

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. BRADLEY (for himself, Mr. HATCH, Mr. COHEN, Mr. ROCKEFELLER, Mr. SPECTER, Mrs. MURRAY, and Mrs. FEINSTEIN):

S. Res. 180. A resolution proclaiming October 15, 1995, through October 21, 1995, as the "Week Without Violence", and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 1308. A bill to amend chapter 73 of title 31, United States Code, to provide for performance standards for block grant programs, and for other purposes; to the Committee on Governmental Affairs.

THE BLOCK GRANT PERFORMANCE STANDARDS ACT

Mr. BINGAMAN. Mr. President, I introduce the Block Grant Performance Standards Act of 1995. This legislation is intended to provide a minimum set of performance standards for all block grants allocating Federal funds to States, localities, and other recipients.

In the 104th Congress, we have seen a movement toward block grants. The idea behind this movement is that we have too many programs providing funding to other levels of government, and that these programs involve too much paperwork. This reasoning leads to the conclusion that if we bundle these programs into broader block grants, we will release other levels of government to better allocate these resources without wasting time and money filling out paperwork bound for bureaucrats in Washington.

Mr. President, I agree that in many cases some of this reasoning is correct. To the extent possible, we should try to reduce paperwork and increase flexibility for State and local governments receiving Federal funds. I believe, however, that in creating block grants we must be responsible to taxpayers and resist the temptation to simply turn over blank checks to other levels of government. As the elected officials at the Federal level, I believe that we must set up minimal performance standards for the block grants we provide.

I am pleased that some of the block grants we are creating do have accountability built in. The Chair of the Senate Committee on Labor and Human Resources, Senator KASSEBAUM, for example, has done an admirable job of including planning and performance standards for the States' administration of the job training block grants anticipated by S. 143, now before the Senate. I was successful in attaching an amendment to the welfare reform bill approved by the Senate that will provide similar accountability.

The legislation I am introducing today is intended to provide account-

ability standards for all block grant programs. It requires entities receiving block grants to submit a plan to the agency administering the grant program that outlines the goals of the entity for the use of the Federal funds, a description of how the goals will be achieved, and a discussion of performance indicators that will be used to measure progress toward those goals. It also ensures public participation in the development of this plan through the creation of appropriate community advisory committees. Finally, it provides for the provision of penalties for entities receiving block grants who consistently do not meet the goals they set for themselves in their block grant plans over a period of 2 years.

Mr. President, I believe that this legislation strikes the right balance in ensuring that we meet our fiduciary responsibilities to Federal taxpayers and our desire to provide maximum flexibility to entities receiving block grants. It builds on the work of others, including Senator ROTH, the sponsor of the Government Performance and Results Act of 1993, Public Law 103-62, which set similar performance standards for the Federal Government; and David Osborne, who has written on the need to develop performance standards for government. It also draws on the work of Senator HATFIELD and his legislation to implement flexibility within current programs: S. 88, the Local Empowerment and Flexibility Act of 1995.

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

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

S. 1308

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 "Block Grant Performance Standards Act of 1995".

SEC. 2. ADMINISTRATION OF BLOCK GRANTS.

Chapter 73 of title 31, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER II—CONDITIONS APPLICABLE TO BLOCK GRANTS"

"§ 7321. Purposes

"The purposes of this subchapter are to—

- "(1) enable more efficient use of Federal, State, and local resources;
- "(2) establish accountability for achieving the purposes of block grant programs; and
- "(3) establish effective partnerships to address critical issues of public interest.

"§ 7322. Definitions

"For purposes of this subchapter, the term—

- "(1) 'block grant program' means a program in which Federal funds are directly allocated to States, localities, or other recipients for use at the discretion of such States, localities, or recipients in meeting stated Federal purposes; and
- "(2) 'plan' means a block grant strategic plan described under section 7324.

"§ 7323. Requirement of approved block grant strategic plans

"No payment may be paid under any block grant program to any eligible entity unless

such entity has submitted and received approval for a plan.

"§ 7324. Block grant strategic plans

"The head of an agency administering a block grant program shall designate the criteria that shall be included in a block grant strategic plan. At a minimum, each plan shall contain—

"(1) a description of goals and objectives, including outcome related goals and objectives for each of the designated program activities for each of the first 6 fiscal years of the plan;

"(2) a description of how the goals and objectives are to be achieved, including a description of the operational processes, skills and technology, and the human, capital, information and other objectives required to meet the goals and objectives for the current fiscal year;

"(3) a description of performance indicators to be used in measuring or assessing the relevant output service levels and outcomes of each of the mandatory program activities; and

"(4) a description of the program evaluation to be used in comparing actual results with established goals and objectives, and the designation of results as highly successful or failing to meet the goals and objectives of the program.

"§ 7325. Review and approval of block grant strategic plans

"After receipt of a plan, the head of an agency shall—

"(1) no later than 90 days after the receipt of the application, approve or disapprove all or part of the plan;

"(2) no later than 15 days after the date of such approval or disapproval, notify the applicant in writing of the approval or disapproval; and

"(3) in the case of any disapproval of a plan, include a written justification of the reasons for disapproval in the written notice of disapproval.

"§ 7326. Community advisory committees

"(a) An entity applying for a block grant shall establish a community advisory committee in accordance with this section.

"(b) A community advisory committee shall advise an applicant in the development and implementation of a plan, including advice with respect to—

- "(1) conducting public hearings; and
- "(2) receiving comment and reviews from communities affected by the plan.

"(c) Membership of the community advisory committee shall include—

- "(1) persons with leadership experience in private business and voluntary organizations;
- "(2) elected officials representing jurisdictions included in the plan;
- "(3) representatives of participating qualified organizations;
- "(4) the general public; and
- "(5) individuals and representatives of community organizations who shall help to enhance the leadership role of the local government in developing a plan.

"(d) Before submitting an application for approval, or any reports required as a condition of receiving any payment under a block grant program, the applicant shall submit such application or report to the community advisory committee for review and comment. Any comments of the committee shall be submitted with the application or report to the head of an agency.

"§ 7327. Technical and other assistance

"The head of an agency administering a block grant program may provide technical assistance to applicants for block grants in developing information necessary for the design or implementation of a plan.

"§ 7328. Conditional termination or alteration of block grant strategic plan"

"(a) The head of an agency administering a block grant program shall establish procedures by regulation for implementing penalties of not less than 5 percent of the grant a recipient would otherwise receive for failing to meet the goals and objectives included in the plan for a block grant.

"(b) The head of an agency shall establish procedures by regulation for—

"(1) suspending the grant a recipient would otherwise receive for a period of 3 years for failure for 2 consecutive years to meet the goals and objectives included in the plan for a block grant; and

"(2) reallocating the amount of the grant a recipient would otherwise receive to other governmental or nonprofit institutions within the plan.

"§ 7329. Administration with other conditions of block grant programs"

"The provisions of this subchapter (including all conditions and requirements) shall supersede any other provision of law relating to the administration of any block grant program only to the extent of any inconsistency with such other provision."

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—Chapter 73 of title 31, United States Code, is amended by striking out the chapter heading and the table of sections and inserting in lieu thereof the following:

"CHAPTER 73—ADMINISTERING BLOCK GRANTS"**"SUBCHAPTER I—BLOCK GRANT AMOUNTS"**

"Sec.

"7301. Purpose.

"7302. Definitions.

"7303. Reports and public hearings on proposed uses of amounts.

"7304. Availability of records.

"7305. State auditing requirements.

"SUBCHAPTER II—CONDITIONS APPLICABLE TO BLOCK GRANTS"

"7321. Purposes.

"7322. Definitions.

"7323. Requirement of approved block grant strategic plans.

"7324. Block grant strategic plans.

"7325. Review and approval of block grant strategic plans.

"7326. Community advisory committees.

"7327. Technical and other assistance.

"7328. Conditional termination or alteration of block grant strategic plan.

"7329. Administration with other conditions of block grant programs.

"SUBCHAPTER I—BLOCK GRANT AMOUNTS"

(b) CHAPTER REFERENCES.—Chapter 73 of title 31, United States Code, is amended—

(1) in section 7301 in the matter preceding paragraph (1) by striking out "chapter" and inserting in lieu thereof "subchapter"; and

(2) in section 7302 in the matter preceding paragraph (1) by striking out "chapter" and inserting in lieu thereof "subchapter".

SEC. 4. EFFECTIVE DATE.

This Act shall take effect on October 1, 1997, and shall apply to payments under block grant programs on and after such date.

[From the Washington Post, June 1, 1995]

A FEDERAL CHALLENGE FOR LOCAL INGENUITY
(By David Osborne)

In the new Republican Congress, block grants are breaking out all over. And heaven knows, they're superior to narrow categorical grants. But as the time for decisions draws near, it's worth stopping for a moment to ask: Are block grants the best we can do?

There is one simple idea missing from the block grant debate of 1995. It's called accountability for results. In their heat to downsize the federal government, the Republicans may miss the best opportunity in a generation to create a federalism that works.

We all know that the current federal system, with its 550-plus categorical grant programs, is a mess. We also know from every poll on the issue that the public supports devolution of responsibilities to state and local governments.

What we don't know is that block grants are the best solution.

Congress's inability to resist creating new categorical grant programs—they sprout up almost like weeds in a garden—has been a problem since the 1960s. By 1991 Congress funded almost 100 social service grant programs, more than 80 health care grant programs and close to 30 grant programs that dealt with housing or development in poor communities.

Many of these were for absurdly small amounts—\$3 million or \$4 million nationally. More than half of the Education Department's 90-odd programs were for less than \$15 million.

When one department administers so many tiny grant programs, something is wrong. Thousands of public employees, in Washington and in state and local governments, spend countless hours publicizing programs, writing and reviewing grant applications, reporting on how money was spent and audited. Billions of dollars go to the professionals and bureaucrats who do this, rather than the intended recipients: students, poor people, urban residents and the unemployed.

For 25 years, the knee-jerk response has been the block grant, which consolidates many categorical grant programs into one grant with—at least theoretically—few strings attached.

There is just one problem with this. Block grants are blind to performance. They shower as much money on wasteful, ineffective programs as they do on innovative, cost-effective approaches.

We need a third way: block grants in which state and local governments compete in part based on the results they achieve. This kind of model has become common at the state level. Pennsylvania's highly regarded Ben Franklin Partnership, for instance, invented what it calls "challenge grants" to fund local economic development centers.

The concept is simple, and Congress would be wise to adopt it. Consider the idea of a community development challenge grant, administered by the Department of Housing and Urban Development. Under this approach, the federal government would establish broad guidelines, objectives and performance measures. State and/or local governments would then compete for challenge grants based on three criteria:

Need: This could be determined by a community's unemployment rate, poverty rate and median income.

Quality of strategy: Does the proposed strategy leverage private sector involvement? Does it empower communities to solve more of their own problems? Does it encourage competition and choice? Does it measure and reward results?

Results: The federal government would measure the number of jobs created, changes in the poverty and unemployment rates, job placement rates, private investment leveraged, changes in indicators of family health, incidence of graft or corruption and so on.

The higher a government ranked on these criteria, the more funding it would receive. Eventually, only two criteria would be necessary: need and results. Until data on results build up, however, HUD could use qual-

ity criteria to drive state and local governments toward strategies that have proven more effective than traditional service delivery by public bureaucracies.

This approach would cause states and localities to attack the problems federal programs are designed to solve, without dictating the approaches they use. It would tap state and local ingenuity without abandoning federal responsibility.

By setting goals, measuring outcomes and rewarding success, challenged grants would push lower levels of governments to come up with strategies that worked. Local entities could focus on their own areas of greatest need and craft their own initiatives, without micromanagement from above. They could not, however, continue to collect their full grants without producing results.

The Clinton administration is already testing a version of this model through its "Oregon Option"—a performance-based contract between the state and several federal departments, first proposed last year by the Alliance for Redesigning Government. HUD Secretary Henry Cisneros has also proposed three performance-based block grants. Yet few Republicans in Congress are listening.

The Republicans' impulse to hand money to the states regardless of their performance is particularly ironic given the public's intense demand for more efficient and effective government. Remember, this is federal money, raised through federal taxes to attack national problems that state and local governments will never solve on their own.

It is easy to wax poetic about the virtues of state government. But as the author of a book on the subject, "Laboratories of Democracy," I feel compelled to inject some reality.

State and local romantics often forget one fact: States, cities and counties must compete to keep their taxes low, lest they drive businesses and wealthy residents away. This is why no state has ever made a sustained investment in combating poverty of crating a viable training system. It is also why no state save Hawaii—separated by thousands of miles of ocean from its neighbors—has ever funded universal health insurance.

It is equally ironic that Congress wants to give block grants only to the states. The fact that current proposals ignore local governments is perhaps the most obvious sign of how little thinking their authors have done.

Again, a dose of reality: The typical state bureaucracy performs a little better than the typical federal bureaucracy—but not much. Most of the real improvement in performance over the past two decades has come at the local level. In addition, most public services are provided by local governments, not state governments. And the level of government Americans trust most is—you guessed it—local government.

If Congress wants to make government work better and cost less, it will control its jerking knee and craft challenge grants aimed at both state and local governments. If it simply wants to make the federal government smaller, it will create block grants for the states. The choice will be revealing.

By Mr. KERRY

S. 1310. A bill to amend the Internal Revenue Code of 1986 to expand the availability of individual retirement accounts, and for other purposes; to the Committee on Finance.

THE SAVINGS AND INVESTMENT INCENTIVE ACT
OF 1995

• Mr. KERRY. Mr. President, in these difficult budgetary times we not only

have a fiscal deficit that we must address, but we also have a savings deficit in this country that requires creative and innovative approaches to helping people save and plan for their retirements.

That is why I am offering the Savings and Investment Incentive Act of 1995 which will expand deductible IRA's, create a special nondeductible IRA program, allow penalty-free withdrawals for specific reasons; and it appeals to our sense of fairness by targeting the middle class.

What does this mean? It means that any individual who is not an active participant in an employee-sponsored plan would be eligible for a deductible IRA, regardless of income.

It means that income levels for participants in the IRA program would be doubled for those who participate in employer-provided pension plans.

It means that all middle-income Americans who earn up to \$50,000, and couples who earn up to \$80,000, indexed for inflation, could fully deduct IRA contributions.

It means that people eligible for traditional IRAs could now set up a special IRA that would provide a new saving vehicle that encourages middle-income Americans to save by allowing an incentive tax-free withdrawal without draining the Treasury.

I did cosponsor, along with 60 of my colleagues, a more ambitious proposal authored by my friend from Delaware, Senator ROTH, and my friend from Louisiana, Senator BREAUX, but, given our budgetary constraints, I respectfully suggest that this bill is, perhaps, more realistic.

While contributions to the new special IRA's, under this proposal, would not be deductible, if funds remain in the account for at least 5 years withdrawals would be tax free. Individuals in the upper end of the new income brackets would be able to convert balances in their traditional deductible IRA accounts to the "Special IRA" accounts without being subject to penalty.

The amount transferred from the existing contribution-deductible IRA to the special IRA would be subject to ordinary income tax in the year of the transfer.

But, this legislation recognizes people's real needs in the real world. Under this plan withdrawals of earnings for the "Special IRA's" within 5 years would be subject to ordinary income tax and a 10-percent penalty unless the withdrawals are for education expenses, a first-time home purchase, unemployment, or medical care.

Mr. President, we need to invest more. We need to save more. We need to be fair and recognize the difficult economic times that middle-class Americans are suffering. We need to help them save for their future and find innovative creative ways to do it.

This bill has the approval of the Treasury Department and does everything the Roth-Breaux "Super-IRA"

proposal does in a way that does not inflate the deficit.

I believe, Mr. President, that the Savings and Investment Incentive Act of 1995 is a moderate, fair, common-sense approach that doubles the income levels for participation; allows non penalty deductions for a variety of real life situations; and it will work for working Americans without busting the Treasury.

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

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

S. 1310

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Savings and Investment Incentive Act of 1995".

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

TITLE I—RETIREMENT SAVINGS INCENTIVES

Subtitle A—IRA Deduction

SEC. 101. INCREASE IN INCOME LIMITATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 219(g)(3) is amended—

(1) by striking "\$40,000" in clause (i) and inserting "\$80,000", and

(2) by striking "\$25,000" in clause (ii) and inserting "\$50,000".

(b) PHASE-OUT OF LIMITATIONS.—Clause (ii) of section 219(g)(2)(A) is amended by striking "\$10,000" and inserting "an amount equal to 10 times the dollar amount applicable for the taxable year under subsection (b)(1)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 102. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT AND INCOME LIMITATIONS.

(a) IN GENERAL.—Section 219 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1996, each dollar amount to which this subsection applies shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) DOLLAR AMOUNTS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) the \$2,000 amounts under subsection (b)(1)(A) and (c), and

"(B) the applicable dollar amounts under subsection (g)(3)(B).

"(3) ROUNDING RULES.—

"(A) DEDUCTION AMOUNTS.—If any amount referred to in paragraph (2)(A) as adjusted under paragraph (1) is not a multiple of \$500, such amount shall be rounded to the next lowest multiple of \$500.

"(B) APPLICABLE DOLLAR AMOUNTS.—If any amount referred to in paragraph (2)(B) as ad-

justed under paragraph (1) is not a multiple of \$5,000, such amount shall be rounded to the next lowest multiple of \$5,000."

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 219(c)(2)(A) is amended to read as follows:

"(i) the sum of \$250 and the dollar amount in effect for the taxable year under subsection (b)(1)(A), or".

(2) Section 408(a)(1) is amended by striking "in excess of \$2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(3) Section 408(b)(2)(B) is amended by striking "\$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(4) Subparagraph (A) of section 408(d)(5) is amended by striking "\$2,250" and inserting "the dollar amount in effect for the taxable year under section 219(c)(2)(A)(i)".

(5) Section 408(j) is amended by striking "\$2,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 103. COORDINATION OF IRA DEDUCTION LIMIT WITH ELECTIVE DEFERRAL LIMIT.

(a) IN GENERAL.—Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end the following new paragraph:

"(4) COORDINATION WITH ELECTIVE DEFERRAL

LIMIT.—The amount determined under paragraph (1) or subsection (c)(2) with respect to any individual for any taxable year shall not exceed the excess (if any) of—

"(A) the limitation applicable for the taxable year under section 402(g)(1), over

"(B) the elective deferrals (as defined in section 402(g)(3)) of such individual for such taxable year."

(b) CONFORMING AMENDMENT.—Section 219(c) is amended by adding at the end the following new paragraph:

"(3) CROSS REFERENCE.—

"For reduction in paragraph (2) amount, see subsection (b)(4)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle B—Nondeductible Tax-Free IRA's

SEC. 111. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"SEC. 408A. SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) GENERAL RULE.—Except as provided in this chapter, a special individual retirement account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) SPECIAL INDIVIDUAL RETIREMENT ACCOUNT.—For purposes of this title, the term 'special individual retirement account' means an individual retirement plan which is designated at the time of establishment of the plan as a special individual retirement account.

"(c) TREATMENT OF CONTRIBUTIONS.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to a special individual retirement account.

"(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all special individual retirement accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

"(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year, over

“(B) the amount so allowed.

“(3) SPECIAL RULES FOR QUALIFIED TRANSFERS.—

“(A) IN GENERAL.—No rollover contribution may be made to a special individual retirement account unless it is a qualified transfer.

“(B) LIMIT NOT TO APPLY.—The limitation under paragraph (2) shall not apply to a qualified transfer to a special individual retirement account.

“(d) TAX TREATMENT OF DISTRIBUTIONS.—

“(1) IN GENERAL.—Except as provided in this subsection, any amount paid or distributed out of a special individual retirement account shall not be included in the gross income of the distributee.

“(2) EXCEPTION FOR EARNINGS ON CONTRIBUTIONS HELD LESS THAN 5 YEARS.—

“(A) IN GENERAL.—Any amount distributed out of a special individual retirement account which consists of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution shall be included in the gross income of the distributee for the taxable year in which the distribution occurs.

“(B) ORDERING RULE.—

“(i) FIRST-IN, FIRST-OUT RULE.—Distributions from a special individual retirement account shall be treated as having been made—

“(I) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

“(II) then from other contributions (and earnings allocable thereto) in the order in which made.

“(ii) ALLOCATIONS BETWEEN CONTRIBUTIONS AND EARNINGS.—Any portion of a distribution allocated to a contribution (and earnings allocable thereto) shall be treated as allocated first to the earnings and then to the contribution.

“(iii) ALLOCATION OF EARNINGS.—Earnings shall be allocated to a contribution in such manner as the Secretary may by regulations prescribe.

“(iv) CONTRIBUTIONS IN SAME YEAR.—Except as provided in regulations, all contributions made during the same taxable year may be treated as 1 contribution for purposes of this subparagraph.

“(C) CROSS REFERENCE.—

“For additional tax for early withdrawal, see section 72(t).

“(3) QUALIFIED TRANSFER.—

“(A) IN GENERAL.—Paragraph (2) shall not apply to any distribution which is transferred in a qualified transfer to another special individual retirement account.

“(B) CONTRIBUTION PERIOD.—For purposes of paragraph (2), the special individual retirement account to which any contributions are transferred shall be treated as having held such contributions during any period such contributions were held (or are treated as held under this subparagraph) by the special individual retirement account from which transferred.

“(4) SPECIAL RULES RELATING TO CERTAIN TRANSFERS.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a qualified transfer to a special individual retirement account from an individual retirement plan which is not a special individual retirement account—

“(i) there shall be included in gross income any amount which, but for the qualified transfer, would be includible in gross income, but

“(ii) section 72(t) shall not apply to such amount.

“(B) TIME FOR INCLUSION.—In the case of any qualified transfer which occurs before

January 1, 1997, any amount includible in gross income under subparagraph (A) with respect to such contribution shall be includible ratably over the 4-taxable year period beginning in the taxable year in which the amount was paid or distributed out of the individual retirement plan.

“(e) QUALIFIED TRANSFER.—For purposes of this section

“(1) IN GENERAL.—The term ‘qualified transfer’ means a transfer to a special individual retirement account from another such account or from an individual retirement plan but only if such transfer meets the requirements of section 408(d)(3).

“(2) LIMITATION.—A transfer otherwise described in paragraph (1) shall not be treated as a qualified transfer if the taxpayer’s adjusted gross income for the taxable year of the transfer exceeds the sum of—

“(A) the applicable dollar amount, plus

“(B) the dollar amount applicable for the taxable year under section 219(g)(2)(A)(ii).

This paragraph shall not apply to a transfer from a special individual retirement account to another special individual retirement account.

“(3) DEFINITIONS.—For purposes of this subsection, the terms ‘adjusted gross income’ and ‘applicable dollar amount’ have the meanings given such terms by section 219(g)(3), except subparagraph (A)(ii) thereof shall be applied without regard to the phrase ‘or the deduction allowable under this section’.

(b) EARLY WITHDRAWAL PENALTY.—Section 72(t) is amended by adding at the end the following new paragraph:

“(6) RULES RELATING TO SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.—In the case of a special individual retirement account under section 408A—

“(A) this subsection shall only apply to distributions out of such account which consist of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution, and

“(B) paragraph (2)(A)(i) shall not apply to any distribution described in subparagraph (A).”

(c) EXCESS CONTRIBUTIONS.—Section 4973(b) is amended by adding at the end the following new sentence: “For purposes of paragraphs (1)(B) and (2)(C), the amount allowable as a deduction under section 219 shall be computed without regard to section 408A.”

(d) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

“Sec. 408A. Special individual retirement accounts.”

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

TITLE II—PENALTY-FREE DISTRIBUTIONS

SEC. 201. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES, TO PAY HIGHER EDUCATION OR FINANCIALLY DEVASTATING MEDICAL EXPENSES, OR BY THE UNEMPLOYED.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

“(D) DISTRIBUTIONS FROM CERTAIN PLANS FOR FIRST HOME PURCHASES OR EDUCATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan—

“(i) which are qualified first-time homebuyer distributions (as defined in paragraph (7)); or

“(ii) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (8)) of the taxpayer for the taxable year.”

(b) FINANCIALLY DEVASTATING MEDICAL EXPENSES.—

(1) IN GENERAL.—Section 72(t)(3)(A) is amended by striking “(B).”

(2) CERTAIN LINEAL DESCENDANTS AND ANCESTORS TREATED AS DEPENDENTS AND LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.—Subparagraph (B) of section 72(t)(2) is amended by striking “medical care” and all that follows and inserting “medical care determined—

“(i) without regard to whether the employee itemizes deductions for such taxable year, and

“(ii) in the case of an individual retirement plan—

“(I) by treating such employee’s dependents as including all children, grandchildren and ancestors of the employee or such employee’s spouse and

“(II) by treating qualified long-term care services (as defined in paragraph (9)) as medical care for purposes of this subparagraph (B).”

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking “or (C)” and inserting “, (C) or (D)”.

(c) DEFINITIONS.—Section 72(t), as amended by this Act, is amended by adding at the end the following new paragraphs:

“(7) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(D)(i)—

“(A) IN GENERAL.—The term ‘qualified first-time homebuyer distribution’ means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual or the spouse, child (as defined in section 151(c)(3)), or grandchild of such individual.

“(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term ‘qualified acquisition costs’ means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

“(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

“(i) FIRST-TIME HOMEBUYER.—The term ‘first-time homebuyer’ means any individual if—

“(I) such individual (and if married, such individual’s spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

“(II) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A).

In the case of an individual described in section 143(i)(1)(C) for any year, an ownership interest shall not include any interest under a contract of deed described in such section. An individual who loses an ownership interest in a principal residence incident to a divorce or legal separation is deemed for purposes of this subparagraph to have had no ownership interest in such principal residence within the period referred to in subparagraph (A)(II).

“(ii) PRINCIPAL RESIDENCE.—The term ‘principal residence’ has the same meaning as when used in section 1034.

“(iii) DATE OF ACQUISITION.—The term ‘date of acquisition’ means the date—

“(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

“(II) on which construction or reconstruction of such a principal residence is commenced.

“(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting ‘120 days’ for ‘60 days’ in such section), except that—

“(i) section 408(d)(3)(B) shall not be applied to such contribution, and

“(ii) such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

“(8) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(ii)—

“(A) IN GENERAL.—The term ‘qualified higher education expenses’ means tuition and fees required for the enrollment or attendance of—

“(i) the taxpayer,

“(ii) the taxpayer’s spouse,

“(iii) a dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151, or

“(iv) the taxpayer’s child (as defined in section 151(c)(3)) or grandchild, as an eligible student at an institution of higher education (as defined in paragraphs (1)(D) and (2) of section 220(c)).

“(B) EXCEPTIONS.—The term ‘qualified higher education expenses’ does not include expenses described in subparagraphs (B) and (C) of section 220(c)(1).

“(C) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135.

“(9) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of paragraph (2)(B)—

“(A) IN GENERAL.—The term ‘qualified long-term care services’ means necessary diagnostic, curing, mitigating, treating, preventive, therapeutic, and rehabilitative services, and maintenance and personal care services (whether performed in a residential or nonresidential setting) which—

“(i) are required by an individual during any period the individual is an incapacitated individual (as defined in subparagraph (B)),

“(ii) have as their primary purpose—

“(I) the provision of needed assistance with 1 or more activities of daily living (as defined in subparagraph (C)), or

“(II) protection from threats to health and safety due to severe cognitive impairment, and

“(iii) are provided pursuant to a continuing plan of care prescribed by a licensed professional (as defined in subparagraph (D)).

“(B) INCAPACITATED INDIVIDUAL.—The term ‘incapacitated individual’ means any individual who—

“(i) is unable to perform, without substantial assistance from another individual (including assistance involving cueing or substantial supervision), at least 2 activities of daily living as defined in subparagraph (C), or

“(ii) has severe cognitive impairment as defined by the Secretary in consultation with the Secretary of Health and Human Services.

Such term shall not include any individual otherwise meeting the requirements of the

preceding sentence unless a licensed professional within the preceding 12-month period has certified that such individual meets such requirements.

“(C) ACTIVITIES OF DAILY LIVING.—Each of the following is an activity of daily living:

“(i) Eating.

“(ii) Toileting.

“(iii) Transferring.

“(iv) Bathing.

“(v) Dressing.

“(D) LICENSED PROFESSIONAL.—The term ‘licensed professional’ means—

“(i) a physician or registered professional nurse, or

“(ii) any other individual who meets such requirements as may be prescribed by the Secretary after consultation with the Secretary of Health and Human Services.

“(E) CERTAIN SERVICES NOT INCLUDED.—The term ‘qualified long-term care services’ shall not include any services provided to an individual—

“(i) by a relative (directly or through a partnership, corporation, or other entity) unless the relative is a licensed professional with respect to such services, or

“(ii) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this subparagraph, the term ‘relative’ means an individual bearing a relationship to the individual which is described in paragraphs (1) through (8) of section 152(a).”

(d) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t) is amended by adding at the end the following new subparagraph:

“(E) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—A distribution from an individual retirement plan to an individual after separation from employment, if—

“(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

“(ii) such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year.”

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1995.

SEC. 202. CONTRIBUTIONS MUST BE HELD AT LEAST 5 YEARS IN CERTAIN CASES.

(a) IN GENERAL.—Section 72(t), as amended by this Act, is amended by adding at the end the following new paragraph:

“(10) CERTAIN CONTRIBUTIONS MUST BE HELD 5 YEARS.—

“(A) IN GENERAL.—Paragraph (2)(A)(i) shall not apply to any amount distributed out of an individual retirement plan (other than a special individual retirement account) which is allocable to contributions made to the plan during the 5-year period ending on the date of such distribution (and earnings on such contributions).

“(B) ORDERING RULE.—For purposes of this paragraph, distributions shall be treated as having been made—

“(i) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

“(ii) then from other contributions (and earnings allocable thereto) in the order in which made.

Earnings shall be allocated to contributions in such manner as the Secretary may prescribe.

“(C) SPECIAL RULE FOR ROLLOVERS.—

“(i) PENSION PLANS.—Subparagraph (A) shall not apply to distributions out of an individual retirement plan which are allocable

to rollover contributions to which section 402(c), 403(a)(4), or 403(b)(8) applied.

“(ii) CONTRIBUTION PERIOD.—For purposes of subparagraph (A), amounts shall be treated as having been held by a plan during any period such contributions were held (or are treated as held under this clause) by any individual retirement plan from which transferred.

“(D) SPECIAL ACCOUNTS.—For rules applicable to special individual retirement accounts under section 408A, see paragraph (8).”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions (and earnings allocable thereto) which are made after December 31, 1995.●

By Mr. CAMPBELL (for himself and Mr. BRADLEY):

S. 1311. A bill to establish a National Fitness and Sports Foundation to carry out activities to support and supplement the mission of the President’s Council on Physical Fitness and Sports, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE NATIONAL PHYSICAL FITNESS AND SPORTS FOUNDATION ACT

● Mr. CAMPBELL. Mr. President, I introduce the National Physical Fitness and Sports Foundation Act. This legislation serves the growing need of the President’s Council on Physical Fitness to expand and become more self-sufficient.

Mr. President, the foundation created by this bill simply allows the Council to expand its scope and activities without burdening the Federal Government with this expense. As it stands today, the President’s Council operates under a severely limited budget. This legislation will empower the Council to become more self-reliant, and less dependent on Federal funding, by creating opportunities to generate and solicit independent sources of funding for the organization.

At a time where we are operating under fiscal restraints, I want to assure my colleagues that this bill does not create a quasi-federal agency to add to the already burdensome system. The foundation created by this bill will be established in collaboration with the Department of Health and Human Services. It would be a nonprofit, private corporation that would encourage the participation by, and support of private organizations for the activities of the Council.

For my colleagues that may not be familiar with the Council, I would like to provide some background on its mission and intent. The President’s Council on Physical Fitness and Sports was originally established by President Eisenhower in 1956 to promote physical fitness for our Nation’s youth. Since that time, the Council has undergone significant changes, expanding its services to include opportunities with physical fitness, sports, and sports medicine for people of all ages. Today, the Council serves an important role with other national physical fitness and sports organizations and several

Federal agencies, collaborating on important issues and campaigns to improve the health of the citizens of this country.

The President's Council on Physical Fitness is of personal interest to me. As many of my colleagues know, sports, specifically judo, played a critical role in my life. I was hardly a role model as a young man; I hung out with a tough crowd and got into plenty of trouble. The discipline and commitment that judo taught me, literally turned my life around. After many years of dedicated training, I was honored with a gold medal in the 1963 Pan Am Games for judo, and then was selected a year later as captain of the 1964 U.S. Olympic Judo Team. I personally know what a difference sports can make in a person's life. That is why I am encouraging any and all efforts to promote sports and physical fitness in our country.

The Council is the only Federal office that is solely devoted to programs involving physical activity, fitness, and sports. Because of the invaluable role these activities play in the lives of nearly all Americans, it is critical that we support this organization in its vital efforts to continue to promote high standards of health and fitness for the citizens of this Country.

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

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

S. 1311

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Physical Fitness and Sports Foundation Establishment Act".

SEC. 2. ESTABLISHMENT AND PURPOSE OF FOUNDATION.

(a) **ESTABLISHMENT.**—There is established the National Physical Fitness and Sports Foundation (hereinafter in this Act referred to as the "Foundation"). The Foundation shall be a charitable and nonprofit corporation and shall not be an agency or establishment of the United States.

(b) **PURPOSES.**—It is the purpose of the Foundation to—

(1) in conjunction with the President's Council on Physical Fitness and Sports, develop a list and description of programs, events and other activities which would further the goals outlined in Executive Order 12345 and with respect to which combined private and governmental efforts would be beneficial; and

(2) encourage and promote the participation by private organizations in the activities referred to in subsection (b)(1) and to encourage and promote private gifts of money and other property to support those activities.

(c) **DISPOSITION OF MONEY AND PROPERTY.**—At least annually the Foundation shall transfer, after the deduction of the administrative expenses of the Foundation, the balance of any contributions received for the activities referred to in subsection (b), to the Public Health Service Gift Fund pursuant to section 231 of the Public Health Service Act (42 U.S.C. 238) for expenditure pursuant to

the provisions of that section and consistent with the purposes for which the funds were donated.

SEC. 3. BOARD OF DIRECTORS OF THE FOUNDATION.

(a) **ESTABLISHMENT AND MEMBERSHIP.**—

(1) **IN GENERAL.**—The Foundation shall have a governing Board of Directors (hereinafter referred to in this Act as the "Board"), which shall consist of nine Directors, to be appointed not later than 90 days after the date of enactment of this Act, each of whom shall be a United States citizen and—

(A) three of whom must be knowledgeable or experienced in one or more fields directly connected with physical fitness, sports or the relationship between health status and physical exercise; and

(B) six of whom must be leaders in the private sector with a strong interest in physical fitness, sports or the relationship between health status and physical exercise (one of which shall be a representative of the United States Olympic Committee).

The membership of the Board, to the extent practicable, shall represent diverse professional specialties relating to the achievement of physical fitness through regular participation in programs of exercise, sports and similar activities.

(2) **EX OFFICIO MEMBERS.**—The Assistant Secretary for Health, the Executive Director of the President's Council on Physical Fitness and Sports, the Director for the National Center for Chronic Disease Prevention and Health Promotion, the Director of the National Heart, Lung, and Blood Institute and the Director for the Centers for Disease Control and Prevention shall serve as ex officio, nonvoting members of the Board.

(3) **NOT FEDERAL EMPLOYMENT.**—Appointment to the Board or serving as a member of the staff of the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal employment or other law.

(b) **APPOINTMENT AND TERMS.**—

(1) **APPOINTMENT.**—Of the members of the Board appointed under subsection (a)(1), three shall be appointed by the Secretary of Health and Human Services (hereinafter referred to in this Act as the "Secretary"), two shall be appointed by the Majority Leader of the Senate, one shall be appointed by the Minority Leader of the Senate, two shall be appointed by the Speaker of the House of Representatives, and one shall be appointed by the Minority Leader of the House of Representatives.

(2) **TERMS.**—Members appointed to the Board under subsection (a)(1) shall serve for a term of 6 years. A vacancy on the Board shall be filled within 60 days of the date on which such vacancy occurred in the manner in which the original appointment was made. A member appointed to fill a vacancy shall serve for the balance of the term of the individual who was replaced. No individual may serve more than two consecutive terms as a Director.

(c) **CHAIRPERSON.**—A Chairperson shall be elected by the Board from among its members and serve for a 2-year term. The Chairperson shall not be limited in terms or service.

(d) **QUORUM.**—A majority of the sitting members of the Board shall constitute a quorum for the transaction of business.

(e) **MEETINGS.**—The Board shall meet at the call of the Chairperson, but in no event less than once each year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board and the vacancy filled in accordance with subsection (b)(2).

(f) **REIMBURSEMENT OF EXPENSES.**—The members of the Board shall serve without

pay. The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(g) **GENERAL POWERS.**—

(1) **ORGANIZATION.**—The Board may complete the organization of the Foundation by—

(A) appointing officers and employees;

(B) adopting a constitution and bylaws consistent with the purposes of the Foundation and the provision of this Act; and

(C) undertaking such other acts as may be necessary to carry out the provisions of this Act.

In establishing bylaws under this paragraph, the Board shall provide for policies with regard to financial conflicts of interest and ethical standards for the acceptance, solicitation and disposition of donations and grants to the Foundation.

(2) **LIMITATIONS ON OFFICERS AND EMPLOYEES.**—The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(A) Officers and employees may not be appointed until the Foundation has sufficient funds to compensate such individuals for their service. No individual so appointed may receive pay in excess of the annual rate of basic pay in effect for Executive Level V in the Federal service.

(B) The first officer or employee appointed by the Board shall be the secretary of the Board who—

(i) shall serve, at the direction of the Board, as its chief operating officer; and

(ii) shall be knowledgeable and experienced in matters relating to physical fitness and sports.

(C) No Public Health Service employee nor the spouse or dependent relative of such an employee may serve as an officer or member of the Board of Directors or as an employee of the Foundation.

(D) Any individual who is an officer, employee, or member of the Board of the Foundation may not (in accordance with the policies developed under paragraph (1)(B)) personally or substantially participate in the consideration or determination by the Foundation of any matter that would directly or predictably affect any financial interest of the individual or a relative (as such term is defined in section 109(16) of the Ethics in Government Act of 1978) of the individual, of any business organization or other entity, or of which the individual is an officer or employee, or is negotiating for employment, or in which the individual has any other financial interest.

SEC. 4. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.

(a) **IN GENERAL.**—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States;

(3) shall locate its principal offices in or near the District of Columbia; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The serving of notice to, or service of process upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(b) **SEAL.**—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) **POWERS.**—To carry out the purposes under section 2, the Foundation shall have

the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

(1) except as otherwise provided herein, to accept, receive, solicit, hold, administer and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain or otherwise dispose of any property or income therefrom;

(4) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except for gross negligence;

(5) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(6) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

For purposes of this Act, an interest in real property shall be treated as including, among other things, easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historic, scientific, educational inspirational or recreational resources. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.

SEC. 5. PROTECTION AND USES OF TRADEMARKS AND TRADE NAMES.

(a) PROTECTION.—Without the consent of the Foundation, in conjunction with the President's Council on Physical Fitness and Sports, any person who uses for the purpose of trade, to induce the sale of any goods or services, or to promote any theatrical exhibition, athletic performance or competition—

(1) the official seal of the President's Council on Physical Fitness and Sports consisting of the eagle holding an olive branch and arrows with shield breast encircled by name "President's Council on Physical Fitness and Sports";

(2) the official seal of the Foundation

(3) any trademark, trade name, sign, symbol or insignia falsely representing association with or authorization by the president's Council on Physical Fitness and Sports or the Foundation;

shall be subject in a civil action by the Foundation for the remedies provided for in the Act of July 9, 1946 (60 stat. 427; commonly known as the Trademark Act of 1946).

(b) USES.—The Foundation, in conjunction with the President's Council on Physical Fitness and Sports, may authorize contributors and suppliers of goods or services to use the trade name of the President's Council on Physical Fitness and Sports and the Foundation, as well as any trademark, seal, symbol, insignia, or emblem of the President's Council on Physical Fitness and Sports or the Foundation, in advertising that the contributors, goods or services when donated, supplied, or furnished to or for the use of, approved, selected, or used by the President's Council on Physical Fitness and Sports or the Foundation.

SEC. 6. VOLUNTEER STATUS.

The Foundation may accept, without regard to the civil service classification laws, rules, or regulations, the services of volunteers in the performance of the functions authorized herein, in the same manner as provided for under section 7(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)).

SEC. 7. AUDIT, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—For purposes of Public Law 88-504 (36 U.S.C. 1101 et seq.), the Foundation shall be treated as a private corporation under Federal law. The Inspector General of the Department of Health and Human Services and the Comptroller General of the United States shall have access to the financial and other records of the Foundation, upon reasonable notice.

(b) REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to the Secretary and to Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—If the Foundation—

(1) engages in, or threatens to engage in, any act, practice or policy that is inconsistent with the purposes described in section 2(b); or

(2) refuses, fails, or neglects to discharge its obligations under this Act, or threaten to do so;

the Attorney General may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.●

By Mr. CAMPBELL:

S. 1313. A bill to amend the Internal Revenue Code of 1986 to permit Indian tribal governments to maintain section 401(k) plans for their employees; to the Committee on Finance.

401(K) PROGRAM LEGISLATION

● Mr. CAMPBELL. Mr. President, today, I introduce a bill that will statutorily permit tribal governments, and enterprises owned by tribal governments, to offer salary reduction pension plans to their employees under section 401(k) of the Internal Revenue Code.

Under current law, tribal governments are not allowed to offer tax deferred, salary reduction pension plans because tax exempt organization are generally prohibited from doing so. Further exacerbating the dilemma confronting tribal governments is the fact that they are not eligible to participate in other tax deferred, salary reduction pension plans.

For example, since 1982 a dozen or more Indian tribal governments have adopted section 403(b) salary reduction pension arrangements only to have the Internal Revenue Service determine these arrangements are not properly qualified. In addition, Indian tribal governments are not eligible to offer section 457 salary reduction pension arrangements because they are not "eligible employers", as defined in section 457.

It is apparent that Indian tribal governments seem to be one of only a few categories of employers who do not have these kinds of pension arrangements available to them. I believe that Indian tribal governments, like most all employers, should have opportunity to offer competitive salary reduction pension arrangements, such as a 401(k).

Mr. President, the 401(k) plan was formally authorized in 1978 as a salary

reduction arrangement for employees of profit making firms. The authority was subsequently expanded to tax exempt organization and State and local government. In 1986, however, State and local governments and nonprofit organizations, including Indian tribes, were prohibited from offering 401(k)'s. At this time, only rural electric cooperatives are exempted from the prohibition.

Mr. President, this bill simply adds Indian tribal governments to the list of qualified offerors.

A 401(k) plan permits employees to elect a contribution of part of their wages on a tax-deferred basis to a plan that may offer several investment options. Employers usually make contributions, which are also tax-deferred. In the same way, investment earnings are also tax deferred. This means that taxes aren't paid on the amount saved until it is withdrawn, thereby earning greater interest. Essentially, this expands the amount of money invested, and allows participants to put more money to work for them.

Without question, Indian tribal governments should be allowed to offer some kind of tax deferred salary reduction plan. Almost all sectors of society, including the Federal Government, Congress, State and local governments, and private employees are allowed to enroll in salary reduction pension plans. In 1990, according to Department of Labor statistics, about 19.5 million Americans were enrolled in 401(k) plans.

Tribal governments should be allowed to offer 401(k) pension plans because they will give tribal employees an incentive to save money for retirement. It's no secret that Indian tribes have a history of economic hardship. Under this plan, workers who otherwise might not save money, and workers who otherwise might not be offered a pension plan, will be allowed to participate. In addition, the portability of benefits will encourage tribal employees to enroll in pension plans. If an employee terminates employment with the tribe, that person is allowed to put the accumulated savings into an individual retirement account [IRA]. A 401(k) plan also must be offered to all employees on a nondiscriminatory basis, ensuring that both higher and lower wage employees must be able to access pension benefits.

As tribal governments are successful in their business ventures, it is critically important that tribal employees are encouraged to save money for retirement. In the past, only a few tribal governments had the resources to offer employees salary reduction pension plans. Today, however, with the growth of tribal enterprises, there is more money to invest in the future and there are more tribal employees. In my home State, the largest employer in Montezuma County is now the Ute Mountain Ute Tribe. It's time that Congress recognize the economic gains being made by tribes and to allow them to offer

these broad based, elective deferral arrangements for their employees.

There is danger that if Congress fails to act now, tribes will mistakenly offer their employees 401(k) pension plans. Current law is confusing, leading some tribes to think that they are already qualified to offer 401(k) plans. Investment companies are trying to sell 401(k) pension plans to tribes, even though it's not legal. Unfortunately, we know from the past that this can lead to the loss of tribal funds. This proposal explicitly allows tribal governments to offer these plans, thereby clearing up any confusion.

Recognizing the advantages of section 401(k) salary reduction pension arrangements, the House Ways and Means Committee included in its budget reconciliation mark a provision to again expand the authority to a broader range of organizations that include nonprofit organizations and State and local governments.

Mr. President, it is my hope that in the coming days this proposal will be favorably considered by my colleagues on the Finance Committee. In closing I would ask unanimous consent that a revenue estimate from the Joint Tax Committee also be included in the RECORD to accompany the text of the bill.

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

S. 1313

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

SECTION 1. ELIGIBILITY OF INDIAN TRIBAL GOVERNMENTS TO MAINTAIN SECTION 401(k) PLANS.

(a) IN GENERAL.—The last sentence of section 401(k)(4)(B) of the Internal Revenue Code of 1986 (relating to ineligibility of certain governments and exempt organizations) is amended to read as follows: "This subparagraph shall not apply to a rural cooperative plan or a plan maintained by an Indian tribal government (within the meaning of section 7871)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plans established after December 31, 1994.

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, October 9, 1995.

Hon. BEN NIGHTHORSE CAMPBELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR CAMPBELL: This is in response to your request dated July 17, 1995, for a revenue estimate of a proposal that would modify present law to permit Indian tribal governments to maintain qualified cash or deferred arrangements (sec. 401(k) plans).

For the purpose of the revenue estimate, we have assumed that employees of tribal governments would include employees of gambling casinos owned and operated by Indian tribal governments.

The proposal would be effective with respect to plans established after December 31, 1994. We estimated that this proposal would reduce Federal fiscal year budget receipts as follows:

[In millions of dollars]

Fiscal years:
1996 -1

1997	-2
1998	-2
1999	-2
2000	-3
2001	-3
2002	-3

1996-2002 -16

Note: Details do not add to total due to rounding.

I hope this information is helpful to you. If we can be of further assistance, please let me know.

Sincerely,

KENNETH J. KIES,
Chief of Staff.●

ADDITIONAL COSPONSORS

S. 143

At the request of Mrs. KASSEBAUM, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 143, a bill to consolidate Federal employment training programs and create a new process and structure for funding the programs, and for other purposes.

S. 490

At the request of Mr. GRASSLEY, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 490, a bill to amend the Clean Air Act to exempt agriculture-related facilities from certain permitting requirements, and for other purposes.

S. 743

At the request of Mrs. HUTCHISON, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 743, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for investment necessary to revitalize communities within the United States, and for other purposes.

S. 789

At the request of Mr. CHAFEE, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 789, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly traded stock to certain private foundations, and for other purposes.

S. 877

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 877, a bill to amend section 353 of the Public Health Service Act to exempt physician office laboratories from the clinical laboratories requirements of that section.

S. 907

At the request of Mr. MURKOWSKI, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 907, a bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands and to withdraw lands within ski area permit boundaries from the operation of the mining and mineral leasing laws.

S. 949

At the request of Mr. GRAHAM, the names of the Senator from North Caro-

lina [Mr. HELMS], the Senator from Utah [Mr. BENNETT], the Senator from Pennsylvania [Mr. SPECTER] and the Senator from Louisiana [Mr. BREAU] were added as cosponsors of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 969

At the request of Mr. BRADLEY, the names of the Senator from Kentucky [Mr. FORD] and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 978

At the request of Mrs. HUTCHISON, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 978, a bill to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, to clarify the inapplicability of antitrust laws to charitable gift annuities, and for other purposes.

S. 1000

At the request of Mr. BURNS, the names of the Senator from Tennessee [Mr. FRIST], the Senator from South Carolina [Mr. THURMOND] and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of S. 1000, a bill to amend the Internal Revenue Code of 1986 to provide that the depreciation rules which apply for regular tax purposes shall also apply for alternative minimum tax purposes, to allow a portion of the tentative minimum tax to be offset by the minimum tax credit, and for other purposes.

S. 1043

At the request of Mr. STEVENS, the names of the Senator from Nevada [Mr. BRYAN], the Senator from Kentucky [Mr. FORD] and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of S. 1043, a bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

S. 1086

At the request of Mr. DOLE, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1086, a bill to amend the Internal Revenue Code of 1986 to allow a family-owned business exclusion from the gross estate subject to estate tax, and for other purposes.

S. 1247

At the request of Mr. GRASSLEY, the names of the Senator from Texas [Mrs. HUTCHISON] and the Senator from Colorado [Mr. BROWN] were added as cosponsors of S. 1247, a bill to amend the Internal Revenue Code of 1986 to allow