is this: Should we pursue changes in welfare policy—such as cutting off benefits to teenage mothers—that may discourage out-of-wedlock births but would put children at risk? Some might say no, believing that there is little correlation between welfare and out-of-wedlock births. The empirical evidence is generally viewed as inconclusive. But some controlled studies have demonstrated a positive association between welfare payments and out-of-wedlock births, and my own conversations with teenage mothers bears this out.

If we choose to reduce or eliminate AFDC grants to deter childbearing, however, we should acknowledge that a portion of the current and potential welfare population—perhaps a small but significant portion—is unlikely to respond to stronger inducements and penalties and will continue to have children society must provide for. In a Los Angeles Times article published last January, Adela de la Torre, an economist at California State University at Long Beach, writes that the children of such parents "become victims of trickle down welfare programs \* \* \* if we deem the parent unfit for welfare support, the child, too, loses." De la Torre rejects the notion that building stronger parental inducements

into the welfare system will change the behavior of all parents and calls instead for a more child-centered social service agenda that recognizes and serves the needs of children in a more direct, comprehensive, and integrated fashion. She makes an important point.

Similarly, Thomas Corbett of the University of Wisconsin asks in a spring, 1993 Focus article whether it is "compassionate to throw a little bit of welfare into troubled families and do little else to aid the children?" The answer is, of course, relative. AFDC reflects our best intentions toward these children, but it has more often failed them. Whether cash payments to unresponsive parents is the most compassionate approach, Corbett concludes, "depends partly on how many children are involved and whether we can design and finance the technologies required to assist them."

It is incumbent on us, as part of welfare reform, to explore the alternatives to a largely parent-based system, and find the answers to his question. Title II of the bill supports State efforts to do just that. Section 201 allows States to shift part or all of AFDC payments to block grants and combine the grants with other funds available under this bill to care for children, strengthen families, and implement other reforms. In contrast to the Republican block grant proposals, however, the provision requires the Secretary of HHS to ensure that States pursuing the Block Grant Program protect the well-being of affected children. Title II supports other demonstrations as well, including pilots that discourage welfare recipients from having additional children while on welfare by denying benefit increases for additional children and pilots to test innovative teen pregnancy prevention programs.

#### TITLE III OF THE BILL AUTHORIZES STATE INITIATIVES TO INCREASE CHILD SUPPORT COLLECTION AND PATERNAL RESPONSIBILITY

Too often absent parents, typically fathers, are not held accountable for their children's care. The Federal Government must also take the lead in improving child support enforcement. As a starting point, we should fully implement the recommendations of the U.S. Commission on Interstate Child Support. In the last Congress Senator BILL BRADLEY, a member of the Commission, introduced S. 689, the Interstate Child Support Enforcement Act, to implement the Commission's recommendations. My Connecticut colleague, Congresswoman KENNELLY, also a Commission member, introduced a similar bill, H.R. 1961, in the House. This year I will again support Senator BRADLEY's legislation which will, among other things: Mandate hospital-based paternity acknowledgement programs; require employers to submit W-4 forms for all new employees to State child support enforcement agencies; and provide States the authority they

need to assert jurisdiction over non-resident parents. The era of deadbeat dads should end.

While improving interstate coordination is critical to strengthening child support enforcement, State innovation should play a role as well. Title III of my bill authorizes State efforts to improve child support collection and paternity establishment. To strengthen welfare recipients incentives to work with authorities to collect child support, it would allow States to increase the child support disregard from \$50 to a higher level decided by the State. States could also hold parents accountable for the child support obligations of their minor children. Additionally, States could propose their own demonstrations projects to increase paternity establishment and improve child support collection.

**TITLE IV AUTHORIZES INITIATIVES TO DIVERSIFY AND IMPROVE THE PERFORMANCE OF WELFARE SERVICES**

Changing the welfare system to move people back into the work force and to better serve the needs of children will require changing the way the welfare bureaucracy does business. Too many welfare workers focus on whether and how to get a welfare check to the recipient rather than how to get the recipient off of welfare and back to work. Many welfare offices don't know how many children they have in foster care. Many still operate out of cardboard files and lose people in the shuffle of paper. Offices often suffer from inter-agency rivalry and bureaucratic bickering. It is tragic when a child suffers needlessly because the system fails under the weight of its own inefficiency.

This need not happen. Some innovative States and municipalities have tried to make their welfare systems more efficient and service oriented. At a hearing I held in the last Congress, Carmen Nazario, the Secretary of Health and Human Services in Delaware, testified that her State has brought public and private social services together in a single location and is now developing a computer network to link programs.

David Truax from the Maryland Department of Human Resources described a second approach to improving services. Maryland now provides each participant with a debit card that has AFDC, food stamps, and general assistance benefits on it. Electronic benefit transfer [EBT] cards have several advantages: They preclude the trading of food stamps for drugs; they introduce people to the banking system; they make it easier for them to budget their money since they don't have to cash one single check, and they reduce recipients vulnerability to crime.

Further, offices should encourage and empower, not discourage and demean, those they serve. It can be done. America Works, a private organization that trains people on welfare for work and places them in jobs, provides proof. During my visit to their Hartford, CT, office I found that clients felt they

were getting the help they needed to succeed, and were motivated and optimistic. I asked one young woman who had just completed her training if she expected to be placed successfully in a job. She responded with enthusiasm, "absolutely." This spirit does not typically pervade traditional welfare offices.

Most important, welfare offices should be held accountable for results. They need to make the shift from writing checks to moving people on welfare into jobs. To promote this change, we should seek to establish competition among agencies and greater choice for people on welfare. We should encourage public agencies to contract with effective private sector companies and to better reward those public employees who successfully help people become self-sufficient.

Title IV supports initiatives to diversify and improve the performance of welfare services. It supports State pilots to provide incentives to private sector, for-profit and nonprofit groups to place people on welfare in private sector jobs. Companies would keep a portion of welfare savings as payment for successful job placements. Title IV also supports State pilots to improve the performance of welfare office employees through, for example, providing direct bonuses to employees and judging their performance based on their clients' progress toward self-sufficiency.

In addition, title IV incorporates legislation I introduced earlier this month with Senators DOMENICI, FEINSTEIN, PRESSLER, and HATFIELD to remove a Federal barrier to improving services. That bill, S. 131, the Electronic Benefits Regulatory Relief Act of 1995, exempts EBT cards from the Federal Reserve Board's regulation E. Regulation E limits cardholder liability to \$50 for lost or stolen cards—a policy that promotes fraud and makes EBT Programs costly for States. Earlier this month the Vice President issued the first report from the EBT task force and called for nationwide implementation. Without passage of this provision, that goal will not be reached.

**FINALLY, TITLE V AUTHORIZES OFFSETTING EXPENDITURE REDUCTIONS TO ENSURE THE BILL IS BUDGET NEUTRAL**

In other words, the bills pay for itself. Specifically, it eliminates the three-entity rule. Currently, an individual farmer can qualify for up to \$125,000 per year in certain Government subsidies. If he forms two other business entities with two other individuals (say, a friend and a sister), each of these entities can qualify for another \$125,000 per year. So the individual farmer can receive up to \$250,000 in subsidies per year—\$125,000 for his first business entity, and half of \$125,000 for each of his second and third entities. My bill says, "enough is enough," and caps the amount of agricultural subsidies any one person gets from the Federal Government at \$125,000. A preliminary Congressional Budget Office estimate indicates this change will

save \$675 million over 5 years, money that is better spent on the truly needy.

Americans continue to show concern for the poor, and particularly poor children. A 1994 poll commissioned by the Children's Defense Fund and others found that 64 percent of Americans believe we should spend more on poor children. But the same poll found that 55 percent think we spend too much on welfare, and 68 percent think we should not increase payments to parents for any additional children they have while on welfare.

Our current approach to helping the poor is clearly not working. The goal of welfare reform is to shake up the status quo which promotes dependency, illegitimacy, and social disfunctions like crime into a system that promotes work, family, and responsibility and protects children from a life of poverty. The Federal Government does not have a ready formula for how to achieve this goal. I concur with my colleagues who say that we should look to the States for answers. But we must proceed in a way that meets our obligation to ensure the well-being of all of America's children. Our aim should be to make sure that this generation of welfare children do not become the next generation of welfare parents. This bill offers an approach to do just that.

Mr. President, I ask unanimous consent that the text of 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. 246

*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 "Welfare Reforms That Work Act".

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Purpose.
- Sec. 3. Definitions.
- Sec. 4. General provisions relating to demonstration projects.
- Sec. 5. Authorization of appropriations.

**TITLE I—INITIATIVES TO MOVE WELFARE RECIPIENTS INTO THE WORK FORCE**

- Sec. 101. Demonstration projects which condition AFDC benefits for certain individuals on school attendance or job training, limit the time period for receipt of such benefits, and require teenage parents to live at home.
- Sec. 102. Pilot Job Corps program for recipients of Aid to Families with Dependent Children.
- Sec. 103. Demonstration projects requiring up-front 30-day assisted job search, or substance abuse treatment before receiving AFDC benefits.
- Sec. 104. Disregard of education and employment training savings for AFDC eligibility.
- Sec. 105. Incentives and assistance in starting a small business.

Sec. 106. Increased emphasis in JOBS program on moving people into the work force.

Sec. 107. Additional demonstration projects to move AFDC recipients into the work force.

**TITLE II—INITIATIVES TO STRENGTHEN FAMILIES AND BREAK THE CYCLE OF WELFARE DEPENDENCY**

Sec. 201. Demonstration projects to establish child centered programs through conversion of certain AFDC and JOBS payments into block grants.

Sec. 202. Demonstration projects providing no additional benefits with respect to children born while a family is receiving AFDC and allowing increases in the earned income disregard.

Sec. 203. Demonstration projects providing incentives to marry.

Sec. 204. Demonstration projects reducing AFDC benefits if school attendance is irregular or preventive health care for dependent children is not obtained.

Sec. 205. Demonstration projects to develop community-based programs for teenage pregnancy prevention and family planning

Sec. 206. Additional demonstration projects to strengthen families and break the cycle of welfare dependency.

**TITLE III—CHANGES TO FEDERAL LAWS AND STATE INITIATIVES TO INCREASE CHILD SUPPORT AND PATERNAL RESPONSIBILITY**

Sec. 301. Demonstration projects to increase paternity establishment.

Sec. 302. Demonstration projects to increase child support collection.

**TITLE IV—INITIATIVES TO DIVERSIFY AND IMPROVE THE PERFORMANCE OF WELFARE SERVICES**

Sec. 401. Demonstration projects for providing placement of AFDC recipients in private sector jobs.

Sec. 402. Demonstration projects providing performance-based incentives for State public welfare providers.

Sec. 403. Electronic benefit transfers.

**TITLE V—OFFSETTING EXPENDITURE REDUCTIONS**

Sec. 501. Offsetting expenditure reductions.

**SEC. 2. PURPOSE.**

The purposes of this Act are—

(1) to promote bold State initiated welfare reforms that will—

(A) move welfare recipients into the work force,

(B) strengthen families,

(C) break the cycle of welfare dependence,

(D) increase child support collection and paternal responsibility, and

(E) improve the delivery of welfare services; and

(2) to make immediate State-by-State changes to the existing system while establishing a process for identifying successful reform approaches that can be applied nationally.

**SEC. 3. DEFINITIONS.**

For purposes of this Act:

(1) **AID TO FAMILIES WITH DEPENDENT CHILDREN.**—The term "aid to families with dependent children" has the meaning given to such term by section 406(b) of the Social Security Act (42 U.S.C. 606(b)).

(2) **SECRETARY.**—The term "Secretary" means the Secretary of Health and Human Services.

**SEC. 4. GENERAL PROVISIONS RELATING TO DEMONSTRATION PROJECTS.**

(a) **APPLICATIONS.**—

(1) **IN GENERAL.**—Each State desiring to conduct a demonstration project under this Act shall prepare and submit to the Secretary an application in such manner and containing such information as the Secretary may require. The Secretary shall actively encourage States to submit such applications.

(2) **APPROVAL.**—The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this Act and shall approve such applications in a number of States to be determined by the Secretary, taking into account the overall funding levels available under section 5.

(3) **CONSIDERATION OF RESEARCH NEEDS AND PURPOSES.**—The Secretary shall pursue a broad range of reforms consistent with the purposes of this Act and with research needs in approving demonstration projects under this Act.

(b) **DURATION.**—A demonstration project under this Act shall be conducted for not more than 5 years plus an additional time period of up to 12 months for final evaluation and reporting. The Secretary may terminate a project if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this Act.

(c) **EVALUATION PLAN.**—

(1) **IN GENERAL.**—Each State conducting a demonstration project under this Act shall submit an evaluation plan (meeting the standards developed by the Secretary under paragraph (2)) to the Secretary not later than 90 days after the State is notified of the Secretary's approval for such project. A State shall not receive any Federal funds for the operation of the demonstration project or be granted any waivers of the Social Security Act necessary for operation of the demonstration project until the Secretary approves such evaluation plan.

(2) **STANDARDS.**—Not later than 3 months after the date of the enactment of this Act, the Secretary shall develop standards for the evaluation plan required under paragraph (1) which shall include the requirement that an independent expert entity provide an evaluation of each demonstration project to be included in the State's annual and final reports to the Secretary under subsection (d)(1).

(d) **REPORTS.**—

(1) **STATE.**—A State that conducts a demonstration project under this Act shall prepare and submit to the Secretary annual and final reports in accordance with the State's evaluation plan under subsection (c)(1) for such demonstration project.

(2) **SECRETARY.**—The Secretary shall prepare and submit to the Congress annual reports concerning each demonstration project under this Act.

(e) **LEGISLATIVE PROPOSAL.**—

(1) **EVALUATIONS.**—

(A) **IN GENERAL.**—On each of the dates described in subparagraph (B), the Secretary shall evaluate the demonstration projects based on the reports received from each State under subsection (d)(1) and if the Secretary determines that any of the reforms in the demonstration projects will be effective in achieving the purposes of this Act, the Secretary shall submit proposed legislation to the Congress to—

(i) implement such successful reforms nationally if appropriate, or

(ii) give States the option of adopting a successful reform in a State plan approved under section 402 of the Social Security Act (42 U.S.C. 602) where the reform may be effective in some States but not in others.

The proposed legislation shall take into account factors important to implementing local demonstration projects on a national

scale, including variation in population density and poverty.

(B) **DATES FOR EVALUATION AND SUBMISSION.**—A date is described in this subparagraph, if it is a date that is—

(i) 2 years after the date of the enactment of this Act,

(ii) 4 years after the date of the enactment of this Act, or

(iii) not later than 6 months after the date the Secretary receives the last final report due under subsection (d)(1) with respect to a demonstration project.

(2) **OTHER LEGISLATIVE SUBMISSIONS.**—At any time other than a date described in paragraph (1)(B), if the Secretary determines that a reform in a demonstration project is ready to be implemented on a national scale or to be made a State option, the Secretary may submit proposed legislation to the Congress to implement the reform.

(f) **CLEARINGHOUSE.**—The Secretary shall establish and maintain a clearinghouse to collect and disseminate to State officials and the public current information on approved demonstration projects, and on interim and final reports submitted under subsection (d)(1) with respect to demonstration projects. To the extent practicable, clearinghouse information shall be made available through electronic format.

(g) **PROVISIONS SUBJECT TO WAIVER.**—The Secretary may waive such requirements of title IV of the Social Security Act (42 U.S.C. 601 et seq.) as the Secretary determines to be necessary to carry out the purposes of the demonstration projects established under this Act.

(h) **EXPENDITURES OTHERWISE INCLUDED UNDER THE STATE PLAN.**—The costs of a demonstration project under this Act which would not otherwise be included as expenditures under the applicable State plan under title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall to the extent and for the period prescribed by the Secretary, be regarded as expenditures under the applicable State plan under such title, or for administration of such State plan or plans, as may be appropriate.

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There is authorized to be appropriated \$150,000,000 for each of fiscal years 1996 and 1997, and \$125,000,000 for each of fiscal years 1998, 1999, and 2000 to carry out the provisions of sections 4(c), 4(d), 101, 103, 105(b), 105(c), 105(d), 107, 201, 202, 203, 204, 205, 206, 207, 301, and 302.

(b) **ALLOCATION OF FUNDS.**—Of the amount appropriated pursuant to subsection (a), the Secretary shall obligate—

(1) 50 percent of such amount to—

(A) offset any increase in the amount of the Federal share resulting from any demonstration project established under a section described in subsection (a) (other than demonstration projects established under sections 107 and 207 of this Act); and

(B) to the extent such amount remains after any such offset—

(i) increase the otherwise applicable Federal share rate under a State plan under title IV of the Social Security Act (42 U.S.C. 601 et seq.) for such demonstration projects; and

(ii) increase the amount of a State's block grant under the demonstration project under section 201 of this Act; and

(2) 50 percent of such amount to—

(A) offset any increase in the amount of the Federal share resulting from any demonstration project established under sections 107 and 207 of this Act; and

(B) to the extent such amount remains after any such offset increase the otherwise applicable Federal share rate under a State plan under title IV of the Social Security

Act (42 U.S.C. 601 et seq.) for such demonstration projects.

(c) RESERVATION OF CERTAIN AMOUNTS UNTIL FINAL REPORT SUBMITTED.—The Secretary shall reserve 10 percent of any amounts obligated to a State for a demonstration project under subsection (b), and shall not pay such reserved amounts until such State has submitted a final report on such demonstration project.

#### TITLE I—INITIATIVES TO MOVE WELFARE RECIPIENTS INTO THE WORK FORCE

##### SEC. 101. DEMONSTRATION PROJECTS WHICH CONDITION AFDC BENEFITS FOR CERTAIN INDIVIDUALS ON SCHOOL ATTENDANCE OR JOB TRAINING, LIMIT THE TIME PERIOD FOR RECEIPT OF SUCH BENEFITS, AND REQUIRE TEENAGE PARENTS TO LIVE AT HOME.

(a) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—

(1) IN GENERAL.—Except as provided in paragraph (2), each State conducting a demonstration project under this section shall provide that—

(A) a family described in paragraph (3) shall not receive aid to families with dependent children—

(i) unless the individual described in paragraph (3)(A) is, for a minimum of 35 hours a week—

(I) attending school,

(II) studying for a general equivalency diploma, or

(III) participating in a job, job training, or job placement program; and

(ii) except in the case of a situation described in clause (i) through (v) of section 402(a)(43)(B) of the Social Security Act (42 U.S.C. 602(a)(43)(B))—

(I) such individual is residing in a place of residence maintained by a parent, legal guardian, or other adult relative of such individual as such parent's, guardian's, or adult relative's own home, or residing in a foster home, maternity home, or other adult-supervised supportive living arrangement, and

(II) such aid (where possible) shall be provided to the individual's parent, legal guardian, or other adult relative on behalf of such individual and the individual's dependent child; and

(B) such family shall be entitled to receive such aid for a time period determined appropriate by the State which shall, at a minimum, permit such individual to complete the activities described in subparagraph (A)(i).

(2) LIMITATION.—A State conducting a demonstration project under this section shall not apply the provisions of paragraph (1) to a family unless—

(A) the State has made adequate child care available to such family;

(B) the State has paid all tuition and fees applicable to the activities described in paragraph (1)(A); and

(C) such application does not endanger the welfare and safety of a dependent child who is a member of such family.

(3) FAMILY DESCRIBED.—A family described in this paragraph is a family which—

(A) includes a parent under 20 years of age;

(B) includes at least 1 dependent child of such parent; and

(C) does not include a child under 6 months of age.

##### SEC. 102. PILOT JOB CORPS PROGRAM FOR RECIPIENTS OF AID TO FAMILIES WITH DEPENDENT CHILDREN.

Section 433 of the Job Training Partnership Act (29 U.S.C. 1703) is amended by adding at the end the following new subsection:

“(f)(1) The Secretary may enter into appropriate agreements with agencies as described in section 427(a)(1) for the development of pilot projects to provide services at Job Corps centers to eligible individuals—

“(A) who are eligible youth described in section 423;

“(B) whose families receive aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

“(C) who are mothers of children who have not reached the age of compulsory school attendance in the State in which the children reside.

“(2) A Job Corps center serving the eligible individuals shall—

“(A) provide child care at or near the Job Corps center for the individuals;

“(B) provide the activities described in section 428 for the individuals; and

“(C) provide for the individuals, and require that each such individual participate in, activities through a parents as teachers program that—

“(i) establishes and operates parent education programs, including programs of developmental screening of the children of the eligible individuals;

“(ii) provides group meetings and home visits for the family of each such individual by parent educators who have had supervised experience in the care and education of children and have had training; and

“(iii) provides periodic screening, by such parent educators, of the educational, hearing, and visual development of the children of such individuals.

“(3) The Secretary shall prescribe specific standards and procedures under section 424 for the screening and selection of applicants to participate in pilot projects carried out under this subsection. In addition to the agencies described in the second sentence of such section, such standards and procedures may be implemented through arrangements with welfare agencies.

“(4) As used in this subsection:

“(A) The term ‘developmental screening’ means the process of measuring the progress of children to determine if there are problems or potential problems or advanced abilities in the areas of understanding and use of language, perception through sight, perception through hearing, motor development and hand-eye coordination, health, and physical development.

“(B) The term ‘parent education’ includes parent support activities, the provision of resource materials on child development and parent-child learning activities, private and group educational guidance, individual and group learning experiences for the eligible individual and child, and other activities that enable the eligible individual to improve learning in the home.”.

##### SEC. 103. DEMONSTRATION PROJECTS REQUIRING UP-FRONT 30-DAY ASSISTED JOB SEARCH, OR SUBSTANCE ABUSE TREATMENT BEFORE RECEIVING AFDC BENEFITS.

(a) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—

(1) IN GENERAL.—Except as provided in paragraph (2), each State conducting a demonstration project under this section shall require a parent or other relative of a dependent child to undergo 30 days of assisted job search or substance abuse treatment (or both) before the family may receive aid to families with dependent children as part of the application process for the receipt of such aid.

(2) LIMITATION.—A State conducting a demonstration project under this section shall

not apply the provisions of paragraph (1) to a family unless—

(A) all of the dependent children in the family are over 6 months of age;

(B) the State has made adequate child care available to such family;

(C) the State has paid all fees applicable to the activities described in paragraph (1); and

(D) such application does not endanger the welfare and safety of a dependent child who is a member of such family.

##### SEC. 104. DISREGARD OF EDUCATION AND EMPLOYMENT TRAINING SAVINGS FOR AFDC ELIGIBILITY.

(a) DISREGARD AS RESOURCE.—Subparagraph (B) of section 402(a)(7) of the Social Security Act (42 U.S.C. 602(a)(7)) is amended—

(1) by striking “or” before “(iv)”, and

(2) by inserting “, or (v) except in the case of the family's initial determination of eligibility for aid to families with dependent children, any amount up to \$10,000 in a qualified education and employment account (as defined in section 406(i)(1))” before “; and”.

(b) DISREGARD AS INCOME.—

(1) IN GENERAL.—Subparagraph (A) of section 402(a)(8) of such Act (42 U.S.C. 602(a)(8)) is amended—

(A) by striking “and” at the end of clause (vii), and

(B) by inserting after clause (viii) the following new clause:

“(ix) shall disregard any qualified distributions (as defined in section 406(i)(2)) made from any qualified education and employment account (as defined in section 406(i)(1)) while the family is receiving aid to families with dependent children; and”.

(2) NONRECURRING LUMP SUM EXEMPT FROM LUMP SUM RULE.—Section 402(a)(17) (42 U.S.C. 602(a)(17)) is amended by adding at the end the following: “; and that this paragraph shall not apply to earned and unearned income received in a month on a nonrecurring basis to the extent that such income is placed in a qualified education and employment account (as defined in section 406(i)(1)) the total amount which, after such placement, does not exceed \$10,000.”.

(c) QUALIFIED EDUCATION AND EMPLOYMENT ACCOUNTS.—Section 406 of such Act (42 U.S.C. 606) is amended by adding at the end the following:

“(i)(1) The term ‘qualified education and employment account’ means a mechanism established by the State (such as escrow accounts or education savings bonds) that allows savings from the earned income of a dependent child or parent of such child in a family receiving aid to families with dependent children to be used for qualified distributions.

“(2) The term ‘qualified distributions’ means distributions from a qualified education and employment account for expenses directly related to the attendance at an eligible postsecondary or secondary institution or directly related to improving the employability (as determined by the State) of a member of a family receiving aid to families with dependent children.

“(3) The term ‘eligible postsecondary or secondary institution’ means a postsecondary or secondary institution determined to be eligible by the State under guidelines established by the Secretary.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) for calendar quarters beginning on or after January 1, 1995.

##### SEC. 105. INCENTIVES AND ASSISTANCE IN STARTING A SMALL BUSINESS.

(a) AUTHORITY FOR STATES TO PERMIT CERTAIN SELF-EMPLOYMENT PROGRAM PARTICIPANTS A ONE-TIME ELECTION TO PURCHASE CAPITAL EQUIPMENT FOR A SMALL BUSINESS IN

Lieu of Depreciation; Repayments by Such Persons of the Principal Portion of Small Business Loans Treated as Business Expenses for Purposes of AFDC.—

(1) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Section 402(a)(8) of the Social Security Act (42 U.S.C. 602(a)(8)) is amended—

(A) in subparagraph (B)(ii)(II), by striking “and” after the semicolon;

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

“(C) provide that, in determining the earned income of a family any of the members of which owns a small business and is a participant in a self-employment program offered by a State in accordance with section 482(d)(1)(B)(ii), the State may—

“(i)(I) during the 1-year period beginning on the date the family makes an election under this clause, treat as an offset against the gross receipts of the business the sum of the capital expenditures for the business by any member of the family during such 1-year period; and

“(II) allow each such family eligible for aid under this part not more than 1 election under this clause; and

“(ii) treat as an offset against the gross receipts of the business—

“(I) the amounts paid by any member of the family as repayment of the principal portion of a loan made for the business; and

“(II) cash retained by the business for future use by the business; and”.

(2) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.—Section 167 of the Internal Revenue Code of 1986 (relating to depreciation) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

“(g) CERTAIN PROPERTY OF AFDC RECIPIENTS NOT DEPRECIABLE.—No depreciation deduction shall be allowed under this section (and no depreciation or amortization deduction shall be allowed under any other provision of this subtitle) with respect to the portion of the adjusted basis of any property which is attributable to expenditures treated as an offset against gross receipts under section 402(a)(8)(C)(i) of the Social Security Act.”.

(3) EFFECTIVE DATE.—

(A) SOCIAL SECURITY ACT AMENDMENTS.—The amendments made by paragraph (1) shall apply to payments made under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) on or after January 1, 1996.

(B) INTERNAL REVENUE CODE AMENDMENT.—The amendments made by paragraph (2) shall apply to property placed in service on or after January 1, 1996.

(b) DEMONSTRATION PROJECTS ESTABLISHING PUBLIC-PRIVATE PARTNERSHIPS FOR TECHNICAL ASSISTANCE TO SELF-EMPLOYED AFDC RECIPIENTS.—

(1) IN GENERAL.—The Secretary shall provide for demonstration projects to be conducted in States with applications approved under this Act under which one or more partnerships are developed between State agencies and community businesses or educational institutions to provide assistance to eligible participants.

(2) ELIGIBLE PARTICIPANTS.—For purposes of this subsection, the term “eligible participants” means—

(A) individuals who are receiving aid to families with dependent children; and

(B) individuals who cease to be eligible to receive such aid who have been participating in a demonstration project conducted by a State under this subsection.

(3) PERMISSIBLE EXPENDITURES.—Funds from any demonstration project conducted under this subsection may be used to pay the costs associated with developing and imple-

menting a process through which businesses or educational institutions would work with the State agency to provide assistance to eligible participants seeking to start or operate small businesses, including—

(A) mentoring;

(B) training for eligible participants in administering a business;

(C) technical assistance in preparing business plans; and

(D) technical assistance in the process of applying for business loans, marketing services, and other activities related to conducting such small businesses.

(c) DEMONSTRATION PROJECTS FOR TRAINING AFDC RECIPIENTS AS SELF-EMPLOYED PROVIDERS OF CHILD CARE SERVICES.—

(1) IN GENERAL.—The Secretary shall provide for demonstration projects to be conducted in States with applications approved under this Act under which one or more partnerships are developed between State agencies and community businesses or educational institutions to provide assistance to eligible participants in the establishment and operation of child care centers in the home or in the community which would provide child care services.

(2) ELIGIBLE PARTICIPANTS.—For purposes of this subsection, the term “eligible participants” means—

(A) individuals who are receiving aid to families with dependent children; and

(B) individuals who cease to be eligible to receive such aid who have been participating in a demonstration project conducted by a State under this subsection.

(3) PERMISSIBLE EXPENDITURES.—Funds from any demonstration project conducted under this subsection may be used to pay the costs associated with developing and implementing a process through which businesses or educational institutions would work with the State agency to provide assistance to train eligible participants to provide licensed child care services, including—

(A) mentoring;

(B) training in the provision of child care services;

(C) training for eligible participants in administering a business;

(D) training in early childhood education;

(E) technical assistance in preparing business plans;

(F) technical assistance in the process of applying for loans, marketing services, qualifying for Federal and State programs, and other activities related to the provision of child care services; and

(G) technical assistance in obtaining a license and complying with Federal, State, and local regulations regarding the provision of child care.

(d) DEMONSTRATION PROJECT TO PROMOTE OWNERSHIP OF FAMILY-OWNED BUSINESSES BY AFDC RECIPIENTS.—

(1) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in paragraph (2) in States with applications approved under this Act.

(2) PROJECT DESCRIBED.—Each State conducting a demonstration project under this subsection shall develop a program under which the State shall—

(A) encourage incentives for families receiving aid to families with dependent children to work together as managers and employees in family-owned businesses;

(B) develop State and private partnerships for making or guaranteeing small business loans, including seed money, available to such families;

(C) provide such families with technical training in small business management, accounting, and bookkeeping;

(D) regularly evaluate the status of the recipients of assistance under the project; and

(E) continue a transitional period of benefits under title IV and title XIX of the Social Security Act for recipients of assistance under the project until such time as the State determines such family is self-sufficient.

For purposes of this paragraph, a family-owned business may include other relatives of the family receiving aid to families with dependent children regardless if such relatives are also receiving aid to families with dependent children.

**SEC. 106. INCREASED EMPHASIS IN JOBS PROGRAM ON MOVING PEOPLE INTO THE WORK FORCE.**

Section 481(a) of the Social Security Act (42 U.S.C. 681(a)) is amended by adding at the end the following new sentence: “It is further the purpose of this part to encourage individuals receiving education and training to enter the permanent work force by developing programs through which such individuals enter the work force and then receive post-employment education and training.”.

**SEC. 107. ADDITIONAL DEMONSTRATION PROJECTS TO MOVE AFDC RECIPIENTS INTO THE WORK FORCE.**

(a) ESTABLISHMENT.—The Secretary shall provide for additional demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—Each State conducting a demonstration project under this section shall develop a program or programs to better move recipients of aid to families with dependent children into the work force.

**TITLE II—INITIATIVES TO STRENGTHEN FAMILIES AND BREAK THE CYCLE OF WELFARE DEPENDENCY**

**SEC. 201. DEMONSTRATION PROJECTS TO ESTABLISH CHILD CENTERED PROGRAMS THROUGH CONVERSION OF CERTAIN AFDC AND JOBS PAYMENTS INTO BLOCK GRANTS.**

(a) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—

(1) IN GENERAL.—Each State conducting a demonstration project under this section shall elect to receive payments under paragraph (2) in lieu of—

(A) all payments to which the State would otherwise be entitled to under section 403 of the Social Security Act (42 U.S.C. 603) for aid to families with dependent children under part A of title IV of such Act or the job opportunities and basic skills training program under part F of such title; or

(B) any portion of the payment described in subparagraph (A) to which the State would otherwise be entitled under such section for benefits (identified by the State) under part A or part F of such title for populations (identified by the State) who receive such benefits.

(2) PAYMENT.—The Secretary shall make payment under this paragraph for each year of the project in an amount equal to—

(A) during fiscal year 1996—

(i) 100 percent of the total amount to which the State was entitled under section 403 of the Social Security Act (42 U.S.C. 603) for aid to families with dependent children under part A of title IV of such Act or the job opportunities and basic skills training program under part F of such title; or

(ii) the amount to which the State was entitled to under such section for those benefits and populations identified by the State in paragraph (1)(B).

for fiscal year 1995 plus the product of such amount and the percentage increase in the consumer price index for all urban consumers (U.S. city average) during such fiscal year; and

(B) during each subsequent fiscal year, the amount determined under this paragraph in the previous fiscal year plus the product of such amount and the percentage increase in such consumer price index during such previous fiscal year.

(3) DESCRIPTION OF ACTIVITIES.—

(A) IN GENERAL.—Each State which is paid under paragraph (2) shall expend the amount received under such paragraph and the amount, if any, made available to such State under section 5(b)(1)(B)(ii) for one or more of the following purposes:

(i)(I) Establish residential programs for teenage mothers with dependent children where education, job training, community service, or other employment is provided.

(II) Support the pilot project described in section 433(f) of the Jobs Training Partnership Act, as added by section 102 of this Act, to provide such services to teenage mothers with dependent children.

(ii) Establish programs to promote, expedite, and ensure adoption of children, particularly neglected or abused children.

(iii) Expand child care assistance for the children of needy working parents (as determined by the State).

(iv) Establish residential schooling with appropriate support services for children from needy families (as determined by the State) enrolled at the request of the parents of such children.

(v) Establish other services which will be provided directly to children from needy families (as determined by the State).

(vi) Implement other reforms consistent with this Act.

(4) COMMUNITY-BASED ACTIVITIES.—The Secretary shall ensure that each State receiving a grant under this section—

(A) takes adequate steps to assure the well-being of the children affected by the State's receipt of the grant; and

(B) to the fullest extent possible, utilizes the grant under this section to support community-based services in communities affected by the State's receipt of the grant.

**SEC. 202. DEMONSTRATION PROJECTS PROVIDING NO ADDITIONAL BENEFITS WITH RESPECT TO CHILDREN BORN WHILE A FAMILY IS RECEIVING AFDC AND ALLOWING INCREASES IN THE EARNED INCOME DISREGARD.**

(a) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—If a child is born to a family after the date on which such family begins receiving aid to families with dependent children, a State conducting a demonstration project under this section—

(1) shall not take such child into account in determining the need of such family for such aid; and

(2) shall increase the amounts disregarded from earned income under section 402(a)(8)(A) of the Social Security Act (42 U.S.C. 602(a)(8)(A)).

**SEC. 203. DEMONSTRATION PROJECTS PROVIDING INCENTIVES TO MARRY.**

(a) AID TO TWO-PARENT FAMILIES.—

(1) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in paragraph (2) in States with applications approved under this Act.

(2) PROJECT DESCRIBED.—

(A) IN GENERAL.—Each State conducting a demonstration project under this subsection shall not apply the requirements described in subparagraph (B) to a parent of a dependent child who is married to the natural parent of such child.

(B) REQUIREMENTS WAIVED.—The requirements described in this subparagraph are:

(i) The work history requirement described in section 407(b)(1)(A)(iii) of the Social Security Act (42 U.S.C. 607(b)(1)(A)(iii)).

(ii) The 100-hour rule under section 233.100(a)(1)(i) of title 45, Code of Federal Regulations.

(b) INCREASE IN STEPPARENT EARNED INCOME DISREGARD.—

(1) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in paragraph (2) in States with applications approved under this Act.

(2) PROJECT DESCRIBED.—For purposes of making determinations for any month under section 402(a)(7) of the Social Security Act (42 U.S.C. 602(a)(7)), each State conducting a demonstration project under this subsection shall modify the income disregards provided in subparagraphs (A) through (D) of section 402(a)(31) of such Act (42 U.S.C. 602(a)(31)) in order to decrease the amount of income determined under such section with respect to a dependent child's stepparent.

**SEC. 204. DEMONSTRATION PROJECTS REDUCING AFDC BENEFITS IF SCHOOL ATTENDANCE IS IRREGULAR OR PREVENTIVE HEALTH CARE FOR DEPENDENT CHILDREN IS NOT OBTAINED.**

(a) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—

(1) IN GENERAL.—Each State conducting a demonstration project under this section shall reduce the amount of aid to families with dependent children received by a family if the State agency determines that one or both (at the State's option) of the following conditions exist:

(A) A member of such family is attending school or participating in a course of vocational or technical training and such family member is absent from such school or training with no excuse for more than a number of days per month determined appropriate by the State.

(B) A member of such family is a child under the age of 6 who has not received appropriate immunizations (as determined by the State).

(2) LIMITATION.—Each State conducting a demonstration project under this section shall establish procedures which ensure that no reduction in aid to families with dependent children under paragraph (1) will endanger the welfare and safety of any dependent child.

**SEC. 205. DEMONSTRATION PROJECTS TO DEVELOP COMMUNITY-BASED PROGRAMS FOR TEENAGE PREGNANCY PREVENTION AND FAMILY PLANNING**

(a) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—Each State conducting a demonstration project under this section shall develop a community-based program for teenage pregnancy prevention and family planning.

**SEC. 206. ADDITIONAL DEMONSTRATION PROJECTS TO STRENGTHEN FAMILIES AND BREAK THE CYCLE OF WELFARE DEPENDENCY.**

(a) ESTABLISHMENT.—The Secretary shall provide for additional demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—Each State conducting a demonstration project under this section shall develop a program or programs to strengthen families and break the cycle of welfare dependency.

**TITLE III—CHANGES TO FEDERAL LAWS AND STATE INITIATIVES TO INCREASE CHILD SUPPORT AND PATERNAL RESPONSIBILITY**

**SEC. 301. DEMONSTRATION PROJECTS TO INCREASE PATERNITY ESTABLISHMENT.**

(a) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—Each State conducting a demonstration project under this section shall develop a program to increase paternity establishment.

**SEC. 302. DEMONSTRATION PROJECTS TO INCREASE CHILD SUPPORT COLLECTION.**

(a) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—Each State conducting a demonstration project under this section shall increase the State's child support collection efforts through one or more of the following methods:

(1) Enhanced child support enforcement and collection, including holding a parent accountable for supporting any children of the parent's minor children.

(2) Applying section 402(a)(8)(vi) of the Social Security Act (42 U.S.C. 602(a)(8)(vi)) by substituting an amount greater than \$50 (to be determined by the State) for "\$50" each place such dollar amount appears.

(3) Any other method that the State deems appropriate.

**TITLE IV—INITIATIVES TO DIVERSIFY AND IMPROVE THE PERFORMANCE OF WELFARE SERVICES**

**SEC. 401. DEMONSTRATION PROJECTS FOR PROVIDING PLACEMENT OF AFDC RECIPIENTS IN PRIVATE SECTOR JOBS.**

(a) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—Each State conducting a demonstration project under this section shall—

(1) contract with private for-profit and nonprofit groups to provide any individual receiving aid to families with dependent children with training, support services, and placement in a private sector job which permits such individual to cease receiving aid to families with dependent children; and

(2) upon employment of such individual, pay such groups a negotiated portion of the total amount that such individual's family would have received over the course of the year in which such individual began such employment in the form of aid to families with dependent children.

**SEC. 402. DEMONSTRATION PROJECTS PROVIDING PERFORMANCE-BASED INCENTIVES FOR STATE PUBLIC WELFARE PROVIDERS.**

(a) ESTABLISHMENT.—The Secretary shall provide for demonstration projects to establish performance-based incentives for State public welfare providers in States with applications described in subsection (b)(1) which are approved under this Act.

(b) APPLICATIONS.—

(1) APPLICATION DESCRIBED.—An application described under this paragraph is an application which—

(A) identifies the State offices or administrative units which will participate in the demonstration project;

(B) describes indicators of employee or program performance based on outcome measures for—

(i) training and education;

(ii) job search and placement assistance;

(iii) child support collection;

(iv) teen pregnancy prevention programs; and

(v) any other program objective that the State finds appropriate;

(C) describes budgetary incentives for program performance, including direct financial incentives for employees where appropriate;

(D) describes a process for developing, in cooperation with employees of participating offices or units, a job evaluation system based on performance measures; and

(E) describes the way in which State public welfare providers, private providers, welfare clients, and members of the community have been or shall be involved in the planning and implementation of a performance based welfare delivery system.

(2) TECHNICAL ASSISTANCE.—The Secretary shall provide a State desiring to submit an application for a demonstration project under this section with technical assistance in preparing an application described under paragraph (1).

#### SEC. 403. ELECTRONIC BENEFIT TRANSFERS.

Section 904(d) of the Electronic Fund Transfer Act (15 U.S.C. 1693b(d)) is amended—

(1) by inserting "(1)" after "(d)"; and

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

"(2)(A) The disclosures, protections, responsibilities, and remedies created by this title or any rules, regulations, or orders issued by the Board in accordance with this title, do not apply to an electronic benefit transfer program established under State or local law, or administered by a State or local government, unless the payment under such program is made directly into a consumer's account held by the recipient.

"(B) Subparagraph (A) does not apply to employment related payments, including salaries, pension, retirement, or unemployment benefits established by Federal, State, or local governments.

"(C) Nothing in subparagraph (A) alters the protections of benefits established by any Federal, State, or local law, or preempts the application of any State or local law.

"(D) For purposes of subparagraph (A), an electronic benefit transfer program is a program under which a Federal, State, or local government agency distributes needs-tested benefits by establishing accounts to be accessed by recipients electronically, such as through automated teller machines, or point-of-sale terminals. A program established for the purpose of enforcing the support obligations owed by absent parents to their children and the custodial parents with whom the children are living is not an electronic benefit transfer program."

#### TITLE V—OFFSETTING EXPENDITURE REDUCTIONS

##### SEC. 501. OFFSETTING EXPENDITURE REDUCTIONS.

(a) IN GENERAL.—Subparagraph (C) of section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)(C)) is amended to read as follows:

"(C) In the case of corporations and other entities included in subparagraph (B) and partnerships, the Secretary shall attribute payments to natural persons in proportion to their ownership interests in an entity and in any other entity, or partnership, that owns or controls the entity, or partnership, receiving the payments."

(b) REMOVAL OF 3-ENTITY RULE.—Section 1001A(a)(1) of the Food Security Act of 1985 (7 U.S.C. 1308-1(a)(1)) is amended—

(1) in the first sentence—

(A) by striking "substantial beneficial interests in more than two entities" and inserting "a substantial beneficial interest in any other entity"; and

(B) by striking "receive such payments as separate persons" and inserting "receives the payments as a separate person"; and

(2) by striking the second sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1995.

#### THE WELFARE REFORMS THAT WORK ACT— SUMMARY

Sections 1-4.—Purpose of bill and general provisions relating to state pilot projects:

Sec. 2. States that the purpose of the bill is to promote bold State-initiated welfare reforms to move welfare recipients into the work force; strengthen families; break the cycle of welfare dependency; increase child support collection and paternal responsibility; and improve the delivery of welfare services. The bill is designed to make immediate State-by-State changes to the existing system while establishing a process for identifying successful reform approaches that can be applied nationally. The bill reflects the findings that: the current welfare system is failing children and contributing to the cycle of poverty and other societal ills; mandatory job training and many other incremental reforms tested to date have had minimal effects on welfare dependency; and the States are best positioned to test far-reaching reform proposals that involve some human or financial risk. While this bill in no way precludes national reforms such as time-limits, work requirements or requiring teenage parents to live at home, it gives States the central reform role and provides the authority and resources they need to pursue bold and untested reforms.

Sec. 4. Sets forth general provisions relating to demonstration projects. Authorizes \$150 million/yr for the first two years and \$125 million/yr in the following three year to support pilots and evaluations of pilots, and requires States to have evaluation plans approved by the Department of Health and Human Services (HHS) before receiving funds. A portion of these funds would support innovative pilot programs not specified in the bill but proposed by States. Demonstration projects could last up to 5 years. States would report on progress annually. As results of interim and final reports become available, the Secretary of HHS will submit legislation to Congress to implement promising reforms nationally.

#### TITLE I.—INITIATIVES TO MOVE WELFARE RECIPIENTS INTO THE WORK FORCE

From the first day that an individual applies for welfare, the primary focus of welfare offices should be to help that person move into the work force. A welfare grant should be conditioned on responsible behavior. This Title supports state reforms to move welfare recipients into the work force.

Sec. 101. Supports State pilots to condition AFDC benefits for single parents under 20 years of age with at least one dependent child and no children under 6 months of age on attending school or participating in a job or job training program for a minimum of 35 hours per week and on living at home. States would also impose a time limit (not specified) on benefits, and make child care available during training and work activities. Since the program would be expensive, it targets those at greatest risk of long-term welfare dependency—teenage mothers.

Sec. 102. Authorizes the Secretary of HHS to establish a pilot program with the Jobs Corps (a successful, residential anti-poverty program for youths 16-22 years of age) targeting teenage mothers on AFDC with below school-age children. The pilot would include a Parents-as-Teachers type program designed to teach parents how to help prepare their children for school and learning.

Sec. 103. Supports State pilots to require 30 days of assisted job search or, where appropriate, substance abuse treatment immediately following application for AFDC, coinciding with the usual lag time between application for and receipt of benefits. Applicants would have to complete the assigned activities before receiving AFDC payments.

Sec. 104. A national change to permit States to allow AFDC families to save money (up to \$10,000) for education and training or starting a small business.

Sec. 105. Expands on legislation introduced in 1993 with Senator Dodd.

A national change to permit States to help recipients start a small business by allowing participants a one-time election to fully deduct capital equipment purchases in one year;

Supports State pilots to establish public-private partnerships to provide technical assistance to self-employed AFDC recipients;

Supports State pilots to train AFDC recipients as self-employed providers of child care services; and

Supports State pilot projects to promote ownership of extended family-owned businesses by AFDC recipients. Would provide incentives and assistance for families receiving aid to families with dependent children to work together as managers and employees in extended family-owned businesses.

Sec. 106. Amends JOBS provisions to emphasize efforts to move people into the work force over training and education.

Sec. 107. Supports additional demonstration projects proposed by States to move AFDC recipients into the work force.

#### TITLE II.—INITIATIVES TO STRENGTHEN FAMILIES AND BREAK THE CYCLE OF WELFARE DEPENDENCY

The current Federal welfare rules discourage family unification and encourage out-of-wedlock childbearing. The most serious victims of these policies are children born into poor, unstable families. This Title supports State reforms that promote parental responsibility and family unity. It recognizes that while welfare is a privilege for parents, States and the Federal government have a moral responsibility to ensure the well-being of all American children.

Sec. 201. Supports State pilots to establish child centered programs through conversion of AFDC and JOBS payments into block grants, plus funds available under other sections of this bill. States could apply portions of funds to: (1) establish residential homes for teenage mothers with children, including supporting the pilot project described in section 102; (2) expand programs to expedite and improve adoption of children; (3) expand child care assistance for needy children of working families; (4) establish supportive residential schools for children enrolled at the request of their parents; (5) provide other services directly to needy children; and (6) fund other programs that are consistent with the purposes of the Act. The Secretary of HHS, in reviewing the application, must ensure that the State's program will protect the well-being of affected children.

Sec. 202. Supports State pilots to discourage welfare recipients from having additional children while on welfare and increase the financial reward for work. Recipients who had a second child would not get additional benefits but would be allowed to keep a higher portion of job earnings.

Sec. 203. Supports State pilots to improve incentives to get married. States would disregard to a greater extent the second parent's earnings and work patterns in determining benefits.

Sec. 204. Supports State pilots to reduce AFDC benefits if school attendance of mother or child is irregular or preventive health

care for the dependent children is not attained.

Sec. 205. Supports State demonstrations of innovative teenage pregnancy prevention programs.

Sec. 206. Supports additional demonstration projects proposed by States to strengthen families and break the cycle of welfare dependency.

**TITLE III.—CHANGES TO FEDERAL LAWS AND STATE INITIATIVES TO INCREASE CHILD SUPPORT COLLECTION AND PATERNAL RESPONSIBILITY**

Increased child support enforcement and paternity establishment must be part of the welfare reform. Too often absent parents, typically fathers, are not held accountable for their children's care. In the last Congress Senator Bradley introduced and I cosponsored the comprehensive Interstate Child Support Enforcement Act, which I will support again this year. My bill authorizes additional State efforts to improve child support collection and paternity establishment.

Sec. 301. Supports demonstration projects to increase paternity establishment.

Sec. 302. Supports demonstration projects to increase child support collection, including: increasing the child support disregard, from \$50 to a higher level decided by the state; and, holding parents accountable for child support obligations of their minor children.

**TITLE IV.—INITIATIVES TO DIVERSIFY AND IMPROVE PERFORMANCE OF WELFARE SERVICES**

Welfare offices are notoriously bureaucratic and unresponsive. Under current Federal laws, they have few incentives and some disincentives to improve performance. This Title supports state efforts to promote competition among welfare service providers and to implement performance-based management programs in welfare offices. It also removes a current Federal impediment to the use of electronic benefit transfer "smart cards."

Sec. 401. Supports State pilots to provide incentives to private sector, for profit and non-profit groups to place welfare recipients in private sector jobs. Companies would keep a portion of welfare savings as payment for successful job placements.

Sec. 402. Supports State pilots to implement performance-based management systems for public welfare providers.

Sec. 403. To promote the use of electronic benefit transfer (EBT) "smart cards" that reduce fraud and improve services, this section exempts state EBT programs from the Federal Reserve Board's "Regulation E." Reg. E currently limits cardholder liability to \$50 for lost or stolen cards—a policy that promotes fraud and makes EBT programs costly for States.

**TITLE V.—OFFSETTING EXPENDITURE REDUCTIONS**

Sec. 501. Eliminates the "three-entity" rule, reducing the amount of certain Federal subsidies individual farmers can receive from \$250,000 to \$125,000 per year.

By Mr. GREGG (for himself and Mr. COCHRAN):

S. 247. A bill to improve senior citizens housing safety; to the Committee on Banking, Housing, and Urban Affairs.

**THE SENIOR CITIZENS HOUSING SAFETY ACT**

• Mr. GREGG. Mr. President, last year, I introduced the Senior Citizens Housing Safety Act, a bill that will end the terror that unfortunately runs rampant throughout many housing projects specifically designated for elderly and

disabled residents. I reintroduce this important legislation.

In my home State of New Hampshire, most people are still afforded the luxury of not having to lock their front door before turning in for the evening. However, many elderly residents of public housing facilities in my State and across America have been forced to not only lock their front doors, but are literally being held prisoner in their own homes. I believe this is outrageous. I have received numerous complaints from residents of elderly housing facilities throughout New Hampshire who are worried about their personal safety in housing specifically reserved for them.

Under current housing laws nonelderly persons considered disabled, because of past drug and alcohol abuse problems, are eligible to live in section 8 housing designated for the elderly. This mixing of populations may have filled up the housing projects across the country, but it has opened a Pandora's box of trouble. Simply put, young, recovering alcoholics and drug addicts are not compatible with elderly persons. Many of these young people hold all-night, loud parties, shake down many of the elderly residents for money, sell drugs within the housing facility, and generally disturb the right to the peaceful enjoyment of the premises by other tenants.

This problem has occurred because the definition of handicapped under the Fair Housing Act was amended in 1988 to include recovering alcoholics and drug addicts. Under the mixed population rules of 1992, Congress determined that the elderly and disabled should be housed together. Historically, disabled individuals have lived in complexes for the elderly because the apartments there—one-bedroom units equipped with such features as hand rails—best fit their needs. However, drug addicts and alcoholics who are considered disabled do not have the same needs. Many elderly persons hope to retire in a community surrounded by persons their own age, elderly people who choose to live a peaceful existence in the company of their peers. I want to restore that hope and this legislation will attack this problem with a two-tier approach.

First, my legislation will institute a front-end screening process. This will prevent nonelderly individuals, classified as disabled because they are recovering from alcoholism and drug addiction, from becoming eligible for housing that is designated for the elderly. It simply says they cannot live in housing designated for the elderly additionally, it will prevent the further mixing of two groups that are obviously incompatible. This will not, however, exclude these nonelderly, disabled individuals from the housing I believe they need and deserve.

Second, my legislation will force local public housing agencies to evict nonelderly individuals occupying the facility who engage on three separate

documented occasions in activities that threaten the health, safety, or right to peaceful enjoyment of the premises by other tenants and involves the use of drugs or alcohol.

This process, by no means, circumvents the current housing eviction procedure. Under current law the public housing agency could evict these persons after one infraction if deemed necessary. It simply mandates that these nonelderly individuals be evicted after three incidents which threaten the health, safety, or right to peaceful enjoyment of the premises by other tenants.

This is a simple bill that prevents the mixing of two populations who have proved incompatible.

This bill will restore order in housing projects designated for elderly and disabled tenants by screening out nonelderly alcoholics and drug addicts, as well as evicting those nonelderly persons who continuously raise havoc within the housing project. I urge my colleagues to support this important bill. 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. 247

*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 "Senior Citizens Housing Safety Act".

**SEC. 2. SENIOR CITIZEN HOUSING SAFETY.**

(a) LIMITATION ON OCCUPANCY IN PUBLIC HOUSING DESIGNATED FOR ELDERLY FAMILIES.—

(1) IN GENERAL.—Section 7(a) of the United States Housing Act of 1937 (42 U.S.C. 1437e(a)) is amended—

(A) in paragraph (1), by striking "Notwithstanding any other provision of law" and inserting "Subject only to the provisions of this subsection";

(B) in paragraph (4), by inserting ", except as provided in paragraph (5)" before the period at the end; and

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

"(5) LIMITATION ON OCCUPANCY IN PROJECTS FOR ELDERLY FAMILIES.—

"(A) OCCUPANCY LIMITATION.—Notwithstanding any other provision of law, a dwelling unit in a project (or portion of a project) that is designated under paragraph (1) for occupancy by only elderly families or by only elderly and disabled families shall not be occupied by—

"(i) any person with disabilities who is not an elderly person and whose history of use of alcohol or drugs constitutes a disability; or

"(ii) any person who is not an elderly person and whose history of use of alcohol or drugs provides reasonable cause for the public housing agency to believe that the occupancy by such person may interfere with the health, safety, or right to peaceful enjoyment of the premises by other tenants.

"(B) REQUIRED STATEMENT.—A public housing agency may not make a dwelling unit in such a project available for occupancy to any person or family who is not an elderly family, unless the agency acquires from the person or family a signed statement that no person who will be occupying the unit—

“(i) uses (or has a history of use of) alcohol; or

“(ii) uses (or has a history of use of) drugs; that would interfere with the health, safety, or right to peaceful enjoyment of the premises by other tenants.”

(2) LEASE PROVISIONS.—Section 6(l) of the United States Housing Act of 1937 (42 U.S.C. 1437d(l)) is amended—

(A) in paragraph (5), by striking “and” at the end;

(B) by redesignating paragraph (6) as paragraph (7); and

(C) by inserting after paragraph (5) following new paragraph:

“(6) provide that any occupancy in violation of the provisions of section 7(a)(5)(A) or the furnishing of any false or misleading information pursuant to section 7(a)(5)(B) shall be cause for termination of tenancy; and”.

(b) EVICTION OF NONELDERLY TENANTS HAVING DRUG OR ALCOHOL USE PROBLEMS FROM PUBLIC HOUSING DESIGNATED FOR ELDERLY FAMILIES.—Section 7(c) of the United States Housing Act of 1937 (42 U.S.C. 1437e(c)) is amended to read as follows:

“(c) STANDARDS REGARDING EVICTIONS.—

“(1) LIMITATION.—Any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or a portion of the project) pursuant to this section or because of any action taken by the Secretary or any public housing agency pursuant to this section.

“(2) REQUIREMENT TO EVICT NONELDERLY TENANTS FOR 3 INSTANCES OF PROHIBITED ACTIVITY INVOLVING DRUGS OR ALCOHOL.—With respect to a project (or portion of a project) described in subsection (a)(5)(A), the public housing agency administering the project shall evict any person who is not an elderly person and who, during occupancy in the project (or portion thereof), engages on 3 separate occasions (occurring after the date of the enactment of this Act) in any activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants and involves the use of alcohol or drugs.

“(3) RULE OF CONSTRUCTION.—The provisions of paragraph (2) requiring eviction of a person may not be construed to require a public housing agency to evict any other persons who occupy the same dwelling unit as the person required to be evicted.”

By Mr. GREGG (for himself, Mrs. HUTCHISON, Mr. LOTT, Mr. GRAMM, Mr. NICKLES, and Mr. WARNER):

S. 248. A bill to delay the required implementation date for enhanced vehicle inspection and maintenance programs under the Clean Air Act and to require the Administrator of the Environmental Protection Agency to reissue the regulations relating to the programs, and for other purposes; to the Committee on Environment and Public Works.

THE AUTO INSPECTION REFORM ACT OF 1995

• Mr. GREGG. Mr. President, I introduce the Auto Inspection Reform [AIR] Act of 1995. I am pleased that Senators HUTCHISON, LOTT, GRAMM, NICKLES, and WARNER have joined as cosponsors. This legislation will postpone the implementation of the enhanced vehicle inspection and maintenance programs under the Clean Air Act until March 1, 1996. The bill requires EPA to reissue the regulations relating to these pro-

grams, and to reassess its initial position that effectively mandated centralized tests.

Under the 1990 Clean Air Act, Congress imposed enhanced auto emission inspection and maintenance requirements on States in nonattainment areas and on States in the statutory-mandated Northeast ozone transport region. Under the act, Congress provided a clear option to centralized systems for States that proved that decentralized testing could be as effective.

Despite the clear statutory language that indicates Congress wanted decentralized testing to be a viable option, EPA has acted to fundamentally undermine this congressional intent. Through two decisions, EPA has effectively forced States to adopt centralized systems. First, EPA determined that an extremely high cost test known as the IM-240 was mandated under the act. Second, EPA determined that the pollution reduction that States say can be achieved by a decentralized system must be discounted by roughly 50 percent.

As a result, States have either yielded to EPA's mandate, or are trying to get EPA to change its views. States that chose the first course are facing a citizen rebellion and States choosing the second are facing a brick wall. If a State does not meet the enhanced emissions testing requirements to EPA's satisfaction, the Agency can have the State's Federal highway funding cut off.

EPA has just recently indicated a willingness to reconsider and negotiate increased flexibility with some of the affected States' Governors and not implement fines for States moving forward in “good faith.” This is a good first step. However, it has only been implemented on a State-by-State basis and EPA has yet to issue any codified guidance to define this apparent change in policy. States remain at the mercy of EPA's discretion. I believe that any new policy should be formalized to provide States certainty and predictability. This bill will help ensure that the Clean Air Act will be complied with by giving States the necessary flexibility to implement the most suitable inspection program for their States. I urge my colleagues to give this bill careful consideration.

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. 248

*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 “Auto Inspection Reform (AIR) Act of 1995”.

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that, in carrying out title I of the Clean Air Act (42 U.S.C. 7401 et seq.), the Administrator of the Environmental Protection Agency (referred

to in this Act as the “Administrator”) has failed to—

(1) adequately consider alternative programs to centralized vehicle emission testing programs, as required by section 182(c)(3)(C)(vi) of the Clean Air Act (42 U.S.C. 7511a(c)(3)(C)(vi)); and

(2) provide adequate credit to States for the alternative programs.

(b) PURPOSE.—The purpose of this Act is to require the Administrator to—

(1) reassess the determinations of the Administrator with respect to the equivalency of centralized and decentralized programs under section 182(c)(3)(C)(vi) of the Clean Air Act (42 U.S.C. 7511a(c)(3)(C)(vi)); and

(2) issue new regulations governing the programs that—

(A) result in minimum disruption to the ability of States to comply with other requirements of the Act (42 U.S.C. 7401 et seq.); and

(B) provide States a reasonable opportunity to comply with the new regulations and implement any decentralized testing programs that the States demonstrate are equally effective as centralized programs.

#### SEC. 3. IMPLEMENTATION OF ENHANCED VEHICLE INSPECTION PROGRAMS.

(a) IN GENERAL.—Notwithstanding any other provision of law, a State shall not be required to implement an enhanced vehicle inspection and maintenance program under section 182(c)(3) of the Clean Air Act (42 U.S.C. 7511a(c)(3)) prior to March 1, 1996.

(b) REASSESSMENT OF REGULATIONS.—

(1) IN GENERAL.—The Administrator shall—

(A) immediately rescind the regulations issued on November 5, 1992 (57 Fed. Reg. 52950), relating to operation of the program described in subsection (a) on a centralized basis; and

(B) during the period beginning on the date of enactment of this Act and ending on March 1, 1996—

(i) reassess the determinations made by the Administrator with respect to operation of the program described in subsection (a) on a centralized basis, taking into consideration comments submitted by States; and

(ii) issue new regulations relating to operation of the program described in subsection (a) on a centralized basis, or, at the option of each State, on any decentralized basis if the State demonstrates that such a decentralized program is equally effective as a centralized program.

(2) REQUIREMENTS.—The regulations issued under paragraph (1)(B)(ii) shall—

(A) in accordance with the intent of section 182(c)(3)(C)(vi) of the Clean Air Act (42 U.S.C. 7511a(c)(3)(C)(vi))—

(i) make reasonably available to States the option of operation of the program described in subsection (a) on any decentralized basis if the State demonstrates that such a decentralized program is equally effective as a centralized program; and

(ii) establish criteria that a State must meet in order to demonstrate that a decentralized program of the State is equally effective as a centralized program; and

(B)(i) provide each State a reasonable opportunity to submit (at the option of the State) a new revision to a plan under section 182(c)(3) of the Act (42 U.S.C. 7511a(c)(3)) based on the new regulations, which revision shall replace any revision to a plan previously submitted by the State under section 182(c)(3) of the Act; and

(ii) include a schedule that provides States a reasonable opportunity to implement any new revisions to plans that the States submit.

(3) JUDICIAL REVIEW.—Notwithstanding section 706 of title 5, United States Code, or any

other provision of law, if the regulations issued pursuant to paragraph (1)(B)(ii) are reviewed by a court, the court shall hold unlawful and set aside the regulations if the regulations are found to be unsupported by a preponderance of the evidence.

(C) PROHIBITION ON IMPOSITION OF SANCTIONS.—Until such time as the Administrator has carried out subsection (b)(1)—

(1) the Administrator may not issue a finding, disapproval, or determination under section 179(a) of the Clean Air Act (42 U.S.C. 7509(a)), or apply a sanction specified in section 179(b) of the Act, to a State with respect to a failure to implement a program described in subsection (a), or any portion of such a program; and

(2) the Administrator and the Administrator of the Federal Highway Administration of the Department of Transportation may not take any adverse action, against a State with respect to a failure described in paragraph (1), under—

(A) section 176 of the Clean Air Act (42 U.S.C. 7506);

(B) chapter 53 of title 49, United States Code;

(C) subpart T of part 51, or subpart A of part 93, of title 40, Code of Federal Regulations (commonly known as the "transportation conformity rule"); or

(D) part 6, 51, or 93 of title 40, Code of Federal Regulations (commonly known as the "general conformity rule").

(d) FULL CREDIT FOR DECENTRALIZED PROGRAMS.—Until such time as the Administrator has carried out subsection (b)(1), for the purpose of the attainment demonstration and the reasonable further progress demonstration required under section 182(c)(2) of the Clean Air Act (42 U.S.C. 7511a(c)(2)), the Administrator shall—

(1) deem that the emission reductions calculated by States for inspection and maintenance under their State implementation plans would be achieved as if the planned program had been implemented; or

(2) if appropriate, consider the operation of the program described in subsection (a) on a decentralized basis as equivalent to the operation of the program on a centralized basis in any case in which a State demonstrates that a determination of such an equivalency is reasonable.●

By Mr. McCONNELL:

S. 250. A bill to amend chapter 41 of title 28, United States Code, to provide for an analysis of certain bills and resolutions pending before the Congress by the Director of the Administrative Office of the United States Courts, and for other purposes; to the Committee on the Judiciary.

THE LITIGATION IMPACT STATEMENTS ACT OF 1995

● Mr. McCONNELL. Mr. President, today, I am introducing a bill that joins the effort to improve our legal system with the goal of eliminating unfunded Federal mandates.

Too often, Mr. President, Congress passes a bill without regard as to its impact on the court system. How many new cases will the law generate? Will they be Federal court cases or State court cases? How much will it cost government to enforce the new law through the legal system? How much liability will government, as well as the private sector, incur as a result of the new law?

These questions are rarely asked by Congress before a bill becomes law. The bill I am introducing will change all of

that. It requires the Administrative Office of the U.S. Courts to provide a litigation impact statement for all bills reported from committees—except private relief bills and appropriation bills.

The A.O. is equipped to perform this task; in fact, the staff already does provide a judicial impact statement for certain bills. They did it for the Violence Against Women's Act, and they did for a bill I introduced in the 102d Congress, the Pornography Victims' Compensation Act.

In 1994, more than 281,000 new cases were filed in the Federal courts, with an increase in the civil filings of 3 percent over last year—Interestingly, the criminal filings have gone down.

In 4 of the last 5 years, filings in the Federal courts have increased. This increase in court filings occurs at the State level, where hundreds of thousands of cases are also filed. Too many of these cases are a direct result of Federal legislation enacted without a thought as to the effect on the courts. My bill will give Congress the opportunity to consider, for every bill, what burdens it will create for the courts, as well as the financial impact for potential liability the new law will have on governmental and private entities. Cities and towns are spending more and more of their budgets on liability insurance, and part of the blame for that rests with Congress for the new laws creating runaway liability.

Will a litigation impact statement slow Congress down? I certainly hope so. It would be just fine with the American people, if Congress imposed fewer burdens on them. After all, they delivered a loud message last November. They said our government does not work properly; it's too big, too expensive and inefficient. So, before Congress goes off passing laws which will create more lawsuits, let's get Congress educated about the impact any new laws will have on our court system.

Congress already gets an assessment of the budget impact for any new legislation. Let's also have a litigation impact statement. It is a very good beginning on the road to reforming the legal system.

And on reforming the legal system, I will have more to say in the coming days. The time is right to undertake comprehensive reform of our legal system. I know it will be a top priority of the Senate Judiciary Committee, and I look forward to working with that committee on this issue.●

By Mr. McCAIN:

S. 251. A bill to make provisions of title IV of the Trade Act of 1974 applicable to Cambodia; to the Committee on Finance.

MOST-FAVORED-NATION STATUS FOR CAMBODIA LEGISLATION

● Mr. McCAIN. Mr. President, last year, I introduced legislation to clear up an anomaly in United States law that prohibits the President from granting Cambodia most-favored-nation status [MFN]. Despite my efforts,

Cambodia is without MFN and the President is still without the statutory power to grant it. There were many more important issues for Congress to address in 1994. But MFN is very important to Cambodia. And it should be important to all of us interested in a stable and prosperous Southeast Asia. Accordingly, today, I am reintroducing legislation to grant MFN to Cambodia.

Areas of Indochina under Communist control, including significant portions of Cambodia, were denied MFN under the Trade Agreements Extension Act of 1951 and the 1974 Trade Act. Cambodia as a whole was denied MFN in 1975 by Executive action and its new trading status was confirmed by Congress in the 1988 Trade Act.

The 1974 Trade Act provided a process for restoring MFN to those nations then denied it. However, only a portion of Cambodia was denied MFN at the time the 1974 act was signed into law. There is no clear legal authority for restoring MFN to the entire nation under the processes established by the 1974 Trade Act. It cannot be restored by reversing the action taken in 1975 through an Executive order because Cambodia's non-MFN trading status was made law in the 1988 Trade Act. In short, the President wants to grant MFN to Cambodia, but lacks the authority to do so.

The legislation I am introducing would give the President the authority to grant Cambodia MFN status by bringing the entire country under the restoration procedure of the 1974 Trade Act. Under these procedures, Cambodia will have to demonstrate compliance with the requirements of the Jackson-Vanik amendment, reach a bilateral agreement with the United States, and have its status approved by the Congress. The President may also waive the requirements of Jackson-Vanik, which has for political reasons come to mean a policy decision far beyond the original concern for emigration, and immediately upon this legislation becoming law, extend MFN to Cambodia. Cambodia would be eligible to receive MFN by virtually the same process that all other non-MFN countries, except the Baltics, have received it since the signing of the 1974 Trade Act.

I want to emphasize that if this bill becomes law, the President will retain his prerogatives to respond to developments in Cambodia.

Despite some disturbing developments in Cambodia since I introduced this legislation for the first time last May, I remain hopeful for the future of Cambodia. Cambodia's democracy is a very fragile and incomplete one, but it is a democracy. It needs careful attention to fully develop and sustain the rights of the Cambodian people. Promoting economic development through open markets would offer considerable support for Cambodian democracy and demonstrate American concern for its future. I encourage my colleagues to

act on legislation to grant MFN to Cambodia at the earliest possible opportunity.●

By Mr. THOMPSON (for himself, Mr. ASHCROFT, Mr. ABRAHAM, Mr. BOND, Mr. BROWN, Mr. BURNS, Mr. COVERDELL, Mr. CRAIG, Mr. FAIRCLOTH, Mr. FRIST, Mrs. HUTCHISON, Mr. INHOFE, Mr. MACK, Mr. PACKWOOD, Mr. SMITH, and Mr. THOMAS):

S.J. Res. 21. A joint resolution proposing a constitutional amendment to limit congressional terms; to the Committee on the Judiciary.

TERM LIMITS CONSTITUTIONAL AMENDMENT

Mr. THOMPSON. Mr. President, today, I, along with Senator ASHCROFT, will introduce a joint resolution to impose term limits on Members of Congress. This legislation will limit Members of the Senate to two terms and it will limit Members of the House to three terms. The time has come to pass this legislation. It is needed and it has the overwhelming support of the American people. In fact, never has there been an idea so popular that has received so little attention by the U.S. Congress. It is because term limits does not have to do with spending other people's tax money or regulating other people's lives as is the case with most legislation coming out of Congress. This provision, term limits, hits much closer to home. It calls for sacrifice or at least adjustment in the lives of ourselves. At least, with regard to those in Congress who see the Congress as a permanent career. It is time that the Congress put aside the personal interest that individual Members might have and respond to the will of the people, the good of the country, as well as the good of Congress as an institution.

Because term limits is not about punishing Congress or denigrating the institution of Congress, although it has come to the point where many in our society would love to do so. On the contrary. Term limits would strengthen and elevate Congress in the eyes of the American people at a time when it is most needed. Today people feel alienated from their Government and have concluded that Congress does not have the will to deal with the tough challenges that face this country in the future. And who can disagree with that notion. Yesterday we passed out of the Judiciary Committee a balanced budget amendment to the Constitution. I have concluded, as I think most others have, that passage of a balanced budget amendment is absolutely necessary if we are going to avoid bankrupting the next generation. The reason is that Congress doesn't have the political will to do what we all know is necessary. Therefore, we must resort to the straitjacket of a balanced budget amendment. It is a reflection upon us and upon our current system that such a straitjacket is needed. But constitutional amendments with regard to specific matters cannot indefinitely save

us from ourselves. We must start developing the will that is necessary to face tough issues. To me that means that we must have more people coming into the system who view service in the U.S. Congress not as a permanent career but as an interruption to a career. I believe that term limits would more likely produce individuals who would take on the tough challenges, since their careers would not be at stake every time they did so. It would also draw them into the system and encourage more citizens to run for office since they would not automatically face the difficult uphill struggle of running against a well-entrenched, well-financed incumbent.

There have been many Members who have served much longer than the limitations of this legislation would allow. A case can be made for the proposition that up until recently our current system has served us pretty well. There is no need to argue that point. However, different times and different circumstances require different measures. As the Federal Government has grown there has been a proliferation of special interest groups each with their demand on the Treasury and each holding a carrot and a stick for every Member of Congress. The carrot is political and financial support. And the stick is mobilizing of their forces in order to try to end a Member's career. So every time a Member takes a tough stand for the benefit of those yet unborn, who do not have votes, his career is on the line. For a Member whose entire future is based upon indefinite continued service, these forces are too often overwhelming. So we now have a \$5 trillion debt and a deficit that will start to skyrocket again in 1998. Apparently, we have decided to let our children and grandchildren make the tough choices. That's not being responsible. Surely, we are better than that. We owe it to them to take the measures necessary to give us the best chance of putting ourselves in the position to deal with such problems. That is why we need term limits and I urge my colleagues support.

Mr. ASHCROFT. Mr. President, 1994 was a watershed year in America. Our people spoke with a clarity and intensity seldom heard in the halls of politics. Their voices reverberated across the continent like the revolutionary shot heard round the world at Lexington and Concord two centuries ago.

The voters' voice was a clarion cry for revolution in Washington, DC—a revolution that returns the right of self-governance to the people.

We, the American people, are self governing. We are free people. We have the right to govern ourselves. We have spilt American blood not only across this continent, but around the globe, to preserve our right to self-governance.

Fifty years ago, to win the Battle of the Bulge, commanders compelled the cooks, the clerks, and the corpsmen to join the front lines and to defend our freedom of self-governance. For vic-

tory, all had to fight, all were necessary, none were excluded. Well, we again must invite everyone to join the battle and participate in victory for self-governance.

Those of us who were in the trenches of politics this year heard the battle cry for reentry by the public into the public policy arena. The citizens of this Nation are determined to regain the right to participate in their government. They want to reopen the door to self-governance—a door that too often has been slammed in their face. We must not slam it in their face again.

The people want the right to self-governance. They want the opportunity to decide on term limits.

Some say that the States can decide on term limits, but the courts have struck those statutes down almost uniformly. In one remaining case, the Arkansas case, the Attorney General, the executive branch, has slammed the door in the face of the people, saying they have no right to make such a determination; States and the people have no right to establish term limits, the executive branch says.

The judicial branch considering the case is likely to slam the door, as well, saying the people have no right to chart the course of their own future, to establish limits on the terms of those of us who have the privilege of representing the people in making public policy decisions here in Washington.

Congress, then, the last remaining branch of Government, holds the key to opening the door of self-governance to the people.

Back in 1951, the Congress sent to the American people the opportunity to enact term limits for the President. Congress could not enact them, but it called upon the people to make a judgment to participate in the process of public policy development.

Presidential term limits were not imposed by the Congress. The door of decisionmaking was swung wide for the people of this great country to decide whether or not they wanted term limits for the President. Indeed, they did decide; they participated. It was good public policy. They ratified the 22nd amendment.

The question is not whether we will provide term limits to America. The question is whether or not we will allow the American people the privilege of participating in public policy determinations, whether we will let the American people decide for themselves whether or not they want term limits for Members of the U.S. Congress.

I have a hint about what the American people believe and how they think. Twenty-two States have already overwhelmingly endorsed this concept. And of the States given the opportunity to make such a decision, the people voting in those States almost uniformly and without exception have endorsed the understanding that people should not go to Washington for an entire lifetime, but should go expecting to return from public service.

The question then is, will we let the people decide or will we slam the door of self-governance in the face of the American people again? We must let the people decide.

It is time for us to acknowledge again the principle of self-governance. Let the people decide.

It is time that we trust our people, the people of America, as our forefathers did. Let the people decide.

Let us demolish the misleading myth that Congress exists to protect people from themselves. We must instead respect the reality that there is wisdom in the people. We must acknowledge the reality that self-governance is not simply a politically expedient idea, it is, in fact, governmentally beneficial.

The people are eager to participate in shaping the tomorrows in which they live and in which all of us work. They are demanding the opportunity to decide whether or not to limit the terms of Members of this body and of the U.S. House of Representatives.

As servants of the people, we must pass a resolution on term limits that recognizes that term limits cannot be in the exclusive province of the House or Senate, but this is a decision to be reached by the American people. This is an opportunity for self-governance.

They have spoken with clarity and intensity this year, saying they want us to reopen the door of opportunity to decisionmaking and let them decide. I submit that we must respond to their call; that we must pass a resolution on term limits and thereby let the people decide to enact or reject term limits as they would apply to the U.S. House of Representatives and the U.S. Senate.

Mr. BOND. Mr. President, my colleague from Missouri comes to the floor for his first floor statement on an issue that will not surprise any of his fellow Missourians, and that is a message of change.

Change is what JOHN ASHCROFT talked about so clearly during his campaign, and now he is doing exactly what he told the people of Missouri he would do if they sent him here—to be a leader for change.

I take great pleasure in cosponsoring this legislation for term limits, because I think this is a very important first step toward doing actually what the people so clearly indicated they wanted done last November 8. It is no surprise to me that JOHN ASHCROFT is leading the way.

JOHN is an old and very dear friend. I have come to know him as an American patriot. He believes in this country and its people. He is able to cut through the fog of confusion that so often surrounds public policy issues. Missourians know him as a plain speaker in the finest Missouri tradition. He knows what he believes and how to say it so everyone knows just exactly what he believes. We once had a President with the same reputation from Missouri. What JOHN ASHCROFT believes is shaped by an upbringing

that reflects the essence of middle-American values, its traditions and beliefs.

JOHN is one of three boys raised in Springfield, MO. His family was modest of means, but rich in respect for their community, for each other, and for their God.

Earlier this month, JOHN's father, Dr. J. Robert Ashcroft a highly respected educational and religious leader, passed away after returning home to Missouri from witnessing JOHN's swearing-in as a U.S. Senator in this Chamber. Dr. Ashcroft's passing was a great loss to Missouri, but his contribution, his memory, and his commitment will live on. We have suffered the loss along with JOHN and his family, but we know that he knew his son would continue his efforts to serve, and to serve his fellow man. We all give thanks for Dr. Ashcroft's life and the many lives which he touched while he was with us.

JOHN ASHCROFT has served as Missouri's State auditor—he followed me in that job—and then he served as attorney general, following John Danforth. He followed me as Governor. He understands State government and its relationship with the Federal Government. He also knows something about cleaning up the problems that have been left behind.

At a time when Congress will reexamine the relationship and hopefully return much of the decisionmaking back to the States, Americans will have no better leader than JOHN ASHCROFT.

So we hear today from a plain-spoken Missourian what will undoubtedly be the first of many clearly reasoned, morally grounded floor speeches from our good friend, JOHN ASHCROFT.

I would say that our fellow Senators will understand very well his contributions. We value JOHN ASHCROFT's friendship. We welcome him and his wife, Janet, to Washington. I am confident that all my colleagues will come to know and respect him as I have. It will be a great and very meaningful friendship for all Members.

By Mr. GRAMS (for himself, Mr. LOTT, Mr. INHOFE, Mr. THOMAS, Mr. GRAMS, and Mr. MACK): Senate Joint Resolution 22. A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget; to the Committee on the Judiciary.

THE TAXPAYER PROTECTION BALANCED BUDGET AMENDMENT

• Mr. GRAMS. Mr. President, I am today introducing legislation calling for a balanced budget amendment to the Constitution. I am pleased to be joined by the distinguished majority whip, Senator LOTT, and my colleagues, Senate INHOFE, and THOMAS.

This legislation is what the American people are calling for. It balances the budget, but ensures that it is not

balanced on the backs of the American taxpayers.

There is no question that Congress must pass a balanced budget amendment and send it to the States for ratification. For years, Washington has been racking up deficits. In the process, we've racked up \$4½ trillion national debt. And sadly, we've got very little to show for it.

Without the balanced budget amendment, Congress will continue its deficit-digging, debt-building ways. That's bad news for the taxpayers and worse news for our children.

If you look at every so-called deficit reduction package Congress has passed in the last decade, you'll find that each one follows a consistent formula. Raise taxes now. Cut spending later.

Tragically, however, once Congress raised in taxes, it always forgot about the spending cuts. So, year after year, taxes would go up, spending would go up, and the deficit would go up, too. It's time to put an end to this madness.

That's why I am today introducing a taxpayer protection balanced budget amendment in the Senate. My amendment would require a three-fifths super majority vote in both houses of Congress to raise taxes.

A supermajority requirement is the best way to show the American taxpayers that Congress is serious about balancing the budget through spending cuts, and not through higher taxes.

That's what I promised the taxpayers of Minnesota during my campaign for the U.S. Senate. That's what they elected me to do. That's what my bill delivers.

Is there enough support in Congress to pass it? If we listen to the folks back home there sure ought to be.

A poll released today by the American Conservative Union that shows that the American people overwhelmingly support the supermajority requirement.

In fact, two thirds of those who already support a balanced budget amendment say that without a supermajority provision, the bill would be a sham.

The people have spoken. A balanced budget must be achieved through cuts in Government spending. Americans are willing to do that, but they aren't willing to be patsies for a big-spending government that just hasn't learned when to say "no."

The supermajority requirement is simply good government, and Americans support it just as they support the \$500 per-child tax credit. They're tired of watching their paychecks grow smaller while Washington grows bigger.

They voted for change last November, and it's our job to see that they get it.

That's what's best for the taxpayers, that's what's best for our children, that's what's best for Minnesota, that's what's best for America. •

## ADDITIONAL COSPONSORS

S. 4

At the request of Mr. MCCAIN, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 4, a bill to grant the power to the President to reduce budget authority.

S. 11

At the request of Mr. KYL, the names of the Senator from Colorado [Mr. BROWN], and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of S. 11, a bill to award grants to States to promote the development of alternative dispute resolution systems for medical malpractice claims, to generate knowledge about such systems through expert data gathering and assessment activities, to promote uniformity and to curb excesses in State liability systems through federally-mandated liability reforms, and for other purposes.

S. 22

At the request of Mr. DOLE, the names of the Senator from Mississippi [Mr. LOTT] and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 22, a bill to require Federal agencies to prepare private property taking impact analyses.

S. 45

At the request of Mr. FEINGOLD, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 45, a bill to amend the Helium Act to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes.

S. 194

At the request of Mr. MCCAIN, the names of the Senator from Arizona [Mr. KYL] and the Senator from Hawaii [Mr. INOUE] were added as cosponsors of S. 194, a bill to repeal the Medicare and Medicaid Coverage Data Bank, and for other purposes.

S. 218

At the request of Mr. MCCONNELL, the names of the Senator from Kansas [Mr. DOLE] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 218, a bill to repeal the National Voter Registration Act of 1993, and for other purposes.

S. 228

At the request of Mr. BRYAN, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 228, a bill to amend certain provisions of title 5, United States Code, relating to the treatment of Members of Congress and Congressional employees for retirement purposes.

S. 230

At the request of Mr. DOLE, the names of the Senator from California [Mrs. BOXER] and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of S. 230, a bill to prohibit United States assistance to countries that prohibit or restrict the transport or delivery of United States humanitarian assistance.

## SENATE JOINT RESOLUTION 18

At the request of Mr. HOLLINGS, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of Senate Joint Resolution 18, a joint resolution proposing an amendment to the Constitution relative to contributions and expenditures intended to affect elections for Federal, State, and local office.

## AMENDMENT NO. 144

At the request of Mr. BUMPERS, the names of the Senator from Florida [Mr. GRAHAM], the Senator from North Dakota [Mr. DORGAN], the Senator from North Dakota [Mr. CONRAD], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of Amendment No. 144 proposed to S. 1, a bill to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential government priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations; and for other purposes.

## SENATE CONCURRENT RESOLUTION 2—RELATIVE TO THE REPUBLIC OF CHINA

Mr. DORGAN submitted the following concurrent resolution; which was referred to the Committee on Finance:

## S. CON. RES. 2

Whereas the trade surplus of the People's Republic of China with the United States has exploded in recent years, increasing from \$3,500,000,000 in 1988 to about \$30,000,000,000 in 1994;

Whereas the United States share of the People's Republic of China's wheat imports has decreased from 52 percent in 1988 to between 30 and 40 percent in the past 5 years;

Whereas the Government of the People's Republic of China has chosen to increase its purchases of wheat from other exporting nations despite the incentives the United States offers to the People's Republic of China to make United States wheat competitive in the world market; and

Whereas the People's Republic of China's reduction in purchases of United States wheat during a period of rapid growth in the People's Republic of China's trade surplus with the United States aggravates the serious trade imbalance between the 2 nations: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of the Congress that the President, acting under his authority in trade matters, should insist that the Government of the People's Republic of China purchase a majority of the wheat it imports from the United States as an indication that the People's Republic of China is concerned about the trade imbalance between the 2 nations and wants to restore a healthy, reciprocal trading partnership.

## SENATE CONCURRENT RESOLUTION 3—RELATIVE TO TAIWAN AND THE UNITED NATIONS

Mr. SIMON (for himself and Mr. BROWN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

## S. CON. RES. 3

Whereas, China has been a divided nation since 1949, and the governments of the Republic of China on Taiwan (hereinafter cited as "Taiwan") and the People's Republic of China on Mainland China (hereinafter cited as "Mainland China") have exercised exclusive jurisdiction over separate parts of China;

Whereas, Taiwan has the 19th largest gross national product in the world, a strong and vibrant economy, and one of the largest foreign exchange reserves of any nation;

Whereas, Taiwan has dramatically improved its record on human rights and routinely holds free and fair elections in a multiparty system, as evidenced most recently by the December 3, 1994 balloting for local and provincial officials;

Whereas, the 21 million people on Taiwan are not represented in the United Nations and their human rights as citizens of the world are therefore severely abridged;

Whereas, Taiwan has in recent years repeatedly expressed its strong desire to participate in the United Nations;

Whereas, Taiwan has much to contribute to the work and funding of the United Nations;

Whereas, Taiwan has demonstrated its commitment to the world community by responding to international disasters and crises such as environmental destruction in the Persian Gulf and famine in Rwanda by providing financial donations, medical assistance, and other forms of aid;

Whereas, the world community has reacted positively to Taiwan's desire for international participation, as shown by Taiwan's continued membership in the Asian Development Bank, the admission of Taiwan into the Asia-Pacific Economic Cooperation group as a full member, and the accession of Taiwan as an observer at the General Agreement on Tariffs and Trade as the first step toward becoming a contracting party to that organization;

Whereas, The United States has supported Taiwan's participation in these bodies and indicated, in its policy review of September 1994, a stronger and more active policy of support for Taiwan's participation in other international organizations;

Whereas, Taiwan has repeatedly stated that its participation in international organizations is that of a divided nation, with no intention to challenge the current international status of Mainland China;

Whereas, the United Nations and other international organizations have established precedents concerning the admission of separate parts of divided nations, such as Korea and Germany; and

Whereas, Taiwan's participation in international organizations would not prevent or imperil a future voluntary union between Taiwan and Mainland China any more than the recognition of separate governments in the former West Germany and the former East Germany prevented the voluntary reunification of Germany;

Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of the Congress that—

(1) Taiwan deserves full participation, including a seat, in the United Nations; and