and for other purposes; to the Committee on Labor and Human Resources.

S. 1338. A bill to improve the United States Marshals Service, and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN:

S. 1339. A bill to amend title 18, United States Code, to restrict the mail-order sale of body armor; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. BAUCUS, Mr. WELLSTONE, Mr. KERREY, Mr. CONRAD, Mr. GRASSLEY, Mr. CRAIG, Mr. LEAHY, Mr. DORGAN, Mr. BOND, Mr. PRESSLER, Mrs. MURRAY, Mr. FEINGOLD, Mr. KOHL, Mr. BURNS, and Mr. EXON):

S. 1340. A bill to require the President to appoint a Commission on Concentration in the Livestock Industry; to the Committee on the Judiciary.

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

S. 1341. A bill to provide for the transfer of certain lands to the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, Arizona, and for other purposes; to the Committee on Indian Affairs.

By Mr. AKAKA (for himself, Mr. ROCKEFELLER, Mr. INOUYE, Mr. WELLSTONE, and Mr. SIMON):

S. 1342. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to make loans to refinance loans made to veterans under the Native American Veterans Direct Loan Program; to the Committee on Veterans' Affairs.

By Mr. HELMS:

S. 1343. A bill to amend title XVIII of the Social Security Act to provide that eligible organizations assure out-of-network access; to the Committee on Finance.

By Mr. HEFLIN:

S. 1344. A bill to repeal the requirement relating to specific statutory authorization for increases in judicial salaries, to provide for automatic annual increases for judicial salaries, and for other purposes; to the Committee on the Judiciary.

By Mr. SIMPSON (by request):

S. 1345. A bill to amend title 38, United States Code, and various other statutes, to reform eligibility for Department of Veterans Affairs health-care benefits, improve the operation of the Department, and improve the processes and procedures the Department uses to administer various benefit programs for veterans; and for other purposes; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. FAIRCLOTH:

S. Res. 185. A resolution to express the sense of the Senate regarding repayment of loans to Mexico; to the Committee on Foreign Relations.

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

S. Res. 186. A resolution to authorize testimony by Senate employees and representation by Senate Legal Counsel; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCONNELL (for himself, Mr. BENNETT, and Mr. DORGAN):

S. 1335. A bill to provide for the protection of the flag of the United States and free speech, and for other purposes; to the Committee on the Judiciary.

THE FLAG PROTECTION AND FREE SPEECH ACT OF 1995

● Mr. MCCONNELL. Mr. President, on behalf of myself, Senator BENNETT and Senator DORGAN, I am introducing a bill to outlaw the desecration of the American flag.

Flag burning is a despicable act. And we should have zero tolerance for those who deface our flag. Make no mistake about it—I am disgusted by those who desecrate our symbol of freedom, under which so many men and women, including my father, have gone into battle in order to preserve our way of life.

Many patriotic Americans believe that we need a Constitutional amendment to ban flag burning. The Supreme Court has rejected laws which have attempted to ban flag burning, finding such laws to be in conflict with the first amendment's protection of free speech. So, the supporters of the Constitutional amendment argue that the only way to get it done right is to change the Constitution.

Flag burners must be punished for their vile behavior. But the precedent of amending the Bill of Rights is a dangerous one. I fear that if we amend the first amendment this year, soon the fifth amendment's protection of private property rights or the second amendment's protection of the right to bear arms, will be under assault.

So, I have been searching for an alternative which will result in the swift and certain punishment for those who commit the contemptible act of defacing the flag, but leave the first amendment untouched.

This bill achieves those purposes. The deviants who burn the flag do so to provoked or incite patriotic Americans. And, it is well established that fighting words or speech which incites lawlessness is not protected by the first amendment. My bill provides for imprisoning and fining those who damage a flag intending to incite a breach of the peace. It also punishes anyone who steals a flag belonging to the Federal Government or a flag displayed on Federal property.

This bill will get the job done without tampering with the first amendment. There have been well-respected conservative voices who have cautioned against amending the first amendment to ban flag burning, including George Will, Charles Krauthammer, Cal Thomas, Bruce Fein. But perhaps the most compelling words have come from Jim Warner, a patriot and hero who fought in Vietnam and survived more than 5 years of torture and brutality as a prisoner or war:

We don't need to amend the Constitution in order to punish those who burn our flag. They burn the flag because they hate America and they are afraid of freedom. What better way to hurt them than with the subversive idea of freedom? Spread freedom. [When a] flag in Dallas was burned to protest the nomination of Ronald Reagan, . . . he told us how to spread the idea of freedom when he said that we should turn America into a ''city shining on a hill, a light to all nations.'' Don't be afraid of freedom, it is the best weapon wee have.

I hope my colleagues will study this bill and consider it, as we approach the significant debate on a Constitutional amendment to ban flag desecration.

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. 1335

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 ''Flag Protection and Free Speech Act of 1995''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Flag of the United States is a unique symbol of national unity and represents the values of liberty, justice, and equality that make this Nation an example of freedom unmatched throughout the world;

(2) the Bill of Rights is a guarantee of those freedoms and should not be amended in a manner that could be interpreted to restrict freedom, a course that is regularly resorted to by authoritarian governments which fear freedom and not by free and democratic nations;

(3) abuse of the flag of the United States causes more than pain and distress to the overwhelming majority of the American people and may amount to fighting words or a direct threat to the physical and emotional well-being of individuals at whom the threat is targeted; and

(4) destruction of the flag of the United States can be intended to incite a violent response rather than make a political statement and such conduct is outside the protections afforded by the first amendment to the Unites States Constitution.

(b) PURPOSE.—It is the purpose of this Act to provide the maximum protection against the use of the flag of the United States to promote violence while respecting the liberties that it symbolizes.

SEC. 3. PROTECTION OF THE FLAG OF THE UNITED STATES AGAINST USE FOR PROMOTING VIOLENCE.

(a) IN GENERAL.—Section 700 of title 18, United States Code, is amended to read as follows:

''§ 700. Incitement; damage or destruction of property involving the flag of the United States

''(a) ACTIONS PROMOTING VIOLENCE.—Any person who destroys or damages a flag of the United States with the primary purpose and intent to incite or produce imminent violence or a breach of the peace, and in circumstances where the person knows it is reasonably likely to produce imminent violence or a breach of the peace, shall be fined not more than $100,000 or imprisoned not more than 1 year, or both.

''(b) DAMAGING A FLAG BELONGING TO THE UNITED STATES.—Any person who steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to the United States and intentionally destroys or damages that flag shall be fined not more than $250,000 or imprisoned not more than 2 years, or both.

''(c) DAMAGING A FLAG OF ANOTHER ON FEDERAL LAND.—Any person who, within any lands reserved for the use of the United States, or under the exclusive or concurrent jurisdiction of the United States, steals or

knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to another person, and intentionally destroys or damages that flag shall be fined not more than $250,000 or imprisoned not more than 2 years, or both.

''(d) CONSTRUCTION.—Nothing in this section shall be construed to indicate an intent on the part of Congress to deprive any State, territory or possession of the United States, or the Commonwealth of Puerto Rico of jurisdiction over any offense over which it would have jurisdiction in the absence of this section.

''(e) DEFINITION.—As used in this section, the term 'flag of the United States' means any flag of the United States, or any part thereof, made of any substance, in any size, in a form that is commonly displayed as a flag and would be taken to be a flag by the reasonable observer.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 33 of title 18, United States Code, is amended by striking the item relating to section 700 and inserting the following new item:

''700. Incitement; damage or destruction of property involving the flag of the United States.''.●

By Mr. LUGAR:

S. 1336. A bill to enable processors of popcorn to develop, finance, and carry out a nationally coordinated program for popcorn promotion, research, consumer information, and industry information, and for other purposes.

THE POPCORN PROMOTION, RESEARCH, AND CONSUMER INFORMATION ACT

● Mr. LUGAR. Mr. President, today I am introducing the Popcorn Research, Promotion and Consumer Information Act which will allow the U.S. Department of Agriculture to issue an order establishing a popcorn promotion program. This will be similar to other agricultural promotion programs for dairy, beef, pork, eggs, and potatoes, to name a few.

Americans consume 17.3 billion quarts of popped popcorn annually, or 68 quarts per person. It is one of the most wholesome and economical foods available to the consumer. My home State of Indiana leads all States in popcorn production, with more than 77,000 acres harvested last year. Following Indiana, major popcorn producing States are Illinois, Nebraska, Ohio, Kansas, Iowa, Missouri, Kentucky, and Michigan.

In the past, the popcorn industry has united to promote and market its product. Total popcorn sales, as a result of these efforts, have grown throughout the past several years, but great potential exists to accelerate this trend with a larger, industry-wide, cooperative effort.

Under a popcorn promotion program, popcorn processors would pay a small assessment on each pound of popcorn marketed. The Secretary of Agriculture would then select a Popcorn Board, made up of representatives from the industry to administer the program, with oversight by USDA. The funds collected would be used for research, promotion and consumer information projects with the goal of increasing consumption of popcorn.

The entire popcorn industry would benefit from a popcorn promotion program. These programs have been extremely successful for other commodities. Furthermore, they operate at no cost to the Federal Government, because all Government expenses are reimbursed from the programs funds. I urge my colleagues to support this self-help agricultural initiative.

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

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

S. 1336

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 ''Popcorn Promotion, Research, and Consumer Information Act''.

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) popcorn is an important food that is a valuable part of the human diet;

(2) the production and processing of popcorn plays a significant role in the economy of the United States in that popcorn is processed by several popcorn processors, distributed through wholesale and retail outlets, and consumed by millions of people throughout the United States and foreign countries;

(3) popcorn must be of high quality, readily available, handled properly, and marketed efficiently to ensure that the benefits of popcorn are available to the people of the United States;

(4) the maintenance and expansion of existing markets and uses and the development of new markets and uses for popcorn are vital to the welfare of processors and persons concerned with marketing, using, and producing popcorn for the market, as well as to the agricultural economy of the United States;

(5) the cooperative development, financing, and implementation of a coordinated program of popcorn promotion, research, consumer information, and industry information is necessary to maintain and expand markets for popcorn; and

(6) popcorn moves in interstate and foreign commerce, and popcorn that does not move in those channels of commerce directly burdens or affects interstate commerce in popcorn.

(b) POLICY.—It is the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this Act, of an orderly procedure for developing, financing (through adequate assessments on unpopped popcorn processed domestically), and carrying out an effective, continuous, and coordinated program of promotion, research, consumer information, and industry information designed to—

(1) strengthen the position of the popcorn industry in the marketplace; and

(2) maintain and expand domestic and foreign markets and uses for popcorn.

(c) PURPOSES.—The purposes of this Act are to—

(1) maintain and expand the markets for all popcorn products in a manner that—

(A) is not designed to maintain or expand any individual share of a producer or processor of the market;

(B) does not compete with or replace individual advertising or promotion efforts designed to promote individual brand name or trade name popcorn products; and

(C) authorizes and funds programs that result in government speech promoting government objectives; and

(2) establish a nationally coordinated program for popcorn promotion, research, consumer information, and industry information.

(d) STATUTORY CONSTRUCTION.—This Act treats processors equitably. Nothing in this Act—

(1) provides for the imposition of a trade barrier to the entry into the United States of imported popcorn for the domestic market; or

(2) provides for the control of production or otherwise limits the right of any individual processor to produce popcorn.

SEC. 3. DEFINITIONS.

In this Act (except as otherwise specifically provided):

(1) BOARD.—The term ''Board'' means the Popcorn Board established under section 5(b).

(2) COMMERCE.—The term ''commerce'' means interstate, foreign, or intrastate commerce.

(3) CONSUMER INFORMATION.—The term ''consumer information'' means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of popcorn.

(4) DEPARTMENT.—The term ''Department'' means the Department of Agriculture.

(5) INDUSTRY INFORMATION.—The term ''industry information'' means information and programs that will lead to the development of—

(A) new markets, new marketing strategies, or increased efficiency for the popcorn industry; or

(B) activities to enhance the image of the popcorn industry.

(6) MARKETING.—The term ''marketing'' means the sale or other disposition of unpopped popcorn for human consumption in a channel of commerce, but does not include a sale or disposition to or between processors.

(7) ORDER.—The term ''order'' means an order issued under section 4.

(8) PERSON.—The term ''person'' means an individual, group of individuals, partnership, corporation, association, or cooperative, or any other legal entity.

(9) POPCORN.—The term ''popcorn'' means unpopped popcorn (Zea Mays L), commercially grown in the United States, processed by shelling, cleaning, or drying and introduced into a channel of commerce.

(10) PROCESS.—The term ''process'' means to shell, clean, dry, and prepare popcorn for the market, but does not include packaging popcorn for the market without also engaging in another activity described in this paragraph.

(11) PROCESSOR.—The term ''processor'' means a person engaged in the preparation of unpopped popcorn for the market who owns or shares the ownership and risk of loss of the popcorn and who processes and distributes over 4,000,000 pounds of popcorn in the market per year.

(12) PROMOTION.—The term ''promotion'' means an action, including paid advertising, to enhance the image or desirability of popcorn.

(13) RESEARCH.—The term ''research'' means any type of study to advance the image, desirability, marketability, production, product development, quality, or nutritional value of popcorn.

(14) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(15) STATE.—The term ''State'' means each of the 50 States and the District of Columbia.

(16) UNITED STATES.—The term ''United States'' means all of the States.

SEC. 4. ISSUANCE OF ORDERS.

(a) IN GENERAL.—To effectuate the policy described in section 2(b), the Secretary, subject to subsection (b), shall issue 1 or more orders applicable to processors. An order shall be applicable to all popcorn production and marketing areas in the United States. Not more than 1 order shall be in effect under this Act at any 1 time.

(b) PROCEDURE.—

(1) PROPOSAL OR REQUEST FOR ISSUANCE.—The Secretary may propose the issuance of an order, or an association of processors or any other person that would be affected by an order may request the issuance of, and submit a proposal for, an order.

(2) NOTICE AND COMMENT CONCERNING PROPOSED ORDER.—Not later than 30 days after the receipt of a request and proposal for an order under paragraph (1), or at such time as the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment under paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order conforms to this Act. The order shall be issued and become effective not later than 150 days after the date of publication of the proposed order.

(c) AMENDMENTS.—The Secretary, as appropriate, may amend an order. The provisions of this Act applicable to an order shall be applicable to any amendment to an order, except that an amendment to an order may not require a referendum to become effective.

SEC. 5. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—An order shall contain the terms and conditions specified in this section.

(b) ESTABLISHMENT AND MEMBERSHIP OF POPCORN BOARD.—

(1) IN GENERAL.—The order shall provide for the establishment of, and appointment of members to, a Popcorn Board that shall consist of not fewer than 4 members and not more than 9 members.

(2) NOMINATIONS.—The members of the Board shall be processors appointed by the Secretary from nominations submitted by processors in a manner authorized by the Secretary, subject to paragraph (3). Not more than 1 member may be appointed to the Board from nominations submitted by any 1 processor.

(3) GEOGRAPHICAL DIVERSITY.—In making appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of popcorn production throughout the United States.

(4) TERMS.—The term of appointment of each member of the Board shall be 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 2, 3, and 4 years, as determined by the Secretary.

(5) COMPENSATION AND EXPENSES.—A member of the Board shall serve without compensation, but shall be reimbursed for the expenses of the member incurred in the performance of duties for the Board.

(c) POWERS AND DUTIES OF BOARD.—The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with the terms and provisions of the order;

(2) to make regulations to effectuate the terms and provisions of the order;

(3) to appoint members of the Board to serve on an executive committee;

(4) to propose, receive, evaluate, and approve budgets, plans, and projects of promotion, research, consumer information, and industry information, and to contract with appropriate persons to implement the plans or projects;

(5) to accept and receive voluntary contributions, gifts, and market promotion or similar funds;

(6) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under subsection (f), only in—

(A) obligations of the United States or an agency of the United States;

(B) general obligations of a State or a political subdivision of a State;

(C) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States;

(7) to receive, investigate, and report to the Secretary complaints of violations of the order; and

(8) to recommend to the Secretary amendments to the order.

(d) PLANS AND BUDGETS.—

(1) IN GENERAL.—The order shall provide that the Board shall submit to the Secretary for approval any plan or project of promotion, research, consumer information, or industry information.

(2) BUDGETS.—The order shall require the Board to submit to the Secretary for approval budgets on a fiscal year basis of the anticipated expenses and disbursements of the Board in the implementation of the order, including projected costs of plans and projects of promotion, research, consumer information, and industry information.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—The order shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of plans or projects of promotion, research, consumer information, or industry information, including contracts with a processor organization, and for the payment of the cost of the plans or projects with funds collected by the Board under the order.

(2) REQUIREMENTS.—A contract or agreement under paragraph (1) shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project, together with a budget that shows the estimated costs to be incurred for the plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of each transaction of the party, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) PROCESSOR ORGANIZATIONS.—The order shall provide that the Board may contract with processor organizations for any other services. The contract shall include provisions comparable to the provisions required by paragraph (2).

(f) ASSESSMENTS.—

(1) PROCESSORS.—The order shall provide that each processor marketing popcorn in the United States or for export shall, in the manner prescribed in the order, pay assessments and remit the assessments to the Board.

(2) DIRECT MARKETERS.—A processor that markets popcorn produced by the processor directly to consumers shall pay and remit the assessments on the popcorn directly to the Board in the manner prescribed in the order.

(3) RATE.—

(A) IN GENERAL.—The rate of assessment prescribed in the order shall be a rate established by the Board but not more than $.08 per hundredweight of popcorn.

(B) ADJUSTMENT OF RATE.—The order shall provide that the Board, with the approval of the Secretary, may raise or lower the rate of assessment annually up to a maximum of $.08 per hundredweight of popcorn.

(4) USE OF ASSESSMENTS.—

(A) IN GENERAL.—Subject to subparagraph (B), the order shall provide that the assessments collected shall be used by the Board—

(i) to pay the expenses incurred in implementing and administering the order, with provision for a reasonable reserve; and

(ii) to cover such administrative costs as are incurred by the Secretary except that the costs incurred by the Secretary that may be reimbursed by the Board may not exceed 5 percent of the projected annual revenues of the Board.

(B) EXPENDITURES BASED ON SOURCE OF ASSESSMENTS.—In implementing plans and projects of promotion, research, consumer information, and industry information, the Board shall expend funds on—

(i) plans and projects for domestic popcorn (including Canadian popcorn) in proportion to the amount of assessments collected on popcorn marketed domestically (including Canada); and

(ii) plans and projects for exported popcorn in proportion to the amount of assessments collected on exported popcorn.

(g) PROHIBITION ON USE OF FUNDS.—The order shall prohibit any funds collected by the Board under the order from being used to influence government action or policy, other than the use of funds by the Board for the development and recommendation to the Secretary of amendments to the order.

(h) BOOKS AND RECORDS OF THE BOARD.—The order shall require the Board to—

(1) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(2) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(3) account for the receipt and disbursement of all funds entrusted to the Board.

(i) BOOKS AND RECORDS OF PROCESSORS.—

(1) MAINTENANCE AND REPORTING OF INFORMATION.—The order shall require that each processor of popcorn for the market shall—

(A) maintain, and make available for inspection, such books and records as are required by the order; and

(B) file reports at such time, in such manner, and having such content as is prescribed in the order.

(2) USE OF INFORMATION.—The Secretary shall authorize the use of information regarding processors that may be accumulated under a law or regulation other than this Act or a regulation issued under this Act. The information shall be made available to the Secretary as appropriate for the administration or enforcement of this Act, the order, or any regulation issued under this Act.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), all information obtained by the Secretary under paragraphs (1) and (2) shall be kept confidential by all officers, employees, and agents of the Board and the Department.

(B) DISCLOSURE BY SECRETARY.—Information referred to in subparagraph (A) may be disclosed if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party; and

(iii) the information relates to the order.

(C) DISCLOSURE TO OTHER AGENCY OF FEDERAL GOVERNMENT.—

(i) IN GENERAL.—No information obtained under the authority of this Act may be made available to another agency or officer of the Federal Government for any purpose other than the implementation of this Act and any investigatory or enforcement activity necessary for the implementation of this Act.

(ii) PENALTY.—A person who violates this subparagraph shall, on conviction, be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer, employee, or agent of the Board or the Department, shall be removed from office or terminated from employment, as applicable.

(D) GENERAL STATEMENTS.—Nothing in this paragraph prohibits—

(i) the issuance of general statements, based on the reports, of the number of persons subject to the order or statistical data collected from the reports, if the statements do not identify the information provided by any person; or

(ii) the publication, by direction of the Secretary, of the name of a person violating the order, together with a statement of the particular provisions of the order violated by the person.

(j) OTHER TERMS AND CONDITIONS.—The order shall contain such terms and conditions, consistent with this Act, as are necessary to effectuate this Act, including regulations relating to the assessment of late payment charges.

SEC. 6. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) IN GENERAL.—Within the 60-day period immediately preceding the effective date of an order, as provided in section 4(b)(3), the Secretary shall conduct a referendum among processors who, during a representative period as determined by the Secretary, have been engaged in processing, for the purpose of ascertaining whether the order shall go into effect.

(2) APPROVAL OF ORDER.—The order shall become effective, as provided in section 4(b), only if the Secretary determines that the order has been approved by not less than a majority of the processors voting in the referendum and if the majority processed more than 50 percent of the popcorn certified as having been processed, during the representative period, by the processors voting.

(b) ADDITIONAL REFERENDA.—

(1) IN GENERAL.—Not earlier than 3 years after the effective date of an order approved under subsection (a), on the request of the Board or a representative group of processors, as described in paragraph (2), the Secretary may conduct an additional referendum to determine whether processors favor the termination or suspension of the order.

(2) REPRESENTATIVE GROUP OF PROCESSORS.—An additional referendum on an order shall be conducted if the referendum is requested by 40 percent or more of the number of processors who, during a representative period as determined by the Secretary, have been engaged in processing.

(3) DISAPPROVAL OF ORDER.—If the Secretary determines, in a referendum conducted under paragraph (1), that suspension or termination of the order is favored by at least ⅔ of the processors voting in the referendum, the Secretary shall—

(A) suspend or terminate, as appropriate, collection of assessments under the order not later than 180 days after the date of determination; and

(B) suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after the date of determination.

(c) COSTS OF REFERENDUM.—The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any referendum under this section, except for the salaries of Government employees associated with conducting a referendum.

(d) METHOD OF CONDUCTING REFERENDUM.—Subject to this section, a referendum conducted under this section shall be conducted in such manner as is determined by the Secretary.

(e) CONFIDENTIALITY OF BALLOTS AND OTHER INFORMATION.—

(1) IN GENERAL.—The ballots and other information or reports that reveal or tend to reveal the vote of any processor, or any business operation of a processor, shall be considered to be strictly confidential and shall not be disclosed.

(2) PENALTY FOR VIOLATIONS.—An officer or employee of the Department who violates paragraph (1) shall be subject to the penalties described in section 5(i)(3)(C)(ii).

SEC. 7. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or obligation or an exemption from the order or obligation.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary.

(3) RULING.—After a hearing under paragraph (2), the Secretary shall issue a ruling on the petition that is the subject of the hearing, which shall be final if the ruling is in accordance with applicable law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which a person who is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review a ruling on the petition, if the person files a complaint not later than 20 days after the date of issuance of the ruling under subsection (a)(3).

(2) PROCESS.—Service of process in a proceeding under paragraph (1) may be made on the Secretary by delivering a copy of the complaint to the Secretary.

(3) REMANDS.—If the court determines, under paragraph (1), that a ruling issued under subsection (a)(3) is not in accordance with applicable law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(c) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) may not impede, hinder, or delay the Secretary or the Attorney General from taking action under section 8.

SEC. 8. ENFORCEMENT.

(a) IN GENERAL.—The Secretary may issue an enforcement order to restrain or prevent any person from violating an order or regulation issued under this Act and may assess a civil penalty of not more than $1,000 for each violation of the enforcement order, after an opportunity for an administrative hearing, if the Secretary determines that the administration and enforcement of the order and this Act would be adequately served by such a procedure.

(b) JURISDICTION.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, an order or regulation issued under this Act.

(c) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action.

SEC. 9. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this Act; and

(2) to determine whether any person subject to this Act has engaged, or is about to engage, in an act that constitutes or will constitute a violation of this Act or of an order or regulation issued under this Act.

(b) OATHS, AFFIRMATIONS, AND SUBPOENAS.—For the purpose of an investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

(c) AID OF COURTS.—

(1) REQUEST.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may request the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in requiring the attendance and testimony of the person and the production of records.

(2) ENFORCEMENT ORDER OF THE COURT.—The court may issue an enforcement order requiring the person to appear before the Secretary to produce records or to give testimony concerning the matter under investigation.

(3) CONTEMPT.—A failure to obey an enforcement order of the court under paragraph (2) may be punished by the court as a contempt of the court.

(4) PROCESS.—Process in a case under this subsection may be served in the judicial district in which the person resides or conducts business or wherever the person may be found.

SEC. 10. RELATION TO OTHER PROGRAMS.

Nothing in this Act preempts or supersedes any other program relating to popcorn promotion organized and operated under the laws of the United States or any State.

SEC. 11. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this Act.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act. Amounts made available under this section may not be used to pay any expense of the Board in administering any provision of an order.●

By Mr. BROWN:

S. 1337. A bill to amend the Legal Services Corporation Act to limit frivolous lawsuits, and for other purposes; to the Committee on Labor and Human Resources.

THE LEGAL SERVICES CORPORATION ACT AMENDMENT ACT OF 1995

● Mr. BROWN. Mr. President, I introduce a bill to bring the Legal Services Corporation in line with the obligations of every other attorney in America; that is, to allow the Legal Services Corporation to be sanctioned when its attorneys bring frivolous or meritless cases.

The Legal Services Corporation was created to provide for the everyday legal needs of the poor. Unfortunately, the LSC has digressed from its original function. Rather than taking care of the day to day needs of American families, the LSC has used its resources to challenge Federal programs, lobby government, and pursue costly class action lawsuits.

In 1974, President Nixon cited three major objectives when he signed legislation to create the Legal Services Corporation. One was ''that the lawyers in the program have full freedom to protect the best interests of their clients in keeping with the Canon of Ethics and the high standards of the legal professions.'' Achieving that goal is precisely what this bill intends to do.

The high standards of the legal professions include adhering to the Federal Rules of Civil Procedure. Rule 11, which applies to all attorneys, allows for sanctions against an attorney for any action designed to cause unnecessary delay or needlessly increase the cost of litigation, or when the plaintiff's action is frivolous or without legal foundation. If the LSC is providing legal services with Federal funds, one would assume it would be subject to these basic rules.

Under current law, however, the Legal Services Corporation is protected from the rule 11 standard. The LSC can only be sanctioned if it is proven that an action was brought solely to harass another party, or that it maliciously abused the legal system. This standard is virtually impossible to prove and therefore lacks any deterrent effect. Furthermore, only actions are sanctionable—the LSC is completely protected from sanctions for baseless motions, pleadings, or other documents.

If the Legal Services Corporation is going to provide federally funded legal services, it should live under the same laws as every other attorney in the United States. When an attorney enters any courtroom in the Nation, advocating a case without merit, he can be sanctioned by the court. It should not be any different for the Legal Services Corporation.

The language of this bill would alter the Legal Services Corporation Act so that it parallels the Federal Rules of Civil Procedure. Specifically, it would allow courts to sanction the LSC according to the standards set forth in rule 11. Under the bill, sanctions would be allowed for any action, motion, pleading or other document that: First, is brought for improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; or second, is frivolous or not warranted by existing law.

This new standard is not designed to preclude or replace rule 11 sanctions against attorneys. Rather, it would provide an additional source of funds to compensate those parties forced to defend against baseless legal actions.

in a society where litigation too often takes the place of negotiation, where the cost of a defense determines the outcome of a case, and where one lawsuit can bankrupt a law-abiding citizen, it is imperative that all parties play on the same legal field, including the Legal Services Corporation.●

By Mr. BROWN:

S. 1338. A bill to improve the U.S. Marshals Service, and for other purposes; to the Committee on the Judiciary.

UNITED STATES MARSHALS SERVICE LEGISLATION

● Mr. BROWN. Mr. President, I introduce a bill to improve the U.S. Marshals Service by eliminating the political appointment of U.S. Marshals.

Since 1789, U.S. Marshals have been appointed by the President and confirmed by the Senate. For nearly 150 years this political appointment process served as the only control Washington had over its primary law enforcers. The distance between the bureaucracy of Washington and the ever expanding Territories of the United States gave U.S. Marshals such as Wyatt Earp and Lloyd Garrison, nearly autonomous control in their jurisdictions.

But the days of the gun-slinging Federal Marshal are long past. Today the executive office of the Marshals Service in Washington calls the shots, trains, and promotes the deputies, and operates under the watchful eye of the Department of Justice and Congress. The one area in which the Service does not have control is over the appointment of U.S. Marshals.

Under the current system, U.S. Marshals are appointed to 4-year terms by the President. Appointees need not have served in the U.S. Marshals Service or even have had previous professional law enforcement experience. In fact, of the 94 U.S. Marshals, only 30 have previously served in the Marshals Service.

According to a 1994 U.S. Marshals Service Reinvention Proposal reported by the Department of Justice, the appointment process has become a burden upon the operations of the Marshals Service. The proposal states that:

Disagreement between Marshals and headquarters often put career deputies and staff in conflicting situations. The Marshals controlled day-to-day assignments while headquarters controlled the deputies' career advancement and duty stations. The traditional independence of the Marshals clashed with the growing central control of headquarters. Headquarters began bypassing the Marshals by establishing program units in the field to oversee witness security, fugitive investigations, asset forfeiture programs, and high level judicial protection activities.

Mr. President, my bill would eliminate some of these problems by putting experienced law enforcement personnel into the office of U.S. Marshal. The bill would require the Attorney General to select U.S. Marshals from the ranks of the Marshals Service rather than from a political party. The U.S. Marshals Service already has an extensive and complex merit based promotion system to evaluate, select and promote the most qualified individuals for positions in every level of service. This bill would extend that type of merit based selection to the office of the U.S. Marshal, so that the most qualified and experienced personnel are in a position to contribute to the U.S. Marshals Service rather than hinder its operations.

Removing the political appointment process from the Marshals Service is not a new idea. The reform debate first began in 1955 when the Commission on Organization of the Executive Branch of the Government recommended an end to the political appointment of U.S. Marshals. During the 104th Congress, the idea took hold in the House of Representatives. Both the House Balanced Budget Task Force and the Budget Committee recommended ending the political appointments. Vice President GORE's National Performance Review also recommended selecting Marshals by merit and estimated a savings of over $36 million.

With such broad based support why are we waiting? The answer lies in the Senate. For the past 150 years the Executive branch has allowed the Senators affiliated with the President's party to select the U.S. Marshals for the judicial districts within their States. Each time the idea of appointing Marshals based on merit was raised, it was quashed in the Senate by those unwilling to relinquish the power of appointment.

Mr. President, if we really are for a leaner, less intrusive, and more effective government, we must begin by promoting the most qualified personnel to the most important positions. Let us take a real step to improve the way government works—let us end the political appointment process for the U.S. Marshals.●

By Mrs. FEINSTEIN:

S. 1339. A bill to amend title 18, United States Code, to restrict the mail-order sale of body armor; to the Committee on the Judiciary.

THE JAMES GUELFF BODY ARMOR ACT OF 1995

● Mrs. FEINSTEIN. Mr. President, I introduce the James Guelff Body Armor Act which would ban the mail order sale of bullet-proof vests to all individuals except law enforcement or public safety officers including paramedics. This legislation would require that the sale, transfer, and receipt of bullet-proof vests to anyone other than a law enforcement or public safety officers be conducted in person. This Act will make it more difficult for criminals to obtain this body armor which hinders law enforcement's ability to disarm and capture them.

For those who may not have heard the story of Officer James Guelff, I would like to provide just a few details about this tragic story.

On November 13, 1994, Officer James Guelff, a 10-year veteran of the San Francisco Police Department, was shot to death in a fire-fight by a heavily

armed gunman wearing a bullet-proof vest on a major street corner in the middle of San Francisco.

Captain Richard Cairns was the commanding officer on the scene. Earlier this year, Captain Cairns participated in a roundtable discussion with me about the violence of assault weapons.

This is how Captain Cairns described the scene:

(The assailant) was firing as fast as you could pull the trigger. He had semi-automatic assault weapons. He had an AK 223 rifle, with 30 round clips. He had a Steyr AUG which is a sophisticated weapon, that he didn't get to. The officers managed to keep him away from that. He had an uzi that jammed, and he had two other semi-automatic pistols, and he had thousands of rounds of ammunition that were in magazines. And they were all in 30-round magazines already. He didn't have to stop and load magazines. We ended up having 104 officers at the scene and he probably had more ammunition than all 104 officers put together. And our officers did run out of ammunition and they got more ammunition from other responding units to try and keep him down. He was finally killed by the SWAT teams that got there, who got above him . . .

Captain Cairns continued:

He had a bullet proof vest, he had a Kevlar Helmet on and he was hit by our officers twice in the helmet and six times in the vest. He was finally killed by a shot that came through his shoulder and into his chest and killed him. Officer Guelff was hit several times and then killed with a bullet through the left eye out of the assault rifle. Officer Guelff fired off six of his rounds and when he went to re-load—the suspect fired on him and killed him.

That story, simply put, is the reason this legislation is being put forward today.

California is not the only State to experience assailants—including heavily-armed gang members—who are wearing bullet proof vests and other body armor.

In Colorado, a man entered a grocery store where his wife worked, killed her, the store's manager, shot a bystander and then fatally shot a sheriff's sergeant before being physically tackled from behind and brought to the ground. Gunfire from law enforcement was to no avail because of his body armor.

In Long Island, NY, an armed high school student after being pushed out of his girlfriend's house by her father, shot 12 rounds into the house before a sheriff's investigator shot the young man in the shoulder, just avoiding his bullet-proof vest, killing him. The sheriff who shot the gunman commented after the incident that the bullet-proof vest the young man was wearing was '' * * * better than anything we've got now, other than what's in the SWAT locker.''

How are law enforcement officers to protect the public when the criminals have better body armor than do the police?

States and localities have already begun the effort to control the sale of body armor. The State of Michigan, for instance, has a law which increases the sentence of a criminal who wears body armor during the commission of a crime. And, in Baltimore, MD, the city council reacted quickly and severely to a billboard advertising the sale of bullet-proof vests as ''Life Insurance for the 90's'' with a 1–800 number printed at the bottom by introducing a city ordinance which bans the sale of bullet-proof vests to anyone unless they have the permission of the police commissioner.

Not only have States and localities begun to control the sale of body armor, at least three Nation-wide stores have already pulled bullet-proof vests from their shelves. Those stores that responded to the requests of law enforcement officials to cease the sale of body armor are The Sharper Image, Wall-mart and Sam's Club.

There were over 200 rounds of ammunition fired by the gunman that killed Officer James Guelff before other police officers were able to injure the assailant. I cannot say that Officer Guelff would still be alive if this criminal had not been wearing a bullet-proof vest. I imagine, however, that law enforcement would have more easily shot and disabled this gunman if he had not been protected by body armor. I attended Officer Guelff's funeral. Maybe, if these bullet-proof vests were not so accessible, Officer Guelff would be entering his 15th year of service.

At this time, I wish to acknowledge the leadership of Representatives STUPAK and PELOSI who have introduced similar legislation, H.R. 2192, in the House of Representatives. I also ask that following my remarks, my legislation be printed in the RECORD .

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''James Guelff Body Armor Act of 1995''.

SEC. 2. UNLAWFUL MAIL-ORDER SALE OF BODY ARMOR.

Title 18, United States Code, is amended by adding at the end the following new chapter:

''CHAPTER 44A—BODY ARMOR

''Sec.
''941. Unlawful act.

''S. 941. Unlawful acts

''(a) Except as provided in subsection (b) of this section, it shall be unlawful for a person to sell or deliver body armor unless the transferee meets in person with the transferor to accomplish the sale, delivery, and receipt of the matter.

''(b) Subsection (a) does not apply to body armor used by law enforcement officers.

''(c) As used in this section—

''(1) the term 'body armor' means any product sold or offered for sale as personal protective body covering whether the product is to be worn alone or is sold as a complement to other products or garments; and

''(2) the term 'law enforcement officer' means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

''(d) Whoever knowingly violates this section shall be fined under this title or imprisoned not more than two years, or both.''.●

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. BAUCUS, Mr. WELLSTONE, Mr. KERREY, Mr. CONRAD, Mr. GRASSLEY, Mr. CRAIG, Mr. LEAHY, Mr. DORGAN, Mr. BOND, Mr. PRESSLER, Mrs. MURRAY, Mr. FEINGOLD, Mr. KOHL, Mr. BURNS, and Mr. EXON):

S. 1340. A bill to require the President to appoint a Commission on Concentration in the Livestock Industry; to the Committee on the Judiciary.

THE LIVESTOCK MARKET REPORT ACT OF 1995

Mr. DASCHLE. Mr. President, today several colleagues and I will introduce the Livestock Concentration Report Act of 1995. This legislation addresses the deep concern of cattle, hog and sheep producers from across the nation that the livestock industry does not operate in a free and open market. The bipartisan support from colleagues from Vermont to Washington is indicative of the importance of this issue.

Livestock producers, especially cattle producers, are receiving the lowest prices in recent memory. Producers can barely make ends meet, let alone make a profit. The farmer's share of the retail beef dollar has also plunged from 63 percent in 1980 to only 40 percent today. Producers face economic ruin at a time when the four largest meat packers in the country control 87 percent of the cattle slaughtered and enjoy record profits.

Our legislation calls for a thorough examination of the livestock markets to ensure they operate in a free and competitive manner. We ask the President to establish a Commission on Concentration in the Livestock Industry. This body will consist of six producers, two antitrust experts, two economists, two corporate financial officers, and two corporate procurement experts. The members will be appointed by the President, and the Commission will be chaired by the Secretary of Agriculture.

The Commission will review the ongoing USDA Study on Concentration in the Red Meat Packing Industry to ensure the results are representative of current market conditions. Producers are concerned that the data in the study is out-of-date and will not provide insight into today's market. Additionally, the Commission will review the adequacy of price discovery in the livestock markets to ensure forward contracting and formula pricing practices do not unduly bias livestock markets. The causes of the wide farm-to-retail price spread will also be examined. The Commission will report its findings within 90 days of the release of the USDA study.

I am very appreciative of Secretary Glickman's support throughout this process. USDA is currently pursuing a case against IBP, Inc., the largest meat packer for alleged anti-competitive

procurement practices. The Secretary has made this issue a top priority, and I look forward to working with him on the implementation of this Commission.

This action is crucial for our Nation's livestock producers. Free and open markets are one of the foundations of our Nation and our economy. We as consumers all suffer if markets, especially food markets, do not operate freely. I hope this commission can get to the bottom of the problems that exist in the livestock market and provide answers for us in Congress about the steps we can take to ensure a fair shake for hard-working livestock producers and the Nation's consumers.

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. 1340

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 ''Livestock Concentration Report Act of 1995''.

SEC. 2. APPOINTMENT OF COMMISSION.

Not later than 30 days after the date of the enactment of this Act, the President shall appoint a Commission on Concentration in the Livestock Industry which shall be composed of the Secretary of Agriculture, who shall be the chairperson of the Commission, and 2 members appointed from among individuals in each of the following categories:

(1) Cattle producers.
(2) Hog producers.
(3) Lamb producers.
(4) Experts in antitrust laws.
(5) Economists.
(6) Corporate chief financial officers.
(7) Corporate procurement experts.

SEC. 3. DUTIES OF COMMISSION.

(a) DUTIES.—The Commission on Concentration in the Livestock Industry shall—

(1) determine whether the study of concentration in the red meat packing industry adequately—

(A) examined and identified regional procurement markets for slaughter cattle in the continental United States,

(B) analyzed the effects that slaughter cattle procurement practices, and concentration in the procurement of slaughter cattle, have on the purchasing and pricing of slaughter cattle by beef packers,

(C) examined the use of captive cattle supply arrangements by beef packers and the effects of such arrangements on slaughter cattle markets,

(D) examined the economics of vertical integration and of coordination arrangements in the hog slaughtering and processing industry,

(E) examined the pricing and procurement by hog slaughtering plants operating in the eastern corn belt,

(F) reviewed the pertinent research literature on issues relating to the structure and operation of the meat packing industry, and

(G) represents, for the matters described in subparagraphs (A) through (F), the current situation in the livestock industry compared to the situation of such industry reflected in the data on which such study is based,

(2) review the application of the antitrust laws, and the operation of other Federal laws applicable, with respect to concentration and vertical integration in the procurement and pricing of slaughter cattle and of slaughter hogs by meat packers,

(3) make recommendations regarding whether the laws relating to the operation of the meat packing industry should be modified regarding the concentration, vertical integration, and vertical coordination in such industry,

(4) review the farm-to-retail price spread for livestock during the period beginning on January 1, 1993, and ending on the date the report is submitted under section 4,

(5) review the adequacy of price data obtained by the Department of Agriculture under section 203 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622),

(6) make recommendations regarding the adequacy of price discovery in the livestock industry for animals held for market, and

(7) review the lamb industry study completed by the Department of Justice in 1993.

(b) SOLICITATION OF INFORMATION.—For purposes of complying with the requirements of paragraphs (2), (3), and (4) of subsection (a), the Commission on Concentration in the Livestock Industry shall solicit information from all parts of the livestock industry, including livestock producers, livestock marketers, meat packers, meat processors, and retailers.

SEC. 4. REPORT.

(a) SUBMISSION OF REPORT TO THE PRESIDENT.—Not later than 90 days after the study of concentration in the red meat packing industry is submitted to the Congress, the Commission on Concentration in the Livestock Industry shall submit to the President a report summarizing the results of the duties carried out under section 3. Not later than 30 days after the President receives such report, the President shall terminate the Commission.

(b) TRANSMISSION OF REPORT TO THE CONGRESS.—The President shall promptly transmit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a copy of the report the President receives under subsection (a).

SEC. 5. DEFINITIONS.

For purposes of this Act—

(1) the term ''antitrust laws'' has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition, and

(2) the term ''study of concentration in the red meat packing industry'' means the study of concentration in the red meat packing industry proposed by the Department of Agriculture in the Federal Register on January 9, 1992 (57 Fed. Reg. 875), and for which funds were appropriated by Public Law 102–142.

By Mr. AKAKA (for himself, Mr. ROCKEFELLER, Mr. INOUYE, Mr. WELLSTONE, and Mr. SIMON):

S. 1342. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to make loans to refinance loans made to veterans under the Native American Veterans Direct Loan Program; to the Committee on Veterans' Affairs.

THE NATIVE AMERICAN VETERANS DIRECT LOAN PROGRAM

● Mr. AKAKA. Mr. President, today I am introducing legislation to amend section 3762 of title 38, United States Code. Section 3762 was established under the Veterans Home Loan Program Amendments of 1992 and authorizes a 5-year pilot program to provide direct home loans to native American veterans who live on U.S. trust lands. I am pleased that Senators ROCKEFELLER, INOUYE, WELLSTONE, and SIMON are cosponsors of this measure.

My bill would allow the Department of Veterans Affairs [VA] to refinance direct loans made under this unique initiative, known as the Native American Direct Home Loan Program. Under my bill, credit standards for underwriting direct loans to Native American veterans would be the same as those for VA guaranteed loans. The underwriting would be performed by the VA and would allow qualified veterans to refinance existing loans.

The Native American Direct Loan Program was established to ensure that veterans who reside on reservations or other trust lands would have the same access to VA loan benefits enjoyed by other veterans. Under the 5-year pilot program, VA is authorized to provide direct loans of up to $80,000 for most areas of the United States, although higher limits were established for certain high-cost regions.

Until the program was adopted 3 years ago, Native American veterans who lived on trust lands were denied access to traditional VA guaranteed loans. The inability to take title to trust lands in the event of default, cultural misunderstandings, and the generally poor economic conditions that exist on reservations, dissuaded potential lenders from approving mortgages for housing on such lands.

During the guaranty program's half-century of existence, not a single Native American veteran was able to utilize his or her home loan entitlement for housing on trust lands. In contrast, over 13 million other veterans received more than $350 billion in VA guaranties during that period. It was to redress this inequity that Congress enacted Public Law 102–547.

Despite the complexities of creating a program that must address the needs of hundreds of different tribal entities, each with its own cultural, political, and legal systems, VA has successfully entered into agreements to provide direct VA loans to members of 30 tribes and Pacific Island groups, and negotiations are ongoing with approximately 20 more tribes. To date, approximately 45 loans have been closed, 3 of them with American Indians, the balance with Hawaiian Natives and Pacific Islanders. In addition, the VA has a commitment to close 36 more loans, including American Indians residing on allotted lands.

Although the VA has made significant progress in implementing the program, a serious, unanticipated shortcoming has come to light. According to the VA, the Department has no statutory authority to offer refinancing to veterans receiving loans under the program. Thus, native Americans who receive loans under the program cannot take advantage of interest rate reductions to ease their financial burden.

This is in stark contrast to other veterans who use the regular guaranty program. In the period between October 1993 and August 1995, for example, the VA refinanced over 25,000 interest reduction loans with a face value of more than $2 billion.

Mr. President, this situation runs contrary to the intent of Congress in enacting the Native American Direct Home Loan Program three years ago. In creating the program, Congress intended to ensure that, to the maximum extent possible, Native American veterans would have the same opportunity as other veterans to achieve the American dream of home ownership. Insofar as refinancing is an important element of other VA home loan programs, it is just and reasonable that veterans who receive benefits under the direct loan program be accorded an opportunity to refinance.

Mr. President, the legislation I am offering today would correct this oversight by providing VA with specific refinancing authority under the direct loan program. My bill also includes a provision for a special fee that would cover all refinancing costs thus making the bill revenue neutral.

Mr. President, I believe this legislation will significantly enhance VA's ability to provide native American veterans with equal access to services and benefits available to other veterans. It would reduce the costs of home ownership for those presently receiving benefits under the program, possibly reducing the risk of default and the costs associated with foreclosure. Perhaps most importantly, it would encourage eligible Native American to come forward to take advantage of the program's benefits.

Thank you, Mr. President. I hope that the measure I am offering today will be supported by colleagues from both sides of the aisle.●

By Mr. HELMS:

S. 1343. A bill to amend title XVIII of the Social Security Act to provide that eligible organizations assure out-of-network access; to the Committee on Finance.

OUT-OF-NETWORK ACCESS LEGISLATION

Mr. HELMS. Mr. President, three summers ago I had a close but fortunate encounter with some remarkable medical doctors in my home town of Raleigh. My heart surgery and the very effective subsequent rehabilitation made it clear that I had been cared for by some of the most capable people in the medical profession.

I was free to choose the surgeon who performed the operation. Senior citizens enrolled in Medicare should have the same choice, and the bill I'm introducing today will enable senior citizens who join HMO's to preserve their right to choose their doctor.

Mr. President most Americans, whether their health is insured by private firms or by Medicare, enjoy their freedom to decide which medical professional will provide their care and treatment. In reforming Medicare, Congress must make sure that senior citizens can choose their doctors and other medical providers.

One of the many reasons for my having opposed the Clinton health plan was the well founded fear that the American people would have been denied their right to chose their medical care. The enormous bureaucracy of the Clinton plan made that apprehension a certainty—which is why the American people rejected it.

Now, Mr. President, the Senate is considering major reforms to save Medicare, and prevent its being pushed over the cliff. Medicare must be reformed before it goes bankrupt—otherwise the Medicare trust fund will be flat broke when the 21st century rolls around a few years hence.

Americas's senior citizens depend on the health care coverage provided by the Medicare system, and those of us in Congress have a duty to make sure they will not be forced to give up their right to choose their doctors.

It is vital to their future security that our senior citizens retain this right to choose. The power to choose will place citizens firmly in control of their health care. Their right to choose will encourage efficiency and cut costs without sacrificing quality care and treatment.

Mr. President, all of us know full well that reform of the present Medicare System is imperative. The provisions of the legislation allowing senior citizens to join health maintenance organizations, and other types of managed care plans, will surely lower the costs of operating the vast Medicare System. And citizens who belong to a Medicare-supported HMO may gain coverage for prescription drugs, eyeglasses and hearing aids—coverages not presently provided by Medicare.

Without some moderating legislation, however, senior citizens could very well find themselves locked into coverage that limits them to services provided by HMO-affiliated doctors, other professionals and hospitals. No longer would senior citizens have the freedom to choose their own doctor.

So, Mr. President, these are the reasons why I am today introducing the Senior Citizens' Health Freedom Act to guarantee all Medicare-eligible Americans who choose to enroll in an HMO the same freedom to choose their doctors that every member of Congress enjoys.

As much as I support the Republican Medicare plan now under discussion, I cannot dismiss my reservations about the absence of doctor choice in the plan as it presently stands.

Mr. President, consider if you will the predicament of a patient who requires heart surgery, and whose HMO will not approve the cardiologist with whom the senior has built up a long-standing relationship. Should the patient be required to wait for a year's time to change to a plan that will cover the cardiologist that the patient knows and trusts? My bill will enable women being treated for breast cancer to rest assured that they can continue to see the specialists familiar with them and their conditions. For this reason, more than a hundred patient advocacy groups have voiced their support for this bill.

We must provide a safety valve to protect seniors who find themselves in that position. A point of service option would enable patients to see physicians and specialists inside and outside the managed care network. If senior citizens are satisfied with the care they receive within the network, they will feel no need to choose outside doctors and specialists. Without such options, however, these senior citizens will be locked into a rigid system which may or may not give them the health care they need from people they most trust to provide it.

Mr. President, we heard from the CBO last February that a built-in point of service feature would not increase the cost of Medicare. In testimony before the Senate Budget Committee, CBO stated that ''the point of service option would permit Medicare enrollees to go to providers outside the HMO's panel when they wanted to, and yet it need not increase the benefit cost to HMO's or to * * *''

The fastest growing health insurance product is a managed care plan that includes the point of service feature. The marketplace has responded to patient's demand. Requiring HMO's to include point of service is not intrusive, but rather advances a developing trend. In fact, in 1993, 61 percent of all HMO's offered a point of service option.

Building a point of service option into all health plans under Medicare will not interfere with the plan's ability to contain cost, nor will it limit their efforts to encourage providers and patients to use their health care resources wisely. It simply will ensure that health plans put the patient's interest first.

Moreover, the actuarial firm of Milliman and Robertson concluded that depending on the terms of the plan and a reasonable cost sharing schedule, there would be no increase in cost to the HMO. In fact, there could actually be a savings.

Mr. President, according to polls I have seen, patients are willing to pay a little more for the ability to go out of network to be assured of seeing the doctors of their choice. As many as 70 percent of Americans over 50 years old declared in one poll that they would be unwilling to join a Medicare managed plan that denied them the freedom to choose their own physicians.

So the best incentive to get senior citizens to join HMO's is to make sure they can choose their own doctors.

As we prepare to enact this historic revision of the Medicare Program, let us not overlook the steps that are necessary to protect the security of our senior citizens. Let us never deny them the right to take an active part in their health care and treatment.

We can save Medicare. We can extend its benefits while lowering the towering costs that beset us today. And with the legislation I introduce today, we can also preserve a basic American freedom to choose.

Mr. President, I ask unanimous consent that the list of patient advocacy groups supporting this bill be printed in the RECORD.

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

ORGANIZATIONS SUPPORTING PATIENT ACCESS TO SPECIALIZED MEDICAL SERVICES UNDER HEALTH CARE REFORM

Allergy and Asthma Network Mothers of Asthmatics, Inc.
American Academy of Allergy and Immunology.
American Academy of Child and Adolescent Pyschiatry.
American Academy of Dermatology.
American Academy of Facial Plastic and Reconstructive Surgery.
American Academy of Neurology.
American Academy of Ophthalmology.
American Academy of Orthopaedic Surgeons.
American Academy of Otolaryngology-Head and Neck Surgery.
American Academy of Pain Medicine.
American Academy of Physical Medicine & Rehabilitation.
American Association for Hand Surgery
American Association for the Study of Headache
American Association of Clinical Endocrinologist.
American Association of Clinical Urologists.
American Association of Hip and Knee Surgeons.
American Association of Neurological Surgeons.
American College of Cardiology.
American College of Foot and Ankle Surgeons.
American College of Gastroenterology.
American College of Nuclear Physicians.
American College of Obstetricians & Gynecologists.
American College of Osteopathic Surgeons.
American College of Radiation Oncology.
American College of Radiology.
American College of Rheumatology.
American Diabetes Association.
American EEG Society.
American Gastroenterological Association.
American Lung Association.
American Orthopedic Society for Sports Medicine.
American Pain Society.
American Pediatric Medical Association.
American Psychiatric Association.
American Sleep Disorders Association.
American Society for Dermatologic Surgery.
American Society for Gastrointestinal Endoscopy.
American Society for Surgery of the Hand.
American Society for Anesthesiologists.
American Society for Cataract and Refractive Surgery.
American Society for Clinical Pathologists.
American Society for Dermatology.
American Society for Echocardiography.
American Society for General Surgeons.
American Society for Hematology.
American Society for Nephrology.
American Society for Pediatric Nephrology.
American Society for Plastic and Reconstructive Surgeons, Inc.
American Society for Transplant Physicians.
American Thoracic Society.
American Urological Association.
Amputee Coalition of America.
Arthritis Foundation.
Arthroscopy Association of North America.
Association of Subspecialty Professors.
Asthma & Allergy Foundation of America.
California Access to Specialty Care Coalition.
California Congress of Dermatological Societies.
Congress of Neurological Surgeons.
Cooley's Anemia Foundation.
Cystic Fibrosis Foundation.
Eye Bank Association of America.
Federated Ambulatory Surgery Association.
Joint Council of Allergy and Immunology.
Lupus Foundation of America, Inc.
National Association for the Advancement of Orthotics and Prosthetics.
National Association of Epilepsy Centers.
National Association of Medical Directors of Respiratory Care.
National Foundation for Ectodermal Dysplasias.
National Hemophilia Foundation.
National Kidney Foundation.
National Multiple Sclerosis Society.
National Osteoporosis Foundation.
National Psoriasis Foundation.
Orthopaedic Trauma Association.
Pediatric Orthopedic Society of North America.
Pediatrix Medical Group? Neonatology and Pediatric Intensive Care Specialists.
Renal Physicians Association.
Scoliosis Research Society.
Society for Vascular Surgery.
Society of Cardiovascular & Interventional Radiology.
Society of Gynecologic Oncologists.
Society of Nuclear Medicine.
Society of Thoracic Surgeons.
The Alexander Graham Bell Association for the Deaf, Inc.
The American Society of Dermatophathology.
The Endocrine Society.
The Paget Foundation For Paget's Disease of Bone and Related Disorders.
The TMJ Association, Ltd.
National Committee to Preserve Social Security and Medicare.

By Mr. HEFLIN:

S. 1344. A bill to repeal the requirement relating to specific statutory authorization for increases in judicial salaries, to provide for automatic annual increases for judicial salaries, and for other purposes; to the Committee on the Judiciary.

JUDICIAL COST-OF-LIVING INCREASES LEGISLATION

Mr. HEFLIN. Mr. President, I am today introducing legislation to address the need of providing annual, automatic cost-of-living increases for the Federal Judiciary. This legislation would achieve two goals. First, it would repeal Section 140 of Public Law 97–42 (28 U.S.C. Sec. 461 note) a provision which was enacted in a continuing appropriation resolution in 1981. Second, it would delink Federal judges from Members of Congress and executive schedule employees of the executive branch with respect to receiving cost of living adjustments and would guarantee that Federal judges would automatically receive such annual adjustments, assuming economic conditions so justified.

Let me share with my colleagues some of the history relating to Section 140, and the reasons why I think it should be repealed. The Federal Salary Act of 1967 established a commission on executive, legislative and judicial salaries, which was popularly referred to as the ''Quadrennial Commission.'' The purpose of this commission was to review executive schedule positions (federal judges, Members of congress, and high ranking officials in all branches) and to make recommendations on how salaries should be adjusted.

In 1975 Congress enacted the Executive Salary Cost-of-Living Adjustment Act, which provided, for the first time, for annual cost-of-living adjustments for executive schedule officials. This statute was designed to give Federal judges, Members of Congress, and other high ranking officials the same annual adjustment that was given to other Federal employees. In October 1975, these executive schedule officials received a cost-of-living adjustment; however, from 1977–1981, Congress withheld cost-of-living adjustments for these officials. In the case of *United States v. Will*, 449 US 200 (1980), the Supreme Court issued a ruling which resulted in an increase in the salaries for Federal judges.

Two years later, Congress adopted an appropriation for Fiscal Year 1982, which provided in Section 140 that judges would not automatically receive an increase under the Executive Salary Cost-of-Living Adjustment Act, ''except as specifically authorized by act of Congress.'' The Ethics Reform Act of 1989 restored cost-of-living adjustments and amended the Adjustment Act, to provide for a method of computing annual pay adjustments for Federal judges and other executive schedule employees.

Cost-of-living adjustments were provided for Federal judges in calendar years 1990, 1991, 1992, and 1993. There have been no cost-of-living adjustments for Federal judges in 1994, 1995, nor it would appear in 1996. With regard to 1996, it appears that the Treasury, Postal Service and General Government Appropriations bill will again deny a cost-of-living adjustment for Federal judges since we are proposing to deny ourselves such an adjustment and under current law, adjustments for Federal judges are linked to adjustments for Members of Congress.

Having reviewed this history, it is my belief that Congress should take action to not only repeal Section 140, which currently bars cost-of-living adjustments in pay for Federal judges, except as specifically authorized by Congress, but to also delink such adjustments from those of Members of Congress and other executive schedule employees of the executive branch.

Delinkage will remove Federal judges from the highly charged political atmosphere surrounding cost-of-living adjustments. This legislation does not seek to raise judicial pay, but is in an

attempt to avoid a diminution in judicial compensation by allowing salaries to keep pace with increases in the cost of living.

Remember, judges are not like Members of Congress or high ranking executive schedule employees of the executive branch of the Federal Government. Members of Congress come and go, and likewise, executive schedule employees are high ranking political employees such as Cabinet secretaries, deputy secretaries, assistant secretaries, and deputy assistant secretaries, etc. They, too, being short-term employees, come and go from the private sector to the public sector.

Federal judges are different in this regard. They make a lifetime commitment to public service as Federal judges. They should be able to plan their financial futures based on the reasonable expectation that their compensation will at least keep even with annual cost-of-living increases.

I think it is imperative to remove the judicial pay process from the political arena. In the middle of the 1980's, this issue was widely discussed on television talk shows and various news programs, and it was very damaging to attracting top quality individuals to serve as Federal judges. We also know that there were a number of resignations in the Federal judiciary in the 1980's, because it was becoming very difficult to attract top individuals to serve on the Federal bench.

I believe that we must continue to attract and retain judges from all walks of life who have demonstrated superior legal skills whether they have served as State judges, private practitioners, academicians, prosecutors, or public defenders. If we fail to deal with this matter, we will soon attract only those judges who are independently wealthy and do not have to worry about providing for their families on a Federal judiciary salary.

I think this is unwise, and I hope that Congress will have the courage to repeal section 140 of Public Law 97–92 and further delink their cost-of-living adjustments from Members of Congress and executive schedule employees, thereby removing this matter from the political process once and for all.

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. 1344

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

SECTION 1. JUDICIAL COST-OF-LIVING INCREASES.

(a) REPEAL OF STATUTORY REQUIREMENT RELATING TO JUDICIAL SALARIES.—Section 140 of the resolution entitled ''A Joint Resolution making further continuing appropriations for the fiscal year 1982, and for other purposes.'', approved December 15, 1981 (Public Law 97–92; 95 Stat. 1200; 28 U.S.C. 461 note) is repealed.

(b) AUTOMATIC ANNUAL INCREASES.—Section 461(a) of title 28, United States Code, is amended to read as follows:

''(a) Effective on the first day of the first applicable pay period beginning on or after January 1 of each calendar year, each salary rate which is subject to adjustment under this section shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100) equal to the percentage of such salary rate which corresponds to the most recent percentage change in the Employment Cost Index, as determined under section 704(a)(1) of the Ethics Reform Act of 1989.''.

By Mr. SIMPSON (by request):

S. 1345. A bill to amend title 38, United States Code, and various other statues, to reform eligibility for Department of Veterans Affairs health care benefits, improve the operation of the Department, and improve the processes and procedures the Department uses to administer various benefits programs for veterans; and for other purposes; to the Committee on Veterans' Affairs.

THE DEPARTMENT OF VETERANS AFFAIRS IMPROVEMENT AND REINVENTION ACT OF 1995

● Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 1345, a bill to reform eligibility for Department of Veterans Affairs health care benefits, improve the operation of the Department, and improve the processes and procedures the Department uses to administer various benefit programs for veterans; and for other purposes. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated September 12, 1995.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the transmittal letter and the enclosed section-by-section analysis of the draft legislation.

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

S. 1345

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 ''Department of Veterans Affairs Improvement and Reinvention Act of 1995''.

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

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS HEALTH-CARE PROGRAMS

PART A—REFORM OF THE HEALTH CARE ELIGIBILITY SYSTEM

SEC. 101. DEFINITIONS.

Section 1701 is amended by striking out paragraphs numbered (5), (6), (7), (8), and (9) and inserting in lieu thereof the following:

''(5) Then term 'health care' means the most appropriate care and treatment for the patient furnished in the most appropriate setting, as determined by the Secretary, including the provision of such pharmaceuticals, supplies, equipment, devices, appliances and other materials as the Secretary determines to be necessary, and including hospital care, nursing home care, domiciliary care, outpatient care, rehabilitative care, home care, respite care, preventive care, and dental care.

''(6) The term 'hospital care' means care and treatment for a disability furnished to an individual who has been admitted to a hospital as a patient.

''(7) The term 'nursing home care' means care and treatment for a disability furnished to an individual who has been admitted to a nursing home as a resident.

''(8) The term 'domiciliary care' means the furnishing of shelter and food, and includes

necessary care and treatment for a disability furnished to a veteran with no adequate means of support, who has been admitted as a resident to a domiciliary facility under the direct jurisdiction of the Secretary.

''(9) The term 'outpatient care' means care and treatment for a disability, and preventive health services, furnished to an individual other than hospital, nursing home, or domiciliary care.

''(10) The term 'rehabilitative care' means such professional, counseling, and guidance services and treatment programs (other than those types of vocational rehabilitation services provides under chapter 31 of this title) as are necessary to restore, to the maximum extent possible, the physical, mental, and psychological functioning of an ill or disabled person.

''(11) The term 'home care' means outpatient care, rehabilitative care, and preventive health services furnished to an individual in the individual's home or other place of residence but may not include care or services that any other person or entity has a contractual or legal obligation to provide.

''(12) The term 'residential care' means the provision of room and board and such limited personal care for and supervision of residents as the Secretary determines, in accordance with regulations, are necessary for the health, safety, and welfare of residents, and the term 'community residential-care' means the provision of residential-care in a non-VA facility.

''(13) The term 'respite care' means care furnished on an intermittent basis in a department facility for a limited period to a veteran suffering from a chronic illness, who resides primarily in a private residence when such care will help the veteran to continue residing in such private residence.

''(14) The term 'preventive health services' remans care and treatment furnished to prevent disease or illness including periodic examinations, immunization, patient health education, and such other services as the Secretary determines are necessary to provide effective and economical preventive health care.''.

SEC. 102. ELIGIBILITY FOR HEALTH CARE.

Section 1710 is amended to read as follows:

''§1710. Eligibility for health care

''(a)(1) The Secretary shall, to the extent and in the amount provided in advance in appropriations acts for these purposes, furnish health care which the Secretary determines is needed to any veteran described in clauses (A), (C), and (D) of subsection (c)(1), subject to the priorities set forth in subsection (c) and to section 1715 and excluding care described in subsection (b).

''(2) The Secretary may furnish health care which the Secretary determines is needed to any veteran not described in clauses (A) through (D) of subsection (c)(1).

''(b) Subject to the priorities set forth in subsection (c), the Secretary may furnish nursing home care, respite care, home care, and domiciliary care which the Secretary determines is needed to any veteran.

''(c)(1) To the extent and in the amount provided in advance in appropriations acts for these purposes, the Secretary shall furnish health care under subsections (a) and (b) and sections 1712, 1712A, 1712B, 1714, 1717, 1718, 1719, 1720B, and 1751, in accordance with the following order of priority:

''(A) Veterans (i) who have compensable service-connected disabilities, (ii) who are former prisoners of war, (iii) whose discharge or release from the active military, naval or air service was for a disability incurred or aggravated in line of duty, and (iv) who are in receipt of, or who, but for a suspension pursuant to section 1151 (or both such a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that the veterans' continuing eligibility for such care is provided for in the judgment or settlement described in section 1151.

''(B) Veterans receiving care under sections 1712, 1712A, 1719, and 1720B.

''(C) Veterans with noncompensable service-connected disabilities, veterans of the Mexican Border period or World War I, and veterans receiving increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound.

''(D) Veterans with attributable income less than the threshold amount specified in section 1722 which is applicable to those veterans, provided they sign a declaration that their net worth, together with that of their spouse and dependent children, if any, does not exceed $50,000, and veterans receiving care under section 1751.

''(E) Veterans with attributable income greater than the threshold amount specified in section 1722 which is applicable to those veterans and veterans who do not sign the declaration described in clause (D).

''(2) The Secretary may, by regulation, establish additional priorities within each priority group established in paragraph (1) of this subsection, as the Secretary determines necessary.

''(d) Nothing in this section requires the Secretary to furnish care to a veteran to whom another agency of Federal, State, or local government has a duty under law to provide care in an institution of such government.

''(e)(1) The Secretary may furnish health care under subsections (a) and (b) of this section to any veteran described in subsection (c)(1)(E) who has attributable income greater than the amount specified in section 1722(a) which is applicable to that veteran, only if the veteran agrees to pay the United States the applicable amount determined under paragraph (2) of this subsection.

''(2) A veteran who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to—

''(A) for hospital care—

''(i) the lesser of the cost of furnishing such care, as determined by the Secretary, or the amount determined under paragraph (3) of this subsection; and

''(ii) $10 for every day the veteran receives hospital care.

''(B) for nursing home care—

''(i) the lesser of the cost of furnishing such care, as determined by the Secretary, or the amount determined under paragraph (3) of this subsection; and

''(ii) $5 for every day the veteran receives nursing home care; and

''(C) for outpatient care, an amount equal to 20 percent of the estimated cost of care, as determined by the Secretary.

''(3)(A) In the case of hospital care furnished during any 365-day period, the amount referred to in paragraph (2)(A)(i) of this subsection is—

''(i) the amount of the inpatient Medicare deductible, plus

''(ii) one-half of such amount for each 90 days of care (or fraction thereof) after the first 90 days of such care during such 365-day period.

''(B) In the case of nursing home care furnished during any 365-day period, the amount referred to in paragraph (2)(B)(i) of this subsection is the amount of the inpatient Medicare deductible for each 90 days of such care (or fraction thereof) during such 365-day period.

''(C)(i) Except as provided in clause (ii) of this subparagraph, in the case of a veteran who is admitted for nursing home care under this section after being furnished, during the preceding 365-day period, hospital care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of hospital care in connection with such payment, the veteran shall not incur any liability under paragraph (2)(B)(i) of this subsection with respect to such nursing home care until—

''(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

''(II) the end of the 365-day period applicable to the hospital care for which payment was made,

whichever occurs first.

''(ii) In the case of a veteran who is admitted for nursing home care under this section after being furnished, during any 365-day period, hospital care for which the veteran has paid an amount under subparagraph (A)(ii) of this paragraph and who has not been furnished 90 days of hospital care in connection with such payment, the amount of the liability of the veteran under paragraph (2)(B)(i) of this subsection with respect to the number of days of such nursing home care which, when added to the number of days of such hospital care, is 90 or less, is the difference between the inpatient Medicare deductible and the amount paid under such subparagraph until—

''(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

''(II) the end of the 365-day period applicable to the hospital care for which payment was made,

whichever occurs first.

''(D) In the case of a veteran who is admitted for hospital care under this section after having been furnished, during the preceding 365-day period, nursing home care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of nursing home care in connection with such payment, the veteran shall not incure any liability under paragraph (2) of this subsection with respect to such hospital care until—

''(i) the veteran has been furnished, beginning with the first day of such nursing home care furnished in connection with such payment, a total of 90 days of nursing home care and hospital care; or

''(ii) the end of the 365-day period applicable to the nursing home care for which payment was made.

whichever occurs first.

''(E) A veteran may not be required to make a payment under paragraph (2)(A)(i) or paragraph (2)(B)(i) of this subsection for any days of care in excess of 360 days of care during any 365-calendar-day period.

''(4) Amounts collected or received on behalf of the United States under this subsection shall be deposited in the Treasury as miscellaneous receipts.

''(5) For the purposes of this subsection, the term 'inpatient Medicare deductible' means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1395(b)) on the first day of the 365-day period applicable under paragraph (3) of this subsection.''.

SEC. 103. EXPOSURE-RELATED TREATMENT AUTHORITIES.

Section 1712 is amended to read as follows:

"§ 1712. Treatment for veterans exposed to certain toxic substances or hazards

''(a) Subject to subsections (b) and (c), and to the extent and in the amount provided in advance in appropriations acts for these purposes, the Secretary shall furnish hospital care and may furnish other health care to—

''(1) a veteran—

''(A) who served on active duty in the Republic of Vietnam during the Vietnam era, and

''(B) who the Secretary finds may have been exposed during such service to dioxin or was exposed during such service to a toxic substance found in a herbicide or defoliant used in connection with military purposes during such era,

for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure;

''(2) a veteran who the Secretary finds was exposed while serving on active duty to ionizing radiation from the detonation of a nuclear device in connection with such veteran's participation in the test of such a device or with the American occupation of Hiroshima and Nagasaki, Japan, during the period beginning on September 11, 1945, and ending on July 1, 1946, for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure; and

''(3) a veteran who the Secretary finds may have been exposed while serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War to a toxic substance or environmental hazard for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.

''(b) Hospital and health care may not be provided under subsection (a) with respect to a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than an exposure described in paragraph (1), (2), or (3) of subsection (a) in the case of a veteran described in the applicable paragraph.

''(c) Hospital and health care may not be provided—

''(1) after December 31, 1996, in the case of a veteran described in paragraph (1) of subsection (a); and

''(2) after September 30, 1997, in the case of a veteran described in paragraph (3) of subsection (a).''.

SEC. 104. MENTAL HEALTH SERVICES AND BEREAVEMENT COUNSELING FOR FAMILY MEMBERS.

Chapter 17 is amended by adding the following new section:

"§ 1712C. Mental health services and bereavement counseling for family members

''(a) If necessary for the effective treatment and rehabilitation of a patient who is either a veteran or a dependent or survivor receiving care under the last sentence of section 1713(b), the Secretary may furnish the services described in subsection (b) to members of the immediate family of the patient, the patient's legal guardian, or the individual in whose household such patient certifies an intention to live.

''(b) The services referred to in subsection (a) are—

''(1) consultation, professional counseling, and training as necessary in connection with the treatment of any disability of a patient receiving outpatient care for a physical condition;

''(2) mental health services, consultation, professional counseling, and training as necessary in connection with the treatment of a patient receiving hospital care for any disability, or receiving outpatient care for a service-connected mental health condition;

''(3) mental health services, consultation, professional counseling, and training as necessary in connection with the treatment of a patient receiving outpatient care for a nonservice-connected mental health condition, but only if the patient's treatment for the mental health condition was begun during a period of hospitalization and the services to the family member, guardian, or other person were commenced prior to the patient's discharge from such period of hospital care.

''(c) The Secretary may furnish counseling services for a limited period to any individual who was a recipient of services under subsection (a) of this section at the time of—

''(1) the unexpected death of the veteran; or

''(2) the death of the veteran while the veteran was participating in a hospice program (or a similar program) conducted by the Secretary,

if the Secretary determines that furnishing such services would be reasonable and necessary to assist such individual with the emotional and psychological stress accompanying the veteran's death.''.

SEC. 105. CONSOLIDATION OF SPECIAL AUTHORITIES PERTAINING TO PROSTHETIC DEVICES, AIDS FOR THE BLIND, AND AIDS FOR THE HEARING IMPAIRED.

Section 1714 is amended—

(1) by amending the heading to read as follows:

"§ 1714. Prosthetic devices and aids for the blind and hearing impaired";

(2) by designating subsection (b) as subsection (d) and inserting after subsection (a) the following new subsections (b) and (c):

''(b) The Secretary may procure medical equipment, prosthetic devices and similar appliances furnished under section 1710 or subsections (d) and (e) of this section by purchase or by manufacture, whichever the Secretary determines may be advantageous and reasonably necessary.

''(c) The Secretary may repair or replace any prosthetic or orthotic device or similar appliance (not including dental appliances) reasonably necessary to a veteran and belonging to such veteran which was damaged or destroyed by a fall or other accident caused by a service-connected disability for which such veteran is in receipt of, or but for the receipt of retirement pay would be entitled to, disability compensation.''; and

(3) by adding at the end the following new subsection (e):

''(e) The Secretary may furnish devices for assisting in overcoming the handicap of deafness (including telecaptioning television decoders) to any veteran who is profoundly deaf and is entitled to compensation on account of hearing impairment.''.

SEC. 106. DENTAL CARE.

Section 1715 is amended to read as follows:

"§ 1715. Dental care

''(a) The Secretary may, within the limits of Department facilities, furnish a veteran receiving hospital, nursing home, or domiciliary care in a Department facility with—

''(1) any dental services and treatment, and related dental appliances necessary for continued safe and effective treatment of other disabilities for which the veteran is receiving care in the VA facility; and

''(2) any dental services and treatment for which the veteran is eligible under subsection (b) of this section.

''(b)(1) The Secretary may furnish outpatient dental services and treatment, and related dental appliances under this chapter only for a dental condition or disability—

''(A) which is service-connected and compensable in degree;

''(B) which is service-connected, but not compensable in degree, but only if—

''(i) the dental condition or disability is shown to have been in existence at the time of the veteran's discharge or release from active military, naval, or air service;

''(ii) the veteran had served on active duty for a period of not less than 180 days or, in the case of a veteran who served on active duty during the Persian Gulf War, 90 days immediately before such discharge or release;

''(iii) application for treatment is made within 90 days after such discharge or release, except that (I) in the case of a veteran who reentered active military, naval, or air service within 90 days after the date of such veteran's prior discharge or release from such service, application may be made within 90 days from the date of such veteran's subsequent discharge or release from such service, and (II) if a disqualifying discharge or release has been corrected by competent authority, application may be made within 90 days after the date of correction; and

''(iv) the veteran's certificate of discharge or release from active duty does not bear a certification that the veteran was provided, within the 90-day period immediately before the date of such discharge or release, a complete dental examination (including dental X-rays) and all appropriate dental services and treatment indicated by the examination to be needed.

''(C) which is a service-connected dental condition or disability due to combat wounds or other service trauma, or of a former prisoner of war;

''(D) which is associated with and is aggravating a disability resulting from some other disease or injury which was incurred in or aggravated by active military, naval, or air service;

''(E) which is a nonservice-connected condition or disability of a veteran for which treatment was begun while such veteran was receiving hospital care under this chapter and such services and treatment are reasonably necessary to complete such treatment;

''(F) from which a veteran who is a former prisoner of war and who was detained or interned for a period of not less than 90 days is suffering;

''(G) from which a veteran who has a service-connected disability rated as total is suffering; or

''(H) the treatment of which is medically necessary (i) in preparation for hospital admission, or (ii) for a veteran otherwise receiving care or services under this chapter.

''(2) The Secretary concerned shall at the time a member of the Armed Forces is discharged or released from a period of active military, naval, or air service of not less than 180 days or, in the case of a veteran who served on active duty during the Persian Gulf War, 90 days provide to such member a written explanation of the provisions of clause (B) of paragraph (1) of this section and enter in the service records of the member a statement signed by the member acknowledging receipt of such explanation (or, if the member refuses to sign such statement, a certification from an officer designated for such purpose by the Secretary concerned that the member was provided such explanation).

''(3) The total amount which the Secretary may expend for furnishing, during any twelve-month period, outpatient dental services, treatment, or related dental appliances to a veteran under this section through private facilities for which the Secretary has contracted under clause (1), (2), or (5) of section 1703(a) of this title may not exceed $1,000 unless the Secretary determines, prior

to the furnishing of such services, treatment, or appliances and based on an examination of the veteran by a dentist employed by the Department (or, in an area where no such dentist is available, by a dentist conducting such examination under a contract or fee arrangement), that the furnishing of such services, treatment, or appliances at such cost is reasonably necessary.

''(4)(A) Except as provided in subparagraph (B) of this subsection, in any year in which the President's Budget for the fiscal year beginning October 1 of such year includes an amount for expenditures for contract dental care under the provisions of section 1710(a) of this title (other than care for a veteran of the Mexican border period or of World War I, and a veteran who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation or allowance)) and section 1703 of this title during such fiscal year in excess of the level of expenditures made for such purpose during fiscal year 1978, the Secretary shall, not later than February 15 of such year, submit a report to the appropriate committees of the Congress justifying the requested level of expenditures for contract dental care and explaining why the application of the criteria prescribed in section 1703 of this title for contracting with private facilities and in section 1715(a) of this title for furnishing incidental dental care to hospitalized veterans will not preclude the need for expenditures for contract dental care in excess of the fiscal year 1978 level of expenditures for such purpose. In any case in which the amount included in the President's Budget for any fiscal year for expenditures for contract dental care under such provisions is not in excess of the level of expenditures made for such purpose during fiscal year 1978 and the Secretary determines after the date of submission of such budget and before the end of such fiscal year that the level of expenditures for such contract dental care during such fiscal year will exceed the fiscal year 1978 level of expenditures, the Secretary shall submit a report to the appropriate committees of the Congress containing both a justification (with respect to the projected level of expenditures for such fiscal year) and an explanation as required in the preceding sentence in the case of a report submitted pursuant to such sentence. Any report submitted pursuant to this paragraph shall include a comment by the Secretary on the effect of the application of the criteria prescribed in section 1715(a) of this title for furnishing incidental dental care to hospitalized veterans.

''(B) A report under subparagraph (A) of this paragraph with respect to a fiscal year is not required if, in the documents submitted by the Secretary to the Congress in justification for the amounts included for Department programs in the President's Budget, the Secretary specifies with respect to contract dental care described in such subparagraph—

''(i) the actual level of expenditures for such care in the fiscal year preceding the fiscal year in which such Budget is submitted;

''(ii) a current estimate of the level of expenditures for such care in the fiscal year in which such Budget is submitted; and

''(iii) the amount included in such Budget for such care.

''(c) Dental services and related appliances for a dental condition or disability described in paragraph (1)(B) of subsection (b) of this section shall be furnished on a one-time completion basis, unless the services rendered on a one-time completion basis are found unacceptable within the limitations of good professional standards, in which event such additional services may be afforded as are required to complete professionally acceptable treatment.

''(d) Dental appliances, to be furnished by the Secretary under this section may be procured by the Secretary either by purchase or by manufacture, whichever the Secretary determines may be advantageous and reasonably necessary.''.

SEC. 107. HOME IMPROVEMENTS AND STRUCTURAL ALTERATIONS.

Section 1717 is amended to read as follows:

''§ 1717. Home improvements and structural alterations

''(a) The Secretary may furnish improvements and structural alterations to the home of a veteran if necessary for the effective and economical treatment of a disability of the veteran, but only if the improvements or alterations are necessary to assure the continuation of treatment or to provide the veteran access to the home or to essential lavatory and sanitary facilities.

''(b) The cost of improvements and structural alterations (or the amount of reimbursement therefor) furnished under subsection (a) may not exceed—

''(1) $4,100 if needed—

''(A) for treatment of a service-connected disability (including a disability that was incurred or aggravated in line of duty and for which the veteran was discharged or released from the active military, naval, or air service);

''(B) for any disability of a veteran who has a service-connected disability rated at 50 percent or more; and

''(C) to any veteran for a disability for which the veteran is in receipt of compensation under section 1151 of this title or for which the veteran would be entitled to compensation under that section but for a suspension pursuant to that section (but in the case of such a suspension, such medical services may be furnished only to the extent that such person's continuing eligibility for medical services is provided for in the judgment or settlement described in that section); and

''(2) $1,200 in all other cases.''.

SEC. 108. FURNISHING MEDICATIONS PRESCRIBED BY NON-VA PHYSICIANS.

Section 1719 is amended to read as follows:

''§ 1719. Medications prescribed by non-VA physicians; immunization programs

''(a) The Secretary shall, to the extent and in the amount provided in advance in appropriation acts for these purposes, furnish to each veteran who is receiving additional compensation or allowance under chapter 11 of this title, or increased pension as a veteran of a period of war, by reason of being permanently housebound or in need of regular aid and attendance, such drugs and medicines as may be ordered on prescription of a duly licensed physician as specific therapy in the treatment of any illness or injury suffered by such veteran: provided, that the Secretary shall continue to furnish such drugs and medicines so ordered to any such veteran in need of regular aid and attendance whose pension payments have been discontinued solely because such veteran's annual income is greater than the applicable maximum annual income limitation, but only so long as such veteran's annual income does not exceed such maximum annual income limitation by more than $1,000.

''(b) In order to assist the Secretary of Health and Human Services in carrying out national immunization programs under other provisions of law, the Secretary may authorize the administration of immunizations to eligible veterans who voluntarily request such immunizations in connection with the provision of care for a disability under this chapter in any Department health care facility. Any such immunization shall be made using vaccine furnished by the Secretary of Health and Human Services at no cost to the Department. For such purpose, notwithstanding any other provision of law, the Secretary of Health and Human Services may provide such vaccine to the Department at no cost. Section 7316 of this title shall apply to claims alleging negligence or malpractice on the part of Department personnel granted immunity under such section.''.

SEC. 109. FURNISHING CARE IN COMMUNITY NURSING HOMES.

Section 1720 is amended—

(1) in the heading by striking out the semicolon and all that follows;

(2) in subsection (a)(1)(A)(i), by striking out ''hospital care, nursing home care, or domiciliary'' and inserting in lieu thereof ''health'';

(3) by striking out subsection (a) and redesignating subsection (e) as subsection (d); and

(4) by striking out subsection (f).

SEC. 110. FURNISHING RESIDENTIAL CARE.

Section 1730 is amended—

(1) by redesignating subsections (a), (b), (c), (d), and (e) as subsections (b), (c), (d), (e), and (f), respectively;

(2) by inserting the following new subsection (a):

''(a)(1) The Secretary may furnish residential care to a veteran in receipt of hospital care in a VA facility when such care would be an alternative to continued hospital care.

''(2) The Secretary may only furnish care under paragraph (1) of this subsection through contracts with community residential-care facilities—

''(A) when the veteran has no resources to pay for the care, as determined by the Secretary in regulations; and

''(B) for a period not to exceed 90 days during any 12-month period.''.

(3) by amending subsection (b), as so redesignated, to read as follows:

''(b) Subject to this section and regulations to be prescribed by the Secretary under this section, the Secretary may assist a veteran who does not meet the requirement set forth in subsection (a)(2)(A) of this section by referring the veteran for placement in, and aiding the veteran in obtaining placement in, a community residential-care facility if—

''(1) at the time of initiating the assistance, the Secretary—

''(A) is furnishing the veteran hospital, domiciliary, nursing home, or outpatient care; or

''(B) has furnished the veteran such care or services within the preceding 12 months; and

''(2) placement of the veteran in a community residential-care facility is appropriate.''.

(4) in subsection (c), as so redesignated, by striking out ''subsection (a) of'' in paragraph (1), and by inserting ''community residential-care'' before ''facility'' the first time it appears in paragraph (2);

(5) in subsection (d), as so redesignated, by striking out ''(b)'' and inserting in lieu thereof ''(c)'';

(6) in subsection (e), as so redesignated, by striking out ''(b)'' and inserting in lieu thereof ''(c)'';

(7) in subsection (f), as so redesignated, by striking out ''(b)(2) or (c)(1)'' and ''(d)'' and inserting in lieu thereof ''(c)(2) or (d)(1)'' and ''(e)'';

(8) by striking subsection (g)

SEC. 111. EXPANSION OF AUTHORITY TO SHARE HEALTH-CARE RESOURCES.

(a) The text of section 8151 is amended to read as follows:

''It is the purpose of this subchapter to improve the quality of health care provided veterans under this title, by authorizing the Secretary to enter into agreements with

health-care providers in order to share health-care resources with, and receive health-care resources from those health care providers, provided there is no diminution of services to veterans. Among other things, it is intended by these means to strengthen the medical programs at Department facilities located in small cities or rural areas that are remote from major medical centers.''

(b) Section 8152 is amended—

(1) by striking out paragraphs (1) and (2) and redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively; and

(2) by amending paragraph (1), as so redesignated, to read as follows:

''(1) The term 'health-care resource' includes health care as that term is defined in paragraph (5) of section 1701, any other health-care service, and any health-care support or administrative resource.''.

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

''(3) The term 'health-care providers' includes health-care plans, insurers, organizations, institutions, or any other entity or individual who furnishes any health-care resource.''.

(c) Section 8153 is amended—

(1) by amending the heading to read as follows:

''§ 8153. Health-care resource sharing'';

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

''(a)(1) The Secretary may, when the Secretary determines it to be necessary in order to secure health-care resources which otherwise might not be feasibly available, or to effectively utilize health-care resources, make arrangements, by contract or other form of agreement, without regard to any law or regulation pertaining to competitive procedures, for the mutual use, or exchange of use, of health-care resources between Department health-care facilities and non-Department health-care providers.'';

(3) in subsection (c), by striking out ''hospital care and medical services'' and ''hospital care or medical services'' and inserting in lieu thereof ''health care'' in both places; and

(4) in subsection (d), by striking out ''hospital care and health services'' and inserting in lieu thereof ''health care''.

(5) by striking out subsection (e).

(d) The table of sections at the beginning of chapter 81 is amended by striking out the item relating to section 8153 and inserting in lieu thereof the following:

''8153. Health care resource sharing''.

SEC. 112. AUTHORIZATION OF APPROPRIATIONS.

Subchapter II of chapter 17 is amended by adding at the end the following new section:

''§ 1720D. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subchapter.

SEC. 113. CONFORMING AMENDMENTS.

(a) Section 1703 is amended—

(1) by amending the section heading to read as follows:

''§ 1703. Contracts for hospital and outpatient care'';

(2) by striking out the words ''medical services'' wherever they appear and inserting in lieu thereof ''outpatient care'';

(3) in the first sentence of subsection (a), by striking out ''or services'' and ''or 1712'';

(4) by amending paragraph (2) of subsection (a) to read as follows:

''(2) Outpatient care for the treatment of any disability of—

''(A) a veteran with a service-connected disability rated at 50 percent or more;

''(B) a veteran who has been furnished hospital care, nursing home care, or domiciliary care, when reasonably necessary to complete treatment incident to such care for a period up to 12 months after discharge from such care unless the Secretary authorizes a longer period of care after finding that a longer period is required by reason of the disability being treated; or

''(C) a veteran of the Mexican border period or World War I, or a veteran who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance) if the Secretary has determined, based on an examination by a physician employed by the Department (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement), that the medical condition of such veteran precludes appropriate treatment in Department facilities.''; and

(5) by amending paragraph (5) of subsection (a) to read as follows:

''(5) Hospital care, or outpatient care for veterans in a State (other than the Commonwealth of Puerto Rico) not contiguous to the contiguous States.''.

(6) in paragraph (6) of subsection (a), by striking out ''to obviate the need for hospital admission''; and

(7) in paragraph (7) of subsection (a), by striking out ''1712(b)(1)(F)'' and inserting in lieu thereof ''1715(b)(1)(F)''.

(b) Section 1704 is repealed.

(c) Section 1711 is amended by striking ''medical services'' wherever it appears and inserting in lieu thereof ''outpatient care''.

(d) Section 1712A is amended—

(1) in subsection (b)(1), by striking ''1712(a)(5)(B)'' and inserting in lieu thereof ''1710'';

(2) in subsection (b)(2), by striking ''1701(6)(B)'' and inserting in lieu thereof ''1712C''; and

(3) in subsection (e)(1), by striking ''sections 1712(a)(1)(B) and'' and inserting in lieu thereof ''section'';

(e) Section 1713 is amended by striking out ''medical care'' each place it appears and inserting in lieu thereof ''health care''.

(f) Section 1718 is amended in subsection (e), by striking out ''1712(i) of this title'' and inserting ''1710(c)'' in lieu thereof.

(g) Section 1720A is amended—

(1) by striking out ''hospital, nursing home, and domiciliary care and medical rehabilitative services'' and inserting in lieu thereof ''health care''; and

(2) by striking out ''1995'' and inserting in lieu thereof ''1997''.

(h) Section 1720B is repealed.

(i) Section 1720D is redesignated as section 1720B.

(j) Section 1724 is amended—

(1) by amending the heading to read as follows:

''§ 1724. Health care abroad'';

and

(2) by striking out ''medical services'' wherever it appears and inserting in lieu thereof ''outpatient care''.

(k) Section 1727 is amended by striking out ''medical services'' and inserting in lieu thereof ''outpatient care''.

(l) Section 1728 is amended by striking out ''medical services'' and inserting in lieu thereof ''outpatient care''.

(m) Section 1734 is amended—

(1) by amending the heading to read as follows:

''§ 1734. Health care in the United States'';

and

(2) by striking ''hospital and nursing home care and medical services'' and inserting in lieu thereof ''health care''.

(n) The table of sections for subchapters I, II, and III and IV at the beginning of chapter 17 is amended to read as follows:

''Subchapter I—General

PART B—GENERAL PROGRAM ADMINISTRATION IMPROVEMENTS

SEC. 120. MEANS TEST REFORM.

(a) Section 1722 is amended to read as follows:

''§ 1722. Income thresholds

''(a)(1) For purposes of section 1710(c)(1)(D), section 1710(c)(1)(E) and section 1710(e), the

income threshold for the calendar year beginning on January 1, 1995, is—

''(A) $20,469 in case of a veteran with no dependents; and

''(B) $24,585 in the case of a veteran with one dependent; plus $1,368 for each additional dependent.

''(2) Effective on January 1, of each year after 1995, the amounts specified in paragraph (1) shall be increased by the percentage by which the maximum rates of pension were increased under section 5312(a) during the preceding calendar year.

''(b) For purposes of this chapter, the term 'attributable income of a veteran' means the income of a veteran for the previous year determined in the same manner as the manner in which a determination is made of the total amount of income by which the rate of pension for such veteran under section 1521 of this title would be reduced if such veteran were eligible for pension under that section.

''(c) If a veteran has attributable income greater than the applicable amount specified in subsection (a), but projections of the veteran's income for the current year are that it will be substantially below that amount, then to avoid a hardship to the veteran, the Secretary may deem the veteran to have an attributable income less than the applicable amount specified in subsection (a).

''(d) For the purposes of section 1724(c) of this title, the fact that a veteran is—

''(1) eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

''(2) a veteran with a service-connected disability; or

''(3) in receipt of pension under any law administered by the Secretary,

''shall be accepted as sufficient evidence of such veteran's inability to defray necessary expenses.''.

(b) Section 1722A(a)(3)(B) is amended by inserting ''attributable'' before ''income''.

SEC. 121. VA RETENTION OF FUNDS COLLECTED FROM THIRD PARTIES.

(a) Section 1729(g) is amended—

(1) in paragraph (3)(A) by striking ''1710(f) of this title for hospital care or nursing home care, under section 1712(f) of this title for medical services'' and inserting in lieu thereof ''1710(e) of this title for health care''.

(2) by amending paragraph (4) to read as follows:

''(4) Not later than January 1 if each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of the unobligated balance remaining in the Fund at the close of business on September 30, the preceding year—

''(A) minus any part of such balance that the Secretary determines is necessary in order to enable the Secretary to defray, during the fiscal year in which the deposit is made, the expenses, payments, and costs described in paragraph (3); and

''(B) minus twenty-five percent of that part of such balance that exceeds the baseline in the President's Budget for third party deposits in that fund for that fiscal year, which shall be retained by VA and distributed to VA health care facilities for use in improving the quality of health care provided by those facilities.''.

TITLE II—BENEFIT PROGRAMS

PART A—LOAN GUARANTY PROGRAM

SEC. 201. TERMINATION OF MANUFACTURED HOUSING LOAN PROGRAM.

Section 3712 is amended—

(1) by striking out subsection (l) in its entirety;

(2) by redesignating subsection (m) as subsection (l); and

(3) by inserting after subsection (l), as so redesignated, the following new subsection:

''(m)(1) Except as provided in paragraph (2) of this subsection, no loan closed after September 30, 1995, may be guaranteed under this section.

''(2) Paragraph (1) of this subsection shall not apply to a loan described in subsection (a)(1)(F) of this section.''.

SEC. 202. LOAN FEES.

(a) Section 3729(a)(2) is amended—

(1) by striking out in subparagraph (A) ''or for any purpose specified in section 3712 (other than section 3712(a)(1)(F)) of this title'';

(2) by striking out in subparagraphs (B) and (C) ''(except for a purchase referred to in section 3712(a) of this title)'' each place it appears;

(3) by inserting ''or'' at the end of clause (i) of subparagraph (D);

(4) by striking out clause (ii) of subparagraph (D);

(5) by striking out in clause (iii) of subparagraph (D) ''(other than a purchase referred to in section 3712 of this title)''; and

(6) by redesignating clause (iii) of subparagraph (D) as clause (ii).

(b) The amendments made by this section shall take effect October 1, 1995.

SEC. 203. CONTRACTING FOR PORTFOLIO LOAN SERVICES.

(a) Subchapter III of chapter 37 is amended by inserting after section 3735 the following new section:

''§ 3736. Portfolio loan servicing

''(a) Notwithstanding the provisions of any other law, the Secretary is authorized to contract with a private entity for the servicing of loans made or acquired by the Secretary under this chapter. The contract may provide for the contractor to retain, as compensation for the work performed under such contract, a portion of the interest collected on such loans. A contract under this subsection may be for a term not in excess of 15 years.

''(b) For purposes of the Federal Credit Reform Act of 1990, the deduction from interest retained by a contractor as authorized by subsection (a) of this section shall be deemed to be a cost of a direct loan or the cost of a loan guarantee, and not an administrative expense.''.

(b) The table of sections at the beginning of such chapter is amended by inserting below the item relating to section 3735 the following new item:

''3736. Portfolio loan servicing.''.

PART B—EDUCATION PROGRAMS

SEC. 210. ELECTRONIC SIGNATURES ON DOCUMENTS CONCERNING EDUCATION BENEFITS FOR VETERANS.

(a) Section 3674(a)(3) is amended by inserting ''(A)'' before ''Each'' and by adding at the end the following new subparagraph (B):

''(B) The Secretary may require that any report or certification required by this subsection be submitted to the Department electronically by such means and in such format as the Secretary may prescribe, including a requirement for the use of a digital signature or other individually identified electronic designation of the reporting or certifying party on the electronic reports and certifications submitted. Such a digital signature or other electronic designation will be deemed to be the original signature of the reporting or certifying party.''.

(b) Section 3680(g) amended—

(1) by inserting ''(1)'' after the ''(g)'' at the beginning; and

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

''(2) The Secretary may require that any report or certification required under this section be submitted to the Department electronically by such means and in such format as the Secretary may prescribe, including a requirement for the use of a digital signature or other individually identified electronic designation of the reporting or certifying party on the electronic reports and certifications submitted. Such a digital signature or other electronic designation will be deemed to be the original signature of the reporting or certifying party.''.

(c) Section 3684 is amended by adding at the end the following new subsection:

''(d) For purposes of this section, the Secretary may require that any report or certification required by this section is to be submitted to the Department electronically by such means and in such format as the Secretary may prescribe, including a requirement for the use of a digital signature or other individually identified electronic designation of the reporting or certifying party on the electronic reports and certifications submitted. Such a digital signature or other electronic designation will be deemed to be the original signature of the reporting or certifying party.''.

(d) Section 5101 (a) is amended—

(1) by inserting ''(1)'' after the ''(a)'' at the beginning; and

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

''(2) The secretary is authorized to provide that a claim for education benefits under laws administered by the Department may be submitted to the Department electronically through an electronic terminal, telephone, computer or other electronic means in such manner as the Secretary may prescribe, including a requirement for the use of a digital signature or other individually identified electronic designation of the claimant on the electronic claim submitted by the claimant. Such a digital signature or other electronic designation will be deemed to be the individual claimant's original signature.''.

(e) Chapter 53 is amended—

(1) by adding at the end the following new section:

''§ 5320. Verification of education benefits information

''(a) The Department may utilize data electronically provided to the Department by any individual in initially establishing or verifying eligibility or continued eligibility of an individual for education benefits under laws administered by the Department. The data will be in the form prescribed by the Secretary.

''(b) Notwithstanding section 552a(o) and (p) of title 5, the Secretary may suspend, terminate, or reduce payments based on the data described in subsection (a) once the Secretary (1) informs the individual of the data provided electronically, (2) gives the individual an explanation of the procedures to contest such data, and (3) gives notice of the individual's right to appeal the decision in the same manner as applies to other information and findings relating to eligibility for or entitlement to the payment of such benefits.''; and

''(2) by amending the table of sections for such chapter by adding at the end the following new item:

''§ 5320. Verification of education benefits information''.

SEC. 211. ELECTRONIC FUNDS TRANSFER FOR EDUCATION BENEFITS PAYMENTS.

Section 5120(d) is amended—

(a) by striking out ''Notwithstanding'' and inserting in lieu thereof ''(1) Except as provided in paragraph (2) of this subsection, and notwithstanding''; and

(b) by adding a the end thereof the following new paragraph:

''(2)(A) Notwithstanding the provisions of section 3680(d)(4) of this title and subsection

(a) of this section, the Secretary is authorized to require, pursuant to an agreement with the Secretary of the Treasury under which the Secretary certifies such benefits for payment, that education benefits provided under laws administered by the Department be paid through electronic funds transfer, to include a program combining use of vouchers and federally established electronic benefit transfer accounts or any other electronic funds transfer program designated by the Secretary.

''(B) For purpose of this paragraph, the term ''electronic funds transfer'' means any transfer of funds, other than a transaction originated by cash, check or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.''.

SECTION BY SECTION ANALYSIS

SECTION 101—DEFINITIONS

Section 101 of the draft bill would amend 38 U.S.C. §1701, which defines a number of terms that are important for administering VA health care eligibility laws. The definitions of several terms are revised to make them simpler. In addition to revising definitions, the bill would add definitions of the terms ''health care'' and ''residential care'' to section 1701, and transfer definitions of terms into section 1701. For example, the definition of the term respite care is moved from section 1720B.

Definition of health care

The term ''health care'' is at the heart of the reformed eligibility system established by other provisions of the draft bill. The definition of the term first states that it means the most appropriate care and treatment of the patient, furnished in the most appropriate setting. The definition further states that the term ''health care'' includes all of the generally accepted modes of health care that VA furnishes to veterans. Thus, the term is defined as including hospital care, nursing home care, domiciliary care, outpatient care, rehabilitative care, home care, respite care, preventive care, and dental care. The definition also states that health care includes pharmaceuticals, supplies, equipment, devices, appliances and other necessary materials. The intent of that language is to include all of the different types of medical equipment, prosthetic and orthotic devices, and other supplies the Department now furnishes to veterans, many of which are included in the current definition of the term ''medical services.''

Definition of hospital care, nursing home care and outpatient care

Section 1701 would also include specific definitions of the various terms used in the definition of health care. Included are definitions of hospital care, nursing home care, and outpatient care. Each of those three terms are defined simply and it is intended that they carry the same meanings that are commonly understood in the medical community.

Definition of domiciliary care

A new definition of the term ''domiciliary care'' is added to section 1701. It provides that such care is applicable only to veterans with no adequate means of support. That language is intended to continue in effect one of the eligibility requirements for domiciliary care that is now included in 38 U.S.C. §1710(b).

Definition of rehabilitative care

The definition of the term ''rehabilitative care'' remains unchanged from existing law.

Definition of home care

The bill would add a definition of the term ''home care'' to section 1701. The definition intentionally limits home care to health services and does not include health-related services such as homemaker or social support services. The definition also includes language stating that the term does not include care or services that any other person or entity has a contractual or legal obligation to furnish. The purpose of that language is to ensure that VA not be required to furnish home care to a veteran who resides in a board and care facility, a residential care facility, a nursing home, or other institution where the institution has a legal or contractual responsibility to provide the type of care included in home care.

Definition of residential care

The bill would add a definition of the term residential care to section 1701 referring to the new type of residential care which would be authorized in section 1730. The definition is patterned on the definition of the term ''community residential-care'' that is now included in 38 U.S.C.§1730(f). The term would be defined as the provision of room and board and such limited personal care and supervision of residents as the Secretary determines, in regulations, is needed for the health, safety and welfare of residents. The definition of ''community residential-care'' now in 1730 would be deleted. In lieu of that, the new definition would provide that community residential care is simply residential care furnished in a non-VA facility.

Definition of respite care and preventive health services

Section 101 would add a definition of the term ''respite care'' to section 1701 that is essentially the same as the definition of that term now included in 38 U.S.C. §1720B. Section 101 would also revise the definition of preventive health services to make it somewhat shorter and more concise then the existing definition.

SECTION 102—BASIC HEALTH CARE ELIGIBILITY

Section 102 of the draft bill would completely revise 38 U.S.C. §1710. The revised section 1710 would become the basic eligibility provision for most of the conventional health care benefits VA furnishes, including hospital, nursing home, domiciliary, and outpatient care.

Authority to furnish health care

Subsection (a) of the revised section 1710 would provide that the Secretary ''shall'' furnish certain veterans with needed health care, subject to specified conditions and limitations, and ''may'' furnish such care to other veterans. Those veterans to whom the Secretary ''shall'' furnish care, those with so-called mandatory eligibility, would generally be the same as those who currently have mandatory eligibility for VA hospital care under the current 38 U.S.C. §1710(a)(1). Those veterans are commonly referred to as category A veterans, and include veterans having service-connected disabilities, former prisoners of war, World War I veterans, and nonservice-connected veterans with incomes below the statutorily established income threshold commonly referred to as the means test threshold. Subsection (a)(1) of the revised section 1710 specifically provides that the requirement that the Secretary ''shall'' furnish health care would not apply to dental care, nursing home care, home care, respite care and domiciliary care. Those veterans to whom the Secretary ''may'' furnish health care under the bill would be the so-called category C veterans, generally those having no service-connected disabilities who have incomes above the means test income threshold.

Because ''health care'' is defined in section 1701 as including outpatient care, the revised section 1710 would have the effect of completely eliminating the currently existing requirements that VA furnish outpatient care to many veterans only if it is needed as pre-hospital care, post-hospital care, or to obviate the need for hospital care. Additionally, the changes would permit the Department to furnish needed prosthetic and orthotic devices to any veteran eligible for health care regardless of whether care is furnished on an inpatient or outpatient basis.

Subsection (a) of the revised section 1710 would also make the provision of all health care subject to the prioritization scheme described in subsection (d) of the revised section 1710. Finally, subsection (a) would include language explicitly providing that the Department shall furnish care only to the extent that Congress appropriates funds for that purpose in advance of delivering the care.

Authority to furnish nursing home, domiciliary, respite and home care

Subsection (b) of the revised section 1710 would provide that the Secretary ''may'' furnish needed nursing home care, home care, respite care, and domiciliary care to any veteran, subject to the limits of available resources, and subject to the same priority scheme described in subsection (d). Under current law, all veterans have so-called discretionary eligibility for nursing home care, and that is unchanged. However, the language making the provision of nursing home, domiciliary, respite and home care subject to available resources, and subject to a priority scheme is new.

Priorities for the purpose of furnishing health care

Subsection (c) of the revised section 1710 would require the Secretary to furnish health care benefits in accordance with specified priorities. The provision would apply to nearly all health-care benefits VA furnishes. Subsection (c) would set up five priority groups. It further provides that the Secretary could, by regulation, establish additional priorities within each statutory priority group.

Priority group one

The first priority group includes veterans with compensable service-connected disabilities and former prisoners of war. In addition, this group includes two smaller categories of veterans, those discharged from the military for a service-related disability, but who for various reasons have not sought service-connection, and those injured as a result of care rendered by VA who are receiving benefits under 38 U.S.C. §1151.

Priority group two

The second priority group includes veterans who receive certain specialty care under one of the following four special treatment authorities.

1. Veterans receiving care for disabilities which may possibly be associated with exposure to herbicides (such as Agent Orange) in Vietnam, to radiation during nuclear weapons testing, or as a result of the bombing of Hiroshima and Nagasaki, Japan, or to environmental hazards or other toxins in the Persian Gulf. A revised section 1712 would be the basic authority for this care.

2. Veterans receiving readjustment counseling. Section 1712A is the basic authority for this care.

3. Veterans receiving increased pension or compensation benefits because they are housebound or in need of aid and attendance, who obtain medication from VA based on prescriptions written by their private physicians. A revised section 1719 would be the authority for the Department to furnish the medication.

4. Veterans receiving sexual trauma counseling. A revised section 1720 would provide authority for this counseling.

Priority group three

The third priority group includes veterans with service-connected disabilities rated 0%, veterans of the Mexican Border period, veterans of World War I, and veterans receiving increased pension based on the need of regular aid and attendance or by reason of being permanently housebound.

Priority group four

The fourth priority group includes nonservice-connected veterans with incomes below the current means test income thresholds who also sign a declaration that their family net worth does not exceed $50,000. The income thresholds are the same as those now in effect, which are set forth in 38 U.S.C. §1722. For calendar year 1995, they are $20,469 for a single veteran, $24,585 for a veteran with one dependent, and $1,368 for each additional dependent. If the veteran's net worth exceeds $50,000, or the veteran refuses to sign a declaration that it is less than that amount, the veteran is included in priority group five described below. This fourth priority group also includes veterans receiving screening, counseling, and treatment for sickle cell anemia under 38 U.S.C. §1751.

Priority group five

The fifth priority group includes nonservice-connected veterans with incomes above the current means test income thresholds. It also includes nonservice-connected veterans with incomes below that level, but who have family net worth in excess of $50,000, or who refuse to sign a declaration that net worth is less than that amount.

Care furnished by other Government entities

Subsection (d) of the revised section 1710 is identical to subsection (g) in the current section 1710, which provides that VA is not obligated to provide care to veterans, such as those who are incarcerated, to whom another governmental entity is legally obligated to furnish care.

Copayments

Subsection (e) of the revised section 1710 retains the currently existing copayment structure with one substantive change. Generally, veterans with incomes above the means test income thresholds must agree to pay copayments amounting to the Medicare deductible for each 90 days of care, and must pay per diem amounts of $10 for each day of hospital care and $5 for each day of nursing home care. The first substantive change has to do with the outpatient care copayment. Currently, veterans required to pay a copayment must pay 20% of the average cost of an outpatient visit. Subsection (e) would change that to provide that veterans pay 20% of the estimated cost of the care. The change would be made to bring copayments more in line with the actual cost of furnishing care.

Furnishing inpatients with dental and outpatient care

Two provisions now included in section 1710(c) would be deleted from the revised section 1710. The first provision permits the Department to furnish dental care to inpatients when needed to continue safe and effective treatment of other disabilities for which the veteran is receiving care. That provision has been simplified and included as subsection (a) of the revised section 1715, which is the section concerned with dental care. The second provision pertains to furnishing outpatient care to inpatients. It has been deleted because it would be unnecessary with the other changes in law the bill would make it simplify eligibility for outpatient care.

SECTION 103—AGENT ORANGE, RADIATION, AND PERSIAN GULF TREATMENT AUTHORITIES

Section 103 would completely revise the current 38 U.S.C. §1712, which now provides the Department with authority to furnish outpatient care. Much of the language in the current section 1712 is unnecessary given the changes in basic eligibility for outpatient care and would be deleted. Language in the current section that must be retained is transferred to other sections in chapter 17. Finally, the so-called Agent Orange, Radiation, and Persian Gulf treatment authorities would be moved from the current section 1710(e) to the revised section 1712.

Deletion of current outpatient eligibility rules

Subsection (a) of the current section 1712 now includes all of the eligibility requirements that pertain to outpatient medical services. Under the proposed eligibility scheme, encompassed in the revised section 1710, which would authorize the Secretary to furnish all needed health care, including outpatient care, there is no need for any of those existing requirements. Accordingly, section 103 of the bill would delete them. The rules in question are those which provide that the Secretary shall furnish outpatient medical services to certain veterans, and may furnish such services to other veterans. They are also the requirements which limit outpatient care in certain cases to that needed as pre-hospital care, post-hospital care, or to obviate the need for hospital care. A priority scheme now set forth in subsection (i) of section 1712 would also be deleted as unnecessary because the proposed new section 1710 includes priority provisions. Finally, the copayment provisions applicable to VA's furnishing outpatient care, now set forth in subsection (f) of section 1712, have been moved to the proposed new subsection (e) of section 1710.

Outpatient dental care requirements

The current section 1712 also includes eligibility requirements which pertain to VA provision of outpatient dental services. The draft bill would make no changes in those requirements. However, the bill would move all of the dental provisions now included in section 1712(b), (c), (d), and (e) to a new section 1715, which would be entitled ''Dental care.''

Privately prescribed medications and immunizations

Two other provisions included in the current section 1712 would also be retained, but moved to another section. First, subsection (h) of the existing 1712 authorizes the Secretary to fill prescriptions written by non-VA physicians for veterans who are receiving increased pension or compensation benefits because they are housebound or in need of aid and attendance. Second, subsection (j) of the current section 1712 authorizes the Secretary to provide immunizations to veterans as part of national immunization programs administered by the Department of Health and Human Services. The provisions of subsections (h) and (j) would be moved to a new section 1719, which would be entitled ''Medications prescribed by non-VA physicians; immunization programs.''

Agent Orange, radiation, and Persian Gulf

In place of other provisions deleted or transferred from section 1712, the draft bill would insert in section 1712 provisions now set forth in subsection (e) of section 1710. The provisions provide authority for VA to treat disabilities which may possibly be associated with exposure to herbicides, such as Agent Orange, during service in Vietnam, exposure to ionizing radiation from nuclear testing or in post-War Japan, and exposure to environmental hazards and contaminants in the Persian Gulf area. The provisions would be transferred from the current section 1710, generally without substantive legal change.

The revised section 1712 would, however, extend the time period during which VA would have authority to provide the treatment under that section. Under current law, the Department's authority to provide care for those exposed to herbicides in Vietnam or to ionizing radiation expires on June 30, 1995. The draft bill would extend the herbicide treatment authority through December 31, 1996, and would make the ionizing radiation authority permanent. The Department currently may provide care for those exposed to toxic substances or environmental hazards in the Persian Gulf through December 31, 1995. The draft bill would extend that authority through September 30, 1997.

SECTION 104—MENTAL HEALTH SERVICES AND BEREAVEMENT COUNSELING FOR FAMILIES

Section 104 would add a new section 1712C entitled ''Mental health services and bereavement counseling for family members.'' Under current law, those services are authorized via the definition of medical services. All of the details and limits on the Department's furnishing the services are presently contained in the definitions of ''hospital care'' and ''medical services'' in the current section 1701. Those definitions would be revised under this bill, as discussed above, and written much more simply. The content of the old definitions related to mental health services and bereavement counseling for family members is being transferred to the new section. The counseling and other services would be furnished under the new section 1712B, not as a form of health care under the proposed new section 1710. However, there would be no substantive change in existing authority to furnish the services.

SECTION 105—SPECIAL AUTHORITIES RELATED TO FURNISHING PROSTHETIC DEVICES, AND AIDS FOR THE BLIND AND HEARING IMPAIRED

Section 105 would amend 38 U.S.C. §1714, which currently authorizes VA to furnish veterans who receive a prosthetic appliance from VA with proper fitting of the device, and training in it use. It further authorizes guide dogs and devices and appliances for the blind. Section 105 would retain those existing provisions in section 1714, and add other provisions, now located in other parts of chapter 17, to the section. The proposed new section 1714 would not include any authority that does not already exist in chapter 17 of title 38.

Devices for the hearing impaired

Section 1717(c) currently contains authority for VA to furnish devices to assist veterans in overcoming the handicap of deafness. Section 105 would transfer that language to section 1714, where it more logically belongs.

Repair of prosthetic devices

Section 1719 currently authorizes VA to repair or replace prosthetic appliances and other medical equipment and devices damaged by a fall or accident caused by a service-connected disability. Section 105 would transfer that language to section 1714.

Acquisition of prosthetic devices

Language now included in 38 U.S.C. §1712(d), which authorizes the Secretary to purchase or manufacture medical equipment, prosthetic devices, and similar appliances, would be transferred to section 1714.

SECTION 106—DENTAL CARE

Abolition of authority to furnish tobacco

Section 106 would completely revise 38 U.S.C. §1715. Currently, that section authorizes the Secretary to furnish tobacco to veterans receiving hospital or domiciliary care. Because it is Departmental policy that tobacco ordinarily not be used in health-care facilities, section 106 would repeal the authority to furnish tobacco. In its place, section 106 would place in section 1715 all of the

eligibility requirements governing VA's provision of dental care, which are now contained in subsection (c) of section 1710, and subsections (b), (c), and (d) of section 1712.

Inpatient dental care

Language currently in subsection (c) of section 1710 permits the Department to furnish dental care to inpatients when needed to continue safe and effective treatment of other disabilities for which the veteran is receiving care. That provision has been simplified and included as subsection (a) of the revised section 1715. Additionally, subsection (a) would authorize the Secretary to furnish inpatients with any other dental care for which they would be eligible to receive on an outpatient basis.

Outpatient dental care

Currently, VA has very detailed eligibility requirements governing the provision of dental care on an outpatient basis. Those requirements are set forth in subsections (b), (c), and (d) of section 1712. Section 106 of this bill would transfer the language now in section 1712 into section 1715, virtually unchanged. No substantive legal changes in the eligibility requirements for outpatient dental care are intended.

SECTION 107—HOME IMPROVEMENTS AND STRUCTURAL ALTERATIONS

Deletion of home care provisions

Section 107 would revise 38 U.S.C. §1717. Section 1717 currently authorizes the Department to furnish home health services as a form of outpatient medical services. The section further provides that the department may furnish certain veterans home improvements and structural alterations as a form of home health services. Section 107 would delete the references to home health services. The language is unnecessary because home health care is included in the new definition of ''health care'' in the revised section 1701, and such care would be furnished pursuant to section 1710. However, the language regarding the furnishing of home improvements and structural alterations would be retained in section 1717.

Home improvements and structural alterations

The current language in section 1717 pertaining to home improvements and structural alterations would be revised somewhat so that it provides stand alone authority for the improvements and alterations. The improvements and alterations would not be a form of outpatient care, as is now the case. Rather, section 1717 would be the authority for the benefit. All of the existing limits on furnishing home improvements and structural alteration would be retained without change.

Invalid lifts and therapeutic and rehabilitative devices

Section 1717 currently contains authority for furnishing certain veterans with invalid lifts and therapeutic and rehabilitative devices. That authority is now largely duplicative of other authority to furnish the items as a form of medical services. Section 107 would delete the authority as it is unnecessary. The definition of ''health care'' in the revised section 1701 would include the lifts and devices, and the Secretary's authority to furnish health care would provide authority to furnish such items.

Aids for the hearing impaired

Section 1717(c) currently contains authority to furnish devices to assist veterans in overcoming the handicap of deafness. Section 105 of the draft bill would transfer that authority without change to the proposed new section 1714.

SECTION 108—PRIVATELY PRESCRIBED MEDICATIONS AND IMMUNIZATIONS

Section 108 would completely revise 38 U.S.C. §1719. That section currently authorizes VA to repair or replace prosthetic appliances and other medical equipment and devices damaged by a fall or accident caused by a service-connected disability. Section 105 of the draft bill would transfer that authority to section 1714. In its place, section 108 would insert two authorities now included in section 1712. The first is authority for the Secretary to fill prescriptions written by non-VA physicians for veterans who are receiving increased pension or compensation benefits because they are housebound or in need of aid and attendance. The second is authority for the Secretary to provide immunizations to veterans as part of national immunization programs administered by the Department of Health and Human Services. Those two authorities are currently included in subsections (h) and (j) of section 1712.

SECTION 109—COMMUNITY NURSING HOME CARE

Section 109 would amend 38 U.S.C. §1720, VA's authority to contract for nursing home care. The changes would permit VA to directly admit a nonservice-connected veteran to a contract community nursing home. Under current law, only service-connected veterans may be admitted directly. Additionally, section 109 would delete obsolete language in section 1720 which authorizes VA to furnish veterans with adult day health care. That special authority to furnish adult day health care expired in 1991. More importantly, the definition of the term ''health care'' which would be added to section 1701 would include adult day health care.

SECTION 110—RESIDENTIAL CARE

Section 110 would revise 38 U.S.C. §1730, which now authorizes a community residential care program under which VA refers veterans to board and care homes that the veterans pay for with their own resources, often VA monetary benefits such as compensation or pension. The draft bill would add a new subsection (a) to section 1730 to authorize VA to furnish such care to certain veterans. The authority to provide the care would be completely discretionary, and quite limited. The Secretary could authorize transfer of a veteran into such care only if the veteran is actually receiving VA hospital care in a VA facility, and the residential care is an alternative to continued hospital care. Moreover, such a transfer could be authorized only when the veteran has no resources to pay for the services. During the period of time that a veteran is receiving residential care, VA officials would be undertaking efforts to assist the veteran in securing alternative funding, such as public assistance, for the care of the veteran. Care would be furnished on a contract basis, and could continue for no more than 90 days in any year.

The amendments made by section 110 would not alter the existing community residential care referral program. Veterans who qualify for that program could not qualify for the proposed new program under which VA pays for the care because they would have alternative arrangements for payment for the care. Thus, they could not meet the eligibility requirements of the new program.

SECTION 111—SHARING HEALTH CARE RESOURCES

Section 111 would amend three sections in chapter 81 of title 38 that authorize VA's program to share health-care resources. The provisions would expand VA's ability to obtain health-care resources to serve the needs of veterans in the changing health care environment. Changes to these sections would facilitate the successful implementation of the reformed eligibility system that other sections of the draft bill would establish. The amendments would allow VA to more easily acquire services for veterans, and would permit VA to provide health care services to other providers in the community when it would be beneficial to both parties, and when there would be no diminution of services to veterans.

Basic sharing authority

Subsection (b) of section 111 would amend 38 U.S.C. §8153, VA's basic sharing authority, to allow VA to share a wider array of resources with a wider array of other care providers than is now the case. It would delete language in that section which lists the different types of providers with whom the Department may share, and in lieu thereof, would authorize sharing with ''health care providers.'' It would also allow VA to share any ''health care resource.''

Definitions

Section 111(c) would add to 38 U.S.C. §8152, a definition of the term ''health-care providers'' which would include insurers, health care plans, and any organization, entity, or individual that furnishes health care resources. VA currently lacks authority to share with insurers and with individuals such as physicians or other solo providers. It would also add a definition of ''health-care resources.'' The term would be defined to include health care as defined in section 1701, as well as any other health-care service, and any other health-care support or administrative resource. Under existing law VA is limited to sharing ''specialized medical resources.''

Finally, section 111(a) would amend 38 U.S.C. §8151, which states the purpose of VA's sharing program, so that it conforms with the changes which would be made by subsections (b) and (c).

SECTION 112—AUTHORIZATION OF APPROPRIATIONS

Section 112 would add a new section 1720D to subchapter II of chapter 17 of title 38, United States Code, authorizing appropriations of such sums as are necessary to carry out the subchapter.

SECTION 113—CONFORMING AMENDMENTS

Section 113 would amend fourteen different sections in chapter 17 to make conforming changes needed as a result of other amendments made by the bill. The section would repeal two currently existing sections. Section 1720B, which authorizes respite care, would be repealed. Respite care would be provided as a form of health care. The bill would also repeal section 1704, which requires VA to submit an annual report on the provision of preventive health services. Finally, the current section 1720D, which authorizes a sexual trauma counseling program, would be redesignated as section 1720B.

SECTION 120—MEANS TEST REFORM

Section 120 would amend 38 U.S.C. §1722 to simplify administration of VA's health care benefits ''means test.'' VA uses the means test to determine both a veteran's priority for receiving VA health care and whether a veteran must agree to pay certain copayments in exchange for care.

Income thresholds

The draft bill would first amend subsection (a) of section 1722. It would abolish use of the term ''unable to defray the expenses of necessary care.'' The subsection would simply state that for purposes of the eligibility provisions and priority provisions of section 1710, certain income thresholds shall apply. The thresholds would be unchanged from those currently in effect for distinguishing between category A (higher priority veterans) and category C (lower priority veterans) veterans. As under existing law, the thresholds would be increased each year by the

same percentage that rates of pension are increased.

Net worth

Section 120 of the bill would strike language in the currently existing section 1722(d) which provides for consideration of net worth in making the determination of whether a veteran is unable to defray the cost of care. That language is unnecessary due to language included in the proposed new section 1710(c)(1)(D), and its elimination will make administration of the means test much easier and less costly. The language in section 1710(c)(1)(D) would provide that a nonservice-connected veteran eligible for health care on the basis of low income must sign a declaration that family net worth does not exceed $50,000. If the veteran does not sign such a declaration, that veteran would have lower priority, and would be required to make copayments. The $50,000 figure is used because that is the figure VA now uses under the existing net worth test to trigger a review of a veterans net worth to determine whether a part of net worth should be used to help defray the costs of care.

SECTION 121—VA RETENTION OF THIRD PARTY COLLECTIONS

Third party collections

Section 121 would amend 38 U.S.C. §1729, the section which allows VA to recover the cost of care it provides to veterans from third parties, particularly insurance companies. Under current law, VA returns to the Treasury all amounts that it collects from third parties, less the costs of collection. Each year, the President's Budget anticipates that VA will collect a certain amount, referred to as the baseline. As an incentive to collect even more, section 121 would amend subsection (g) of section 1729 to permit VA to retain 25 percent of the amounts it collects over and above the baseline amount. The provision further provides that VA must use the additional amounts it would retain for improving the quality of health care furnished by VA facilities.

SECTION 201—MANUFACTURED HOUSING LOAN PROGRAM

Section 201 would terminate VA's authority to guarantee a loan for the purchase of a manufactured home. Any such loan closed after September 30, 1995, would not be eligible for guaranty. An exception would be made for a loan to refinance an existing VA guaranteed manufactured loan with a new loan at a lower interest rate. Under existing law, which remains unchanged a veteran may not receive cash under an interest rate reduction refinancing loan.

Section 201 would also repeal the requirement that the Secretary's annual report to the Congress contain information about VA manufactured home loans, and make other technical and conforming amendments.

SECTION 202—LOAN FEES

Section 202 would make technical and conforming amendments, consistent with the termination of the manufactured housing loan program as proposed by section 201 of this bill, to Section 3729 of title 38, United States Code, relating to the fee veterans and other borrowers and assumers pay to VA for housing loans. No change would be made in the amount of existing fees.

These amendments would take effect October 1, 1995.

SECTION 203—CONTRACTING FOR PORTFOLIO LOAN SERVICES

Section 203(a) would add a new section 3736 to title 38, United States Code, which would authorize VA to contract with a private firm to service VA portfolio loans. The term ''portfolio loans'' includes loans made by VA *e.g.,* in connection with the sale of VA acquired properties, known as ''vendee loans,'' and direct loans to Native American veterans. It also includes guaranteed loans of which VA took an assignment, a procedure commonly referred to as ''refunding.'' VA would permit the contractor to retain a portion of the interest collected on the loans as payment for services rendered. This would permit VA to have the contract bid for ''basis points'' in a manner similar to servicing contracts used in the private sector.

VA would be permitted to let a servicing contract for up to 15 years. Current Federal contract law generally limits contracts to a 5-year term.

This section would also provide that, for budgeting purposes under the Federal Credit Reform Act of 1990, the cost of a servicing contract authorized by this section would be treated as a cost of the loan or loan guaranty, and not as an administrative expense.

Section 203(b) would make a conforming amendment to the table of sections for chapter 37 of title 38.

SECTION 210—ELECTRONIC SIGNATURES FOR EDUCATION BENEFITS

Section 210 would amend several provisions of title 38, United States Code, to clarify that claimants for VA education benefits, State approving agencies, and schools may transmit documents with their signature electronically to permit VA to award benefits. These electronic documents, submitted in the regular course of business, would be accepted as the legal equivalent of a signed, written, paper document. As such, they could be used to make benefits determinations in an expedited manner with reduced errors.

SECTION 211—ELECTRONIC FUNDS TRANSFER FOR EDUCATION BENEFITS PAYMENTS

Section 211 would amend section 5120(d) of title 38, United States Code, to authorize VA to implement, under an agreement with the Treasury, a system requiring that payment of educational assistance allowances under all education benefits programs administered by VA would be made by electronic funds transfer. The amendment defines ''electronic funds transfer'' (EFT) to include the various electronic systems and devices prevalent today for such purposes, as distinguished from transactions originated by cash, check, or other paper instrument.

VA would be required to develop a plan for phasing in the conversion from a paper instrument to an EFT system for education benefits payments, and would be given discretionary authority to prescribe regulations needed to implement the EFT system. Such regulations may include authority to modify any provision of the EFT system designated by the Secretary, as well as to waive or modify the system's application in circumstances where it would be impractical.

SECRETARY OF VETERANS AFFAIRS,
Washington, DC, September 12, 1995.

Hon. AL GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: We are transmitting a draft bill, ''To amend title 38, United States Code, and various other statutes, to reform eligibility for Department of Veterans Affairs health-care benefits, improve the operation of the Department, and improve the processes and procedures the Department uses to administer various benefit programs for veterans; and for other purposes.''

In 1993, the Administration, led by Vice President Gore, launched its effort to improve Federal Government operations through the ''reinventing government'' program. This year, in phase II of that effort, VA examined its basic missions, reviewed its major programs, and developed several exciting initiatives to enable the Department to better serve veterans, and serve them in a cost-effective manner. Several of those initiatives can be implemented only through enactment of legislation. This draft bill would provide the needed changes in law.

HEALTH-CARE ELIGIBILITY REFORM

Perhaps the single most important need in the VA health-care system at this time is the need for reform of the eligibility system. Currently, the process required for a veteran to receive care from VA can be confusing and frustrating. Complicated and irrational statutory eligibility rules sometimes cause absurd outcomes. Existing law discourages VA from effectively managing care, and often promotes the use of expensive and unnecessary inpatient care.

VA designed the eligibility reform proposal in the draft bill to achieve several important objectives.

First, the eligibility system should be one that both the persons seeking care and those providing the care are able to understand.

Second, the eligibility system should ensure that VA is able to furnish patients the most appropriate care and treatment that is medically needed, cost effectively and in the most appropriate setting.

Third, veterans should retain eligibility for those benefits they are now eligible to receive.

Fourth, VA management should gain the flexibility needed to manage the system effectively.

Fifth, the proposal should be budget neutral.

Sixth, the proposal should not create any new and unnecessary bureaucracy.

The draft bill would provide that the Department ''shall'' furnish a specified core group of veterans with needed ''health care.'' This would include hospital care, outpatient care, disease prevention services, pharmaceuticals, medical equipment, and prosthetic equipment and devices. Persons in the core group would generally be those veterans now commonly referred to as category A veterans: those with service-connected disabilities, former prisoners of war, World War I veterans, and nonservice-connected veterans with incomes below the current means test income threshold. The Department would retain authority to furnish the core group veterans with other types of health care, including nursing home care. VA would also retain authority to furnish all health care to veterans not included in the core group. The Department would furnish all care in accordance with five priority groups set forth in the bill. Finally, the bill would continue in place the current copayment structure, and would retain, essentially unchanged, the so-called Agent Orange, Radiation, and Persian Gulf treatment authorities.

The most significant change in the proposal would be the complete elimination of the complicated and archaic eligibility rules governing the provision of outpatient care. The bill would also permit wider use of cost-effective preventive health measures, and use of residential care when that would alleviate the need for hospital care. These key features will allow VA to provide the right care at the right place and the right time for the right price.

HEALTH-CARE SHARING

Today's competitive health-care environment demands that all types of service providers cooperate and work together for each to survive. The VA health-care system is an integral part of the larger health-care industry and must be able to work with partners in both the private and public sectors. However, current law imposes undue limitations on VA's ability to obtain needed health-care

resources to serve veterans. Similarly, VA is unable to fully share, even when it is mutually advantageous to do so, its resources with others in the community who could benefit from the Department's expertise. To remedy that situation, the draft bill includes provisions to expand VA's ability to share resources with other community health-care providers.

The draft bill would amend existing law to permit the Department to share all types of health-care resources with all types of health-care providers in the community. It would define ''health care resource'' to include conventional health-care services such as hospital care, nursing home care, outpatient care, rehabilitative care, and preventive care. Additionally, it would include other health-care support or administrative services essential to the operation of a health-care system. The draft bill would also more broadly define the term ''health care provider'' to include insurers, health-care plans, and health-care management organizations, as well as individuals such as physicians or other solo providers. The expanded sharing authority is essential for the reform of the entire VA health-care system.

VA RETENTION OF INCREASED MEDICAL COLLECTIONS

Current law permits the VA to recover the cost of care it provides to veterans from third parties, particularly insurance companies. Funds collected are turned over to the Treasury. The Department currently does an excellent job of collecting these funds. However, as an additional incentive to VA medical centers to increase collections, the draft bill would authorize the Department to retain a portion of amounts it collects over the amounts anticipated in the budget each year. Providing an incentive such as this is a classic example of how to ''reinvent'' Government.

TERMINATION OF MANUFACTURED HOME LOAN PROGRAM

The draft bill would repeal the authority for VA to guarantee loans to purchase manufactured homes. The number of veterans obtaining manufactured home loans has declined significantly over the years, from a high of 13,502 in fiscal Year 1983 to only 24 in Fiscal Year 1994. Manufactured home loan foreclosure rates are significantly higher than those for site-built homes. The cumulative foreclosure rate for manufactured home loans is 38.7 percent compared to 5.58 percent for site-built homes. The high foreclosure rates in the manufactured home loan program have adversely affected the financial solvency of the loan guaranty program, and resulted in substantial debts being established against veterans whose loans were liquidated and homes repossessed. Due to this low volume, there is virtually no lender interest in using the VA manufactured home loan program. However, VA is required to maintain expertise in consumer installment finance, which differs in many respect from real estate finance.

This provision will not affect the ability of veterans to obtain VA guaranteed loans to purchase, construct, or improve conventionally-built homes, or refinance existing liens on such homes.

CONTRACTING FOR PORTFOLIO LOAN SERVICING

The draft bill would permit VA to contract for servicing of its loan portfolio in a manner which is consistent with private sector loan servicing. VA believes it is in the best interests of the Government to contract out this function. Several provisions of existing law, however, preclude VA from privatizing this function in the most effective manner.

Current law limits Federal contracts to a term of 5 years. This is too short a term for the servicing of loans that bear a 30-year maturity. The draft bill would permit the servicing contract to have a 15-year term. Second, current law requires a contract servicer to remit immediately to the Government all money collected. The bill would allow the contractor to retain a portion of the loan payments collected as its fee as is customary in the private sector. Finally, the draft bill would clarify the budget treatment of the cost of this contract under the Federal Credit Reform Act of 1990 as a cost of the loan rather than as administrative overhead, which more accurately reflects private sector accounting practices.

ELECTRONIC SIGNATURES AND ELECTRONIC FUNDS TRANSFERS—EDUCATION BENEFITS

In the modern world, information is commonly transmitted electronically. Yet statutes are often slow to catch up with technology. This draft bill would amend various laws to modernize administration of VA's education benefit programs. The bill would clarify that claimants for VA education benefits, State approving agencies, and schools may transmit documents with their signature electronically to permit VA to award benefits. The bill would also authorize VA to implement, under an agreement with the Treasury, a system requiring that payment of educational assistance allowances under all education benefits programs administered by VA would be made by electronic funds transfer.

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it will trigger a sequester if it is not fully offset. Outlay savings in this bill would equal its increase in direct spending, resulting in a net zero PAYGO effect. Thus, considered alone, this bill meets the pay-as-you-go requirement of OBRA.

We are advised by the Office of Management and Budget that there is no objection to the transmittal of this draft bill to the Congress and its enactment would be in accord with the program of the President.

Sincerely,

JESSE BROWN.●

ADDITIONAL COSPONSORS

S. 704

At the request of Mr. SIMON, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 743

At the request of Mrs. HUTCHISON, the name of the Senator from Virginia [Mr. WARNER] 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. 837

At the request of Mr. WARNER, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 837, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of James Madison.

S. 881

At the request of Mr. THURMOND, his name was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 969

At the request of Mr. BRADLEY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor 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. 984

At the request of Mr. GRASSLEY, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 984, a bill to protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes.

S. 1043

At the request of Mr. STEVENS, the names of the Senator from Rhode Island [Mr. CHAFEE] and the Senator from North Dakota [Mr. DORGAN] 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. 1150

At the request of Mr. SANTORUM, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 1150, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the Marshall Plan and George Catlett Marshall.

S. 1163

At the request of Mr. LEAHY, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from New Hampshire [Mr. SMITH], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 1163, a bill to implement the recommendations of the Northern Stewardship Lands Council.

S. 1228

At the request of Mr. SMITH, his name was added as a cosponsor of S. 1228, a bill to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran.

At the request of Mr. D'AMATO, the names of the Senator from Florida [Mr. MACK], the Senator from Utah [Mr. HATCH], the Senator from Iowa [Mr. GRASSLEY], the Senator from Mississippi [Mr. COCHRAN], the Senator from Alaska [Mr. STEVENS], the Senator from Ohio [Mr. DEWINE], the Senator from Virginia [Mr. WARNER], the Senator from Colorado [Mr. BROWN],